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CRIMES and MISDEMEANOURS;

THE FOURTH EDITION;

COMMENCING WITH

The Eleventh Year of the Reign of KING RICHARD II.

AND ENDING WITH

The Sixteenth Year of the Reign of KING GEORGE III.

WITH

TWO ALPHABETICAL TABLES TO THE WHOLE.

TO WHICH IS PREFIXED,

A NEW PREFACE,

By FRANCIS HARGRAVE, ESQUIRE.

VOLUME THE SECOND.

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A COMPLETE

COLLECTION

OF

TRIALS, &c.

XLV. *The Trial of* JAMES *Duke of* HAMILTON *, *and Earl of* CAMBRIDGE, *before the High Court of Juſtice, for* High-Treaſon, Feb. 9. 1648. 1 Car. II.

MR. *Steel* and Mr. *Cook*, the Counſel for the People of *England*, did exhibit on the Ninth of *February*, being *Friday*, the following Charge:

That the Earl *of* Cambridge, *about the 19th of* July *laſt, traiterouſly invaded this Nation in a hoſtile manner, and levied War to aſſiſt the King againſt the Kingdom and People of* England, *and had committed ſundry Murders, Outrages, Rapines, Waſtes, and Spoils, upon the ſaid People; and particularly about the 20th of* Auguſt, *near* Preſton, *did make War, join Battle, and fight againſt the Forces of the Parliament, and therein did murder and kill Colonel* Thornley *and others.*

To this the Duke put in the Declinatour and ſpecial Plea following, intending at laſt to anſwer the Charge, if the Plea was not ſufficient: having firſt told the Court, he was better known by another Name than the Earl of *Cambridge*. His Plea conſiſted of three Heads: Firſt, He pleaded this his undertaking that Employment was by Command of the Parliament, and Supreme Authority of the Kingdom of *Scotland*, for ſuch Ends as he conceived were good and juſtifiable, and in no way derogatory to the Peace and Happineſs of theſe Dominions: That he did earneſtly endeavour to decline it, but that not being accepted of, he could not diſobey their Commands without incurring the ſevereſt Cenſures. Secondly, That he was born in *Scotland* before the Naturalization of his Father in *England*, therefore he conceived himſelf an Alien, and not triable in *England*. Thirdly, That he had rendered himſelf Priſoner upon Capitulation and Articles with thoſe who had Major-General *Lambert*'s Commiſſion; and that by theſe he was firſt a Priſoner of War; next, his Life and the Safety of his Perſon was ſecured to him by the Articles, which were ſigned by the Commiſſioners of both ſides, before he was their Priſoner, and that they could faſten neither a Breach nor Non-performance on him. Upon this the Counſel of the People cauſed the Act of his Father's Naturalization to be read, and ſpake a little to aggravate and ſet out his Fact: but he deſired a convenient time to procure Papers, Witneſſes, and other Evidences material to his Plea, which he ſaid was ſeldom denied to any in that Condition; and it was well known to many there, how that ſince the beginning of this Parliament, many Weeks were granted to an Eminent Man upon his Trial (by whom he meant the Earl of *Strafford*, who had time allowed him to ſend to *Ireland*). The Court adjourned to the next day, without giving him any ſatisfactory Anſwer. But the Duke's Carriage and Diſcourſe that day gained much on all the Spectators, being ſo ſerene and calm, that his very Enemies did applaud it.

Saturday the 10th, in the Evening, his Grace was again brought to the Bar, and he deſired Counſel, which was granted; and it was referred to him, whether the Court or himſelf ſhould name them: which he then paſſed over, and without much ſpeaking on either ſide, the Court adjourned; notice being given him, that he muſt appear again on *Tueſday* the 13th. But no Order being iſſued forth for Counſel, ſome Counſel who were dealt with did decline the Employment.

Tueſday the 13th, his Grace being brought again to the Bar, deſired a longer time, ſince notwithſtanding ſerious means had been uſed, no Lawyer would be his Counſel without the Court's Orders. This was granted by the * Preſident after ſome Expoſtulation, and upon his Grace's Nomination, Mr. *Chute*, Mr. *Hales*, Mr. *Parſons*, and Dr. *Walker*, were aſſigned him for Counſel, to have free Acceſs to him, in the preſence and hearing of ſome of his Keepers, and to be ready againſt *Thurſday* following to maintain his Plea: upon which the Court adjourned till the 15th.

* *Serjeant* Bradſhaw.

Thurſday the 15th, his Grace being again brought before the Court, declared that their Order being offered to his Counſel, they all found themſelves unable to plead for him, or to do what was otherwiſe fitting, and ſo had refuſed to come and ſpeak with him at St. *James*'s. The Court objected the time they had already granted, and alledged this was a mere Delay: but his Grace proteſted it was true, and offered one of his Servants to atteſt it. Dr. *Walker* in Court declared, he would not be of his Counſel, by reaſon of his Employment under the Parliament. His Grace deſired a convenient time, as was uſual in the like Caſes, not only in reſpect of his Lawyers, but that he might ſend to *Scotland* and other remote Places, for Witneſſes and Evidences neceſſary for his Defence; ſince no Prejudice could come by that Delay, and this was denied to none in Trial for Life, and had been granted to *Mac-Guire* and *Mac-Hun*, two *Iriſhmen*. But for his Counſel, the Court ordained, that any of the ſix he ſhould name might be authorized to adviſe with him in private, and to ſpeak in Court in the Matter of Law ariſing out of the Fact of the Plea, after the Matter of Fact was handled, which his Grace was to maintain next *Saturday*. And for the Time he craved, they ſaid, he looked on the unreaſonable Time was granted to *Strafford* and *Canterbury*, thoſe grand Offenders, with whom he had been too familiar, as Precedents; but thoſe were Precedents without a Precedent, and none were to expect the like at this time, eſpecially ſince there were now ſo many Priſoners to be try'd.

Saturday the 17th, his Grace was brought to the Court with ſome Witneſſes, his Counſel being near, but not preſent; and in order to the Parts of his Plea, he firſt produced Duplicates of the Commiſſion, and Orders from the Parliament of *Scotland* and Committee of Eſtates there. The Court demanded Evidence for both. His Grace anſwered, Were Time granted, he would not only ſufficiently prove theſe, but many other Points belonging to his Juſtification. But the Court anſwered, That unleſs they were preſently atteſted *viva voce*, they would not ſuffer them to be read. Whereupon his Grace deſired that his Servant Mr. *Lewis* might be examined, whoſe Teſtimony was accepted, and the Papers he produced were received for Evidences, and read. Next, the Declaration containing the Ends of the Engagement was read, and being proved by the ſame Witneſs, was left in Court with the former Papers. Then the Court upon his Grace's deſire produced the original Articles of Capitulation, which were read; and Mr. *Cole* proved he ſaw them delivered to his Grace about Nine in the Morning, before the Lord *Gray* came in.

The Lord *Gray* depoſed, That two ſeveral Summons, which were ſent by him to his Grace to yield upon Mercy, were both anſwered negatively in reſpect of the Ceſſation and Treaty; That by a Letter from *Cromwell*, dated *Warrington*, *Auguſt* 20. he was enjoined to purſue the *Scotiſh* Forces with all vigour; That he had received Letters from the *Staffordſhire* Gentlemen with whom the Ceſſation begun, intimating that they had condeſcended to it, on purpoſe to gain a few days time to ſtrengthen themſelves, in regard the *Scots* were ſo numerous: and that he diſpatched away *Wayte* and *Peters* that Morning in which the Treaty ended, to proteſt againſt it.

Peters was next examined, and anſwered, That going that Morning to proteſt, by Order from the Lord *Gray*, he came accidentally to the Duke, where he found the Hoſtages in his Chamber, and aſked if he was willing to be the Lord *Gray*'s Priſoner, who anſwer'd, he could not in regard of the Treaty; but if he were afterwards to be diſpoſed of, he had rather be his Lordſhip's Priſoner than any other's, being of his Acquaintance: That he had ſeen the Summons, and the negative Anſwer to them; That this was about Five in the Morning; and that *Wayte* and he went a part of the way towards the Place of Treaty, where he heard the Articles were concluded.

Lilburn was next examined, who depoſed, that the Articles were ſigned by himſelf, and the other Treaties, about Five in the Morning, and were to be ratified by the Duke and *Lambert*; and that his own Meaning of preſerving the Duke's Life (he knew not how the reſt meant) was only to preſerve him from the Violence of the Soldiers, and not from the Juſtice of the Parliament. At this *Peters* roſe up, expreſſing great Diſlike of *Lilburn*'s Gloſs, ſaying, That much Tenderneſs was to be uſed where the Life of ſo eminent a Perſon was concerned: That he had ſeen many Articles of War, but never had heard of ſuch Ambiguity; and that it was clear by thoſe Articles the Duke held his Life ſecured, as well from the Parliament as the Soldiers; and wiſhed to God, that if their Commiſſioners had meant otherwiſe, it had been ſo expreſſed in the Articles, it being moſt neceſſary that Articles in a Concernment of Life ſhould be plain and certain. The Preſident anſwered, You ſay well for the future, but it is now too late.

* *Dr.* Burnet's *Memoirs of the Dukes of* Hamilton, p. 385, *&c.* Clar. Hiſt. Vol. III. p. 204—209.

His Grace resumed what had been said, and spoke much on the Articles for weakening *Lilburn*'s Gloss.

Next the Governour and Marshal of *Windsor* were examined about his Escape from *Windsor-Castle*. The Governour deposed, That the Duke said to him, he needed not fear his Escape, he would be a true Prisoner, and not go away though the Gates were opened. The Marshal said, he only heard this from the Governour.

The Duke expressed a deep Resentment of this Injury done him by the Governour, who wounded his Honour so much, which he valued above all earthly things; and did shew how unlike it was, that any such thing was either demanded or granted, since that is only done for a little more Liberty, whereas he was all the while kept under strict Guards; nor had he the liberty of walking in the Park, but was always guarded by two Keepers, the one lying all night in the Room next him, and the other every night locking the Door, and carrying the Key with him: That the Governour's Testimony in this matter was not to be received, he being a Party, and now in hazard for his Negligence, for he was told that if he escaped, he should die for it; adding, that if he were not a Prisoner, he would desire Right of the Governour for that Scandal cast on him, and chuse no other Place for it but *Westminster-Hall*. But to all this the Governour made no Reply; only the President said, that though he could not blame the Earl of *Cambridge* for what he said, yet for all that the Governour was not to be discredited.

After this, the Duke spake a little to all the three Branches of his Plea, reserving the fuller enlarging upon them to his Counsel. He insisted most on the Articles, which he doubted not were sufficient to protect him: he desired them to consider, how sacred Articles of War were reputed in all Places, and among all Nations, and how inviolably they were kept, all Princes and States being most careful to observe them, not only to Strangers, but to Subjects; having great regard to Articles, though only for Quarter, much more when there was a Capitulation for Life: adding the following Instances. *Elisha* the Prophet would not suffer the King of *Israel* to kill the *Syrian* Captains, saying, *Wouldst thou smite those whom thou hast taken captive with thy Sword and thy Bow?* The Blood of *Abner* lay on *Joab*'s head, who killed one that had the King's Safe-Conduct. The *Gibeonites* also, though they used *Joshua* deceitfully, yet were preserved according to the Articles given them; and not only *Saul*'s House, but the whole Land suffered for the Violation of them. That Prince *Robert* and the Lord *Cottington*, tho' excepted from Life or Pardon by Act of Parliament, were notwithstanding that, upon the Articles of the Rendition of *Oxford*, permitted to go beyond Sea, and never questioned for Life: and the like Justice was done the Earl of *Bristol* and the Lord *Paulet*, upon the Articles of the Surrender of *Exeter*, though both were excepted from Pardon: And that the Lord *Fairfax* and the Officers of the Army were most careful to see Articles always kept, in which they judged their Honour deeply concerned, and had often written to the Parliament to that end; therefore he did not doubt the like Justice would be done him. By this time it was late, and the President appointed *Monday* next for the Duke to finish his Plea in Matter of Fact, ordering his Counsel to be in the Court, for their better Information; and so they adjourned.

Monday the 19th, the Duke and his Counsel were brought to the Bar. Colonel *Wayte* was examined, who deposed, That the Duke rendered himself to be the Lord *Gray*'s Prisoner, and desired *Wayte* to protect him from the Multitude, who thereupon left a Guard at his going away. But during his Deposition, *Peters* said, *He lyes, he lyes!* And *Peters*, *Spencer*, and other Officers who were with *Wayte* at *Utoxeter*, being examined, did totally falsify his Deposition. Divers were also that day examined about the Place of the Duke's Birth, who all swore, they heard it always said that he was born at *Hamilton*, and that it was not a thing to be doubted of. Others were examined about the signing of the Articles, who all witnessed that they were signed long before the Lord *Gray* came: and Major *Blackmore* deponed, That the Duke's being the Lord *Gray*'s Prisoner, was by an Agreement betwixt him and *Lambert*, whose Occasions pressed him to go suddenly Northward.

After this the Duke spake a little, to shew how little weight was to be laid on *Wayte*'s Testimony, which was so evidently disproved. Next, his Counsel asked the Court's Directions how they should proceed; and the Court answered, That after the Matter of Fact was handled, they might plead in Law upon all the Parts of the Plea: And they told the Duke by the next *Wednesday* to finish his Evidence.

He desired a Warrant for bringing some Gentlemen, then Prisoners in *Whitehall*, who were his material Witnesses; but the Court adjourned, and promised to consider of that Motion in the *Painted-Chamber*; yet they granted it not.

Wednesday the 21st, the Court sat, and the Duke was brought to the Bar. Some were interrogated about the Time of his Birth, to prove him *Post-natus:* But it was not proved, one Person only swearing, that he heard him say he was some Years younger than the King. Evidence was also brought of his Conjunction with *Langdale*, which they accounted Treason; yet even that was not clearly proved, tho' it was much laboured. Some Letters of his to *Langdale* had been taken, and were brought into Court: but as the Letters proved no Conjunction, so it did not appear that they were his Letters; only *Peters* asserted they were like his Hand. Then a Vote of the two Houses was read, repealing a former Vote of setting an hundred thousand Pounds *Sterling* upon him for Ransom; and Proof was brought, that notwithstanding Articles were given, yet some had been forced to take the Negative Oath; and thereby they studied to evince that the Parliament did not hold themselves bound to stand to Articles.

After this, his Grace resumed the Substance of all those Evidences, and shewed that it was not proved he was a *Post-natus*, nor that he joined with Sir *Marmaduke Langdale*, who neither received Orders nor the Word from him, but marched and quartered apart; and that tho' he had done otherwise, it could not be criminal in him, since he had no Orders to the contrary from the Parliament of *Scotland*, but was commanded by them to join with all who would concur with him for prosecuting the Ends of the Engagement; of which Sir *Marmaduke* approving, he had no reason to refuse Concurrence with him; neither could this be made Treason by the Law of *England:* Of all which it seem'd the Parliament was once well-satisfied, since by a Vote they had fined him in an hundred thousand Pound *Sterling*, as the Price of his Liberty; by which it appeared they look'd not on him as a Traytor, but as an Enemy who had Life granted him by Articles.

Upon this, the Court adjourned till *Thursday* the 22d, and his Counsel were appointed to plead, and he was to close his Evidence. The Duke was brought to the Bar, and by divers Witnesses it was proved, that there was no Rendition made to the Lord *Gray*, but a plain Refusal; and that the Treaty was ended, the Articles signed, and *Lambert* come up, before the Lord *Gray* came thither. There was also produced an Order of Parliament, made four Years before, That no Quarter should be given to any of the *Irish* in Arms, which inferred that others might have them; and another Order was read of the 14th of *July* last, declaring all the *Scots* who entered *England* Enemies, and all the *English* and *Irish* who assisted them Traytors; and with this he closed his Evidence. And since he was not to be suffered to speak any more, he enlarged on all the Parts of his Plea, and spake at length as follows:

That he was sent by the Kingdom of *Scotland*, which was a free Kingdom, and independent on *England*; That he having had his Birth, Honour, and Fortune there, was bound to give obedience to their Orders; That for himself, he had lived much out of Business, and was seldom in publick Trust in that Kingdom, nor very desirous of any; but that being commanded to undertake the Charge of General, for Ends which he conceived lawful, and no way contrary to the Peace or Interest of *England*, he was obliged to follow their Orders: And that by some Papers emitted by the Parliament of *England* against that Expedition, they declared they look'd on it as a National Breach, whereby *Scotland* had violated their Leagues and Treaties with them, so that it was no private Act of his: That the entering of the *Scotish* Army into *England*, *Anno* 1640, was accounted no Invasion nor Treason, but on the contrary was acceptable to this Kingdom, which gave a brotherly Assistance for it; and that the late unfortunate Army was designed fully for as good Ends, and would have so been look'd on had it prospered. And for his joining with Sir *Marmaduke Langdale*, he answered it as was before set down. Therefore he being taken Prisoner in such a War, he conceived it without a Precedent that he should be tried for his Life, for serving his native Kingdom in an open War. As for his being an Alien, he referred that to his Counsel, but said it was undeniable he was born in *Scotland*, nor was he proved a *Post-natus*; he was also born before his Father's Naturalization, and so not included in it, and his own Naturalization had been in agitation in the beginning of this Parliament: That his sitting in Parliament did not conclude him an *English* Earl; for if questioned, he might probably have been expelled out of the House of Peers, as his Countryman Mr. *Walter Stuart* was out of the House of Commons; and that his being an Earl did not naturalize him, that being the King's single Act, whereas Naturalization was only by Act of Parliament. As for the Articles, it was clear, that *Lambert* being a General Officer, commissionated by Parliament, was impowered to capitulate both by the Parliament and by *Cromwell*, the Lord *Gray* having no Authority from the Parliament, but only from *Cromwell*'s Letter: that he became the Lord *Gray*'s Prisoner only by *Lambert*'s Order, and that he made no Surrender till the Articles were signed and delivered: That tho' the Lord *Gray* had protested against it (and yet only an Intention to do it was proved), he was not concerned in it, nor bound to take notice of it, *Lambert* being the Parliament's Officer, and sent against him by them: That Articles were to be expounded by their plain Meaning, and not by any mental Reserves pretended by the Commissioners: That by the first Article, he was a Prisoner of War, and that it was seldom known that the Life of any such was taken; and that by the second Article, Life and Safety of Person were expresly secured without any exception: That if Articles were now violated, it would make the Sequel of the Wars, if any more followed, a downright Butchery, since none would any more trust to a Capitulation; which Mischief he pray'd God to avert: That his Escape out of Prison was no Breach, he being only bound by the Articles to deliver himself Prisoner, which he did, but not to continue so. And he concluded, That he was confident, had he no better Plea, his Articles were sufficient, according to the Laws of all Nations, to preserve his Life.

Then the President asked him, if he had any thing to say as he was Earl of *Cambridge?* Whereupon he and his Counsel moved, That if what he had said and proved was not satisfactory for the Averment of his Plea, he might answer the Charge exhibited, which he had not yet done. But to this, neither the Court nor their Counsel would yield, tho' they gave no reason for it, save only that it implied a Desire of Delay: But the reason, as was said, was, That they knew, had they yielded to that, the Charge had been overthrown, since the Law of *England* does not admit that to be Treason which they charged on him, that he had assisted the King against the Kingdom and People by levying War. Then the Court told his Counsel, that *Saturday* was the longest time they allowed them for performing their part: But the Counsel answered, That it was impossible for them to undertake it, and discharge their Consciences to their Client, having so short a time allowed them; there being a necessity of searching divers Records for Precedents, which required a competent time, as had been allowed in former Cases. But the Court refused to promise it, only they said they would take it into their consideration. The Counsel insisted, and said plainly, they declined the Employment on those Terms, and would be forced to declare it.

Monday the 26th, the other two Officers that had signed the Capitulation for the Duke and his Troops, who had been sent for a great way off, were examined, who agreed with the former Witnesses in Matters of Fact, and also with *Lilburn*, that by signing the Articles they only meant

meant the Duke ſhould be preſerved from the Violence of the Soldiers, and not from the Juſtice of the Parliament. Then the Counſel began to plead, and all four ſpoke on the ſeveral Heads of the Plea. Mr. *Heron* ſpoke curſorily and elegantly, but not very materially: Mr. *Parſons*, a young Man, ſpoke boldly, and to good Purpoſe: Mr. *Chute* the Civilian ſpoke learnedly and home: And Mr. *Hales* (ſince the much-renowned Lord Chief Juſtice of the *King*'s-*Bench*) elaborately and at length. The Heads of their Arguments follow:

The Duke being, as was granted, a born *Scotchman*, his Tye of Obligation and Subjection to that Kingdom was indiſpenſable and indiſſoluble; ſo that his late Employment could not be refuſed when laid on him by the Authority of that Kingdom, no more than a Native of *England*, living in it, can diſobey the Commands of this Parliament: Whereas any Subjection the Duke owed the Parliament of *England* was only acquired, and diſpenſable. That ſince no Man can be a Subject of two Kingdoms, whatever Tye lay on him to the Kingdom of *England*, it was not to be put in Competition with what he owed *Scotland*; it being a Maxim in Law, That *major Relatio trahit ad ſe minorem*, and that *Jus Originis Nemo mutare poteſt*: That there was an Allegiance due to the King, and another to the Kingdom, and no Treaſon could be without a Breach of Faith and Allegiance due to them againſt whom it was committed, for theſe Kingdoms were two diſtinct Kingdoms; and though the Allegiance due to the King was the ſame in both Kingdoms, yet that due to the Kingdoms was diſtinct: Nor was the actual Adminiſtration of the Kingdoms in the King's Perſon, when the Duke got his Employment. Therefore as his Allegiance to the Kingdom of *Scotland* was antienter and ſtronger than any Tye that lay on him in *England*, ſo what he did by their Order might well make him an Enemy to this Kingdom, but could not infer Treaſon. *Yet all this of the Allegiance due to the Kingdom was founded on no Common or Statute Law, as Mr.* Hales *himſelf confeſſed afterwards: But he urged this well againſt thoſe who aſſerted it, it being the univerſally received Maxim at that time.*

That whether he was a *Poſt-natus* or *Ante-natus*, did not appear; but though he were, it did not vary the Caſe, nor his Obligation to the Place of his Nativity: And ſo though he were *Poſt-natus*, or accounted a Denizen by his Father's Naturalization, his Offence could not be Treaſon, but Hoſtility at moſt; and by that ſuppoſed Hoſtility, he could only loſe his Privilege of a Denizen, but could not be made a Traytor, there being no Precedent where ever any Man was attainted of Treaſon for a hoſtile Invaſion; and it was queſtionable if this Offence could amount to that. Nor could any Caſe be alledged, where one born in another independent Kingdom, acting by a Commiſſion from that Kingdom, and reſiding there when he received his Commiſſion, and raiſing the Body of his Army in that Kingdom, and coming into this in an open hoſtile Manner, was ever judged guilty of Treaſon. Naturalization was intended to be a Benefit, and not a Snare; ſo that one might well loſe it, but was not to be puniſhed for it. And ſo when *France* and *England* were under one Sovereign, divers of both Nations were naturalized in the other; yet when Hoſtility broke out betwixt them, many ſo naturalized fought on the Side of their native Kingdom, for which none were put to Death, though divers were taken Priſoners. And in *Edward* the Third's time, though he claimed *France* as his by his Right; yet when the Conſtable of *France* invaded *England*, and was taken Priſoner, he was not tried, nor put to Death, but ſent back to *France*, as being a Native of that Kingdom. And when *David Bruce*, King of *Scotland*, invaded this Kingdom, and was taken Priſoner, great Endeavours were uſed to find a legal Ground for his Trial, he being Earl of *Huntingdon* in *England*; but this Plea was waved, for it was found that it could not be done juſtly, that being but a leſs Degree of Honour, though King *Edward* claimed a Kind of Homage from the Crown of *Scotland*. That if the Duke were on that Account put to Death, it might prove of ſad Conſequence, in Caſe there was War any more betwixt the Kingdoms; ſince moſt of the preſent Generation were *Poſt-nati*, and all would be ſo quickly: And yet if the Lord *Fairfax*, who was both a *Poſt-natus*, and had his Honour in *Scotland*, were commanded to lead an Army thither, and being taken were put to Death, it would be thought hard Meaſure. For the Duke's Father's Naturalization, it was true, by the Statute of the 25th of *Edward* III. Proviſion was made, that Children born without the Kingdom, whoſe Parents were then in the King's Allegiance, ſhould be Denizens: But the Duke was born before his Father's Naturalization, which can never reach him, none but the Iſſue after his Father's Naturalization being included within it; and the Word *Hæres* in the Act is only a Word of Limitation, and not of Creation: Nor did his making uſe of the Aſſiſtance of ſome *Engliſh* Forces make him a Traytor. It is true, if an *Engliſhman* conduct a foreign Army, or if a Foreigner come of his own Head, or in a rebellious Way, to aſſiſt an *Engliſh* Rebellion, it will amount to Treaſon: For the Act of ſuch an Alien is denominated from the Crime of thoſe he aſſiſts here, where he owed a local Obedience, which was the Caſe of *Shirley* the *Frenchman* and of *Lopez*. But if an Alien come with a foreign Force, tho' he make uſe of *Engliſh* Auxiliaries, that only infers a Hoſtility, but no Treaſon; and was the Caſe of the Lord *Harris* a *Scotchman*, 15 *Eliz.* and of *Perkin Warbeck*, both having *Engliſh* Help: And tho' *Warbeck* was put to death, it was by no Civil Judicatory, but only by the Will of *Henry* the Seventh, who erected a Court-Martial for that purpoſe. The preſent Caſe was yet clearer, where the Alien had Authority from his native Kingdom, and was commanded by them to make uſe of *Engliſh* Help: So that tho' *Langdale*'s aſſiſting the Duke did make himſelf a Traytor, yet the Duke's accepting of it only infers an Act of Hoſtility. And whereas it was objected, That the Parliament had already by their Act which conſtituted this Court for his Trial, declared him a Traytor; it was not to be diſputed what the Parliament had power to do, but no Parliament had ever done the like before: And the Meaning of the Act muſt be, that he ſhould be tried whether guilty of Treaſon or not, ſince if the Parliament have already declared him a Traytor, further Trial was needleſs. And it was clear, the Parliament by their Act in *July* laſt, which declared all the *Scots* who entered *England* Enemies, conſidered not the Diſtinction of *Poſt-nati*, nor judged that inferred Treaſon, ſince moſt of them all were *Poſt-nati*: That many of the Officers of that Army, who had been taken Priſoners, tho' clearly *Poſt-nati*, were ranſomed, others baniſhed, others ſtill in Priſon; why then ſhould the Imputation of Treaſon be faſtened on the Duke, when the reſt were uſed only as Enemies?

And for the Articles, they made it appear, they were the Publick Faith of the Kingdom, when given by Perſons publickly authorized, upon the obſerving of which inviolably, depended the whole Intercourſe of all Nations, and their mutual Confidence, which is founded on all States being bound by the Acts of their Publick Miniſters: That this was not a pure Rendition, but a Paction concluded upon Deliberation, wherein the Parliament loſt nothing, but on the contrary were Gainers: That the Parliament had ratified this upon the matter, by voting a hundred thouſand Pounds Sterling Fine, to be the Price of the Duke's Liberty: That the ſecret Senſe the Treaters pretended, was not to be conſidered, ſince all Compacts are to be underſtood according to the clear Meaning of the Words, and the univerſal Senſe of Mankind, who look on Articles wherein Life is granted, as a ſufficient Security, not only from the Soldiers, but from the Civil Powers; and that theſe Treaters, when the Articles were agreed, ſhould have made known their ſecret Meaning, otherwiſe it was not to be regarded. And it was a moſt dangerous Precedent to admit of collateral Averments of ſecret Meanings againſt expreſs Words, much more in a Caſe of Life, and yet much more in Military Agreements, wherein the Concernments of Armies and Nations were included, and which concerned the Honour and Security of all Soldiers. And for this divers Precedents were cited. The Argument ended thus: That as the Court conſiſted of Gentlemen and Lawyers, and of martial Men; ſo the Plea conſiſting of three Branches, was the more proper for their Cognizance, a part of it being drawn from the Law of *England*, another part from the Civil Law, and a third part from the Martial Law: And if the Plea in any of the three Branches was made good (and they doubted not but it would be found ſo in them all), the Court would be ſatisfied, there was Reaſon and Juſtice for preſerving the Duke's Life.

The Court adjourned till *Friday* the ſecond Day of *March*, and the Duke being again brought to the Bar, the Counſel for the People pleaded, but ſo poorly, that all who heard them were aſhamed: But they had one Advantage, that neither the Duke nor his Counſel were allowed to ſpeak after them, nor to diſcover their impertinent Allegations; which made the Duke's Counſel obviate all they could imagine they might ſay, though they ſaid a great deal ſo far out of the Way of Reaſon, that none could have thought of it; and yet it was ſo weak, that it needed neither be obviated, nor replied to.

Yet at the End of every Branch of their Pleading, I ſhall add the Anſwers againſt them, as they are ſet down in ſome Notes taken by the Duke's Counſel.

They begun with *Alienage*, and ſtudied to make it appear, that though he was a *Scotchman* born, yet he was no Alien, having enjoyed all the Privileges an *Engliſhman* was capable of, as being a Peer, a Privy-Counſellor, poſſeſſing Lands and Inheritances, and marrying in *England*. *But Naturalization cannot be but by Act of Parliament, and not by the King's ſingle Deed; much leſs by thoſe Privileges of which any Stranger might participate.*

Next they urged his Father's Naturalization; and ſince his Name was not in that Act, as was in other Acts of Naturalization, that proved him to be an Alien, otherwiſe his Name had been put in. *From that it rather appeared he was an Alien, ſince others found it neceſſary to inſert their Childrens Names; which his Father not doing, proves the Son an Alien ſtill.*

They alſo urged his being *Poſt-natus*, which muſt be held true, ſince he brought no Evidence to the contrary; and it being ſo, his Tie of Subjection was as great in *England* as in *Scotland*: That Allegiance was only due to the King, and not to the Kingdom: That there was a King when he entered into *England*, and that though he was ſecluded from the Government, yet all Writs were iſſued in his Name; ſo that this Expedition was a Breach of the Allegiance he owed the King. *This was the oddeſt Part of all their Plea, ſince his Charge was, That he aſſiſted the King againſt the Kingdom; and now they did plead he owed no Allegiance to the Kingdom, but to the King, whom they had ſo lately murdered; the Duke's coming with his Army being only to relieve him from the barbarous Uſage he had met with.*

They alſo urged at large, That an *Engliſhman*'s Children, in what Place of the World ſoever they were born, were Denizens of *England*, and cited many Precedents. *But the Miſ-application of them was groſs and palpable, thoſe being of Perſons who were* Engliſhmen *before their Children were born; whereas the Duke's Father was naturalized after he was born; ſo that he could not communicate that Privilege to him, which he did indeed tranſmit to his Children born after his Naturalization.*

Next, they pleaded, That the Parliament of *Scotland* had no Power to commiſſionate him to enter into *England*; and that if ſome of them were there, they ought likewiſe to ſuffer for it; and it was fit he ſuffered for his Maſters who had employed him: That it was pity the King had not ſuffered ſooner. They alſo produced many Precedents of Strangers being condemned as guilty of Treaſon, for Treaſons committed in *England*; as the Queen of *Scots*, *Lopez*, *Perkin Warbeck*, the Lord *Harris*, *Shirley* the *Frenchman*, and the *Spaniſh* Ambaſſador. *All this was obviated in the former Argument, where Diſtinction was made betwixt ſecret Practices, and an open Invaſion with a foreign Force.* They added, That *Scotland* belonged to the Crown of *England*, and ſo was to be looked on as ſome of the Counties of *England*. *But* Scotland *had no Subjection to the Crown, but only to the King of* England, *whom they had murdered, and ſo they had no Power to judge any* Scotchman.

As for the Articles, they pleaded it was not in the Power of the Army to abſolve any from the Juſtice of the Parliament, which being above them, was not tied to their Articles; and therefore, though they confeſſed the Words ought to have been leſs ambiguous, yet they ſaid, the

the Expoſition of thoſe who ſigned them was to be admitted, ſince every Man was to be the Expounder of his own Words; and pleaded ſome Precedents about the Expoſition of ambiguous Words. *But the Words here were plain and not ambiguous, only a treacherous Equivocation was invented to break them.*

Cook, by a ſtrange Subtilty, ſaid, The Articles only ſecured his Life during Impriſonment; ſo that his breaking of Priſon, and being retaken, put an end to the Obligation of the Articles. *Though he broke not Priſon, but went out at Door and Gate, which was no Crime.*

Mr. Steel, *Attorney-General on behalf of the* Commonwealth.

My Lord,

THE Counſel for the Earl of *Cambridge* have framed their Arguments upon the Fact, as they conceived it proved; and alſo by admittance of the contrary in ſome Points. I ſhall uſe the ſame Method; firſt arguing from the Fact, as I conceive it ſtated by the Proofs produced; and then by admittance of the contrary, that though the Fact ſhould be as they would have it, that yet the Law will fall out to be againſt them.

The Charge being read to the Priſoner, he hath thereunto put in his Plea, conſiſting of three parts; the Truth and Validity whereof hath been denied on the behalf of the Commonwealth.

Firſt, The firſt part of his Plea was, That he was imployed by the Parliament of the Kingdom of *Scotland*, not to invade this Kingdom, but for the Ends declared by them. The Improvement made of this part of the Plea, is, That the Earl was but a Servant in this Expedition, and under the Authority and Command of another, and tied under Oaths and Penalties to give Obedience; if he had diſobeyed, he had been liable to Puniſhment; therefore it were hard for him to be puniſhed for obeying alſo: That he hath not exceeded his Commiſſion: Beſides, the Parliament of *England*, in their Declaration of the 17th of *Febuary* laſt, lay the Blame of this Invaſion upon the Parliament of *Scotland*: And laſtly, That the Earl's Caſe is not unlike that of an Ambaſſador, who is not to be blamed for acting againſt a State, if he have it *in Mandatis*, as in the Caſe of the Biſhop of *Roſs*, in the Reign of Queen *Elizabeth*.

By endeavouring to give Satisfaction to all which, I ſhall diſpatch what I have to ſay upon this firſt part of the Plea.

I ſhall admit it proved, That he had that Commiſſion and Authority mentioned; and alſo, that the Rule is generally true, That a Man is not to be puniſhed for an Act which he doth by the Neceſſity of Obedience, becauſe he hath not *ſolutum Arbitrium*, which is required to denominate Actions either blame-worthy or excuſable: but I ſhall eaſily prove, that this Rule is capable of Reſtriction, both by the Rules of Law and Reaſon; and if we obſerve the Diſtinctions aright, which determine this Queſtion, we ſhall ſtill find the Earl of *Cambridge* within that part which renders him inexcuſable.

Firſt, The firſt Difference is, where the Action is lawful, and where unlawful, which is commanded: If it be lawful, a ſuperior Command may diſpenſe with ſome Circumſtances: but if unlawful, the Servant obeying, is not the leſs to be blamed. I never held that Law of *Ina* the *Saxon* King to be warrantable Divinity; *Servus ſi quid operis patrârit Die Dominico ex præcepto Domini ſui, liber eſto*, if the Precept it ſelf were unjuſt.

Now for the Action in queſtion, wherein this Earl was engaged; it is not defended by his own Counſel, the Diſpute being only *de modo*, whether he be to be puniſhed as an Enemy, or as a Traytor; though if this Argument held, he were neither way to be puniſhed: and therefore certainly the Neceſſity of his Obedience is no Mitigation for his Crime; and if it ſhould, *Empſon* and *Dudley*, with all their monopolizing Succeſſors, had been unjuſtly cenſured, who always have had Patents and Commiſſions from Authority to plead: And ſo alſo all that Catalogue of former Traytors, who have hatched their Treaſons and Deſigns againſt this State in foreign Parts, and have ever had the Pope or foreign Princes to put a Stamp of Authority and Command upon them, muſt by this Argument be in ſome meaſure juſtified.

It was never expected from any under Command, to write himſelf more a Servant than *uſque ad aras*, thoſe being the *Hercules*'s Pillars whereon a *Non plus ultra* is written; and therefore whoever exceeds thoſe Bounds, he will find it to be at his Peril.

Secondly, The ſecond Difference is, where the Inſtrument is *inanimatum*, and where an active living Inſtrument: Of the firſt it is truly ſaid, *Inſtrumenti nulla vis*, all being therein attributed to the principal Efficient, but otherwiſe of the other. From hence the Statute of 1, 2 *Phil.* and *Mary*, *c.* 10. did juſtly repeal the Statute of 33 *H.* VIII. *c.* 20. which had puniſhed a Man for Treaſon, though he became *non compos Mentis* before the Execution. And no leſs juſtly did 25 *Ed.* III. *de Proditionibus*, by the Word [*Imagination*] alter in the like Point that Law which was in uſe till then, concerning ſuch a Perſon's committing the Act of Treaſon, ſuch an one being no better than *quaſi inanimatus*. But who can affirm this Earl to be other than an active and vigorous Inſtrument? *Non modo vivit, ſed in Senatum venit*, being a chief Member of that Parliament, under whoſe Command he would ſhelter himſelf; and by that Means he is a Maſter rather than a Servant, and ſo met with by that Declaration of the Parliament of this Kingdom, of which he would have made an Argument for himſelf.

Thirdly, Where there is *Neceſſitas culpabilis*, the Law will not excuſe, as it will where there is no Crime in contracting the Neceſſity. Thoſe who in former times gave Victuals and Proviſion to Sir *John Oldcaſtle*, were not puniſhed as Traytors, becauſe they did it (ſay our Records) *pro timore Mortis, & receſſerunt quam cito potuerunt*, 3 Inſt. 10. And upon this Reaſon ſeems that Opinion of *Tremayle* to be grounded in 21 *H.* VII. 39. That a Servant may juſtify the killing of another, to ſave his Maſter's Life, if he cannot otherwiſe eſcape.

But if one being drunk commits a Crime, though he hath not properly and immediately the free Exerciſe of his Will, yet the Law reputes him *voluntarius Dæmon*; and he is not at all the leſs excuſable by our Law, 1 *Inſt.* 247. 4 *li. Beverley*'s Caſe: and by the Philoſopher's Rule, ſuch a one doth *ignorans*, not *per ignorantiam agere*; and is therein ſo far from being excuſed, that he is therefore to be doubly puniſhed.

Now to aſſume that whereby the Earl's Counſel would excuſe him, *viz.* his Oath and Commiſſion, renders him the leſs excuſable; becauſe both are ſtrong Arguments of a free and full Conſent: for who can imagine them of *Scotland* to be ſuch mean Statiſts, as to think that Oath equally obliging, which was compulſive to the ſame, if freely taken; or that that General ſhould be truſted with a Commiſſion over all their Forces both by Sea and Land, as his Commiſſion runs, whoſe Heart as well as Hand had not imbraced it? And truly, they that have heard his Letters read to Sir *Marmaduke Langdale*, wherein he prays for the Increaſe of the Diſtractions at *London*, and for his Friends at *Colcheſter*, would not judge him an unwilling Inſtrument, but one exceeding, rather than falling ſhort in executing his Commiſſion.

Laſtly, Neceſſity of Obedience may excuſe *in privatis*, but never *in publicis*. If a *Feme-covert*, together with her Huſband, commit an Act which in another would amount to Felony, yet in her it ſhall not, becauſe *ſub poteſtate viri*, 27 Aſſ. p. 40. but otherwiſe the Law is in point of Treaſon; and ſo is the Judgment of my Lord *Verulam*; *Nec valet Privilegium* (ſaith he) *contra Rempublicam*. And as to the Caſe of an Ambaſſador urged on the other ſide, and in particular of the Biſhop of *Roſs* in the Days of Queen *Elizabeth*; I anſwer, Firſt, The Privileges of thoſe who are entertained as Ambaſſadors, are very great, and not to be made Precedents, or aſſumed by any other; whence *Proregis Dedecus redundat in Regem*: and therefore before 25 *Ed.* III. it was Treaſon to kill an Ambaſſador, 22 *Aſſ. p.* 49. And from hence might ariſe that Privilege ſhewed to the Biſhop of *Roſs*. Secondly, It appears rather to be an Act of Grace than of Juſtice, that the Biſhop was freed, becauſe he was ſet at liberty after a long Impriſonment; which, if not liable to the Cenſure of the Law, he ſhould not at all in Juſtice have endured. Alſo by the Judgment of my Lord *Bacon*, cited by the learned Doctor on the other ſide, in point of Conſpiracy againſt the State, even an Ambaſſador is not privileged; yet of this Biſhop learned *Camden* ſaith in his *Eliz. Fuit liberatus, qui Rebellioni clam faces ſubjecerat*. All which were Arguments of Grace; and therefore that Caſe will be no Precedent for this, wherein alſo Conſpiracies and Correſpondencies with many of this Nation have been proved, and are otherwiſe notorious.

And for that inevitable Labyrinth, out of which the Earl of *Cambridge* cannot extricate himſelf, but that whether obey or not obey, he is under a Miſchief, he may for that thank himſelf; *volenti non fit injuria*: this is like the Plague of an erroneous Conſcience, which whether obeyed or not, proves a Tormenter to its Subject.

Secondly, The ſecond Part of the Earl's Plea is, That he is no *Engliſhman*, notwithſtanding the Naturalization of his Father; which, in effect, is as much as to ſay, and ſo it hath been inſiſted on, he is by Birth a *Scotſman*, and by conſequence an Alien too, and not triable as a Traytor by the Laws of *England*. Concerning the handling of which Queſtion, it being that whereupon the Validity of the other two doth, in my Judgment, principally depend; I ſhall firſt anſwer the material objections which I conceive made by the Counſel on the other ſide, before I offer any thing poſitively to aſſert the Invalidity of this part of the Plea.

Obj. *It hath been ſaid, The Proof is not clear for the Earl of* Cambridge's *being a* Poſt-natus; *viz. one born after King* James's *Acceſs to the Crown of* England; *and that being but a* non liquet in favorem vitæ, *the moſt favourable Conſtruction is to be taken for the Priſoner.*

Anſw. Firſt, I deny that the Proof amounts to no more in this Particular than a *non liquet*; for there is one poſitive Witneſs that ſpeaks directly to the Earl's Birth after King *James*'s coming to the Crown of *England*: another ſpeaks to the Earl's own Confeſſion, being about two-or-three-and-forty years of Age, which ſpeaks him born ſince that time; and a third ſpeaks to the common Report of his being born ſince: and if the Proof were but *ſemiplena probatio*, yet as *Bracton* ſaith, that amounts to a Preſumption; and, ſaith he, *Preſumptioni ſtabitur donec probetur in contrarium*, eſpecially when the Earl himſelf, who ſhould have proved the contrary for the making good his Plea, hath offered nothing againſt it; and being aſked, never abſolutely denied it.

Secondly, I do agree, that what the Jewiſh Expoſitors obſerve in the Expoſition of their Laws, which founded in favour, is to be obſerved in our Law, in thoſe things which we uſually ſay the Law favours; *viz. Favores ſunt ampliandi*; and that ſtrict Expoſitions are only for penal Rules, according to that of the Civilians, *Conſtitutio penalis non excedit Caſum*: yet we ſhall find, that where the Penalty of a penal Law is againſt one or few Perſons, and the Benefit redounds to the Generality, in that caſe even a penal Statute ſhall be taken largely againſt the Offender; ſo the Rule is put, *Plow. Com.* 36. *Plat*'s Caſe, where it is reſolved, though the Statute of 1 *R.* II. *c.* 12. give an Action of Eſcape againſt the Guardian of the *Fleet*, yet for the Reaſon aboveſaid, it is, though a penal Law, by a benign Interpretation, to extend to the Sheriff of *London*: and in like manner, if there were any Latitude in Caſes of Treaſon and Murder (as there is not), yet to extend it on the behalf of the Priſoners, might prove to many thouſands *crudelis Miſericordia*.

Thirdly, Add to this, that the Law of *England* is ſo tender of the publick Weal, that though in other Caſes it may ſeem to inſiſt too much upon Formalities, yet herein it will diſpenſe ſometimes with its moſt certain Rules. Hence it is, that if one paſs over another's Land, without his Conſent, to fetch a Falcon, or the like, he may be puniſhed as a Treſpaſſer; but not ſo, if to hunt or kill a Fox or an Otter (which Inſtances I ſuppoſe not unſuitable to the Priſoner), becauſe theſe are Creatures *contra bonum Publicum*; which Reaſon the Book gives of the Law in that Caſe, 12 *H.* VIII. 10. For the ſame reaſon no Man ſhall be puniſhed as a Treſpaſſer for erecting Bulwarks on another's Land, *Dyer* 36. *Maleverer*'s Caſe. And hence certainly was the reaſon of that ancient Law, That capital Offenders, who had tranſgreſſed againſt the Law, had *Lupina Capita*, and might therefore by the Juſtice of *Lex talionis, arte perire ſua*; wherein the Law followed *Naturæ Ordinem*: The Rules of Nature are moſt conſtant,

conſtant, yet for the Preſervation of the whole, it will ſometimes contradict itſelf; as to prevent a *Vacuum*, and the like, what an Inverſion do we ſee of Nature's moſt conſtant and ordinary Rules! Do not they, then, in this prove ſomewhat unnatural, imbrace a Cloud inſtead of Subſtance, that fear not to omit the weightieſt things of the Law, rather than in Caſes of invincible Neceſſity diſpenſe with ſome Formalities?

Obj. *But though the Earl of* Cambridge *were a* Poſt-natus, *yet he is* quaſi Ligeus acquiſitus *unto* England; *and if ſo, as his Allegiance began with an Act of the Nation, ſo it might determine by an Act of the ſame Power, to wit, by Command from the Parliament of* Scotland.

Anſw. Firſt, The Strength of this Objection, if admitted, would, as I conceive, by a new invented Diſtinction, overthrow the learned and ſolemn Reſolution of all the Judges and Chancellor of *England*, 6 *Jac.* in *Calvin*'s Caſe, wherein all Allegiances that the Wits of Men could imagine, are enumerated, and they are but four, *viz. Ligeantia naturalis, acquiſita, localis*, and *legalis:* and by the Judgment of that Caſe *Robert Calvin*, Son and Heir to *James* Lord *Calvin* of *Colcreſs* in *Scotland*, born three Years after King *James*'s Acceſs to the Crown (as alſo all other ſo born), were adjudged Subjects of this Kingdom of *England*, *Ligeantia naturali*, by the beſt and higheſt Allegiance, without any *quaſi* at all, in the ſame Kind, and to all Intents and Purpoſes that any natural-born *Engliſhman* was.

Secondly, The Objection ſeems to me not only to be againſt the Judgment of this Caſe, but againſt Reaſon alſo: For what Acquiſition is there by the Party, or what contributes he to it, whether he be born in this or that Time or Place? The Conceit that there is any Act of the Party's in this (as there muſt be to make a *Quaſi Ligeus acquiſitus*) ſeems to ſavour of the *Pythagorean Metempſicoſis*, or that Opinion of *Plato*, who held a Preexiſtence of Souls, which after came into the Bodies, *tanquam in ergaſtula.*

Obj. *It is inconſiſtent to have two natural Allegiances to two ſeveral Kingdoms, as it is impoſſible to have two Fathers; in which Caſe* major relatio trahet ad ſe minorem: *And in that Caſe the Earl is rather to be reputed a Subject of* Scotland, *where he was born, than of* England.

Anſw. Firſt, It is indeed inconſiſtent that the ſame Perſon ſhould in two ſeveral Kingdoms have two original Allegiances, in a phyſical Acceptation, to wit, to be ſo born: Yet by conſtruction of Law, he that is born in *Scotland* may have an Allegiance to *England*, equivalent with the other. Thus *Calvin* by the Reſolution of that Caſe was *Scotus patria*, and *Anglus privilegio.*

And thus, without any contradiction, it was ever held for Law, That the Natives of *Gaſcoign* and *Aquitain*, and thoſe other Countries which were geographically out of *England*, were yet in conſtruction of Law equally Denizens and Subjects of *England* with thoſe born here; in regard of one Allegiance and Protection wherein they were equally involved, 27 *Aſſ. Pla.* 48.

Secondly, No Allegiance which gains the Name of *Ata & Naturalis Ligeantia*, can by the Common Law of *England* be diveſted, though otherwiſe it may be by the Civil Laws, there being no *Magis & Minus* that it is capable of, which the Objection would ſuppoſe. And the Truth is, the Reſolution of *Calvin*'s Caſe anſwers all the Suppoſitions of any future Contingencies, and poſitively reſolves, That this Allegiance cannot poſſibly be loſt by any Matter *ex poſt facto*, no, not by Difference of Deſcents and Governments, 7 *Li.* 27. And what is agreed to be inherent to a natural-born *Engliſhman*, belongs alſo to a *Poſt-natus. Non poteſt patriam in qua natus eſt exuere, nec Ligeantiæ Debitum ejurare*, 1 Inſt. 129.

Thirdly, And for the Inconſiſtencies of Allegiances that the Objection ſeems to inſinuate, in the Caſe of Competition between the Kingdoms, *Bracton* hath met with that Suppoſal long ſince, *Li. de Accep.* 427. ſpeaking of one that is *ad fidem utriuſque Regis, ſi contingant guerram accidere inter Regna*; putting the Caſe of one born in *France*, and indenized in *England: Remaneat perſonaliter cum eo cui Ligeantiam fecerit, & faciat ſervitium debitum ei cum quo non ſteterit in perſona.*

Obj. *Though the Earl of* Cambridge *were a* Poſt-natus, *yet, as this Caſe is, it makes him not to differ from an Alien, becauſe the Kingdoms of* England *and* Scotland *were at the Time of this Invaſion divided, and there were then ſeveral Adminiſtrations of their Powers; from whence a double Allegiance is to be conſidered,* Regis & Regni.

Anſw. Firſt, if we look upon the judicial powers of the Kingdoms in a legal conſideration, even at the Time mentioned in the Objection, beſides the Union of the Kingdoms made by force of 1 *Jac. cap.* 1. we ſhall find as ſtrong Stipulations and Engagements by Treaties, confirmed by Parliament and otherwiſe, betwixt the Nations, as were poſſibly to be made; none of which were repealed at the time of this Expedition: And ſo far from that, that the Earl himſelf hath often at the Bar profeſſed, That neither his Coming or Commiſſion were againſt the Parliament or Kingdom of *England*. How then were the Powers of theſe Nations ſo legally and judicially different?

Secondly, The Union of the Laws and Governments of theſe Nations was a Thing deſired and endeavoured by ſome, as may appear by the latter part of the Statute of 4 *Jac. cap.* 1. but it was not effected. Therefore the Diſtinction of the Kingdoms was taken into conſideration in *Calvin*'s Caſe, where [*Regna*] was one of the *Nomina operativa*, and granted, That though the Kingdoms, Laws, and Nobilities of the Nations of *England* and *Scotland* were ſeveral and diſtinct, yet the Allegiance of all born in either Nation after the Union was one and the ſame. And the Pleading of that Caſe (which beſt denotes the Law) demonſtrates this, That ſuch Diſtinction of the Kingdoms was under conſideration: For the Pleading was, That *Calvin* was born *extra Ligeantiam Regni Regis* Angliæ, and *infra Ligeantiam Regni Regis* Scotiæ. And the learned Chancellor of that Time ſaith, in his *Poſt-nati*, that the Judgment was, That neither *Calvin*, nor any other *Poſt-nati*, were Aliens to the King or Kingdom of *England.*

Thirdly, It is agreed on the other ſide, That there was always one *Ligeantia Regis:* And therefore, even thence, I do infer that there was alſo one *Ligeantia Regni*; becauſe that Allegiance which was due to the King, was certainly due to him in his politick Capacity, though not to that only, or divided in the Subject from his natural Capacity. However, it may be ſaid nevertheleſs, as it is in *Calvin*'s Caſe, (by a Community of Properties) that it was due to the natural Capacity alſo, *viz.* as it ought ever to be accompanied with the politick; thence it was but juſt in the Parliament, notwithſtanding the King's perſonal Command and Oppoſition againſt them, yet to permit the taking of the Oath of Allegiance, and not to aboliſh it till after his Death, it being *ad Legem Legatio*; yet the Perſon was ſo neceſſary, that without it, it had been ridiculous to adminiſter it in the Form it was, in which caſe *majus dignum trahit ad ſe minus.* And hence it was that capital Crimes committed in one King's time, might be proceeded againſt after the Death of that King, 3 *Ed.* 3. *Fitz. Reattach.* 18. *& Bro. Cor.* 178. If the King had purchaſed Land to him and his Heirs, tho' the Word [*Succeſſors*] the Word of his politick Capacity, had not been mentioned, yet he was ſeized thereof *in Jure Coronæ*, 43 *Ed.* III. 20. And if Land had been given to the King and another, and their Heirs, they had for the ſame reaſon been Tenants in Common, and not Joint-Tenants, *Com.* 239. for the ſame reaſon. And though many of thoſe Perſons who have been Kings have often oppreſſed, inſtead of preſerving their Subjects; yet ſtill that which *Bracton* hath ſaid upon the ſame Ground remains true of the Regal Power, *Non aliud Rex poteſt, quam quod de jure poteſt*, his Office ſtill being *ex Officio*, as 2 *Littl. Co. Wiſeman*'s Caſe ſaith; and *Fitz. Nat. Brev.* 113. out of the Regiſter, to provide for the preſervation of his People. And if any other Conſtruction ſhould be made, then it muſt have followed in the King's perſonal Abſence, Minority, or Diſability, the Kingdom muſt either have been but weakly, or not at all governed. From all which it may be inferred, That the Obligation and Allegiance which was owing to the King, did include that which *ſano ſenſu* was the Kingdom's alſo.

It remains now that ſomewhat be ſpoken for the further invalidating of this part of the Plea; wherein I ſhall

Firſt prove, That one born in *Scotland*, after the Union of the Crowns, cannot be to any purpoſe conſidered as an Alien to *England.*

Secondly, That though the Earl of *Cambridge* had been born before the Union, yet he had not been an Alien to *England*, partly from a national Conſideration, but more principally from perſonal Conſiderations; *viz.* 1. By reaſon of his local Allegiance both in *Scotland* and *England.* 2. *Ligeantia acquiſita*; and that by the Naturalization of his Father, or his own Denization.

Thirdly, That though he had been an Alien, yet as this Caſe is upon the Proofs, he will prove triable for Treaſon by the Laws of this Kingdom.

Before I ſpeak of any of theſe, I might touch upon that part which layeth Murder to the Charge of this Earl; it having been fully proved that ſeveral Perſons by name, amongſt many others, were ſlain and murdered by the *Scotiſh* Army. And to make him puniſhable for this Crime there is no need of Denization; it being an Offence in itſelf againſt the Law of God and Nations, and no Truſt requiſite to be an Ingredient to it, as is required in Treaſon.

Hence we find Rape puniſhable in *England*, committed by a *Scot*, 13 *Eliz. Dyer* 304. and Murder done by the Lord *Zanchar*, of the ſame Nation, 9 *Co.* 116. where we find him indicted by the Name of *Robert Creighton*, Eſq. Which together with the expreſs Authority of 11 *Ed.* III. *Fitz. Brev.* 473. are, by the way, ſufficient Warrants for our charging the Priſoner by the Name of *James* Earl of *Cambridge*, without mentioning his Dukedom, as he hath often intimated we ſhould have done.

And if the Earl ſhould ſay he killed not theſe Perſons himſelf, his Counſel can ſoon tell him that's not material; the Law being, That if divers Perſons come to do an unlawful Act, and one commit a Murder or Treaſon, it is ſo in all. 1 *Mar. Dyer* 38. 13 *H.* IV. 13. 9 *Ed.* II. *Fitz. Cor.* 433. But the Truth is, I ſhall not rely upon this, being not willing ſo high an Offence ſhould paſs under any other Name than that of Treaſon: Therefore I paſs to thoſe afore-mentioned Conſiderations, which will evince his Crime to be no leſs than Treaſon.

1. As to the firſt of theſe, there being ſo much ſaid in the Argument of *Calvin*'s Caſe, I ſhall omit the citing of any thing particularly from thence, and ſelect ſomething from the Statutes made ſhortly after the Union. It is agreed by all Hiſtorians that theſe two Kingdoms were antiently but one, *Diviſos orbe Britannos, & ſubducta Britannia mundo.* Thence it is obſervable, that in the *Preface* of 1 *Jac. cap.* 1. by the Acceſs of the King of *Scotland* to this Kingdom, the Parliament ſpeaking of the Union, correct themſelves in theſe Words, *Or rather a Re-uniting of theſe two Nations (though antiently but one).* If ſo, this Re-union amounted to no leſs than (as it were) a national Remitter of the antient Union.

For the Settlement of this Union, Commiſſioners were choſen to compoſe ſome Differences betwixt the Nations, and to conſider what was fit and neceſſary to be done for the Commonweal of both Kingdoms, 1 *Jac. cap.* 2. Theſe Commiſſioners conſult long about it; and becauſe they could not perfect it within the Time prefixed, an Act paſſeth for longer Time, 3 *Jac. cap.* 3.

At length the Work is finiſhed by the Statute of 4 *Jac. cap.* 1. By which all Statutes that expreſs or imply any Strangeneſs of the one Nation to the other are repealed. And moreover, it doth enact and ſay, *That if there had appeared any other Statutes of this Realm of* England, *wherein any thing is ordained, enacted, and eſtabliſhed, expreſly and by name againſt the* Scotiſh *as Enemies, or* Scotland *as an Enemy-Country to the King of this Realm, or the State of the ſame; we ſhould, for ſo much of them as concerneth* Scotiſh *Men or* Scotland, *have utterly abrogated and annulled the ſame, ſeeing all Enmity and Hoſtility of former Times between the two Kingdoms and People is now happily taken away.* So the Statute. After which it ſeems as ſtrange, that any born in *Scotland* after and during the Continuance of that Union, ſhould make themſelves Strangers to *England*; as if natural-born *Engliſhmen* ſhould have made the ſame Allegation.

In the aforeſaid Statute of 4 *Jac.* 1. there is a Clauſe, That no *Scotiſhman* coming into *England* to proſecute the Law againſt any *Engliſhman* offending in *Scotland*, is to be arreſted here, except for Treaſon and Murder. And in the latter end of the Act, amongſt other Things, it is enacted,

acted, *That if any* Engliſhman *ſhould commit Treaſon or other Crimes in* Scotland, *and come into* England, *he ſhall not upon his Apprehenſion here be ſent into* Scotland, *to have his Trial there, but be tried where he is taken.* But the Statute of 7 *Jac. cap.* 1. which was the Year after the Reſolution in *Calvin*'s Caſe, repealed that Clauſe of 4 *Jac.* 1. laſt mentioned, as to all Offences but Treaſon, leaving the Offenders in that kind to be tried in the Kingdom where they were apprehended. And though the Statute ſpeak only of *Engliſh*, yet the like Act was to paſs in *Scotland*, in caſe any of that Nation committed Treaſon here; elſe neither was to be binding to the Nations.

2. In the next place, ſomewhat may be ſaid from a national Conſideration, to prove the Earl no Alien here, though born before the Union: Not that my Purpoſe is to endeavour the Revival of that antient Homage done formerly by that Kingdom to this; it is not worth the mentioning, in compariſon of that Love and thoſe Engagements which have been betwixt us: *Gens una ſumma* was heretofore ſaid of us, and, if it may be, I wiſh *ſic ſimus in ævum.* But becauſe ſomewhat hath been on the other ſide cited from the Stories of *Bruce* and *Baliol*, in the Days of *Edward* I. and for that I find both Law and Hiſtory afford ſome Matter for this Argument, I hold it my Duty not to be altogether ſilent in what paſſed in thoſe Times, and ſince. I will not inſiſt upon thoſe ſeveral Appeals made by *Magdolphus*, and others of the *Scotiſh* Nation, to *Edward* I. *contra cuſtodes Scotiæ*, and againſt the Kings of *Scotland* themſelves: All Arguments of Allegiance then acknowledged from that Kingdom to this.

But to inſtance in ſome Precedents nearer to this in queſtion, *Symon Fryſel*, in 34 *Ed.* I. *Anno* 1306. a Native of *Scotland*, came in an hoſtile manner from that Kingdom to invade this; and being apprehended here, he was condemned as a Traitor. The Words of *Mat. Weſt.* 456, concerning him are, That he was *a Turri Londinenſi per plateas diſtractus, ut proditor.*

In the ſame Year of *Edward* I. *William Wallis*, the Commander in chief of the *Scotiſh* Forces, and a Native of that Nation alſo, as the Priſoner was, came into this Kingdom; and being apprehended, was, ſaith *Walſingham, fol.* 61. *Londonias uſque ductus & judicialiter condemnatus, trahitur, ſuſpenditur, & ultimo decollatur*; though he pleaded, as our Hiſtorians tell us, what this Earl doth, That he was a Subject of *Scotland*, and not of this Kingdom, and therefore ought not to be tried here for Treaſon. In 42 *Ed.* III. *cap.* 3. in the Lord *Beaumont*'s Caſe, when it was replied that the Party objected againſt to be an Alien, was a *Scotſman*, the Plea is no longer inſiſted upon. A Protection *quia profecturus* lies not into a Country that is within the Allegiance and Protection of *England*, 7 *H.* IV. *cap.* 14. Yet we ſhall find the only Reaſon given wherefore it was granted into *Scotland*, was becauſe of the Wars that were then betwixt the Nations; 7 *Ed.* IV. *c.* 27. After the ceaſing of which Wars, it may be collected by the Book, a Protection would have lien no more thither, than it would have lien into *Wales* or *Ireland.*

In 13 & 14 *Eliz. Dyer* 304. one was arraigned for a Rape. At the Return of the *Venire Facias* to try him, he pleaded that he was a *Scotſman*, and deſired a *Medietate Linguæ*, which Manner of Trial is granted to Aliens by the Statutes of 27 & 28 *Ed.* III. But by the Judgment of the Judges of both Benches it was denied him, for this reaſon, amongſt others, Becauſe, ſaith the Book, a *Scotſman* was never here reputed for an Alien, but rather a Subject.

Obj. Whereas it hath been ſaid, This was becauſe the Statutes of 27 & 28 *Ed.* III. were made when *Scotſmen* were generally reputed Subjects to this Kingdom:

Anſw. I anſwer, 1ſt, That the Book gives no ſuch Reaſon. 2dly, To affirm this, is to ſuppoſe the Judges, by ſuch a foreign Conceit, to go againſt the expreſs Proviſion of two Acts of Parliament, and the conſtant practice in purſuance thereof.

In the ſame Year of 13 *Eliz.* in the Caſe of the Duke of *Norfolk*, the Evidence of the Biſhop of *Roſs*, a *Scotſman*, was offered againſt the Duke by the Counſel for the Commonwealth; which the Duke oppoſed from the Judgment of *Bracton*, That a Foreigner's Teſtimony was not in that Caſe to be received. But *Cataline*, Chief Juſtice, though he ſays nothing to *Bracton*'s Opinion touching *Exterorum Teſtimonium*, yet he gives the Rule of the Court, That the Teſtimony was to be received. *Camden*'s *Eliz.* 214.

After this Time alſo the Queen of *Scots* was tried in this Kingdom, though not upon the Statute of 25 *Ed.* III. yet upon the Statute of 27 *Eliz. cap.* 2. then in force. And though in the Proceedings of that Buſineſs Commiſſioners of both Nations met, and that the *Scots* Commiſſioners did proteſt, that though they did join with our Commiſſioners, yet they did thereby make no Acknowledgment that they were other than a Foreign Nation to this; yet the *Engliſhmen* proteſted againſt that Proteſtation, as we find in the Hiſtory of that Queen.

3dly, But to paſs from this national to a more perſonal Conſideration, and from thence (though he were an *Ante-natus*) to prove the Earl liable to Puniſhment for Treaſon againſt this State, and that by a local Allegiance both in *Scotland* and *England*: Wherein it muſt be granted as a Principle, and cannot be denied, but that if an Alien come into this Nation, and there abide and commit that Act which would always be Treaſon in an *Engliſh* Subject, it is by the Law Treaſon in him during that Abode, becauſe he oweth *Localem Ligeantiam*, and the Indictment againſt him ſhall ſay, *contra Ligeantiæ ſuæ debitum*, 7 *li. Calvin*'s Caſe. Thus in 36 *Eliz.* the *Portugals* here in *England* join in an Act of Treaſon with Doctor *Lopez*; and it was adjudged Treaſon in all. Thus this Earl, tho' he had been born before the Union, yet he lived in *Scotland* after the Union, and at the very Time of this Invaſion, whereby he became a Subject, at leaſt *Locali Ligeantia.*

So in *England* alſo, not only by his former Reſidence here, which he will ſay perhaps was avoided by his Removal hence, but by his late coming in, he became *Ligeus* here *Locali Ligeantia*, becauſe he came from a Kingdom then, by his own Confeſſion, in Amity with this. This was the Caſe of *Shirley* a *Frenchman*, 4 *Mar.* who came from *France*, then in Amity with *England*; and being taken levying War in an hoſtile manner, was indicted and executed as a Traitor, *Dyer* 144. And as the Book puts it, 7 *Li. Calvin*'s Caſe, if he had had Iſſue here, that Iſſue ſhould have inherited.

4thly, In the next place, I ſhall prove the Earl of *Cambridge* (though he had been an *Ante-natus*) to be a Subject of *England Ligeantia acquiſita*, and that by the Naturalization of his Father, or by his own Denization. But, Firſt, as to the Naturalization of his Father:

1. The Act of Parliament hath been read and proved, whereby the Father of this Earl, by the Name of *James* Marquiſs of *Hamilton*, Earl of *Cambridge*, in 21 *Jac.* was naturalized to be to all intents and purpoſes a Subject of this Nation, as if he had been here born; with a further Clauſe, That his Heirs might inherit and purchaſe any Lands, Tenements, &c. By which Act it clearly appears that this Earl is naturalized alſo: For, 1ſt, though in the Caſe of a Denization there may need the Word *Heirs* to extend it to them, becauſe it goes as it is limited, it may be for Life, in Tail, or upon Condition, 9 *Ed.* IV. *cap.* 7. yet it is repugnant to ſuppoſe that in Point of a Naturalization, becauſe he that is born in *England*, as by Relation this makes him, without any other Expreſſions, conveys the Right to his Heirs. Hence Naturalization is never *temporanea*, though *data*, 1 *Inſt.* 129. 2dly, Here are not wanting Words neither, that reach to the Heirs, if neceſſary; for the Act is, That his Heirs may inherit and purchaſe, &c. And in purſuance hereof it is notorious that this Earl hath done both. But we ſhall find that oftentimes no more goes to expreſs a Naturalization than this; no other Expreſſion is uſed to import the Privilege of being *Engliſh*, to them that are born of *Engliſh* Parents beyond-Sea, but only that they may have, and freely bear the Inheritance within the ſame Allegiance as other Inheritors, 25 *Ed.* III. *De natis ultra Mare.* And in 3 *H.* VI. *cap.* 55. *Hall* and his Wife brought a Writ of *Trover*: The Tenant pleaded that the Feme was an Alien. The Demandants reply, That the Feme, in the Time of *Henry* IV. was enabled by Act of Parliament to purchaſe Lands and Tenements, &c. With which Reply the Defendant's Counſel reſted ſatisfied, as if the Replication expreſſed it ſufficiently that ſhe was naturalized; and thereupon demanded View.

Obj. But it hath been objected, *That this Act can have no other Effect than if the now Earl's Father had been born in* England: *And though he were a native* Engliſhman, *yet having Iſſue this Earl by a native* Scotſwoman *in* Scotland, *the Iſſue thereby remains an Alien, though his Father were naturalized or born in* England.

Anſw. 1. I ſhall eaſily grant both that this Earl was ſo born in *Scotland*, and that the Naturalization amounts to no more than if the old Earl had been born in *England*; but do deny the Inference drawn from thence, That therefore the now Earl muſt be an Alien: For though in former Time ſome Controverſy hath been touching this Queſtion, *viz.* Whether the Iſſue of an *Engliſhman*, going out of the Kingdom, born of an Alien Woman, ſhall be a Subject of *England*, or no; yet I take the Law to be clear at this day, that ſuch Iſſue is a Subject of *England.*

By the Common Law, if Father and Mother, both *Engliſh*, have Iſſue beyond-Sea, that Iſſue is *Engliſh*, 1 *R.* III. 4. the Statute of 25 *Ed.* III. *De natis ultra mare*, being declarative of the Common Law, 42 *Ed.* III. *cap.* 10. And if the Reaſon and Practice of the Law be examined, we ſhall find it to be the ſame, where the Father only is *Engliſh*, for theſe Reaſons:

Firſt, Becauſe at this day any Perſon may go from this Kingdom to another without Licence, tho' he be neither Nobleman, Merchant, or Soldier, except ſome Reſtraint by a *Ne exeat Regnum*, Proclamation, or other Act of State be againſt him. So is it reſolved, 12 & 13 *Eliz. Dyer* 296. And though all, except Perſons ſo qualified, were reſtrained by 5 *R.* II. *cap.* 2. yet that Statute is repealed by the Statute of 4 *Jac. cap.* 1. made principally in reference to *Scotland.* Therefore however the Law may be as to ſuch as go when prohibited, or who ſtay beyond-Sea when commanded to return; yet as to all others, at this day, and always as to Noblemen, as the Father of this Earl was, upon whom no Reſtraint was ever put by Common or Statute Law, certainly the Law is otherwiſe, eſpecially when the Removal is to a Country in Amity, as *Scotland* was.

Secondly, *Partus ſequitur ſemen*, by the Common Law: Therefore, in 4 *Ed.* IV. 25. *Statham Villen.* 9. if a Freeman marry a Nief, and have Iſſue, that Iſſue is free; but otherwiſe, if the Man had been Villain, and the Woman free.

Thirdly, The Woman Alien by the Marriage is indenized, and the Iſſue then muſt needs partake of the Privilege. And it appears by 26 *Ed.* I. *Rot. Parl.* 1. that when *Edmond*, the Brother of *Edward* I. who married the Queen of *Navarre*, died, all the Judges reſolved ſhe ſhould be indowed. And what though ſhe ſhould not, as in other Caſes it hath been doubted, yet that hinders not, but during Coverture ſhe was indenized, and that's enough to indenize the Iſſue. If a Nief marry a Freeman, it is and hath been a Doubt, whether this be a perpetual Infranchiſement to the Woman after the Death of her Baron: But it never was doubted but that both herſelf, during Coverture, and her Iſſue ever after, were infranchiſed. *Lit. Sect.* 187. 1 *Inſtit.* 136.

And for expreſs Authority in the Point in hand, beſides the antient Authority of *Abridg. Aſſ.* 39. *tit. Baſtard.* 7. and *Bro. Denizen* 21. it was the Judgment of all the Judges of *England*, 2 *Ca.* in the Dutchy-Chamber, betwixt the King and *Eaton*, uſually called *Stephenſon*'s Caſe, the Record whereof is ready to be produced; where Judge *Yelverton*, and *Hervey* then Judges Aſſiſtant to that Court, declared it to be their Judgments, as alſo of all the other Judges, That the two Sons of *Stephenſon*, born beyond-Sea upon the Body of an Alien, were Denizens.

Object. I obſerved but one Book cited for maintenance of the contrary Opinion, and that was 26 *Hen.* VI. where indeed it is 22 *H.* VI. 38.

Anſw. Which Authority is againſt, not for that Opinion for which it is cited: for in an Action there brought, the Defendant pleads that the Plaintiff's Anceſtor, in the time of *Hen.* IV. went beyond-Sea without Licence, and there had Iſſue the Plaintiff. Upon this Plea, *Arderne* the Plaintiff's Counſel demurs; but ſaith the Book, *Priſot* the Defendant's Counſel durſt not demur.

Secondly, If the Book were as it is ſuppoſed, yet it makes nothing againſt the Law at this day; becauſe by the Book it appears, that the Plain-

Plaintiff's Anceſtor went beyond Sea in the time of *H.* IV. without Licence; which being after *R.* II. there was a Reſtraint upon him, except by Licence, or qualified as that Statute of *R.* II. requires: which Reſtraint is now abrogated, as is before ſaid; and the Inhabitants of *England*, as is ſuitable to all Iſlanders, may travel at pleaſure, except eſpecially forbidden: and ſo whatever the Law was then, it's otherwiſe now; *Mutata ratione Legis, mutatur Lex.*

Object. What if the preſent Earl did himſelf endeavour, or, as he ſaith was adviſed, notwithſtanding the Naturalization of his Father, to procure himſelf to be naturalized, or indenized?

Anſw. Yet that could be but *in majorem cautelam*; as ſome Savings have been inſerted into Acts of Parliament themſelves, not for Neceſſity, but for Satisfaction of the Lay-Gents, as our Books expreſs it, 1 *li. Coo.* 24. *Plow. Com.* 379. upon the Statute of 5 *Ed.* VI. And even in that Caſe of *Stephenſon*, tho' the Judges Aſſiſtants delivered what was their own Opinions and of the reſt of the Judges; yet if making the Party a Denizen would end the Controverſy, they did adviſe it.

5thly, Beſides this Purchaſe of his Father's, the Earl hath himſelf contributed to his own Denization, not ſo much by inheriting his Father's Dignity, and purchaſing and enjoying himſelf Lands in *England*, that being rather an Evidence of what he formerly was, than making him what he was not before; but by the Writ of Summons ſent to this Earl himſelf, 15 *Car.* The Record whereof hath been read, commanding him *ex fide & ligeantia ſua* to appear in Parliament as a Peer of this Realm; who accordingly did appear, and acted in this Parliament, being choſen of ſeveral Committees in the Lords Houſe, to conſider of many things of great Concernment, ſome whereof were for the Strength of the Nation, as hath been fully proved by the Records of the Lords Houſe. All which Actions are ſo inconſiſtent with his being an Alien, and would be ſuch a Soleciſm in State to admit an Alien to be inveſted amongſt others with a judicial power, that rather than it ſhould be admitted, all this laid together will (I conceive) amount to at leaſt a Denization.

I will not ſay, that the granting of every Office, or the being employed in any Tranſaction which concerns the Law or Government of the Kingdom, will make an Alien a Denizen; the Books of *Ed.* IV. 1. and 14 *H.* IV. 19. forbid me to ſay ſo: but it's another thing to have a judicial power in Parliament, and to ſit by virtue of ſuch Summons in the Parliament of *England*. The Lord *Delaware* was diſabled to ſit in the Houſe of Peers during his Life; but he dying, and a Writ of Summons coming to his Son, he was by vertue thereof enabled not only to ſit, but to enjoy that Place which his Anceſtors formerly had done, 11 *li. Coo.* 1. And in 39 *Ed.* III. 29. *Umfrevil* Earl of *Angus* ought to be named Earl in the Writ againſt him, becauſe by that Name he was ſummoned to the Parliament; and for not naming him ſo, the Writ abated. A Denization is a kind of a National Manumiſſion: now as there is in Law an expreſs Infranchiſement of a Villain, and an Infranchiſement in Law, *Lit. ſect.* 205. ſo it may be ſaid of Denizations. And amongſt other Manumiſſions by Act in Law, I find in *Britton*, *fol.* 79 & 82. if a Villain were made a Knight, this did make him free *ratione dignitatis*, and did not make the conferring of that Dignity to be a void Act, parallel whereunto is the Caſe in hand.

Sixthly, The laſt thing I ſhall inſiſt upon, touching this ſecond Part of the Plea, is to make it appear, that tho' the Earl had been born before the Union, and an Alien, that yet there are other Circumſtances in this Caſe yet remaining, which will clearly make this Act of his to amount to no leſs than Treaſon, *viz.* his coming from a Kingdom in Amity with this, and his marching in hither with *Engliſh* Traitors. That he marched in and held Correſpondency with Sir *Marmaduke Langdale* and his Son, and with Sir *Thomas Glenham*, and divers others, hath been fully proved; and that that Kingdom was then in Amity with this, beſides the National Treaties and Engagements unrepealed, it appears as well by the Earl's own Confeſſions at the Bar, as by the Words of the *Scotiſh* Declaration made upon this Expedition, read at the Earl's own Requeſt; which, whatever it be, doth yet conclude this Earl and all his Party from alledging the contrary for their advantage, it having been often reiterated by him; and alſo therein ſaid, That this Expedition was neither againſt the Parliament nor People of *England*: beſides, that it is no ſlight matter to make Nations in Amity to become open Enemies in a legal Conſtruction, which we are now upon, as appears by the Book of 19 *Ed.* IV. 6.

Now that theſe Circumſtances will make this Act reach to Treaſon, appears by theſe Authorities of Law. In the Days of Queen *Mary*, *France* and *England* were in Amity; *Shirley*, a *French* Native, during that Amity, joins himſelf with ſome *Engliſh* Traitors: *Shirley* is apprehended, and indicted as a Traitor, *contra ligeantiæ ſuæ debitum*, 4 *Mar. Dyer* 144. which is confirmed for good Law likewiſe, 7 *li.* in *Calvin*'s Caſe, by all the Judges: with which agrees *Brook. Treaſon* 32. and *Crompton*'s Juriſdiction of Courts 72. and Mr. Juſtice *Dalliſon*'s Reports, 3, 4 *Mar.* All which Authorities agree in this difference, That if Alien Enemies join with *Engliſh* Rebels, and be apprehended, the Aliens ſhall be tried by Martial Law, or ranſom'd; but if Alien Armies ſo join, it's Treaſon in all. And 'tis obſervable that the Caſe is put cauteloufly in *H.* IV. and ſo abridged by *Bro. Treaſon* 1. That where Alien Enemies join with *Engliſh*, the Aliens ſhall be tried by Martial Law, and the *Engliſh* as Traitors.

Object. The Objection hath been made, and ſo far it ſeems the Law is agreed, That if Aliens fight under the Banner of *Engliſh*, that this may be Treaſon in all; but not if the *Engliſh* fight under the Command of Aliens, which is alledged to be the Caſe in hand.

Anſw. 1. I cannot ſafely admit that which the Objection takes for granted, that the *Engliſh* were the Auxiliaries, and the *Scots* the Principals in the Act, when I find it in the Proof offered by the Earl himſelf, that he came in by the Invitation of their Friends in *England*, and when I remember what was deſigned and produced in the South of *England* before and at the ſame time with this Expedition.

2. But admit it to be otherwiſe, yet if this Difference were material, then it ſhould follow likewiſe, That if Alien Enemies did fight under an *Engliſh* Commnad, it ſhould be Treaſon in all; but it is not ſo.

3. The Law makes no ſuch Difference, nay, the very Objection ſeems to be made and anſwered, 4 *Mar. Dyer* 144. for the Book ſaith, That tho' *Shirley* were an Alien, yet *hoc non refert tempore pacis inter* Anglos & *Gallos*; the weight is laid upon *tempus pacis* only.

4. The true Reaſon of the Law in one Caſe is the ſame in both; which I conceive to be from the Deteſtation of conſpiring with an inward ſecret Enemy, and from the Truſt the Law repoſeth in ſuch as are of a Country in Amity. There is no Treaſon, but where there is a Truſt: hence antiently Treaſon, in its genuine and original Acceptation, was only and properly amongſt Allies and Friends, who mutually did repoſe Confidence in each other, as may be ſeen in the *Mirror*, *fol.* 30 & 201. And that a greater Truſt was placed in Aliens Armies than in others, appears in that our Law allows not only Traffick and Commerce with them, but alſo allows them to be to ſome purpoſes Denizens; namely, as to the bringing perſonal Actions; which if they bring, it ſhall not be allowed to plead that the Plaintiffs are Aliens: 19 *Ed.* IV. 6. & 6 *H.* VIII. *Dyer* 2.

Object. But the Earl hath objected, That upon the *Scotiſh* Forces coming in under his Command, they of that Nation were by the Houſe of Commons voted Enemies, and thoſe of this Kingdom who adhered to them, Traitors.

Anſw. 1. The Words of that Vote ſeem to be excluſive of the Priſoner, mentioning only thoſe under his Command.

2. Tho' every Enemy, in the legal Signification of the Word, be not a Traitor, yet every Traitor is an Enemy; and therefore if now he be proved a Traitor, he may be well enough an Enemy within that Vote. The preſent Charge againſt him is a Charge of High-Treaſon, yet the Concluſion doth not improperly pray Judgment againſt him both as a Traitor and publick Enemy.

3. Take the Words in the ſtricteſt ſenſe, and the Vote only names thoſe of the *Scotiſh* Nation Enemies, but thoſe of this Kingdom Traitors. Now the Labour hath been, and I ſuppoſe it clear that the Earl himſelf is of this Nation, and ſo a Traitor by that Vote, from which he would derive an Argument for himſelf.

4. If yet any other Conſtruction ſhould be made, *Leges poſteriores priores abrogant*; he is, by the Act whereby this Court now ſits, ordered to be tried for Treaſon in the ſame kind as the reſt, who are now under queſtion: and if his Fact be Treaſon, it will eaſily follow by an Argument of *à denominatis*, that he is a Traitor.

The third Part of the Earl of *Cambridge*'s Plea is, That he is a Priſoner of War, and rendered upon Articles, and that thoſe Capitulations were made before his Rendition with Major-General *Lambert*'s Commiſſioners.

That there were Articles, and he a Priſoner of War, I ſhall agree to be proved; as alſo that one of thoſe Articles was, That he ſhould have Quarter, and have his Life aſſured: and it muſt be agreed on the other hand, That the Lord *Gray*, who had equal Authority, proteſted from the firſt againſt that Treaty, and after took him Priſoner before any Aſſent thereunto. But whether, by the proof, the Earl were not a Priſoner before ſigning the Articles; and whether before the Articles were to have any effect, the ſame were not to be ratified by the Commanders in Chief, is ſubmitted to Judgment upon the Evidence. That therefore I may do the Priſoner right in this point, which he ſeems to make his ſtrongeſt Aſylum, I ſhall admit that there were ſuch Articles, and wave the relying upon the other Circumſtances, which may not ſeem ſo clear in proof.

Nevertheleſs I ſhall briefly ſhew my Reaſons, wherefore I apprehend no Security from the Stroke of Civil Juſtice belongs to the Priſoner by this Refuge; for as to the Military, is not the Contention.

Firſt, if theſe Articles be of avail againſt the Civil Power of the State, they muſt in effect amount to a Pardon or Diſcharge of Treaſon (for this point doth take the laſt point by admittance, *viz.* that the Fact is Treaſon). Now tho' the Military Power may exempt a Priſoner of War from the Execution of the Sword, and of their own power; yet it is not in their power, nor do they aſſume or ever challenged ſuch a power, as to exempt Delinquents and Traitors from the Execution of the Magiſtrate; for the bringing of whom to condign puniſhment, the Soldier was at firſt armed, and the War principally begun: and if it ſhould be in the power of one Soldier, it would *pari ratione* be in the power of all, as well to ſpare all as one; and if to grant a Pardon of Life, then likewiſe for their Livelihoods. And ſo the End of the War, and the Satisfaction promiſed, would be in the power of the Servants of the State to fruſtrate; not that the Articles have no effect, for he was by them freed from the immediate Execution of the Sword.

Secondly, The pardoning of Treaſon is a power ſo inſeparable to the Supreme Power, that by the Authorities of Law it is not communicable to any other: in 5 *Ed.* IV. 123. it's made a great doubt, and ſo ſaid to be 1 *Bro. Treaſon* 22. Mercy and Juſtice being not transferable. 7 *li. Co.* in the Caſe of Penal Statutes, 9 *Ed.* IV. 2. & 20 *H.* VII. 6. It's true indeed, there was a time when ſome had gotten this power into their hands, but by the Statute of 27 *H.* VIII. *cap.* 24. this power was reſumed into the Supreme Power, and there it hath ſince lodged. And however we diſpute not what the Parliament may do by expreſs Words, as they have done in many Acts and Tenders of Indemnity; yet without ſuch Expreſſions, not by any implicit power, nor *ex officio* can any juſtly aſſume it.

Thirdly, By the Rules of Law no Officer or Miniſter of State can give away or diſpenſe with the Intereſt of the Commonwealth. If a Cuſtomer, who is an Officer of State, take a Bond in his own name for the Importation of Bullion, he cannot diſcharge this Bond; 4 *Ed.* IV. 4 & 12. The King was the ſupreme Officer of the Commonwealth, yet if an Indictment of Nuiſance had been preferred againſt one in his name, it had not been in his power to have diſcharged this Offence; 3 *Ed.* III. *Fitz. Aſſ.* 445. Nor could he for the ſame reaſon by any *Non-obſtante* diſpenſe with the penalty of any Statute which did concern the Intereſt of the Commonwealth. 12 *Jac.* Sir *Arthur Ingram's* Caſe, and *H.* 36 *Eliz.* betwixt *Hammond* and *Griffith*, in an Information upon a penal Statute, the Informer died, yet the King's Attorney might proceed. The Difference

ference I apprehend to be, as to the point in hand, betwixt one triable by Martial Law merely; as an Alien Enemy is; for such a one being triable by the Sword, if taken, may be discharged by that Power, tho' in that case I totally exclude not the Legislative Power: But for a Traitor, originally and legally only triable by the municipal Laws of a State, to be absolutely discharged by a subordinate Power, without the concurrence or confirmation of the Magistrate, will ever be strange to me, till I find that Rule overthrown of *Nil dat quod habet*, which can never be in a just and moral Sense.

Fourthly, However the Words sound, the Intention and true Meaning of the Parties was not to free those that were concerned from Justice, if the State required it; and Intentions are the best Rules for construction in these cases. That it was intended only in this Treaty to free the Prisoner from the present Execution of the Sword by Martial Law, and no otherwise, hath been sworn by two of those Gentlemen that were Commissioners under Major-General *Lambert*, who have sworn their own Intentions. Words, saith *Bracton*, are but *Vestimenta Rerum*, as the Body and outward Form; the true Meaning and Intention of Parties is the Life and Soul of every Contract; as for *Sensus literalis*, it hath been (I have observed) *via regia*, but it hath not proved unto that Side *via tuta*. However Words sound, the Exposition must be *secundum subjectam Materiam*. In 41 *E.* III. 6. if one having divers Faculties hath an Annuity granted to him *pro concilio impenso*, the Words are general, but it shall be construed for Counsel in that Art which was intended. And as *Brudnel* saith, in 14 *H.* VIII. 2. Contracts shall be expounded according to the Intents of those that did contract. *Cicero* saith, speaking *de Justitia*, as a Judge, not as an Advocate, *fol.* 24. to cavil with Words against the Mind of the Parties, *est Calumnia quædam & malitiosa Juris Interpretatio*; in which place he puts a Case upon a Treaty, as ours is, of one who had made a Truce for one hundred and thirty Days with his Enemy, and taking Advantage of the Letter, fell upon his Enemy in the Night, alledging the Truce was only for Days, which the Orator derides as mere Injustice. And no otherwise may the literal construction, contended for, be in the present Case, except the Letter must be observed or not observed, as it proves advantageous or disadvantageous to the Prisoner. Besides, it is usual in Law, that by Averments the Intentions of Parties take place, where the Letter would not so decide the Question; as 5 *li. Coo.* 68. and 21 *R.* II. *Fitz. Devis.* 27. Nor do I see, how in the penning those Articles any other Expressions could well have been. If provision had been made, that the Prisoner should have been exempted from the power of Civil Justice, that had been void; and if it had been expressed, that nothing was by those Articles intended to exempt him from Civil Justice, that had also implied a power in them, if they had seen cause, to have given an absolute Discharge from the Magistrate; which had been equally by construction derogatory to the Civil Power.

Fifthly, If the Earl had ever been *de facto* pardoned, yet he may seem to have lost the Benefit thereof by his Escape made after a special promise to the Governour with whom he was Prisoner. The Civil Law, as *Fortescue* observes, *cap.* 46. *Libertinum ingratum in pristinam redigit Servitutem*; and our Law saith, If one hath committed a capital Crime, and, being pardoned after, do but break the Peace, he forfeits the Benefit of the Pardon: 3 *H.* VII. 7. as *Bartue* did the Benefit of his Licence to travel, by his Resort to the Fugitives, 2 *Eliz. Dy.* 176. And I conceive no Difference, whether the Condition be expressed or implied; which I infer not to make the Escape Treason, being not so charged, and the Statutes of 2 *H.* VI. and 14 *Eliz.* being expired concerning that; but only for this purpose it is enforced, that he who rendred himself up a Prisoner of War, and had for that consideration Quarter granted him, and yet after breaks that which was on his part to be performed, hath thereby deprived himself of that Privilege which otherwise he might have enjoy'd.

Obj. If now the Prisoner shall be questioned for his Life, who by the Rendition of himself had Quarter given him for it, how is the consideration made good which did induce him to surrender? Besides, there if he had died (as the Earl himself said), he had preserved his Estate, and avoided the consequences of Attainder.

Answ. It is strange that it should be thought no Privilege to have so much time to die, in case there were certainty of it, above a Death by military Execution, which usually is sudden, and *sine strepitu Judicii*.

2. Is it no Privilege above an immediate Death by the Sword, to have a fair judicial Proceeding by a Charge against him, putting in his own Plea thereunto, the Matter of Fact by Witnesses and other Evidence proved on both Sides, and Counsel assigned him of his own choice to argue his own Cause in point of Law, and himself to be heard as much as he could speak in his own Defence?

3. And the Danger seems by this manner of Trial not greater than before; for he that dies a Traitor *in furore belli*, because himself is the cause why formalities of legal proceedings against him cannot be observed, by the antient Law forfeited his Estate, and remained attainted notwithstanding. *Plowd. Com.* 262. *Fitz. Dower.* 106. where, in a Writ of *Dower*, the Demandant was barred, for that her Husband went into *Scotland*, and joining himself with the Enemies, died in Enmity.

Object. As to the Examples of *Joshua* with the *Gibeonites*, and of the Prophet *Elisha* forbidding the King of *Israel* to smite those whom he had taken captive with his Sword and Bow:

Answ. I answer, As to the first, *viz.* that of *Joshua* with the *Gibeonites*, God forbid but that as that, so all other Leagues and Treaties should be kept so far, as to bind that Power that made them, and who can rationally expect more? Now *Joshua* was the Successor of *Moses*, and a Magistrate as well as Commander. Besides, it is said the Princes of the Congregation swore unto them; and, had these circumstances been incident to this case, the Dispute had been ended.

1. As to the other Instance, the Men of *Syria* had a personal Quarrel against *Elisha*; and therefore none being interested but the Prophet, it might well become his Piety to be their Intercessor.

2. For any thing appears, the Prophet only speaks against their being smitten with the Sword of War, which, if it had been drawn in cold Blood, might have been the Blood of War in Peace; but not against the Sword of Civil Justice.

3. These Enemies were taken in the midst of *Samaria, incruente prælio*; and therefore Bread and Water might well be set before them, that they might eat, and go to their Masters: but there hath been in this case much Blood drawn, and Mischief done; for the avenging and satisfaction whereof, Justice cries to them that bear not the Sword in vain.

And now (my Lord) tho' I might have demanded Judgment for want of the Prisoner's making good his own Plea, which he ought to have done before I had said any thing to the contrary; the Plea of being an Alien lying on his part to prove that pleads it: 9 *Ed.* IV. 12. & *Dy.* 300. and the Plea of a Pardon being a Confession of the Fact, if not made out, proves fatal and final also to the Party; *Stanf. Cor.* 150. Yet nevertheless, for that the Prisoner hath not been confined herein to the strict Formalities of the Law, I have also, on the Behalf of the Commonwealth, taken the privilege of speaking thus much for asserting the Invalidity of his Plea. And therefore, upon the whole Matter, having now said what hath prevailed with my Judgment to offer in this case, I humbly submit the same to the judgment and consideration of this Honourable Court.

The Court adjourned to *Tuesday*, being the sixth of *March*; and then the Duke was brought to the Bar, and the Judges sate in Scarlet. They rejected the Duke's Plea in all its branches, and found him guilty of the Charge whereof he was indicted. But before Sentence, *Bradshaw* the President resumed all, and spoke long for aggravating of every particular, justifying every thing the Counsel had pleaded, as if it had been all both good Law and good Reason. Then he caused to be read the Earl of *Essex*'s Commission, to shew how little power was given him: *(But spoke nothing of* Fairfax *or* Lambert *their Commissions, which had been more pertinent, but the reason was they were ampler; and yet the Parliament had never refused to ratify any Articles* Essex *gave.)* He confessed the Duke's Articles were fuller than any others, therefore he would insist the more to invalidate them. He said, It was true, if there had been a War proclaimed, and prosecuted betwixt a foreign Nation and Enemy and *England*, then by the Law of Nations, to which their Law was consonant, Articles signed by the Commissioners of both Parties should have been kept inviolable: but the Prisoner was no Enemy, for when the ordinary Course of Justice was obstructed by the late King's prevailing Party, so that neither Constables nor Sheriffs, nor other Civil Officers, could lay hold on such Delinquents as he was, or bring them to punishment, the Parliament was forced to raise an Army, commissionating their Generals to bring such to condign punishment. This being the end and substance of their Commission, it was not in their power, who were but the Sword of Justice in the Parliament's Hand, to give Articles for securing any from the Justice of the Parliament, since it was never intended their Acts should limit that power that gave Bounds to them. He added also, That the Court was fully satisfied, that the Duke was naturalized. At last Sentence was given against him, *That his Head should be sever'd from his Body on* Friday *next, being the ninth Instant:* yet it was remitted to the Parliament's consideration, what Mercy should be shew'd to him; and so the Duke was carried back.

The rest of that Day, and the next Day, the Duke was earnestly sollicited to preserve himself by making Discoveries. And Mr. *Peters*, who appeared concerned for him during his Trial, did now insinuate himself on him to draw somewhat from him: but all was in vain, there being no choice to be made betwixt a glorious Death and an infamous Life.

On the eighth of that Month, it being put to the Vote of the House, whether he should be reprieved or not, it was carried in the Negative.

And he was executed the ninth of March $164\frac{8}{9}$.

THE Night before his Execution, the Duke, the Earl of *Norwich*, the Lord *Capel*, and Sir *John Owen* (who had all received Sentence of Death) were brought into one Room. Having spent great part of that Night in taking leave of their Friends, and in their Devotions; the next day the Duke made the following Speech to his Friends, that attended him, which his Brother published from the Original he sent him.

I know you that are here to be true and faithful to me; I will therefore, in your hearing, say somewhat in order to myself and to my present condition, and give you also this Copy of it; which, after I am gone, may, perhaps, be thought necessary to be published as the last Testimony of my Loyalty to my King, for whom I now die, and of my Affection to my Country, for the pursuance of whose pious and loyal Commands I am now to suffer.

That my Religion hath always been, and still is Orthodox, I am confident no Man doubts: I shall not therefore need to say much to that particular, only that *I am of the true Reformed Protestant Religion, as it is professed in the Church of* Scotland.

I take God to Witness, that I have been constantly a loyal and faithful Subject and Servant to his late Majesty, in spite of all Malice and Calumny: I have had the Honour, since my Child-hood, to attend and be near him till now of late; and during all that time, I observed in him as eminent Virtues, and as little Vice as in any Man I ever knew; and I dare say, he never harboured Thought of countenancing Popery in any of his Dominions, otherwise than was allowed by the Laws of *England*, and that among all his Subjects there could not be found a better Protestant than himself; and surely also he was free from having any Intent to exercise any Tyranny, or absolute Power over his Subjects; and that he hath been so unfortunate, I rather impute the cause of it to the Sins of his People, than to his own: For my own part, I do protest never to have swerved from that true Allegiance which was due to him, and that hath constantly been paid (to my comfort I speak it) to his Progenitors by my Ancestors, for many Ages, without Spot or Dishonour; and I hope shall be still, by my Successors, to his Posterity.

I do heartily wish well to, and pray for his Royal Issue, and shall die a true and loyal Subject to his eldest Son *Charles* II. the unquestionable

able King by Right of all his Father's Kingdoms. I hope, though I do not live to ſee it, that God's Juſtice and Goodneſs will in his own time eſtabliſh him on the Throne of his Father, which I doubt not ſome of you will ſee come to paſs; and I am confident till then, and ſo long as Men deeply plunged in Guilt and Self-Intereſt uſurp Power and Government, theſe Kingdoms will fall ſhort either of Peace, or any other permanent Happineſs.

I ſpeak from my juſt Affection to the Royal Race, and much Compaſſion to his Majeſty's Subjects; but not from any Malice, Anger, or deſire of Revenge againſt any, for what I have, or am to ſuffer, for I forgive all Men.

It is well known what Calumnies and Aſperſions have been thrown upon me by Men of ſeveral Parties and Intereſts, not excepting thoſe who would ſeem to carry much Affection to his late Majeſty, as if I had expreſſed Diſſervice or Diſloyalty to him; the which, how malicious and groundleſs they were, I appeal to God, who, with my own Conſcience, clearly beareth Witneſs of my Innocency therein, and I ſhall beg Mercy from him to whom I am now to give an account of all my Thoughts and Actions, as I have ſtill had a faithful and loyal Heart to my Maſter.

It hath been a general Complaint, that I perſuaded his Majeſty to paſs the Act of continuing this Parliament. I diſpute not whether the doing of it at that time might have been reputed good or bad, but ſurely it was not I that did perſuade it; neither did I at all deal with his Majeſty for his Conſent to the Bill of Attainder for taking away the Life of the Earl of *Strafford*, whoſe great Parts and Affections, it is known, I highly valued: Yet ſome have been pleaſed to attribute to me the Cauſe of that Conceſſion; but were his Majeſty now living, I am confident he would publickly clear me in both theſe, as he hath been pleaſed many times in private formerly to do.

And truly I am not conſcious to myſelf, (tho' I have been for many Years a Privy-Counſellor to him) of ever giving him any Advice that tended to other Ends (as I conceived) than the Good and Peace of his Majeſty and his Dominions.

It hath been rumoured, ſince my laſt Impriſonment, that I ſhould confeſs myſelf to be the greateſt Inſtrument under his Majeſty (by making uſe of his *Scotiſh* Great Seal) for authorizing the War in *Ireland*; a Report ſo falſe and ſimple, as, in my Opinion, judicious and honeſt Men will not believe it. And truly, as I am free from having Hand therein in any manner of way, ſo I am of nothing more confident, than that his Majeſty was alſo abſolutely free thereof, and that he was not in any caſe a Cauſer or Countenancer of thoſe *Iriſh* Troubles.

I have been often examined touching Perſons of ſeveral Qualities within this Kingdom, that, as is ſuppoſed, did invite into *England* the late Army from *Scotland*, or promiſed Aſſiſtance after their coming; and of late much Perſuaſion hath been uſed with me to that Purpoſe, as that upon my Diſcovery thereof depended the only Means of my Preſervation. I will not ſay that I had any thing to reveal, which would have been ſatisfactory; but this I deſire you to atteſt to the World, that I have not accuſed, or ſaid any thing that may reflect on any Man of what Degree ſoever, within the King's Dominions: And indeed it was ſo contrary to my Conſcience, and ſo derogatory to my Honour, that if I had been able, yet ſhould I never have prejudiced any in that Nature, though it had been to ſave me an hundred Lives.

Touching that foul and ſenſeleſs Slander, that I betrayed the Army under my Conduct, the Care and Pains I then took to prevent the loſs of it, and the near Approach of my ſuffering for it, will, I ſuppoſe, abundantly contradict this Aſperſion. I was ſatisfied with the Juſtneſs and Neceſſity of that Engagement upon the Grounds of the Declaration of the Parliament of *Scotland*, fearing then the ſad Confuſions which have ſince followed here both in Church and State, and particularly the fatal Fall of my Maſter, to the Preſervation of whoſe Perſon I was by Obligation and natural Affections as paſſionately tied, as I could be by Duty and Allegiance.

And now I confeſs I am void of all Rancour or Diſpleaſure againſt any, tho' I am within few Hours to die, adjudged by a lawleſs and arbitrary Court of purpoſe erected, as is ſaid, to deſtroy my Maſter, and ſome of his Servants, and for a great Part compoſed of Men mechanick and unfit to be Judges; my Death being decreed right or wrong, as is reported, before ever the Trial begun. And though my Death is no leſs than Murder, yet I forgive all, and pray to God to do it, and, that my Blood be not laid to their Charge, or to ſome powerful and eminent Mens, who, as is thought, upon ſome ſiniſtrous Ends, have many Months ſince contrived my Deſtruction, which now is ready to take effect. And tho' I have anſwer'd to that Court in regard of the Juſtneſs of my Defence, which I thought would have weighed with them: Yet I never thought, nor do I acknowledge any Juriſdiction, or lawful Authority in the ſame, notwithſtanding I do with all chriſtian Humility ſubmit to the Puniſhment, which for my other perſonal Sins the Lord hath juſtly brought upon me. I ſhould have ſpoken more, yet would not have ſaid ſo much, but for fear leſt either my Memory might ſlip it on the Scaffold, or that the Rudeneſs of ſome People, by Noiſe or otherwiſe, might have interrupted me ſpeaking on this Subject. So I thank God I am well prepared. God bleſs you, remember me to all my Friends. I know I have been a great Sinner, yet thro' Faith I have an Aſſurance that God will forgive me, and have Mercy upon me, thro' the alone Suffering and Interceſſion of Jeſus Chriſt my Saviour. *Amen.*

About nine a-clock the Officers called to the Priſoners to prepare to go, and they were carried in Sedans, ſtrongly guarded, to Sir *Robert Cotton*'s Houſe: When they came to Sir *Robert Cotton*'s, three or four Officers came from *Cromwell*, deſiring the Duke to make ſome Diſcoveries, who ſhould not only be preſerved, but be made a great Man; but he refuſed, as he had formerly done on thoſe Occaſions, and ſaid, if he had as many Lives, as Hairs on his Head, he would lay them all down, rather than redeem them by ſo baſe a Means. Then they all went to Prayers, and they had ſome excellent Preachers waiting on them, and praying with them. Some Wine was brought them, and they all drank one to another, and embrac'd and kiſs'd each other with much Tenderneſs. The Duke was firſt led to the Scaffold, and on the way other Officers came from *Cromwell*, renewing the former Offers, if he would make Diſcoveries, but he rejected them with Scorn.

When the Duke came to the Scaffold, perceiving greater Silence than he expected, tho' he had reſolved to make no publick Speech, yet being invited by the Attention he obſerved, he ſpoke to the People; but as he had not premeditated it, no Copy remains but what was printed from the Notes of the Hearers, *and therefore Dr.* Burnet *ſays he only gives us the Heads of it*; as follows,

He addreſſed himſelf to the Sheriff, and told him, he judg'd it not very neceſſary for him to ſpeak much, his Voice was ſo weak and low, that few of the Crowd that look'd on would hear him; nor was he ever ſo much in love with ſpeaking, or with any thing he had to ſay, that he took much Delight in it: Yet ſince this was his laſt, he being by the Divine Providence of Almighty God brought juſtly to that End for his Sins, he would ſpeak a little to the Sheriff, for his Voice could not reach others. He was now to ſuffer as a Traitor to the Kingdom of *England*, a Country which he had ever lov'd equally with his own, not having intended any general Prejudice to it, or to any particular Perſon in it: His late Actings were the Commands of his own Country, which he could not diſobey. It is true, it had pleaſed God ſo to diſpoſe of the Army under his Command, that it was ruin'd, and he for being cloathed with a Commiſſion to be General, ſtood now ready to die. He would not repent what he had pleaded for his own Defence, God was juſt; nor would he ſay any thing of his Sentence, but that he did willingly ſubmit to God's Providence, acknowledging that on many Accounts he deſerved Puniſhment in this Life, as well as in the next, for he confeſs'd himſelf a great Sinner: yet for his Comfort he knew there was a God in Heaven, who was very merciful, and that his Redeemer did ſit at his Right Hand, and he was confident that he was mediating for him at that very Inſtant, being hopeful, thro' his all-ſufficient Merits, to be pardoned all his Sins, and to be received into his Mercy, truſting only to the free Grace of God thro' Jeſus Chriſt. He declared he had never been tainted in the Religion profeſs'd and eſtabliſh'd in the Land, in which he had been bred from his Infancy: It was not this or that Mode or Fancy of Religion that was to be built on, but one that was right and ſure, and came from God.

Here obſerving ſome were taking Notes, he ſaid he did not expect that, or he had digeſted what he had ſaid into a better Method: But deſired that what he had ſaid might not be publiſh'd to his Diſadvantage, ſince he had not intended to ſpeak any thing when he came to that Place. Then he went on and ſaid, Many dreadful Aſperſions had been caſt on him, as if his Intentions had not been ſuch as he pretended; but he thank'd God he was unjuſtly blam'd: That for the King he had ever lov'd him, both as he was his King and Maſter, with whom he had been bred many Years, and had been his Domeſtick Servant, and that there was nothing the Parliament of *Scotland* declared for the King, that was not really intended by himſelf; and as he hazarded his Life for him one Way, ſo he now was to loſe it another; and that his Deſign of Leading in the Army to *England* was really that which was publiſh'd in the Declaration, in ſo far as concern'd the King: He was not then to ſpeak of the reſt of the Declaration, which had many other Particulars in it; and for what he ſaid of his Duty to the King, there was no Reaſon to ſuſpect him of Flattery, or any other End in ſaying it (God having now diſpoſed of his Majeſty) but tho' he could gain nothing by it, yet he owed the freeing himſelf of that Calumny to Truth, by which all Men ſhall gain for ever. There had been many Diſcourſes founded on a Part of the *Scotiſh* Declaration, which mentioned an Invitation to come to *England*, upon which he had been much labour'd for diſcovering the Inviters; but he had and did ſtill remit himſelf to the Declaration without any other Anſwer. He was ever willing to ſerve this Nation in any thing was in his power, which was known to many worthy Perſons in it; and he would ſtill have continued in thoſe Reſolutions, had thoſe, in whoſe Hands the Power was then, thought fit to have preſerv'd his Life. But ſince he was thenceforth to be of no more uſe, all he could do, was to wiſh the Kingdom Happineſs and Peace, and to pray that his Blood might be the laſt ſhould be ſhed: And tho' perhaps he had ſome Reluctance within himſelf at the Suffering for this Fact, yet he freely forgave all Men, and carried no Rancour with him to the Grave; but did ſubmit to the Will of him who created Heaven and Earth, and himſelf, a poor ſinful Creature then ſpeaking before him: He conceived it could contribute to no End for him to ſpeak of State Buſineſs, of the Government of the Kingdom, or things of that Nature; his own Inclinations had been ſtill for Peace. He was never an ill Inſtrument betwixt the King and his People, nor had he acted to the Prejudice of the Parliament. And as he had not meddled much in thoſe Wars, ſo he was never wanting in his Prayers to Almighty God for his King's Happineſs, and he earneſtly prayed God to direct his Majeſty (who then reigned) that he might do what ſhould tend to his Glory, and the Peace and Happineſs of the Kingdoms. He ſaid he was of the eſtabliſhed Religion, which he had profeſſed in his own Country where he was born and bred, but for particular Opinions he was not rigid, he knew many godly Men had Scruples about divers things, wherein he had never concerned himſelf; nor did Difference of Opinion (which was never more than at this Time) move him. His own was clear. He prayed the Lord to forgive him his Sins, as he freely forgave even thoſe againſt whom he had the greateſt Grounds of Animoſity, remembring that Prayer, *Forgive us our Treſpaſſes as we forgive them that treſpaſs againſt us.*

He diſcovered a great Compoſure by his Looks and Manner of Expreſſion; and when he was deſired to change the Poſture he ſtood in, ſince the Sun ſhin'd full in his Face: He anſwer'd preſently, no, it would not burn it; and he hop'd to ſee a brighter Sun than that very ſpeedily.

After the Duke had done ſpeaking, he call'd for the Executioner, and deſired to know how he ſhould fit his Body for the Blow, and told him his Servants would give him Satisfaction. Then he called to his Servants, and commanded them to remember him kindly to divers of his Friends in *England*, particularly to his Mother-in-law, the Counteſs of *Denbeigh*, to whom he had ever paid a filial Reſpect, and to the old Counteſs of *Devenſhire*: He bid them tell her ſhe would no more queſtion his Loyalty (which ſhe had done ſometimes in Raillery) ſince he was now to ſeal it with his Blood: Then he kneeled down and prayed, after which Dr. *Sibbald* entertained him with ſome pious Diſcourſes; then the Duke prayed a

ſhort Prayer himſelf, and with a chearful Countenance embrac'd the Doctor, and ſaid, *Truly I bleſs God I do not fear, I have an Aſſurance that is grounded here* (laying his Hand on his Heart) *that gives me more true Joy than ever I had. I paſs out of a miſerable World, to go to an eternal and glorious Kingdom; and tho' I have been a moſt ſinful Creature, yet I know God's Mercy is infinite; and I bleſs my God I go with ſo clear a Conſcience, that I know not the Man I have perſonally injur'd.* Then embracing his Servants, he ſaid to every one of them, *You have been very faithful to me, the Lord bleſs you.* He turn'd next to the Executioner, and after he had obſerv'd how he ſhould lay his Body, he told him he was to ſay a ſhort Prayer to his God while he lay all along, and ſhould give a Sign by ſtretching out his right Hand, and then he was to do his Duty; *whom he freely forgave, as he did all the World.* And then he ſtretched himſelf on the Ground, and having plac'd his Head right, he lay a little while praying with great Appearance of Devotion, and then gave the Sign: Upon which the Executioner, at one Blow, ſever'd his Head from his Body, which was receiv'd in a Crimſon Taffety Scarf by two of his Servants, kneeling by him, and was together with his Body, immediately put in a Coffin, which was ready on the Scaffold, and from thence convey'd to a Houſe in the *Meuſe*, from whence it was, according to the Orders he had given, ſent down by Sea to *Scotland*, and inter'd in the Burial-place of his Family.

XLVI. *The Trial of Lieutenant-Colonel* John Lilburne*, *at the* Guild-Hall *of* London, *for* High-Treaſon, *the* 24*th*, 25*th*, *and* 26*th of* October 1649. 1 Car. II.

THE Commiſſioners Names of the extraordinary Commiſſion of *Oyer* and *Terminer*, for the Trial of Lieutenant-Colonel *John Lilburne*, follow.

Thomas Andrews, Lord-Mayor.
Richard Keble, Lord-Commiſſioner.
Philip Jermin, Juſtice of the Upper Bench.
Thomas Gates, Baron.
John Puleſton, Juſtice of the *Common-Pleas*.
Francis Thorp, Baron and Member.
Robert Nicolas, Member, } Juſtices of the Upper Bench.
Richard Aſke }
Peter Warburton, Juſtice of the *Common-Pleas*.
Alexander Rigby, Baron; but abſent.
Sir *Thomas Fowler*.
Sir *Henry Holcroft*.
Sir *William Row*.
Sir *Richard Saltonſtall*.
Sir *Richard Sprignall*.
Sir *John Wooliſton*.
Sir *William Roberts*.
John Green, } Serjeants at Law.
John Clark, }
John Parker, }
William Steel, Recorder.
John Fowke, }
Thomas Foote, }
John Kendrick, }
Thomas Cullum, }
Simon Edmonds, } Aldermen.
Samuel Avery, }
John Dethicke, }
Robert Titchburn, }
John Hayes, }
Henry Proby, Common Serjeant.
Thomas Brigandine.
Nathaniel Snape.
Edward Rich.
Owen Roe.
Tobias Liſle.
Auſtin Wingfield.
Richard Downton.
Daniel Taylor.
William Wibend.
Silvanus Taylor.

At the Guild-Hall *of* London, *the* 24*th of* October 1649, *being Thurſday, at the Trial of Lieut. Col.* John Lilburne.

OYes made; all Perſons that were adjourned to the Court, requir'd to make their Appearance.

The Lieutenant of the Tower of *London*, Col. *Francis Weſt*, called to bring forth his Priſoner, according to the Precept.

Whereupon Col. *Weſt*, Lieutenant of the Tower, brought up the Priſoner out of the *Iriſh* Chamber, where he had been ſome time before the ſitting of the Court, and was guarded by the ſaid Lieutenant, and a ſpecial Guard of Soldiers beſides. And being brought to the Bar, the Sheriffs of *London* were directed to take the Priſoner into their Cuſtody.

Silence commanded.

Cryer. John Lilburne, hold up thy Hand.

Lieutenant-Col. *Lilburne* directed himſelf to Mr. *Keble*, one of the Keepers of the Great Seal, as the Preſident of the Court, and ſaid to this purpoſe: Sir, will it pleaſe you to hear me? and if ſo, by your favour thus. All the Privilege for my part that I ſhall crave this day at your Hands, is no more but that which is properly and ſingly the Liberty of every free-born *Engliſhman*, *viz.* The Benefit of the Laws and Liberties thereof, which by my Birth-right and Inheritance is due unto me; the which I have fought for as well as others have done, with a ſingle and upright Heart; and if I cannot have and enjoy this, I ſhall leave this Teſtimony behind me, That I died for the Laws and Liberties of this Nation; and upon this Score I ſtand, and if I periſh I periſh. And if the Fact that I have done, cannot be juſtified by the Law of *England*, let me periſh. I mention none of this for the gaining of Mercy, or by way of Merit; no, I ſcorn it: for Mercy I crave from none, but from the hands of my God alone, with whom I hope, and am aſſured one day to reſt; whom I have ſet before my Eyes, and ſo walked, as believing I am always in his Preſence, in whoſe Power my Confidence is fixed, whom I take and own to be my Stay, my Staff, my Strength and Support, and in whom I reſt as the Life of my Life, and whom I hope to meet with Joy, when this fading and uncertain Life ſhall have an end, to live with him in Glory and Bleſſedneſs for ever more. And therefore, becauſe I would not willingly trouble you with many Words, to cauſe you to ſpend your time impertinently; therefore, Sir, in reference to the Court I ſhall crave but ſo much Liberty from you as was given to *Paul* when he pleaded for his Life before the Heathen *Roman* Judges, which was free Liberty of Speech to ſpeak for himſelf; the which I now humbly crave as my Right, not only by the Law of God and Man, but alſo by the Law and Light of Nature. And I ſhall do it with that Reſpect, Reaſon and Judgment, that doth become a Man that knows what it is to plead for his Life. I hope God hath given me Ability to be Maſter of my own Paſſion, and endow'd me with that Reaſon, that will dictate unto me what is for my own good and benefit.

I have ſeveral times been Arraigned for my Life already. I was once arraigned before the Houſe of Peers for (ſticking cloſe to the Liberties and Privileges of this Nation, and thoſe that ſtood for them) being one of thoſe two or three Men, that firſt drew their Swords in *Weſtminſter-Hall* againſt Col. *Lunsford* and ſome Scores of his Aſſociates. At that time, it was ſuppoſed, they intended to cut the Throats of the chiefeſt Men then ſitting in the Houſe of Commons: I ſay, for this, and other Things of the like nature, I was arraigned by the King's ſpecial Command and Order; the firſt of *May* 1641. I mention it to this end, that when I came before the Houſe of Peers, where was about three or four-ſcore Lords then ſitting at the beginning of the Parliament, (who then were ſuppoſed the moſt arbitrary of any Power in *England*) yet I had from them free Liberty of Speech, to ſpeak for my Life at their Bar, without check or controul, in the beſt manner all thoſe Abilities God had given me would enable me. And when I was at *Oxford*, I was again arraigned as a Traitor before the Lord Chief Juſtice *Heath*, for levying War at the Command of the then Parliament againſt the Perſon of the King: And when I came before him in the *Guild-Hall* of *Oxford*, he told me (there being preſent with him, as his Fellow-Judge, Mr. *Gardiner*, ſometimes Recorder of the City of *London*, now Sir *Thomas Gardiner*, and others that ſat by a ſpecial Commiſſion of *Oyer* and *Terminer* from the King; the which Commiſſion I did not ſo well then underſtand, as I hope I do now:) And my Lord Chief Juſtice *Heath* ſtood up, and in the face of all the Court, and in the face of all the Country preſent there, told me; Capt. *Lilburne*, you are brought here before us for High-Treaſon, for levying War in *Oxfordſhire* againſt your Sovereign Lord and King; and tho' you be now in a Gariſon, and were taken in Arms in open Hoſtility againſt the King, (yea Sir, and I muſt now tell you, in ſuch Hoſtility, that we were but about 700 Men at *Brentford*, that withſtood the King's whole Army in the Field above five hours together, and fought it out to the very Sword's Point, and to the Butt-end of the Muſket; and thereby hindred the King from his then poſſeſſing the Parliament's Train of Artillery, and by conſequence the City of *London*, in which very Act I was taken a Priſoner, without Articles or Capitulation, and was by the King and his Party then look'd upon as one of the activeſt Men againſt them in the whole Company) yet ſaid Judge *Heath*, we will not take advantage of that, to try you by the Rules of arbitrary Martial Laws, or any other arbitrary Ways; but we will try you by the Rules of the good old Laws of *England*: and whatſoever Privilege in your Trial the Laws of *England* will afford you, claim it as your Birth-right and Inheritance, and you ſhall enjoy it with as much Freedom and Willingneſs, as if you were in *Weſtminſter-Hall*, to be try'd amongſt your own Party. And this we will do for that end, that ſo at *London* your Friends ſhall not have any juſt cauſe to ſay, we murdered you with Cruelty, or denied you the Benefit of the Law, in taking away your Life by the Rules of our own Wills. Nay, further ſaid he, Capt. *Lilburne*, it is true I am a Judge, made by my Sovereign Lord the King, according to his Right by * Law, and ſo in a ſpecial manner am his Servant and Counſellor, and am to act for his Good, Benefit, and Advantage: And yet notwithſtanding, it is by the known Laws of this Land my Duty to be indifferent and free from Partiality betwixt my Maſter and you the Priſoner, and I am ſpecially bound unto it alſo by my Oath. And therefore you ſhall have the utmoſt Privileges of the Law of *England*, which is a Law of Mercy, and not of Rigour, and hath the Life of a Man in tendereſt and higheſt † Eſtimation: And therefore it is the Duty of a Judge by Law, to be of Counſel with the Priſoner, in things wherein by his Ignorance he falls ſhort of making uſe of the Benefit of the Law, eſpecially when he is upon the Trial of his Life. Yea, and to exhort him to anſwer without fear, if he perceive him daunted or amazed at the Preſence of the Court. Yea, it is my Duty to carry myſelf with all Fairneſs and Evenneſs of Hand towards you; and wherein that there ſhall ſeem any Miſtakes to appear, in Circumſtances or Formalities, to rectify you:

* *See the* 27 *of* Hen. 8. *c.* 24.

† *See the* 2*d part Inſt. fol.* 28, 30, 42, 43, 53, 315, 316, 591. *& part* 3. *fol.* 34.

* *See* Clar. Hiſt. Vol. III. p. 390. *The Notes ſubjoined to this Trial were inſerted in the firſt Edition of it.*

you: For its my Duty to help you, and not to uſe any boiſterous or rough Language to you in the leaſt, to put you in fear, or any ways prevent the Freedom of your Defence; and according to the Laws of *England* this is my Duty, and this is the Law. And accordingly he gave me liberty to plead to the Errors of my Indictment, before I ever pleaded Not Guilty; yea, and alſo became willing to aſſign me what Counſel I pleaſed to nominate, freely to come to Priſon to me, and to conſult and adviſe with me, and help me in point of Law. This laſt he did immediately upon my pleading to the Indictment before any Fact was proved: all which is conſonant to the declared Judgment of Sir *Edward Cooke*, that great Oracle of the Laws of *England*, whoſe Books are publiſhed by ſpecial * Orders and Authority of Parliament for good Law; who in his third Part of his *Inſtitutes*, chap. of *High-Treaſon*, fol. 29, 34. compared with fol. 137, 230, aſſerts the ſame.

* *Which Orders are dated* May 12, 1641. *and* June 3, 1642. *You may at large read at the laſt end of his Inſtit. part* 2.

Truly, Sir, I being now come before you to anſwer for my Life, and being no profeſſed Lawyer, may through my own Ignorance of the practick Part of the Law, eſpecially in the Formalities, Niceties, and Punctilio's thereof, run myſelf with over-much Haſtineſs in Snares and Dangers, that I ſhall not eaſily get out of. And therefore being all of a ſudden bid to hold up my Hand at the Bar, I cannot chuſe but a little demur upon it, and yet with all reſpect to you, to declare my Deſireableneſs to keep within the Bounds of Reaſon, Moderation and Diſcretion, and ſo to carry my ſelf as it doth become a Man, that knows what it is to anſwer for his Life.

And therefore in the firſt Place, I have ſomething to ſay to the Court about the firſt Fundamental Liberty of an *Engliſhman* in order to his Trial; which is, That by the Laws of this Land all Courts of Juſtice always ought to be free and open for all ſorts of peaceable People to ſee, behold and hear, and have free Acceſs unto; and no Man whatſoever ought to be tried in Holes or Corners, or in any Place, where the Gates are ſhut and barr'd, and guarded with armed Men: And yet, Sir, as I came in, I found the Gates ſhut and guarded, which is contrary both to Law and Juſtice.

Sir, the Laws of *England*, and the Privileges thereof, are my Inheritance and Birth-right: And, Sir, I muſt acquaint you, that I was ſometimes ſummoned before a Committee of Parliament, where Mr. *Corbet* and ſeveral others have had the Chair; and there I ſtood upon my Right by the Laws of *England*, and refuſed to proceed with the ſaid Committee, till by ſpecial Order they cauſed their Doors to be wide thrown open, that the People might have free and uninterrupted Acceſs to hear, ſee and conſider of what they ſaid to me; although I think the Pretence that I am now brought before you for, be the very ſame in Subſtance, that I was convened before Mr. *Corbet* for, which was about Books: and I am ſure there I did argue the caſe with him and the reſt of the Committee, ſoundly out in Law; proving that they were bound in Law and Juſtice freely to open their Doors, for the free Acceſs of all ſorts and kinds of Auditors: And I did refuſe (as of Right) to Proceed with them, till by ſpecial Order they did open their Doors. For no Trial in ſuch Caſes ought to be in any place, unleſs it be publick, open and free; and therefore if you pleaſe that I may enjoy that legal Right and Privilege which was granted unto me by Mr. *Miles Corbet*, and the reſt of that Committee, (when I was brought before them in the like Caſe that now I am brought before you) which Privilege I know to be my Right by the Law of *England*; I ſhall, as it becomes an underſtanding *Engliſhman* (who in his Actions hates Deeds of Darkneſs, Holes or Corners) go on to a Trial. But if I be denied this undoubted Privilege, I ſhall rather die here than proceed any further. And therefore foreſeeing this beforehand, and being willing to provide againſt all Jealouſies of my Eſcape, the fear of which I ſuppoſe might be objected againſt me as a Ground to deny me this my legal Right; and therefore before hand I have given my Engagement to the Lieutenant of the Tower, that I will be a faithful and true Priſoner to him.

And I hope the Gentleman hath ſo much Experience of my Faithfulneſs to my Word, that he doth not in the leaſt queſtion or ſcruple it; I am ſure he hath often ſo declared to me that he doth not.

Nay, I have not only engaged to be a true Priſoner in the Tower to him, but I have alſo ſolemnly engaged to him, that I will come civilly and peaceably with him, and that I will go civilly and peaceably back with him again: And that if any Tumult or Uproar ſhall ariſe in the Croud, of which I loſe him, and he me; or in caſe I ſhould be any ways by Force and Power reſcued from him, I have alſo faithfully engaged to him, that I will come again to him (by the Aſſiſtance of God) as ſoon as ever I can get away from that Force or Reſcue. And all this I entreated him to acquaint you with, that all Jealouſies and Diſputes might be avoided.

Judge *Keble*. Mr. *Lilburne*, look behind you, and ſee whether the Door ſtands open or no.

L. Col. *Lil*. Well then, Sir, I am ſatisfied as to that. But then in the next place, I have read the *Petition of Right*, I have read *Magna Charta*, and abundance of Laws made in Confirmation of it; and I have alſo read the *Act that aboliſheth the Star-Chamber*, which was made in the Year 1641, which laſt recited Act expreſly confirms thoſe Statutes that were made in *Edward* the Third's Time, which declares all Acts, Laws and Statutes that were made againſt *Magna Charta*, to be null and void in Law, and holden for Error.

In the reading of which Laws I do not find a ſpecial Commiſſion of *Oyer* and *Terminer* to be legal and warrantable. I beſeech you, Sir, do not miſtake me; for I put a vaſt difference betwixt an ordinary and common Commiſſion of *Oyer* and *Terminer* for holding ordinary and common Aſſizes and Seſſions, and betwixt an extraordinary and ſpecial Commiſſion of *Oyer* and *Terminer* to try an individual Perſon or Perſons, for a pretended extraordinary Crime. The Laws I laſt recited, and the Fundamental or Eſſential Baſis of Freedom therein contained, knows no ſuch Names or Commiſſions of ſpecial *Oyer* and *Terminer*.

And thoſe Statutes in *Edward* the Firſt, and *Edward* the Third's Time, that do erect thoſe ſpecial and extraordinary Commiſſions, and warrant the Uſage of them, are merely irrational (*a*) Innovations upon our indubitable Rights contained in *Magna Charta*, and mere Court and Prerogative-Devices to deſtroy the beſt of Men, by extraordinary Courts appointed to prejudge Proceedings that ſhould manfully ſtand in the way of the Prince, or any of his great Favourites; for ſure I am from the *Petition of Right*, no Ground or Foundation from any extraordinary or ſpecial Commiſſion of *Oyer* and *Terminer*, upon any pretended, ſpecial, or great Occaſion, cannot be founded; but rather the abſolute quite contrary, as to me clearly appears by the very plain Letter of that moſt excellent Law. And therefore ſuch a ſpecial Commiſſion upon any pretended ſpecial Occaſion, being expreſly againſt our indubitable Rights contained in *Magna Charta*, and the *Petition of Right*, viz. That no *Engliſhman* ſhall be ſubjected to any other Trial, but the ordinary, univerſal and common Trials at ordinary Aſſizes, Seſſions or Goal-Deliveries, and not in the leaſt to be tried by extraordinary and ſpecial prejudged, packed, over-awing Commiſſions of *Oyer* and *Terminer*; and therefore all ſuch extraordinary and dangerous Trials are abſolutely aboliſhed, by the late excellent Acts that confirm the *Petition of Right*, and all and every the Clauſes therein contained, and aboliſheth the *Star-Chamber*, both made *Anno* 1641.

And, Sir, with your favour, the then Parliaments that made the laſt cited Laws, were ſo far from countenancing my ſpecial Commiſſions of *Oyer* and *Terminer*, upon any ſpecial or pretended great Occaſions whatſoever that I can read of, that I rather find and read the Parliaments Proceedings in the Year 1641, an extreme Out-cry of the Houſe of Commons againſt ſpecial Commiſſions of *Oyer* and *Terminer*, with a great deal of Bitterneſs and Vehemency, as may fully and clearly be read in that excellent Argument of Mr. *Hyde*, *April* 1641, printed and publiſhed in a Book, called *Speeches and Paſſages of Parliament*, p. 409, to 417, which I have here at the Bar to produce; which Mr. *Hyde* was then the ſpecial and appointed Mouth of the Houſe of Commons before the Lords, who unto them in conformity to his Commiſſion from the then Houſe of Commons, complains to the Houſe of Lords extremely of a ſpecial Commiſſion of *Oyer* and *Terminer* that was exerciſed in the five Northern Counties of *England*; and earneſtly, in the name of the Houſe of Commons, craves the ſpecial Aſſiſtance of the Houſe of Lords to pluck up that Court by the very Roots, founded upon a ſpecial Commiſſion of *Oyer* and *Terminer*, being ſo illegal and unjuſt in the very Foundation of it, as it is inconſiſtent with the People's Liberties, and as that which deſtroyed and diſinherited all the People that were tried, both of their Birthright and Inheritance, *viz.* their Liberties and Freedoms contained in *Magna Charta*. And this, Sir, was the declared and avowed Judgment and Opinion of the Houſe of Commons in *April* 1641, in their primitive Purity and Non-defilement, when they acted bravely and gallantly for the univerſal Liberties and Freedom of this Nation (and not Self-intereſt) when they were in the Virginity of their Glory and Splendor, as he there fully and moſt excellently declares; and yet he there gives an extraordinary Reaſon for the original Erection of that Court, founded upon a ſpecial Commiſſion of *Oyer* and *Terminer*, as can be rendred.

The original Reaſon or Occaſion of which, he there declares to be thus: That by reaſon of the Suppreſſion of the Abbies in the 27th of *Henry* the Eighth's Time, in the North of *England* (through Diſcontent thereat) there did ariſe from the ſaid 27th Year to the 30th no fewer than ſix grand Inſurrections, moſt of them under the Command of ſome eminent Man of thoſe Countries; which Inſurrections and Rebellions occaſioned the levying of great Armies, which had like to have ſet the whole Kingdom in an univerſal Flame: for the ſuppreſſing and preventing of which in future Times, King *Henry* VIII. cauſed a ſpecial Court to be erected, by a ſpecial Commiſſion of *Oyer* and *Terminer*; which Court alſo continued in *Edward* the Sixth's Time, Queen *Mary*'s, and firſt and ſecond of King *James*: The Baſis of which Commiſſion was founded upon thoſe forementioned innovating Statutes made in *Edward* the Second's and *Edward* the Third's (*b*) Time: Which ſpecial Commiſſion of *Oyer* and *Terminer* was ſeveral times renewed by the late King *Charles*, as in the fifth, eighth and thirteenth Year of his Reign. And the ſaid Mr. *Hyde* there in his Argument or Speech, which I have here in Print, names ſeveral of the Preſidents of that illegal Court of ſpecial Commiſſion of *Oyer* and *Terminer*: And he there alſo declares in what an extraordinary manner, and upon what an extraordinary Occaſion it was granted; which was ſo great, as that a greater could not be imagined: and yet notwithſtanding he declares, that this extraordinary Commiſſion, which being granted to ſuppreſs and quiet thoſe many extraordinary Inſurrections and Rebellions, which do not admit of ſo long Delay as Times of ordinary Trial, in Times of Peace, when the ordinary, legal and common Courts of Juſtice are open and free, will do, when Peace and Quiet is in the Nation, as now it is; and yet for all that, he condemns it for illegal.

And therefore, Sir, admit my Actions in their Tendency to be as dangerous and heinous as any of my Adverſaries can imagine or declare them to be; yet they are but in the Aſhes, but in the Hearth, they are not broke out into viſible and violent hoſtile Actions. And therefore I ſay, if ſpecial Commiſſions of *Oyer* and *Terminer*, granted in ſuch ſpecial and tranſcendent Caſes as thoſe in *Henry* the Eighth's Time, were illegal; much more muſt a ſpecial Commiſſion of *Oyer* and *Terminer* granted to try me barely for Words, or at moſt for pretended Writings or Books, at ſuch a time when there is no burning Flame of Inſurrections or Rebellions in the Kingdom, but all in viſible Peace, and all the ordinary Courts of Juſtice open: and I and my Friends have often ſought to enjoy the benefit

(a) *And excellent to this purpoſe is Lieutenant-Colonel* Lilburne's *Argument, in his ſecond Edition of his* Picture of the Counſel of State, p. 8. *againſt the Erection of extraordinary Courts, which thus followeth: He granting that the Parliament hath Power to erect a Court of Juſtice to adminiſter the Law, provided that the Judges conſiſt of Perſons that are not Members of Parliament; and provided the Power they give them be univerſal; that is to ſay, to adminiſter the Law to all the People of* England *indefinitely, who are all equally born free alike, and not to two or three particular Perſons ſolely; the laſt of which for them to do is unjuſt, and altogether out of their Power*, &c. *Which Argument or Reaſon is moſt notably illuſtrated and inlarged in the ſecond Edition of the* Legal Fundamental Liberties of *England, revived of the* 8th *of* June, 1649. p. 72.

(b) *Which were* Weſtminſter, *the ſecond being the* 13 *of* Ed. 1. c. 29. *and* 2 Ed. 3. c. 2. *and* 34 Ed. 3. c. 1.

fit of the Law in a legal Trial, from first to last; but could never enjoy it in the least measure, although many Assizes and Sessions have passed over my head since my first commitment, now seven Months ago; at the first of which, in the county where my pretended crime was committed, I ought by Law and Justice either to be tried or acquitted. So that, Sir, by what I have already said, you may see the Judgment and Opinion of the House of Commons upon special Commissions of *Oyer* and *Terminer*, in their first purity, when as a full House, there being constantly 400 or 500 of them sitting in the House, as the deputed and chosen Trustees of the people of *England*, whose Opinion was to damn them, and pluck them up by the Roots, as unjust and illegal in their original Institution, which they have accordingly done, and declared to the whole Nation in the Act that abolished the *Star-Chamber*; where that Court spoken against by Mr. *Hyde*, is totally damned and plucked up by the Roots. So that now in Law I cannot see how special commissions of *Oyer* and *Terminer*, can be legal at this present, admit the power never so just from whom it comes; but abundantly much more, seeing there is no actual Wars, nor popular Insurrections: which, if lately there had been any, and yet were overcome, there is no pretence or ground by the good old Laws of *England*, for any extraordinary proceedings against any Man, although he had been in Arms against you, but he ought to have the benefit of the ordinary, accustomed and common Trials at the common Law, as clearly appears by the express Words of *the Petition of Right* (c). But I was never in any hostile manner against those that are the present Governors of the Nation, but have been under their command in several Battles in the Nation, and have hazarded my Life for them, and never yet in the least changed my original or first principles; nor never was engaged in the least in any Hostility against them, but have always, since I five Years ago gave over my command, lived in peace and quietness in mine own House and Abode: and was the same day at the House of Commons door that their Votes passed against me, declaring me in general (which in Law signifies nothing) to be a Traitor; and spake with a Gentleman that is now a Judge amongst yourselves (*viz.* Mr. *Rigby*) at the House-door, who, in some Great Ones Names, proffered me large Matters, if I would do as I should be directed by them. After this, I went home to mine own House in *Southwark*, where I stayed in peace and quietness, well enough knowing the Votes that that day passed against me, without either particular Accusation or Accuser, or any such thing; where I stayed, whenas I might easily have escaped the Hands of mine Enemies, and been gone: but having the sweet peace of a good conscience within me, which did assure me that I had done nothing that was against the Welfare of the Nation of *England* in general, nor against the Welfare of any one particular Man in *England*, but really wish'd it well, and all its Well-wishers:

I say that, notwithstanding my certain Knowledge of all that at the House had passed against me; and although I also knew that the further Design against me, which was, That the Council of State (as they are called) would take me away thereupon with armed Force the next morning; yet notwithstanding all this, I stirred not out of my House, but remained there till about five o'clock the next morning; at which time 200 or 300 armed Horse and Foot (without so much as one civil or magisterial Officer with them) came by Force of Arms, and haled me out of bed from my Wife and Children, not according to the Law of *England*, as is expresly provided in two several Statutes, *viz.* the first of *Edw.* 6. *chap.* 12. and the 5th and 6th of *Edw.* 6. *c.* 11. By which Rules of the Law, and no other, they ought to have proceeded against me from first to last; and I am sure they both expresly provide, That if any Man be accused of Treason, that he shall be accused first to one of the King's Counsel, or to one of the King's Justices of Assize, or else to one of the King's Justices of the peace being of the *Quorum*, or to two Justices of the peace within the Shire where the same Offence or Offences shall happen to be done or committed (*d*).

But contrary to these and other wholsom and good Laws (although there hath been an eight Years War in *England*, pretendedly, for the preservation of the Laws and Liberties of *England*, yet, I say, contrary to the express Tenor of these Laws, as also of *the Petition of Right*, yea, and also of the express letter of that excellent Law that abolished the *Star-Chamber* this Parliament) was I by Force of Arms (that never fortified my House against the present Power, nor ever disputed any of their Summons, though sent by the meanest Man that ever appertained to them; and who, if they had sent their Warrant for me by a Child, I would have gone to them) I was fetch'd out of my bed in Terror and Affrightment, and to the Subversion of the Laws and Liberties of *England*, and led through *London*-Streets with Hundreds of armed Men (like an *Algier*-Captive) to their Main-Guard at *Paul*'s, where a mighty Guard staid for the further conducting me by Force of Arms to *White-hall*. Now, Sir, if I had committed Treason, I ought not to have been apprehended and proceeded against by armed and mercenary Soldiers, but by civil and magisterial Officers, and no other; according to those excellent privileges that the Parliament themselves in the Year 1641, in their own Book of Declarations, *p.* 36, 37, 76, 77. did claim for those six Members, *viz.* the Lord *Kimbolton*, Mr. *Pym*, Mr. *Hollis*, Mr. *Stroud*, Sir *Arthur Haslerig*, and Mr. *Hampden*: I say and aver, I ought to have had the process of the Law of *England*, due process of Law according to the forementioned Statutes and Precedents; for I never forcibly resisted or contended with the Parliament; and therefore ought to have had my Warrant served upon me by a Constable, or the like civil Officer; and upon no pretence whatsoever, ought I to have been forced out of my Bed and House by mercenary armed Officers and Soldiers. But, Sir, coming to *White-hall*, I was there also kept by armed Men, contrary to all Law and Justice; and by armed Men against Law, I was by Force carried before a Company of Gentlemen sitting at *Derby-House*, that look'd upon themselves as authorized by the Parliament to be a Committee or Council of State, (who by the Law I am sure in any kind had nothing at all to do with me in cases of pretended Treasons) where I was brought before Mr. *John Bradshaw*, sometimes a Counsellor for my self before the House of Lords, against my unjust *Star-Chamber* Judges; who there in my behalf, *Feb.* 1645, did urge against the Lords of the *Star-Chamber*, as the highest crimes against the liberties of the People that could be, as being illegal, arbitrary and tyrannical, that the Lords in *Star-Chamber* should censure me to be whipp'd, pillory'd, *&c.* for no other cause but for refusing to answer their Interrogatories against my self. And when I was brought before the said Council of State, I saw no Accuser, no Prosecutor, no Accusation, no Charge nor Indictment; but all the crime that there was laid unto my charge, was Mr. *Bradshaw*'s very seriously examining me to Questions against myself: although I am confident he could not forget, that himself and Mr. *John Cook* were my Counsellors in *February*, 1645, at the Bar of the House of Lords, where he did most vehemently aggravate, and with Detestations condemn the Lords of the *Star-Chamber*'s unjust and wicked dealing with *English* Freemen, in censuring them for their refusing to answer to Questions concerning themselves; and yet notwithstanding walked with his dealing with me in the very steps that formerly he had bitterly condemn'd in the *Star-Chamber*-Lords; yea, and there for refusing to answer his Questions, (for any thing he declared to me to the contrary) committed me to prison for Treason in general. And you know very well, better than I do, that by your own Law, Generals in Law signify nothing.

Judge *Jermin*. Mr. *Lilburne*, you very much abuse and wrong your self, for you very well know Mr. *Bradshaw* is now denominated by another Name, namely, *Lord President to the Council of State of* England; and it would well become you in your condition so to have stiled him.

Lieut. Col. *Lilburne*. And although no crime in Law (which ought to be particularly expressed) was laid unto my charge; yet when I was first imprisoned, there were thousands of my Friends (Well-wishers to the Freedoms of *England*, and to the common cause in which they had been engaged in for these eight Years together) both old and young, both Masters of Families, young Men and Apprentices, and abundance of others of the Feminine Sex too, with abundance of cordial honest Men in several countries, joined in several rational and fair petitions, and delivered them to the House in the behalf of myself, and my three Fellow-prisoners; in which they most earnestly intreated them, that they would not prejudge us before we were heard, and knew our Accusers and Accusations, but rather that they would release us, and take off their prejudging Votes against us, which they had caused to be proclaimed in all the publick places of the Nation against us, and let us have a fair and legal Trial, according to the Laws of *England*, and according to the undeniable privileges of the due process of the Law from first to last; and they would put in any Security, that they would require of them, that we should be forth-coming at all times to answer whatsoever in Law could be laid to our charge. Unto all which petitions, which were very many, they could get no manner of satisfying Answer, but Slights, Abuses, and Scorns.

But besides this, Gentlemen, that you may see that I am rational, and that you may see that I have an innocent and quiet conscience within me, that does not accuse me, nor terrify me; therefore I must acquaint you, that I again and again proffered my chiefest Adversaries, and sent often to them, being earnestly desirous to chuse two Members of the House of Commons, and let them chuse two more, whom they please; and I would with all my Heart freely refer all manner of difference betwixt them and me, to the final determination and judgment of four of their Fellow-Members: but all this would do no good, and yet they would not in the least let me understand what was the Thing they desired of me; but, by their power and will, I had my pockets and chamber search'd to find out Advantages against me; and also lock'd up close Prisoner, with Centinels Night and Day set at my door, and denied the access and sight of my Wife and Children for some certain time; and for about twenty Weeks together in the Heat of Summer, kept close prisoner, and denied the liberty of the prison, and my Estate with a strong Hand taken away from me, without any pretence [or due process] of Law, to the Value of almost three thousand Pounds, that was legally and justly vested in me, and in my possession. But being I will avoid (at this time especially) provocations as much as I can, I will name no person by whose power and will it hath been done, although he be notoriously known; but the Gentleman that took it away by his pleasure, without all Rules of Law or Justice, told my Father to this purpose, That I was a Traitor, and under the Parliament's Displeasure: and therefore he would secure it from me, although I were not in the least convicted of any Crime, neither in Law then, or for many months after had I the least pretence of Crime laid unto my charge. And although my own Estate by Force, against Law, was taken from me, yet was I also denied in my close Imprisonment that legal Allowance that should have kept me alive; for in all this miserable condition I never yet received a penny of my legal Allowance, but was positively denied that Testimony and legal Right that the late King constantly allowed to all the Members of the Parliament that were committed in the third of his Reign, and several other times: unto whom for their Diet he allowed three, four and five Pounds a Week, according to their Quality, although they had great and large Estates peaceably in their possession. And one of them that is now beyond the Seas, a Colonel, I have forgot his Name, (but it was Colonel *Long*) confessed in the Lieutenant of the *Tower*'s own chamber, the last Year, that the King was so bountiful to him and the rest of his Fellow-prisoners, that he let them enjoy the Allowance of about four or five Pounds a Week for Diet; and that while he was Prisoner in the *Tower*, he spent the King about 1500*l.* for his own particular self in provision. But, notwithstanding I was denied all this, and to fill up the height of the insufferable provocations put

(c) *Of which Judgment Sir* Edward Coke *is positively, in* part 2. Instit. f. 48. *and* part 3. f. 52. *in* Tho. *Earl of* Lancaster's *Case, which is singular well worth the reading. See also* part 1. Instit. f. 13. a.

(d) *See also to this purpose,* part 3. *of* Coke's Instit. ch. High-Treason, f. 26, 27, 28. *and* part 1 Parl. Declar. *in the Case of the Lord* Kimbolton *and the five Members,* p. 38, 39, 76, 77.

upon

upon me, abundance of my own and antient Acquaintance were ſet upon me to calumniate, beſpatter and reproach me; yea, and to endeavour to become Inſtruments to take away my Life, ſome of them confeſſing they were underhand ſet on by ſome Parliament-Men: all whoſe baſe and wicked Petitions, Papers and Books preferred and publiſhed againſt me, were hugged and embraced; altho, for my own part, I do not know of any Man in this World that can juſtly tax me with any Action, or maintaining any principles or Tenets, but what doth become a Man that doth believe all that is contained in the Law and the Goſpel, and does believe the Reſurrection of the Dead, and Life eternal; nay, that does believe that I myſelf ſhall riſe and go to the Lord of Glory. Yet notwithſtanding all theſe unparallel'd provocations put upon me, eſpecially by divers of my old Acquaintance, whom I had upon all Occaſions faithfully ſerved, but never wronged, injured nor provoked, being inſtigated (as they themſelves confeſs in ſome of their own Congregations) by Parliament-Men ſo to do.

Truly, Sirs, I appeal to your own Judgments, and to your Conſciences, and to all the people that hear me this Day, whether all theſe provocations laid upon a poor Man, which is but Duſt and Aſhes, as well as other Men, be not too inſupportable a Burden, and too much for the Cauſers of them to take advantage of the Fruits produced by them, to deſtroy me, and take away my Life.

And therefore, Sir, in the firſt place, I ſhall humbly crave that Favour and Right, ſeeing I am brought before you by a piece of parchment that truly I could not read, neither could he do it that ſhewed me, (I mean the Lieutenant of the Tower;) for admit that if I did well underſtand *Latin*, as indeed I do not, only ſome ordinary Words, yet it was in ſuch an unuſual ſtrange Hand that I could not read it. And therefore being I am brought before you implicitly, and not as I conceive an *Engliſhman* ought to be, who ought to ſee and read the Authority, by vertue of which he is convened before any Power. It's true, I know ſome of you, Gentlemen, that I ſee ſit before me, yet not many of you; and truly I have nothing but a piece of unlegible Parchment, which cannot ſatisfy my Underſtanding of the Legalneſs of my Convention before you: but being I am not able to diſpute that Power that compulſively brought me, but here I am; and therefore in order to the declaring of myſelf to be a true *Engliſhman*, I moſt humbly crave (and that I think is conſonant to Reaſon, and I hope to Law too) that I may ſee, and hear read the Commiſſion, by vertue of which you ſit here this Day, and convene my Perſon before you, that ſo I may compare it to the Law; and conſider whether or no, that by my pleading before you by vertue of it, I do not betray my Liberties. And therefore I humbly crave that you would let me hear your Commiſſion read; for this Court is no ordinary and common Aſſizes, Seſſions, or Goal-Delivery, the only proper Courts for trying me for all criminal Faults; yea, and thoſe alſo ought to ſit where the Crimes are committed: and I was impriſoned for a pretended Crime, pretended to be committed in the County of *Surrey*, where by the Common Law of *England*, and expreſs Statutes, I ought to be tried therefore, and no where elſe.

And therefore being brought in an extraordinary Manner to ſuch an extraordinary Place as this, which is no ordinary Aſſizes or Seſſions, no nor yet in mine own County; therefore I again humbly deſire that you will be pleaſed to let me ſee and hear your extraordinary Commiſſion, that ſo I may conſider whether the Extent or Latitude of the Commiſſion be conſonant, or no, to the Petition of Right, and other the good old Laws of *England*. For thoſe that now ſit at *Weſtminſter*, exerciſing the ſupreme Power, by two ſpecial Declarations, the one dated the 9th of *February* laſt, and the other the ſeventeenth of *March* laſt, have poſitively declared, and called God to witneſs, That they will maintain, preſerve, and defend that excellenteſt of Laws, the Petition of Right, as in the ſeventh Page of the laſt Declaration they call it; and that the People of *England* ſhall enjoy all the Benefit therein contained, whether to Life, Liberty, or Eſtate, with all Things incident thereunto. And therefore I humbly beg and crave that Favour from you, that ſeeing to me you appear to be ſent in an extraordinary Manner, not according to the ordinary Cuſtoms of the Laws of *England*, that you will be pleaſed to let me hear your Commiſſion read, that ſo I may conſider the Conſonancy thereof to the Petition of Right, and other the good old laws of *England:* and after the reading of it, I hope I ſhall return you an Anſwer as doth become a rational and ingenious Man: who though he hath Right to all the Privileges of the Laws of *England*, and hath read all the declared and plain Laws of *England*, that are to me the Fundamentals of all, yet the practick Part of the Law, which are in other Tongues beſides the *Engliſh*, I cannot read, know, nor underſtand. And in the Petition of Right, and other the good old fundamental Laws of *England*, I can find no Foundation or Bottom for ſuch an extraordinary Court, as this before my Eyes ſeems to be: And therefore I again make it my moſt humble Suit to hear your Commiſſion read.

Judge *Keble*. Mr. *Lilburne*, you are fully heard.

Mr. Prideaux, *Attorney-General*. My Lord, the Priſoner at the Bar, nor none elſe, have Cauſe to complain that he hath wanted your Patience in being fully heard. My Lord, that which at the Beginning of his Arraignment you expected from him, which was to hold up his Hand, he denied; and upon his Denial deſired Liberty of Speech to ſpeak, and he hath enjoyed it. But, my Lord, how pertinent his Diſcourſe is to what was propoſed to him, the Court, and all that hear him, will judge. My Lord, I am not here to juſtify the Actings of thoſe that here he hath complained againſt; but they are a Court, they are a Council, and my Thoughts are (and ſo ought his to be) honourable of them; and what they have done, my Lord, towards him, in ordering this Court to try him, is but Juſtice. My Lord, there is no ſpecial Commiſſion of *Oyer* and *Terminer*, but a general Commiſſion: and upon that general Commiſſion here is a ſpecial Preſentment of Mr. *Lilburne* here at the Bar: The general Commiſſion is according to the Law of the Land; and upon that ſpecial Preſentment it is expected he may be proceeded againſt according to Law. And for your Commiſſion, my Lord, that hath been read and publiſhed to the Court before Mr. *Lilburne* came to the Court, and the Court is ſatisfied with it, that it is in the ordinary Way; and I hope the Judgment you will give, will declare it to be according to the Law, in the ordinary Way. And as for the Commiſſion itſelf, in the Form of it, it is not a Tittle varied from the ordinary accuſtomed Form. But, my Lord, the Petition of Right, *Magna Charta*, the Statutes, and all Declarations that have been ſpoken of, they are all confirmed in this, and all do confirm it; for in that ordinary Tract, that hath been practiſed in this Nation for five hundred Years, is Mr. *Lilburne* now to be tried, and that by the good old Laws of *England*, Mr. *Lilburne*'s Birthright, and every Man's elſe, he has his Trial; the Beginning of which hath been Mr. *Lilburne*'s Preſentment, which is already found by the Grand Inqueſt, who are Men of Integrity, Men of Ability, Men of Knowledge. My Lord, he is now come to his Trial, not in an extraordinary Way, but by a Jury of good and legal Men of the Neighbourhood; by Men that do know, my Lord, and underſtand what is Fact, what is *(a)* Law, and to do Juſtice indifferently between both.

And, my Lord, I do know, and publiſh to all that now hear me, that the Commiſſion for Trial of Mr. *Lilburne* this Day, for thoſe Differences that are between the State and Mr. *Lilburne*, is free in Law from all thoſe Exceptions that he is pleaſed to put upon it, and is unqueſtionably legal, and uſed for theſe many hundred Years together. And as for Mr. *Lilburne*'s declaring the Fact, for which he was originally impriſoned, for to be committed in *Surrey*, and therefore there in Law he ought to be tried, and not here in *London*, being another County; as for Mr. *Lilburne*'s Crimes committed in *Surrey*, his own Conſcience beſt knows what they are: But Mr. *Lilburne*, at moſt, can but yet gueſs at what we intend to try him here for, or lay unto his Charge.

But, my Lord, if Mr. *Lilburne* will pleaſe to put himſelf upon his Trial according to Law, my Lord, I hope the Court, and all that hears and ſees their Proceedings, will receive full Satisfaction in the Legality and Fairneſs of their Proceedings againſt him, and himſelf the Benefit of Juſtice and Law.

Lieutenant-Colonel *Lilburne*. Sir, by your Favour, in two Words, I ſhall not be tedious, I now perceive who is my Accuſer and Proſecutor, the Gentleman that is a very unequal one; for he is one of the Creators (being a Member of the Houſe) of you that ſit here this Day to be my Judges; and therefore an over-awing and unfit Accuſer or Proſecutor.

Ld *Keble*. Mr. *Lilburne*, I pray you hear me a Word; for now you ſpeak not rationally nor diſcreetly: You have had a fair Reſpect and Hearing. What you ſpeak of Liberties and Laws, we come here to maintain them for all, and for you too: And we alſo come for to vindicate our Actions. And as for that you ſpeak of in reference to the Commiſſion, I muſt let you know the Commiſſion is warrantable by the Laws of *England* for theſe five hundred Years, nay, and before five hundred Years in ſubſtance. The ſecond Thing that you ſpeak to, is, That you were apprehended in ſuch an hoſtile Manner, underſtanding by Law you ſhould have been taken in an ordinary Way, by an ordinary Officer. But, Mr. *Lilburne*, in all Apprehenſions of Traitors, Felons, and Murderers, is not the Power of the County to be raiſed, and the Sheriff is to call and take what Power he pleaſeth.

Lieut. Col. *Lilburne*. By your Favour, Sir, not unleſs I reſiſt; which I did not. And beſides, there was no Sheriff, nor no other Civil Officer, at my Apprehenſion.

Ld *Keble*. Mr. *Lilburne*, ſpare yourſelf: It is as they are informed of the Danger of the Man; they may do it before ever they ſee him. The next Thing you are upon, is, The Wrong and Injuſtice that you received by the Proceedings in the Star-Chamber againſt you. You ſee the Proceedings there have been queſtioned, and you juſtified: If there be any Thing elſe that hath been by others in the North, or elſewhere acted, there is no Man here that will juſtify them in their Evil. But for a private Man, as you are, to tell us of them here, and to come and tell us to our Faces that we are created and conſtituted by the Attorney-General, we will not ſuffer it, nor further hear of it. And therefore, Mr. *Lilburne*, although you have ſpoken fair Words, (and happily more than your Friends expected from you) I muſt tell you that Words are but Words; and it were well that you would do as well and as rationally as becomes a rational Man, as you have declared you will.

Lieut. Col. *Lilburne*. With your Favour, but one Word more.

Judge *Jermin*. Mr. *Lilburne*, pray ſpare a Word, and hear the Court: This Court ſits here by lawful Authority, and that is from the Parliament, that are the ſupreme Authority of *England*; ſo that our Power is not derived from thoſe that have no rightful Authority to conſtitute us, but our Power is from the publick Authority of *England*, which is now by an admirable Act of God's Providence, lately, but truly revived and ſettled by God upon them. By that Authority this Court doth now ſit; and you are brought here before them that are moſt of us Judges of the Law, and we are ſworn to do you and every Man Juſtice and Right, according as his Cauſe requires, according to Law, Judgment, Equity, and Reaſon. And it was ſaid truly, that which my Brother *Heath* (who now is dead) did ſay, It's the Duty of the Judges to be of Counſel with the Priſoner at the Bar before him, and to do that which they are ſworn to do: And that you ſhall have. And accordingly you have received more Favour than ever I heard of a Priſoner that ever was accuſed of Treaſon in my Life ever had. And as for the Commiſſion, I muſt tell you it is uſual to have Commiſſions of *Oyer* and *Terminer*, and that even in Term-time, for high Offences, and ſuch as tend to the Deſtruction of the Nation, as *Overbury*'s did, and thoſe that tend to capital Treaſon, whereof you are now accuſed, by a Grand-Jury of *London*, that are Freemen of *London*, Citizens, able Men, Men of Religion, Men of Eſtate, Men of Conſcience, Men of Quality: Theſe are your Accuſers; who have found you, upon their Oaths, guilty of Treaſon, and cry out to us the Judges for Juſtice againſt you: And it is they, not we, that proceeded againſt you. And as for our Commiſſion, it is according

(a) Mark that well; for Judge Jermin *called it a damnable Doctrine, when Mr.* Lilburne *declared the Jury were Judges of Law as well as of Fact.*

to the good old Laws of the Land, founded upon the Statute made in *Edward* the First's Time, called *Weſtminſter* the Second. That Statute authoriſed Commiſſions: According to that Commiſſion we ſit by here this Day. And *Edward* the First was a wiſe and a good Prince, and conſented to the People, to let them have ſuch Commiſſions as ours we ſit by is, which the People had fought ſtoutly for in the Barons Wars in his Father's Time, and alſo in his; for he himſelf was taken Priſoner at *Lewes*, in the County of *Suſſex*. And being a wiſe Prince, he knew that the Love of the People was not more to be got than by wholſome and ſafe Laws, that every Man's Life, and every Man's Eſtate, and every Man's Liberty, might be preſerved by, and not be ſubject to any arbitrary Will or Power; but that the ſober, and diſcreet, and wiſe Laws of the Kingdom, which our Anceſtors won by their Swords, might be their Protectors. A ſpecial one of which was this Statute of *Weſtminſter* the Second, made in *Edward* the First's Time: By vertue of which Statute is this Commiſſion directed to the Juſtices of the one Bench and the other; and they be all here this Day, but only thoſe that of neceſſity muſt attend at *Weſtminſter*, only to preſerve the Term. Now you are come to anſwer to that Charge, which hath been the greateſt Oppoſition to the Settlement of Government that can be; I mean the Settlement of the ſupreme Authority of the Nation in the Commons now aſſembled in Parliament, not newly erected, but revived into the Right Place and Hands; for it is the Law of *England* revived, that the ſupreme Authority is in the (*a*) Commons aſſembled in the Parliament of *England*: For ſo it was in the *Saxons* Time, and the *Romans* Time, and in all Times (*b*) it hath been as it is now; which will ſufficiently juſtify our preſent Proceedings againſt you. And therefore, I ſay, for the Commiſſion itſelf, it is in general for the Trial of all Treaſons whatſoever. But the Grand Inqueſt have found out no other Traitor, that they may accuſe, but Maſter *John Lilburne*, who is now here at the Bar. But it is not a bare Accuſation, but it is the ſolemn Verdict of almoſt a double Jury that hath appeared upon the Roll; and upon their Oaths do conceive thoſe Crimes of Treaſon that are laid againſt you, to be of ſo dangerous conſequence againſt the State and Commonwealth, that they do call for Juſtice againſt you as a Traitor already found guilty. And therefore I do require you, as you are an *Engliſhman*, and a rational Man, that you do conform yourſelf, and tell us plainly what you will do, as in reference to the putting yourſelf upon your Trial by the Law, and hear with patience thoſe Offences of Treaſon that are laid to your Charge.

Lieut. Col. *Lilburne*. May it pleaſe you, Sir, by your favour, I ſhall not now trouble you with many Words.

Ld *Keble*. You go improperly to work.

Lieut. Col. *Lilburne*. That Gentleman, I do not know his Name, (pointing to Judge *Jermin*:) You were pleaſed to ſay, That I have had more Favour than ever you have heard of any before ever had, in the like Caſe. But, Sir, by your favour, I ſhall tell you of ſome that in the like Caſe have had as much, if not more; and that was *Throgmorton*, in Queen *Mary*'s Time, who was impeached of higher Treaſon than now I am; and that in the Days of the commonly accounted bloodieſt and cruelleſt Prince that this many hundred of Years hath reigned in *England*: And yet, Sir, I am ſure in this very Place, and that by ſpecial Commiſſion of *Oyer* and *Terminer*; who was accuſed for being one of the chiefeſt Confederates with *Wyat*, in his *Kentiſh* Rebellion; which *Wyat* marched with an Army againſt the Queen to *London*: For which actual War or Rebellion, **Throgmorton* was in this place arraigned as a

* *Trial* v. Traitor, and enjoyed as much, if not more Favour, than I have now enjoyed, altho his then Judges and Proſecutor were bent to take away (*c*) his Life, right or wrong. And therefore, Sir, by your favour, it is no extraordinary Favour that you have afforded me; it is but only my Right by Law and Juſtice, and common Equity. But, Sir, I ſhall be ſhort, and put my Buſineſs to a plain Iſſue, which is this:

I have here at the Bar given in many ſtrong Arguments againſt the Validity and Legality of a ſpecial Commiſſion of *Oyer* and *Terminer*, and ſuppoſing that to be ſuch an one by virtue of which you ſit, and intend to try me for my Life; and therefore I have humbly deſired (as in Reaſon, and I think in Law, I may juſtly do) to hear your Commiſſion read; but you have poſitively denied me that. And therefore I deſire all my Friends, and all the People that hear me this Day, to bear witneſs, and take notice, that you, contrary to Reaſon and common Equity, denied me to let me hear read your Commiſſion, by vertue of which you go about to take away my Life; which I cannot chuſe but deſire them to take notice, I declare to be very hard Meaſure.

But, Sir, to ſave my ſelf from your forelaid Snares and deſired Advantage againſt me, I will come a little cloſer to the Buſineſs. You demand I ſhould hold up my Hand at the Bar; and I know not what it means, neither what in Law it ſignifies. It's true, I have read the moſt part of the Laws that are in *Engliſh*, which I take to be the Foundation of all our legal *Engliſh* Privileges; and in them I cannot find any thing that doth clearly declare unto me the full Signification or Meaning of a Man's holding up his Hand at the Bar. Therefore, if you pleaſe but to explain what the Meaning and Signification of holding up the Hand at the Bar is, I ſhall ſeriouſly conſider of it, and, I hope, return you a rational and diſcreet Anſwer: For truly in thoſe Laws which are in the *Engliſh* Tongue that I have read, although I find mention made of holding up the Hand, yet I cannot find much of the full Signification of it, only I find it to be of a large Extent. And as for thoſe Laws, or rather the practick Part of the Law, that are in *French* and *Latin*, I cannot read them, and therefore much leſs underſtand them. In which regard, for me to hold up my Hand at the Bar before I underſtand the true Signification of it in Law, (which tells me it is in itſelf a tickliſh Thing) were for me to throw away my own Life upon a Punctilio or Nicety that I am ignorant of; and therefore, truly, I think I ſhould be a very Fool, in my own Ignorance to run that Danger. And therefore, Sir, I humbly deſire the clear Explanation of the Meaning of it in Law, and after that I ſhall give you a fair and rational Anſwer.

Ld *Keble*. Mr. *Lilburne*, you ſhall ſee we will deal very rationally with you, (and not inſnare you in the leaſt manner) if that be all. The holding up of your Hand, we will tell you what it means and ſignifies in Law: The calling the Party to hold up his Hand at the Bar, is no more but for the ſpecial notice that the Party is the Man inquired for, or called on; and therefore if you be Mr. *John Lilburne*, and be the Man that we charge, do but ſay that you are the Man, and that you are there, and it ſhall ſuffice.

Lieut. Col. *Lilburne*. I am *John Lilburne*, Son of Mr. *Richard Lilburne*——

Ld *Keble*. Mr. *Lilburne*, what you have to ſay we will hear preſently; only take notice that we will take your acknowledging of your Name to be ſufficient, if you will ſay that you are the Man. You are called by your Name, you have come and anſwered to your Name, in order to your anſwering the Charge to be read againſt you; do but this, and it ſhall ſuffice without holding up your Hand. Therefore let us have no more Diſcourſe as to that.

Judge *Jermin*. Mr. *Lilburne*, pray ſpare me a Word; for you have been heard with patience. You have deſired to have the Right of the Law of *England*; and yet you do queſtion a fundamental Thing, that hath been always uſed in caſe of criminal Offences. By the Law of *England*, that you deſire to have the Meaning of it, is but juſt; but you muſt know that the Law of *England* is the Law of God; and if there be any thing in the Law of *England*, but what was by admirable Conſtitution and Reaſon, we would not meddle with it. But I pray know this, that the Law of *England* is no written Law: It is the Law that hath been maintained by our Anceſtors, by the tried Rules of Reaſon, and the prime Laws of Nature; for it does not depend upon Statutes, or written and declared (*d*) Words or Lines. And this is our Laws, that have been maintained by our Anceſtors, and is ſubordinate to the Law and Will of God: Therefore I ſay again, the Law of *England* is pure primitive Reaſon, uncorrupted and unpolluted by Human Humours, or human corruptions, Wits, or Wills: That's the Law of *England*. There be two Reaſons why holding up the Hand hath been uſed always: Firſt, for notice that thoſe that are called for capital and criminal Offences, that they hold up their Hands, is to declare that they are the Men. My Lord hath given you this one Reaſon already; which, I ſay, is, that he be notified by holding up the Hand to all the Beholders, and thoſe that be preſent, and hear him that he is the Man. But beſides this, there is more in it; that's thus: A pure innocent Hand does ſet forth a clear unſpotted Heart; that ſo the Heart and Hand together might betoken Innocency. And therefore hold up your Hand, that thereby you may declare you have a pure innocent Heart. If you refuſe to do this, you do wilfully deprive yourſelf of the Benefit of one of the main Proceedings and Cuſtoms of the Laws of *England*. Now for this, do what you think fit.

Lieut. Col. *Lilburne*. Well, then, Sir, (applying himſelf to Mr. *Keble*, as the Preſident of the Court) I take your Explanation of it, and lay hold of that.

Ld. *Keble*. You muſt anſwer poſitively, Sir, for you have had Advice enough, yea, good Advice if you embrace it, it is good Advice to you; but the Court doth not expect an Anſwer from you to what hath been already ſaid to you, but they expect that without any more Diſpute you apply yourſelf to anſwer according to that which you are adviſed unto. Do it if you will, and if you will but anſwer to it ſo as hath been declared unto you, it ſhall ſuffice; but ſo far you muſt go to this, as to declare whether you be the Man or no before you go away. And therefore diſpute it no more, leſt you deprive yourſelf of the Beneſit of the Law.

Lieut. Col. *Lilburne*. Well then, Sir, according to your own Explanation, I ſay my Name is *John Lilburne*, Son to Mr. *Richard Lilburne* of the County of *Durham*, a Freeman of the City of *London*, and ſometimes Lieutenant-Colonel in the Parliament's Army: And if you will not believe that I am the Man, my Guardian the Lieutenant of the Tower there (pointing to him) will aver that I am.

Ld *Keble*. So then you are the Man.

Judge *Jermin*. Aſk him again: Hearken, Mr. *Lilburne*, hearken what he ſays, and uſe that Moderation, and Temper, and Diſcretion that you have promiſed.

Lieut. Col. *Lilburne*. One word more, and I ſhall have done; and that is by the Law of *England*——[*But being interrupted he cried out*] With your favour, Sir, I will come to the main thing; I hope you do not go about to circumvent me, therefore hear me, I beſeech you.

Ld *Keble*. Hear the Court, Mr. *Lilburne*, there ſhall be nothing of Circumvention or Interruption: but as you have profeſſed to be a rational and underſtanding Man in Words, let your Deeds ſo declare you.

(*a*) *But by his Favour, never before practiſed nor uſed without both King and Lords; a Precedent of which he is deſired to ſhew and produce out of any of his Law-Books.*

(*b*) *But there was before the Conqueſt neither Inns of Court, Lawyers, nor Term-Judges in* England, *but only twelve good and legal Men, choſen in each Hundred, finally to decide all Controverſies: Which laſted till* William *the Conqueror ſubdued that excellent Conſtitution, and inſtead thereof introduced by his Will and Sword (contrary to his ſolemn Oath, three ſeveral times taken) the intolerable Bondage of* Weſtminſter-Hall, *or Term-Judges, and their Outlandiſh or* Norman *Law-Practice in the* French *Tongue; as all the* Engliſh *Chronicles univerſally and truly declare.*

(*c*) *Whoſe remarkable and excellent Defence you may at large read in* Holingſhed's *Chronicle in the Life of Queen* Mary, *which Diſcourſe is excellently well worth the ſpeedy Reprinting, eſpecially ſeeing Men are made Traitors for Words; which Cruelty Queen* Mary *abhorred, as may clearly be read in that excellent Statute of hers, made in the firſt Year of her Reign,* Chap. 1.

(*d*) *But ſaith* Mr. Hyde, *in his forementioned Arguments, againſt the Northern ſpecial Commiſſion of* Oyer *and* Terminer, *pag.* 421, Miſera ſervitus eſt, ubi jus eſt vagum aut incognitum; *that is to ſay, It is a miſerable Servitude where the Law is uncertain or unknown. And the very ſame ſaith that great Oracle of the Law, Sir* Edward Coke, *in the Proem to the third Part of his Inſtitutes, and in the fourth Part,* fol. 332, *and in ſeveral Places beſides. But the People may eaſily ſee hereby, that theſe preſent Judges drive to have no other Law in being in* England, *but what is in their own and their Maſters Breaſts; (that ſo by pretence of Law they may give away all the Liberties and Properties of the People of the Nation, as their Brother Judges did lately to the King, in the caſe of Ship-Money:) And then woe, and woe to the People, to be brought back again to that Faith, That Ignorance is the Mother of Devotion or Obedience.*

Lieut.

Lieut. Col. *Lilburne.* Sir, I beſeech you do not ſurprize me with Punctilio's or Niceties, which are hard things for me to loſe my Life upon. I tell you again, my Name is *John Lilburne*, Son to Mr. *Richard Lilburne.*

Ld *Keble.* Talk not of Punctilio's with us, nor talk not of Judges made by the Laws, you ſhall not want Law: but if you talk of Punctilio's here in this Room, we will ſtop that Language.

Lieut. Col. *Lilburne.* Truly, Sir, I am upon my Life, and ſhall my Ignorance of the Formalities of the Law in the practick part thereof deſtroy me? God forbid! Therefore give me but leave to ſpeak for my Life, or elſe knock me on the Head, and murder me where I ſtand, which is more righteous and juſt than to do it by pretence of Juſtice. Sir, I know that Mr. *Bradſhaw* himſelf, Preſident of the High Court of Juſtice, as it was called, gave Duke *Hamilton* (a *hoſtile Enemy)* leave to ſpeak to the Punctilio's of the Law; yea, and to my Knowledge again and again made an Engagement unto him and the reſt tried with him, that the Court nor he would not, by vertue of their Ignorance of the Niceties or Formalities of the Law, take advantage againſt them to deſtroy them; but did declare again and again, that all advantages of Formalities ſhould be totally laid aſide, and not in the leaſt made uſe of againſt them to their Prejudice. And I hope you will grant me, that have often been in Arms for you, but never againſt you, as much Favour and Privilege as was granted to Duke *Hamilton*, never of your Party, but a General of a numerous Army againſt you.

Ld *Keble.* Take it as you will, we have had patience with you, and you muſt and ſhall have patience with us: we will paſs over all that is by-paſt, but take heed by your ſurly Croſſneſs you give not advantage in the face of the Court, to paſs ſentence againſt you, without any further Proceedings, or Proof of your Actions, but what our own Eyes ſee. The Ceremony is for your advantage more than you are aware of: but if you confeſs yourſelf to be Mr. *John Lilburne*, we have done as to that.

Judge *Jermin.* Mr. *Lilburne*, at the beginning you talked of Moderation, and that you would carry yourſelf with Rationality, which methinks in your Actions you fall ſhort of; for you have ſaid, that Mr. Attorney-General was a very unequal Proſecutor of you, becauſe you ſay he was the *(a)* Creator of your Commiſſion. Pray hear me, I heard you; and do not think to put Affronts upon us undeſerved. And as for that Man that you call Mr. *Bradſhaw*, I tell you again he is Lord Preſident of the Council of State of the Commonwealth of *England*; and why you ſhould ſo much neglect him, doth not ſo much ſavour of Rationality and Moderation, as you pretend yourſelf to be poſſeſſed with.

Ld *Keble.* Come, will you read the Indictment?

Mr. *Broughton* reads. *Hold up your Hand*, John Lilburne, *and hearken to your Charge.*

Thou ſtandeſt indicted of High Treaſon by the Name of John Lilburne, *late of* London *Gent. for that thou as a falſe Traitor, not having the Fear of God before thy Eyes, but being ſtirred up and moved by the Inſtigation of the Devil*, &c. as it followeth *verbatim*, in the ſecond Day's Proceedings, to which the Reader is referred.

Mr. *Broughton.* What ſay'ſt thou, *John Lilburne*, art thou guilty of this Treaſon whereof thou ſtandeſt indicted, or not guilty?

Lieut. Col. *Lilburne.* Gentlemen, I require the Favour that I may be heard, and I ſhall deſire nothing but that which may ſtand with Reaſon and Juſtice.

Ld *Keble.* Mr. *Lilburne*, we ſhall deal with you according to Reaſon and Juſtice, and after ſuch a manner as you yourſelf ſhall judge rational and right.

Lieut. Col. *Lilburne.* Gentlemen, I ſhall ſpeak but a few words; I beſeech you hear me, for it is upon my Life.

Ld *Keble.* You ſay you will deal rationally in thoſe ways; that is to be expected from you the firſt in Reaſon, is to anſwer, and plead; and before you ſo do, you cannot be heard.

Lieut. Col. *Lilburne.* Give me leave to ſpeak, and I ſhall not ſpeak ſix Lines: (which with much ſtruggling being granted, Mr. *Lilburne* went on and ſaid to this effect) Then Sir, thus, By the Laws of *England* I am not to anſwer to Queſtions againſt or concerning myſelf.

Ld *Keble.* You ſhall not be compelled.

Another Judge. Mr. *Lilburne*, is this to anſwer againſt yourſelf, to ſay you are not guilty? By the Laws of the Land you are to plead to your Charge, and it is no accuſing of yourſelf to ſay Guilty, or Not Guilty.

Lieut. Col. *Lilburne.* Sir, by your favour———

Judge *Keble.* To anſwer that you are Not guilty, is no great matter, nor definite in Law.

Lieut. Col. *Lilburne.* By the Law of *England* I am to be tried by a Rule, but I do not know, by the Rules of Law, what Benefit, in reference to my Exception againſt the Illegality of my Indictment, I may deprive myſelf of in caſe I ſhould anſwer before I except.

Ld *Keble.* The Law is plain, that you are poſitively to anſwer Guilty or Not Guilty, which you pleaſe.

Lieut. Col. *Lilburne.* Sir, by the Petition of Right, I am not to anſwer to any Queſtions concerning myſelf; therefore I humbly intreat you to afford me the Privileges of the Laws of *England*, and I will return a poſitive Anſwer to it; if you will but pleaſe to allow me but Counſel, that I may conſult with them, for I am ignorant of the Formalities of Law in the practick Part of it, although I here declare I own the good old Laws of *England*, and a legal Jury of twelve Men, yea, and a Trial by a Jury of legal Men. And I do humbly crave, Sir, a Copy of the Indictment, or ſo much of it as I may ground my Plea upon it; and reaſonable Time to conſult with my Counſel, altho' it be but eight or nine days.

Ld *Keble.* You ſpeak well, but you muſt do well, it is that we come for: the Rationableneſs of it is this, that you ſhould ſhortly anſwer, Sir, to that Queſtion, and in a rational legal way. When you have anſwered it, you ſhall have liberty to make your Defence, to maintain that you ſay; but this that we now ſpeak of, is a thing in your own Breaſt, in your own Knowledge, whether you be guilty of this that is laid to your charge or no: And if you be clear, you cannot wrong yourſelf nor your Conſcience; for in ſaying Not Guilty, you know better what you ſay than any other doth.

Lieut. Col. *Lilburne.* Sir, I am ignorant of the Formalities of the Law, having no Books in *Engliſh* wherein I can read them; and as for other Tongues, I underſtand none: and therefore for you to take away my Life for my Ignorance, when the practick Part of the Law, or the Formalities thereof, is lock'd up in ſtrange Language, that it is impoſſible for me to read or underſtand, is extreme hard.

It is true, in thoſe *Engliſh* plain Laws which I have read, I find ſomething ſpoken of it; but muſt aver, that I find there is a great deal of Nicety and Danger in locking a Man up to ſingle Formalities, in anſwering Guilty or Not Guilty: And therefore I beſeech you to aſſign me Counſel, to inform my Ignorance, and give me but leave to conſult with my Counſel, and I will return you an Anſwer according to your deſire, without any Demur, as ſoon as it is poſſible for me to know what grounds I go upon.

Mr. *Broughton.* *John Lilburne*, what ſay'ſt thou, art thou Guilty of the Treaſon laid unto thy charge, or art thou not Guilty?

Lieut. Col. *Lilburne.* But under favour thus, for you to come to enſnare and entrap me with unknown Niceties and Formalities that are locked up in the *French* and *Latin* Tongue, and cannot be read in *Engliſh* Books, they being not expreſſed in any Law of the Kingdom, publiſhed in our own *Engliſh* Tongue: it is not fair Play according to the Law of *England*, plainly in *Engliſh* expreſſed in the Petition of Right, and other the good old Statute Laws of the Land. Therefore I again humbly deſire to have Counſel aſſigned to me, to conſult with, what theſe Formalities in Law ſignify; ſo that I may not throw away my Life ignorantly upon Forms.

Ld *Keble.* Mr. *Lilburne*, we cannot grant you that Favour, it is not conſiſtent to the Law, whatſoever you ſay to the contrary.

Lieut. Col. *Lilburne.* I hope you will not go about to enſnare me, and take away my Life for Punctilio's.

Another Judge. Well then, you will not plead?

Lieut. Col. *Lilburne.* Yes, if I may be allowed that which I conceive to be my Birth-right and Privilege, to conſult with Counſel; or that you pleaſe to make the ſame Engagement to me that Mr. *Bradſhaw*, as the Preſident of the High Court of Juſtice, made to Duke *Hamilton*; which was, that the Court would take no advantage at all of his Ignorance in the Niceties and Formalities of the Law in his Pleading: let me but enjoy this Engagement from you, and I will plead.

Ld *Keble.* You ſhall have that which is according to the Law; therefore, Mr. *Lilburne*, I adviſe you for to plead, and you ſhall have fair play, and no advantage taken againſt you by your Ignorance of the Formality of the Law.

Lieut. Col. *Lilburne.* Well then, Sir, upon that Engagement, and becauſe I ſee you are ſo poſitive in the thing———this is my Anſwer; That I am not guilty of any of the Treaſons in Manner and Form, as they are there laid down in that Indictment (pointing to it.) And therefore now, Sir, having pleaded, I crave the Liberty of *England*, that you will aſſign me Counſel.

Mr. *Broughton.* By whom wilt thou be tried?

Lieut. Col. *Lilburne.* By the known Laws of *England*, and a legal Jury of my Equals, conſtituted according to Law.

Mr. *Broughton.* By whom wilt thou be tried?

Lieut. Col. *Lilburne.* By the known Laws of *England*; I mean, by the Liberties and Privileges of the Laws of *England*, and a Jury of my Equals legally choſen. And now, Sir, I again deſire Counſel to be aſſigned me, to conſult with in point of Law, that ſo I may not deſtroy myſelf through my Ignorance. This is but the ſame Privilege that was granted at *Oxford* unto me, and the reſt of my Fellow-Priſoners arraigned with me.

One of the Clerks. You muſt ſay, by God and your Country; that's the Form of the Law.

Lieut. Col. *Lilburne.* Why muſt I ſay ſo?

Another Judge. This is the Form and Law of the Land: Will you plead, Mr. *Lilburne*, according to the Laws of *England?*

Lieut. Col. *Lilburne.* Truly I never read it, Sir, in the Laws of *England*, what it is to plead in this Nature.

Ld *Keble.* You ſay you will be tried by the Laws of the Land, then it is by the Country, and ſo you may plead, and do yourſelf no harm; for by the Country is meant a Jury of your Equals.

Lieut. Col. *Lilburne.* Sir, I am doubtful of my Ignorance in the Laws, yet I will return you an Anſwer, you making good your already engaged Promiſes, that you will take no Advantage againſt me, if through my Ignorance, and your Importunity, I plead in any Form, that in ſtrictneſs of Acceptation may deprive me of any real Benefit the Law will afford me.

Judge *Thorpe.* Mr. *Lilburne*, you will be tried by the Law, and by the Rules thereof: when you ſay ſo, you do really declare it to be by your Country. So that the true Signification of being tried by the Law, is the ſame thing in ſubſtance with being tried by the Rules of the Law.

Lieut. Col. *Lilburne.* Then I hope my anſwer is clear and fair, Sir.

Judge *Jermin.* The Formality is ſhortly this, to be tried by God and your Country; no more is meant by it than thus, by God, as God is every where preſent, yea in all Courts of Juſtice, and ſits and knows all things that are acted, ſaid, and done: The other Part of it, by your Country, that is, by your Country or Neighbourhood; the Country is called *Patria*, becauſe your Neighbour and your Equals, which you are willing to put yourſelf upon the Trial of. By force of that Word, the Country, a Jury of the Neighbourhood for Trial of you are ſummoned. Now do what you will.

Lieut. Col. *Lilburne.* Sir, under your favour thus; then in the negative I ſay God is not locally or corporally here preſent to try me, or paſs upon me; but affirmative, I return this Anſwer, That I deſire to be tried in the preſence of that God, that by his omnipotent Power is preſent every where, and beholds all the Actions that are done upon the Earth, and ſees and knows whether any of your Hearts be poſſeſſed

(a) Mr. Lilburne *here endeavoured to ſpeak, and ſhew the Judge his Miſtake; for he did not ſay that Mr.* Prideaux *was the Creator of the Commiſſion, but that he was one of the Creators of all the Judges, and thereby was Judge of his Judges, and in that regard he was no competent Accuſer or Proſecutor. But they would not ſuffer him to ſpeak, but cried out,* Hear the Court; *which thing alſo they frequently did afterwards.*

with

with a premeditated Malice againſt me, or whether any of you come with ſo much Forethought of Malice againſt me, as that in your Hearts you intend to do the utmoſt you can, right or wrong, to deſtroy me: and before this all-ſeeing God I deſire to be tried, and by my Country, that is to ſay, by a Jury of my Equals, according to the good old Laws of the Land.

Juſtice *Thorp.* You have ſpoken very well.

Ld *Keble.* You have done like an *Engliſhman* ſo far as you have gone; and I do aſſure, that in any Formality (as you expreſs or call them) there ſhall be no Advantage againſt you, if you miſtake in them. Now what you have the next to think upon, is your Jury of your Countrymen, or Neighbours of your Equals; and I promiſe you we will take care of that, that they ſhall be good and lawful Men of *England.*

Lieut. Col. *Lilburne.* I thank you, Sir, but under your Favour thus: Your Indictment is extreme long, and of abundance of particulars, it is impoſſible that my Memory, or any one Man's in *England*, can contain it, or carry it in our Heads; and therefore that I may make my Defence ſo as becomes a rational *Engliſhman*, I earneſtly intreat you, that now you will be pleaſed to give me a Copy of my Indictment, or ſo much of it, as you expect a Plea from me upon, and an Anſwer unto, and Counſel aſſigned me, and Time to debate with my Counſel, and *Subpœnas* for Witneſſes.

Ld *Keble.* For Counſel, you need none, Mr. *Lilburne*; for that Not Guilty which you have pleaded, is that which lies in your own breaſt, which reſts in your own Counſel, and you know how it is, and can beſt plead that yourſelf: Counſel lies in Matter of Law, not of Fact.

Lieut. Col. *Lilburne.* Under Favour I deſire Counſel for Matter of Law, and not for Matter of Fact: My Indictment I believe in Law, is all Matter of Law, and I have ſomething to ſay to it in Law.

Ld *Keble.* If Matter of Law do ariſe upon the proof of the Fact, you ſhall know it, and then ſhall have Counſel aſſigned to you.

Lieut. Col. *Lilburne.* I myſelf have before this been upon ſome Trials, and never before this was denied counſel, no, nor ſo much as ever diſputed whether I ſhould have it or no. I alſo was at a great part of the Earl of *Strafford*'s Trial, who was ſuppoſed a moſt notorious Traitor; and yet, if my Obſervation and Memory do not exceedingly fail me, he had Counſel aſſigned him at his firſt deſire, and they were continually with but him, not only at the Bar when he was there, alſo had continual and free Acceſs to him in Priſon.

Beſides, Sir, I being accuſed of Treaſon in ſuch an extraordinary manner, and being but an ordinary Man myſelf; no eminent experienced Lawyer dare well meddle with my Buſineſs, no, nor ſo much as beſtow a Viſit upon me, but he runs a Hazard of being undone. And truly my Eſtate is in an extraordinary manner taken from me, ſo that I have not Money to ſend Meſſengers up and down privately to their Chambers: and therefore that I may be freely and allowedly able, without danger of Ruin to any Man that ſhall adviſe me, I ſhall humbly crave as my Right by Law, and I am ſure by common Equity and Juſtice, that I may have Counſel and Solicitors alſo aſſigned me.

Ld. *Keble.* Mr. *Lilburne*, ſpeak rationally for yourſelf; when there comes a Matter of Law, that you are able to ſay, This is for Matter of Law, ariſing from Matter of Fact, that hath been proved or endeavoured to be proved, when you come beyond that, you ſhall have it as willingly as you can deſire: and withal, this that you ſay concerning your Memory, which you ſay is not able to carry away, or contain the particulars of this Indictment; the Indictment, ſo much as will charge your Memory, will be very ſhort: for it is the publiſhing of thoſe Books charged upon you in the Indictment, that will be the Matter which will ſtick, and that Matter will be very ſhort, which we muſt prove againſt you, which is only Matter of Fact, and not of Law. And therefore for Fact of Treaſon you can be allowed no Counſel, but muſt plead it yourſelf.

Lieut. Col. *Lilburne.* Sir, under Favour, you expect from me Impoſſibilities; for, ſeeing I have been ſeven months in priſon for nothing, and could not in the leaſt know perfectly what would be laid to my charge, nor after what manner I ſhould be proceeded againſt, (conſidering all proceedings againſt me hitherto have been ſo abſolutely arbitrary, that it was impoſſible for me in Law exactly to come provided:) and therefore ſeeing I am now here, and you pretend to proceed with me according to the due courſe of Law, and ſeeing the Form of the Proceedings in this manner with me is not expreſly and exactly declared in Print in *Engliſh*, which Tongue only I can read and underſtand; and ſeeing by the Law, which is in *Engliſh*, which I have read, and clearly underſtand, that there are a great many Snares, and a great many Niceties in the practick, that are formal proceedings of the Law; and ſeeing I know not certainly, whether if I proceed to Matter of Proof, before in Law I make my Exceptions againſt your Indictment, as to Matter, Time and Place, I be not in Law deprived of that Benefit, which I principally aim at for the preſervation of my Life; therefore I beſeech and moſt earneſtly intreat you, to aſſign me Counſel to conſult with, before I be too far inſnared: and, if you will not do it, and give me ſome reaſonable Time to prepare my Plea and Defence, then order me to be knock'd on the Head immediately in the place where I ſtand, without any further Trial; for I muſt needs be deſtroyed, if you deny me all the means of my preſervation.

Judge *Jermin.* Mr. *Lilburne*, it were reaſonable to give you Satisfaction, if you would receive it. You ſay you were preſent at my Lord of *Strafford*'s Trial, and you ſay he had Counſel aſſigned him, not only to ſtand by him at the Bar, but to repair to Priſon to inſtruct and adviſe: but that was not a Trial in ſuch a Way as this is; it was a Trial by Way of Impeachment before the Peers aſſembled in Parliament, and his Attainder was made up into an Act of Parliament; but that is not a Trial at the Common Law *per Pares*, which is that which yourſelf have deſired, a Trial by lawful Men, according to the liberties of the Laws of *England.* After your Anſwer to your firſt Queſtion, that is to ſay, whether you be guilty or not guilty of the Things whereof you are accuſed, no Counſel in the World can follow, till the Fact be proved, and Matter of Law do ariſe thereupon. So that the firſt thing that muſt be done, the Matter of Fact muſt be proved againſt you; and then, if it ſhall appear thereupon to the Court, that Matter of Law doth ariſe, and you do expect Counſel, we muſt and will perform it; the Court are of your Counſel ſo far as to Fact. And then in that caſe, that Law ariſe thereupon, you may, and ought to have other Counſel aſſigned; and do not you doubt but the Court will be as careful of you, as you can be of yourſelf, and allow you more Favour, it may be, than your Friends do expect.

Lieut. Col. *Lilburne.* Under your Favour, and by your good-liking, I was once arraigned at *Oxford* for my Life, upon the Matter of Treaſon, for levying War in *Oxfordſhire* againſt the King, as their Indictment then ſaid; and my Arraignment was by virtue of a Commiſſion of *Oyer* and *Terminer*, that was (and in Law I am ſure of it) as legal and as juſt as yours is: and my Lord Chief Juſtice *Heath*, the chief Commiſſioner or Preſident, who was in the Eye of the Law as legal a Judge as any of you, and yet he——

Ld *Keble.* Mr. *Lilburne*, we do remember it.

Lieut. Col. *Lilburne.* I beſeech you give me Leave to ſpeak for myſelf, and to go on, for my Life lies upon it.

Ld *Keble.* Hear me one Word, and you ſhall have two. This that you did ſpeak but even now, do not think that we have ſuch bad Memories, as that we have already forgot it; your Life is by Law as dear as our Lives, and our Souls are at ſtake if we do you any Wrong.

Lieut. Col. *Lilburne.* I wiſh you may be ſenſible of that, Sir.

Judge *Jermin.* Mr. *Lilburne*, you need not to ſay ſo, our Souls are upon it, and we are to ſtand or fall by Juſtice and Righteouſneſs as well yourſelf is.

Lieut. Col. *Lilburne.* I ſay, my Lord *Heath*, and the Court at *Oxford* proffered me Counſel before any one Witneſs was produced to my Face, or any Matter of Fact came to the proof; yea, and gave me liberty to make my Exceptions to the Inſufficiency of the Indictment, which was very ſhort in compariſon of yours. I crave the ſame privilege from you (the Nation's pretended Friends) that I found at *Oxford* amongſt its declared pretended Enemies, againſt whom in ſeveral Battles I had fought. And I hope you that pretend to be the Preſervators of the Liberties of *England*, will not be more cruel and unrighteous than the declared Deſtroyers of them. If you will not allow me Counſel as I had there, I have no more to ſay to you, you may murder me if you pleaſe.

Judge *Jermin.* You were pleaſed to mention ſome precedents of thoſe that have been accuſed of High-Treaſon, that have had Counſel aſſigned to them; and for one you mention that of my Lord *Strafford*, whoſe Trial I told you was Parliamentary before the Houſe of Peers, upon the Impeachment of the Commons of *England* in Parliament aſſembled, and ſo it went on in a Parliamentary Way: This proceeding is in an ordinary courſe of the ordinary *quondam* Court of Juſtice, according to the Common Law. Now for my Lord of *Strafford*, give me leave to obſerve this; he had no Counſel aſſigned him until ſuch time as Queſtions of the Law did ariſe, which required Counſel, and then he had Counſel aſſigned him, but not before; for that my Lord doth not ſay, that you ſhall have no Counſel, but that you ſhall have that which the Law allows. And, as for that which you ſpeak of Counſel at *Oxford*, it could not be. But when, upon the proof of Matter of Fact, it appears to the Court that there is any Queſtion or Matter of Law ariſing upon the Fact; and when it doth ſo appear unto us, then you ſhall have Counſel for that. But (I beſeech you) hear me on: You are now come before us, according to the Common Law, to be tried by your Country; there is now nothing in queſtion, but whether that Matter, that Thing, thoſe Words contained in the Indictment read to you, be true, yea or no; that is, whether they be done or no: For we will not give Counſel to plead to the Matter of Fact contained in your own Books, which you remember very well.

Lieut. Col. *Lilburne.* Thoſe Books ſuppoſed mine: pray let me have fair play, and not be wound and ſcrew'd up into Hazards and Snares.

Ld *Keble.* If they be not yours upon good grounds proved before you, you are in no danger; and if upon the proofs of the Words and Deeds done, there do appear Matter of Law, you muſt and ſhall have Counſel: ſtay till that be done. In the mean time the Court will take care that a Jury ſhall be returned, of honeſt and ſufficient legal Men to judge of the proofs.

Lieut. Col. *Lilburne.* There was arraigned with me at *Oxford* Colonel *Vivers* of *Banbury* now alive, and Captain *Cateſby* who is dead: I will bring Colonel *Vivers* to depoſe here upon his Oath, That my Lord *Heath*, and the reſt of the Commiſſioners of *Oyer* and *Terminer*, proffered me Counſel, and allowed me and him Counſel before ever ſo much as any Witneſſes were produced, to prove the leaſt Matter of Fact. And if you will not be ſo juſt towards me as the Cavaliers were, and allow me Counſel as they did, I have no more to ſay, but reſolve upon this ſcore to ſtand, and here to die upon the principles of an *Engliſhman.* If you will not be ſo juſt as the Cavaliers were, with whom you and the Parliament ſet us together by the ears to fight with, pretendedly for their Injuſtice, let God and all righteous Men judge betwixt you and me.

Judge *Nichols.* If you will not be led by the proceedings of Law, it will be worſe for you; and you are to know this is not *Oxford.*

Lieut. Col. *Lilburne.* Sir, by what better Rules of the Law can I be led by, than thoſe that I have before my Eyes? I am ſure, at *Oxford*, as my Right by Law, I was, before any Fact was proved, proffered Counſel by my Judges, which were my Lord *Heath*, and Mr. *Gardiner*, now Sir *Thomas Gardiner*, who is now in *London:* if you pleaſe, I will produce him to this Bar, to juſtify it upon his Oath, That the Lord Chief Juſtice *Heath* in his preſence proffered me Counſel upon my Arraignment for Treaſon there, as my Right by the privileges of the Laws of *England*, before the Fact came to be proved; yea, and alſo give me liberty to aſſign the Errors of my Indictment. He is now in *London*, and I will produce him here at this Bar (if you pleaſe) to juſtify what I ſay, if you will give me Time, and enable me with Ability to ſummon him in.

Judge *Nichols.* Mr. *Lilburne*, whether Mr. *Gardiner* will juſtify it or no, it is nothing to us; for we are not to walk by *Oxford* precedents, but by

by the Rules of the Law: and the Law will afford you no Counsel, but in Points of Law arising upon Proof of the Fact *(a)*.

L. Col. *Lilb.* Under favour thus: I conceive the Precedents at *Oxford*, so far as they are righteous, are fit for your Imitation; and whether it be a righteous thing for you, when I am tried for Treason before you, to be more cruel towards me, who have fought for you, than the Cavaliers at *Oxford* in the like case were, against whom I fought: And I must tell you, I further conceived it the most unequal and unjust thing in the World for me to have to do, upon the Trial of my Life, with all the Judges of the Land (who are all engaged Men) that have had above six Months time to beat their Brains together, with the Assistance of divers of my Adversaries, who are Parliament-Men, that were the Creators of their Power, and for one of them to be my Prosecutor; and in this so extraordinary case, for me to be denied to consult with Counsel; I tell you, Sir, it is most unjust, and the most unrighteous thing, in my Apprehension, that I ever heard of, or saw in all my Life. O Lord! was there ever such a Pack of unjust and unrighteous Judges in the World? Sir, in plain *English*, let me tell you, if I had thought you would have bound me up to a single Plea, and not have given me in my Plea the just Latitude of Law, Equity, and Reason, but hold me thus close to your single Formalities, contrary to your Promises, I would rather have died in this very Court before I would have pleaded one Word unto you; for now you go about, by my own Ignorance and Folly, to make myself guilty of taking away my own Life; and therefore unless you will permit me Counsel, upon this Lock I am resolved to die.

Ld. *Keble.* This is not the rational way you said you would go in.

L. *Col. Lilb.* Sir, my Life is before you; you may murder me, and take away my Blood, if you please.

Ld. *Keble.* I will not be out-voiced by you; our Lives and our Souls are upon it, therefore you shall have Equity and Justice; yea, such as you desire yourself: but you are now going to fly into Extravagancies and Heats, which will manifest the Rancour of the Distemper'dness and Invenom'dness of Spirit which is within you. And besides, if we should enter into it, we might aggravate your Crimes by your own Words at the Bar. Take heed of it, that you give not advantage against your self to your own Ruin.

L. Col. *Lilb.* Sir, I am in no Heats, I am but with Earnestness pleading for my Life, when you deny me all the just Means of my Preservation, which is my Right and Due by your own Law.

Judge *Thorp.* Mr. *Lilburne*, I desire to correct a Mistake of yours in the Law: You were pleased to condemn it as unjust, for the Attorney-General's speaking with me when your Indictment was a reading; you are to know, he is the Prosecutor for the State here against you, and he must confer with us upon several Occasions, and we with him, and this is Law.

L. Col. *Lilb.* Not upon the Bench, Sir, by your favour, unless it be openly, audibly and avowedly, and not in any clandestine and whispering way: And by your favour, for all you are a Judge, this is Law, or else Sir *Edward Coke*, in his *(b) 3d Part Inst. cap. High Treason*, or *Petty-Treason*, hath published Falshoods, and the Parliament hath licensed them: for their Stamp in a special manner is to that Book.

Judge *Thorp.* Sir *Edward Coke* is Law, and he says, The Attorney-General, or any other Prosecutor may speak with us in open Court, to inform us about the Business before us in open Court.

L. Col. *Lilb.* Not in hugger-mugger, privately or whisperingly.

Judge *Thorp.* I tell you, Sir, the Attorney-General may talk with any in the Court, by Law, as he did with me.

L. Col. *Lilb.* I tell you, Sir, it is unjust, and not warrantable by Law, for him to talk with the Court, or any of the Judges thereof, in my absence, or in hugger-mugger, or by private Whisperings.

Ld. *Keble.* No, Sir; it is no hugger-mugger for him to do as he did; spare your Words, and burst not out into Passion; for thereby you will declare yourself to be within the compass of your Indictment, without any further proof: Look to it, that you behave yourself according to the Bounds of Reason and Law, and hear me; for we must cause the Jury to be returned.

L. Col. *Lilb.* Sir, under favour, I crave but one Word more, hear me out. I know very well, and I read it in your own Law-Books, such a Prerogative, as that in Cases of Treason no Counsel shall plead against the King, hath been sometime challenged to be the King's Right by Law; but, let me tell you, it was an usurped Prerogative of the late King, with all other arbitrary Prerogatives and unjust Usurpations upon the People's Rights and Freedoms, which has been pretended to be taken away with him. And Sir, can it be just to allow me Counsel to help me to plead for my Estate, the lesser; and to deny me the Help of Counsel to enable me to plead for my Life, the greater? Nay, Sir, can it be just in you Judges, to take up seven Years time in ending some Suits of Law for a little Money or Land, and deny me a few Days to consider what to plead for my Life? Sir, all these Pretences of yours were but all the Prerogatives of the King's Will, to destroy the poor ignorant and harmless People by, which undoubtedly died with him; or else only the Name or Title is gone with him, but not the Power or hurtful Tyranny or Prerogative in the least. Therefore seeing all such pretended and hurtful Prerogatives are pretended to be taken away with the King, by those that took away his Life, I earnestly desire I may be assigned Counsel to consult with, knowing now especially no pretence why I should be denied that Benefit and Privilege of the Law, of the just and equitable Law of *England*, having put my self upon a Trial according to the Privileges thereof. And it was declared to me at *Oxford*, upon the Trial of my Life there, after I was taken Prisoner fighting against the King and his Party, even almost to Handy-gripes, and to the Sword-point, and to the But-end of our Muskets, being in Person one of that little Number that for many Hours together at *Brentford* fought with the King's whole Army, where in the manner, without any Articles or Composition, I was taken a Prisoner, and immediately thereupon arraigned at *Oxford*; where, notwithstanding all this, it was declared to me by Judge *Heath* to be my Right, by the Law of *England*, to have Counsel assigned me to help me in point of Law, and I had it granted. I confess he is my best Authority that I have, and I am sure he was a Judge of the Law, or else I had never pleaded to him; and he was upon his Oath to do Justice and Right; and he was an able and understanding Lawyer, and yet did allow me (an hostile Enemy) Counsel to help me, as my Right by Law, before ever any Proof to Matter of Fact was produced: And I beg but the same legal Privilege from you, from whom I have more cause to expect it.

Ld. *Keble.* Were you there indicted for Treason?

Lieut. Col. *Lilburne.* Yes, that I was, and for the highest of Treasons, by the letter of the Law, for actual levying War against the King.

Judge *Thorp.* And yet, for all that, you know it was no Treason, and so did he too; for you know that you had committed no Treason at all in obeying the Parliament's Command: for what you have done, was done by the Parliament's special Authority and Command: and you had your Commission to justify you in your hostile Actions: and he knew it well enough your Act was no Treason, though he did offer you Counsel, or else he durst not allow you Counsel.

Lieut. Col. *Lilburne.* I had nothing to justify me in that Act, but the equitable Sense of the Law, the Letter of it being point-blank against me, and on the Cavaliers Side; by which if they had prevailed, they might have hang'd both you and me for levying War against the King, notwithstandingour Parliament-commissions: and this I know, Sir, you know to be Law in the Letter or Punctilio's of it.

Judge *Thorp.* It was no Treason in you, and he that assigned you Counsel, knew it was no Treason; and this Arraignment of you was as illegal as his assigning you Counsel.

Lieut. Col. *Lilburne.* Sir, by your Favour, he was a Judge of the Law by legal Authority, being made by the King, in whom, by Law, that Power was invested; and he looked upon himself as a legal Judge, and so did I too: and as a legal Judge he arraigned me for doing that Act, that by the express Letter of the Law was Treason; and as a legal and honest Judge, according to his Duty in Law, he allowed me Counsel.

Judge *Jermin.* For that matter that you talk of, they knew it was no Treason, and therefore gave you more Privileges than was their Right by Law, very well knowing, that whatsoever was done to any of you that did fight for the Laws, Religion and Liberties of their Country, there might be the like done to others that were Prisoners in the Parliament's Power: and this was the Truth of it, and you know it very well; and therefore it is nothing to us, nor in Law his Willingness.

Lieut. Col. *Lilburne.* Upon my Letters, after the first day of my Trial, that Declaration of *Lex talionis* was made, as clearly appears by the Words and Date of it now in Print, which the Reader may peruse in the first part of the Parliament's Declarations, *p.* 802, 803.

Judge *Thorp.* I wonder they did not proceed in the prosecution of the Indictment, and find you guilty of Treason, and so to Execution.

Lieut. Col. *Lilburne.* Under your Favour, thus: I appeared at the Bar, I pleaded to my Indictment Not Guilty, I made Exceptions against my Indictment; and myself, and the two other Gentlemen arraigned with me, had Counsel assigned us as our Right by Law: and the Judges most fairly and rationally further told us, Because we will not surprize you, we will give you a Week's time to consider (with what Counsel you please in *Oxford* to chuse to come to you) what to plead for your Lives; and whatsoever other Privileges you can claim by the Liberties of the Law of *England*, you shall enjoy them to the utmost. Upon which Promise I spoke in open Court to the Judge, shewing him the Irons upon my Hands, in which I was arraigned, and told him: My Lord, by the Laws of *England*, no Prisoner for any Crime whatsoever, that behaves himself civilly and peaceably in his Imprisonment, ought to be put in Irons, or to any other Pain or Torment before he be legally convicted; and therefore I desire, as my Right by Law, that my Irons may be taken off. And I said further, My Lord, I am shut up a close Prisoner in my Chamber, denied the use of Pen, Ink and Paper, which is contrary unto Law, especially in the Time of my Trial. Why, says he, you shall be released from your Irons, from your close Imprisonment, and have the use of Pen, Ink and Paper: And Capt. *Lilburne*, I tell you, you shall enjoy whatsoever other Privilege you can challenge as your Right by Law; for the Law of *England* is a Law of Mercy, and I hope we shall appear just Judges of it: And therefore you shall freely have either Lawyer, or whom you will in *Oxford*, to come unto you to help you and advise you. And, says he, because you shall see that Law and Justice is of the King's side against the Parliament, and because they shall have no cause to calumniate us at *Westminster*, and to say we are unrighteous and unjust Judges, that surprize you, and thereby go about to murder you, the Court is freely willing to give you a Week's Time, to consider with your Counsel in the mean time what this Day Sevennight to plead for your Life. In which time, being freed of my Irons, and of my close Imprisonment, and enjoying Pen, Ink, and Paper at my Pleasure, by special Order from the other two Gentlemen, I writ a letter to my Wife, and in it inclosed another to your Speaker, and another to young Sir *Henry Vane*, then my familiar Acquaintance; all which I sent in Post-haste away to my Wife by the Hands of Capt. *Primrose*'s Wife, which Capt. *Primrose* was Prisoner there; and his Wife, who brought up the Letter to my Wife, is now in *London*. Which Letter my Wife delivered to the Speaker, *&c.* and by her importunate Sollicitation procured the Declaration of *Lex Talionis*; the Substance of which, in a letter from Mr. Speaker, my Wife brought down to *Oxford*, and delivered to the Lord *Heath*'s own

(*a*) *What a lying Judge is this Mr.* Nichols! *whenas he himself with Mr.* John Maynard *the Lawyer, was assigned by the President, Lord Chief Baron* Wilde, *to be of the Counsel with Major* Rolfe *upon his Desire; and that before ever the Grand Jury found his Indictment of Treason, as is fully declared in the next Day's following Plea of Mr.* Lilburne.

(*b*) *Whose Words there,* fol. 29, 30. *are so plain and express to prove what Mr.* Lilburne *said to be good Law, as nothing in the World can be plainer. See also to the same purpose the* second Part Instit. fol. 49, 103, 104.

Hands upon the *Sunday* after the firſt Day of our Arraignment. And the third Day before we were to appear again, my Wife arrived at *Oxford* with the Speaker's Letter, which ſhe delivered to Judge *Heath* himſelf: Which Letter taking Notice of our Trial, threatened them with *Lex Talionis*, to do the like to their Priſoners that they did to us, or any of us. And they having many of their great eminent Men Priſoners in the *Tower* and in *Warwick*-Caſtle, and other Places, did induce them to ſtop all further Proſecution of Colonel *Vivers*, Captain *Cateſby*, and myſelf. And if it had not been for this threatening Letter, in all Likelihood we had all three been condemned by a Commiſſion of *Oyer* and *Terminer*, and executed: For my Wife did hear Judge *Heath* ſay to ſome of his Aſſociates, at the reading of the Letter, That as for all the threatening Part of it, as to his particular ſelf, I value it not; but, ſaid he, we muſt be tender of the Lives of the Lords and Gentlemen that ſerve the King, and are in the Cuſtody of thoſe at *Weſtminſter*. And that Clauſe of *Lex Talionis* put a Stop to our Proceedings, and further Trials at Law.

Ld. *Keble*. It was well for you, by your Story that you do tell, that you had ſo fair Play: You ſhall have with us, who are upon our Lives and Oaths, as much as the Law will afford you, and ſo much as our Judgments and Conſciences can lead us to, without doing Injuſtice, and granting more than the Laws of *England* will afford. What was done there, is nothing to us here; for we are not to walk by their Precedent, but by our own Judgments, according to the Rules of the Law. And here 'tis thus far juſt, That upon the Proof of Matter of Fact, if Law do ariſe, you are to have Counſel; if not, you are to have none. By your Allegation, you ſay you had Counſel aſſigned you before any Matter of Fact came to be proved, when as a Judge of the Law he could not but do it; but if he did, it is nothing to us, we cannot do it. Yet we have in this Place proceeded legally hitherto with you; and when that Matter of Law doth ariſe from the Fact, as you had Counſel there aſſigned you, ſo ſhall you have here; and you ſhall have fair Dealing, and fair Play, according to Law, which is abſolutely as I tell you.

Lieut. Col. *Lilburne*. Sir, by your Favour, I crave but one Word more; and that is this: Here is a Gentleman that is a By-ſtander, a Friend of mine, and my Sollicitor, who by Law, as well as any By-ſtander, may *(a)* ſpeak for the Priſoner at the Bar, in Caſe he perceive Things urged againſt him contrary to Law; and therefore I deſire he may ſpeak two or three Words.

[Mr. *Sprat* beginning to ſpeak.]

Ld. *Keble*. Spare yourſelf; when your Time comes, you ſhall ſpeak.

Mr. *Sprat*. He aſked Leave for me firſt. And, Sir, it is eaſy to prove the whole Indictment to be Matter of Law.

Judge *Jermin*. What impudent Fellow is that, that dare be ſo bold as to ſpeak in the Court without being called? Mr. *Lilburne*, by your own Words, you ſay you were told at *Oxford*, That by Law you were to have Counſel; that is as true, that the Court is of Counſel for the Priſoner arraigned at the Bar; and ſo we ought, and ſhall permit you other Counſel, if Matter of Law, upon the Proof of the Fact, do ariſe: But for any other Counſel to be aſſigned you before that appear, is not by Law warranted: We ſhall tread the Rules of Juſtice. And we ſhall do Wrong to the whole Commonwealth, if we ſhould allow you Counſel before Matter of Law doth ariſe from the Proof of the Fact; and to allow Counſel in any other Caſe, the Court commits Injuſtice.

Ld. *Keble*. And this, Mr. *Lilburne*, I will promiſe you, that when there comes Matter in Law, let it be a Lawyer, or yourſelf, he ſhall ſpeak in your Behalf; but before he cannot.

Lieut. Col. *Lilburne*. Sir, the whole Indictment, under Favour, is Matter of Law; and the great Queſtion that will ariſe (admit the Fact ſhould be true, and admit it ſhould be granted) is, Whether the Words be Treaſon in Law, yea or no? And alſo it is Matter of Law in the Indictment, whether the Matter in the Indictment be rightly alledged as to Matter, Time, and Place. And it is Matter of Law in the Indictment, where there are divers ſeveral pretended Treaſons committed in divers and ſeveral Counties, put into one and the ſame Indictment, be legal, yea or no?

Ld. *Keble*. Upon Proof of the Matter of Fact, you ſhall hear and know whether Matter of Law will ariſe; and till the Words be proved, we cannot ſay whether that be the Law that you ſuppoſe.

Lieut. Col. *Lilburne*. Truly, Sir, you promiſed me a fair Trial, and that you would not take Advantages of my Ignorance in the Law's Formalities: But the Lord deliver me, and all true-hearted *Engliſhmen*, from ſuch unjuſt and unrighteous Proceedings as I find at your Hands, who go about, I now clearly ſee, by my Ignorance, in holding me to a ſingle and naked Plea, which is purely as bad, if not worſe, than all the Prerogatives; and for the worſt and groſſeſt of his Prerogatives, in a more rigorous Manner than they were uſed in his Life-time, to be thus preſſed upon me at this Day, after he hath loſt his Life for pretended Tyranny and Injuſtice, Liberty and Freedom, in publick Declarations declared to the Kingdom: I ſay, if there be Juſtice and Equity in this, I have loſt my Underſtanding; and the good Lord God of Heaven deliver me from all ſuch Juſticiaries!

Ld. *Keble*. Mr. *Lilburne*, you have been arraigned before us for High-Treaſon, and we bid you forbear thoſe Terms of yours long ago; ſpeak that you do rationally, and you ſhall have fair and Chriſtian Anſwers and Replies, as ever any man had at a Bar; and go on, you ſhall have it ſtill, if you will be fair and rational, and not break out into Extravagancies and Bitterneſs of Spirit.

Lieut. Col. *Lilburne*. For my Part, Sir, I muſt look upon myſelf as a loſt and dead Man, if I have not Counſel to help my Ignorance, to pitch upon thoſe Things that tend to my Preſervation. And therefore if you will not aſſign me Counſel to adviſe and conſult with, I am reſolved to go no further, though I die for it; and my innocent Blood be upon your Heads!

Juſtice *Jermin*. You have alledged Part of the Law of *England* for your own Advantage; but every one that ſays ſo, does not prove it to be ſo: You have ſaid, you will be tried by the Laws of *England*; and yet againſt the Laws of *England* you have utterly refuſed, in that you would not hold up your Hand, which I do not know any *Engliſhman* that ever refuſed ſo to do, but yourſelf. You have been told by the Court what the Law of *England* is; and yet you will not be ſatisfied. We are upon our Oaths, and therefore will diſcharge our Conſciences, and that in a more eminent Manner than my Brother *Heath* did, although we do not deny you Liberty to ſpeak for yourſelf. But now you would have Counſel aſſigned before any Matter of Law doth appear upon the Proof of the Fact, which we cannot do; for it were to do Injuſtice *, and to do againſt the Law, which the Court cannot juſtify.

* *Sc.* Whit. mem. 433.

Lieut. Col. *Lilburne*. Sir, under Favour, whether or no I have tranſgreſſed the Law, I will not judge: But I am ſure the Law, in the Equity and Intention of it, would have all Trials to be equal, and not prejudicial. My Proſecutors have had time enough to conſult with Counſel of all Sorts and Kinds to deſtroy me, yea, and with yourſelves; and I have not had any time at all, not knowing in the leaſt what you would charge upon me, and therefore could provide no Defence for that which I knew not what it would be. And if by the Law of *England* I cannot have Counſel, then upon your own Grant, which is, That the Laws of God are the Laws of *England*, I deſire to have the Privilege of the Law of God, which you yourſelf ſaid is the Law of *England*; and I am ſure the Law of God is, That you ſhould *do as you would be done to*. Now it cannot be according to the Law of God, for my Adverſaries to have the Helps of all Manner of Counſels, by Snares, Tricks, and Provocations, to take away my Life, and for me to be denied the Benefit to conſult with any to preſerve my innocent Life againſt potent Malice.

Ld. *Keble*. You ſay well: The Law of God is the Law of *England*; and you have heard no Law elſe but what is conſonant to the Law of Reaſon, which is the beſt Law of God; and here is none elſe urged againſt you.

Another Judge. The Laws of God, the Laws of Reaſon, and the Laws of the Land, are all joined in the Laws that you ſhall be tried by.

Juſtice *Jermin*. The Queſtion is but this, Whether the Law of God, and the Law of Reaſon, and the Law of Man, may be conſonant to each other? And whether the Court or *John Lilburne* ſhall be Judges thereof? That is the Queſtion.

Ld. *Keble*. And that which you ſaid, Mr. Attorney hath had ſo much Time againſt you, and Opportunity to conſult with all Manner of Counſel to deſtroy you; your ſecret Actions, though they are now come to publick View, are ſo heinous, as that they do require time to put them into the moſt ſure Way of Trial; we have proved the Clandeſtineneſs of them: You did this in ſecret; now it is come to the Face of the World. Now this being Matter of Fact, no Matter of Law can appear till Proof paſs upon it. You have had Times to complot your treaſonable venomous Books, which ſhall be proved upon you; and till this be done, there is no Matter of Law to be looked at. This is the Law of God: When a Man hath done ſuch treaſonable Things, he ſhall anſwer directly and poſitively whether he be guilty of them or no; and if he anſwer, Not Guilty, and they be not fully proved againſt him, there needs no more to be ſaid.

Juſtice *Thorp*. Mr. *Lilburne*, there fell ſome Words from you even now, wherein you think you have this Hardſhip put upon you, when you ſay the Judges and your Proſecutors have had ſix Months time to meet together, and conſult together how to deſtroy you. Firſt, I would not have you believe, nor the reſt that hear it, that it is true that you ſay; for I ſpeak it for my own Particular, that I never ſaw your Indictment till this time that I came here, and yet you ſay we have had ſix Months together to frame it. Theſe are your Words: This was not rightly done of you; for it is not true. I ſpeak in my own Particular.

Lieut. Col. *Lilburne*. I am ſure the Subſtance of it you might ſee many Months ago; and though all you Judges have not at one time met about it, yet the greateſt Part of you have, that commonly carry the Domination of the whole; and at *Serjeants-Inn*, with Mr. Attorney-General, the moſt of the Judges of *England* have had ſeveral Meetings, ſix, five, and four Months ago: For I have had Friends there that have ſeen it, and who have enquired into the Cauſe of ſuch ſolemn Meetings, and your own Servants have told them it hath been about me and my Trial.

Juſtice *Thorp*. I ſpeak as for my own Particular, that I never was there, and that I never ſaw your Indictment till this time.

Juſtice *Jermin*. Why, Mr. *Lilburne*, might we not have ſuch Meetings as thoſe? Your Buſineſs being a Matter of this Importance, as this is, through the Heinouſneſs of your Offence, and that it might be ſo grounded as the Warrant of the Law is, the Judges did meet: and they ought to meet *(b)* to conſider of it, that nothing ſhould be done againſt you, or any Man elſe, contrary to the Law. But yet, for my Part, my Dwelling is out of *London*, I heard not of it ſo ſoon as you ſpeak of; but after I came to Town, I confeſs I heard of it, and have been preſent about ſome Debates about it.

Lieut. Col. *Lilburne*. Only this I ſay, If by your Prerogative you will deſtroy me as *Nebuchadnezzar* did endeavour to deſtroy *Daniel* by his Prerogative, I am as willing to die, as he was to be thrown into the Lions Den: And if you will not allow me Counſel, to conſult with what Plea to make for my Life, I have no more to ſay. Sir, it is but a vain Thing to ſpend any more Words.

Ld. *Keble*. Theſe are but Words and Flouriſhes, Sir, that you are ſo willing and ready to die, as you declare you are: But if you be, it is better for you. And alſo it is well you have not to do with Judges that would be auſtere upon you; for you to term us to be Men that come

(a) Coke, *in his* Inſtit. 3. Par. Cap. Petty-Treaſon, Fol. 29. *is expreſs in this Particular: So he is in* Cap. 63. *being his Cap.* Of Counſel learned in Pleas of the Crown, fol. 137.

(b) *But* Coke, *in his Chapter of* Petty Treaſon, *in* 3 Par. Inſt. Fol. 29, *expreſly ſaith, and to the End, That the Trial may be the more indifferent, ſeeing the Safety of the Priſoner conſiſteth in the Indifferency of the Court, the Judges ought not to deliver their Opinions before-hand of any criminal Caſe that may come before them judicially. And he there cites* Humphrey Stratford's *Caſe, that Arch-Traytor, in which* Huſſey, *Chief Juſtice, beſought* Henry VII. *not to demand of them their Opinions before-hand. And in* 4 Par. Inſtit. cap. High Court of Parliament, Fol. 37. *he fully ſhews the Evil of aſking Judges Opinions before-hand.*

hither

hither to deſtroy you as *Nebuchadnezzar* went about to do *Daniel:* You may judge of what is within you; but of us, what is within us, you cannot judge. You ſhall have Juſtice here in the Face of the Country, and of all that hear us: Theſe ſhall be Judges of our Proceedings towards you. Take heed, Mr. *Lilburne*, this Language is but the Sparks of that venomous Heat that is within you; and they may burſt out to prove you guilty before us, and in our preſence, of that you are charged with, without any further Proof or Proceedings; for you may do it, you may do it where you ſtand: And therefore be adviſed, and take heed what you ſay.

Lieut. Col. *Lilburne.* Sir, I have caſt up my Account, and I know what it can coſt me: I bleſs God I have learned to die, having always carried my Life in my Hand, ready to lay it down for above this twelve Years together, having lived in the Favour and Boſom of God; and I bleſs his Name, I can as freely die as live.

Ld. *Keble.* You ſhall not now lay it down, if you do not deſtroy nor caſt away the Commonwealth; but if you go about to deſtroy the Commonwealth, the Commonwealth will ſpue you up, and deſtroy you.

Lieut. Col. *Lilburne.* I deſire nothing but Counſel, and a little Time to conſult with them, and to produce my Witneſſes, and a Copy of my Indictment: If not, I am willing to die as the Object of your Indignation and Malice; do your Will and Pleaſure.

Ld. *Keble.* We are willing to die too.

Mr. *Attorney.* What is agreeable to the Law of *England*, the conſtant ſettled Practice of trying Priſoners, will not be denied Mr. *Lilburne:* But as for that Privilege that was granted him at *Oxford*, is no Tie in Law to us; neither was it ever heard of in *England*, that any that did underſtand the Law, did ever, as Mr. *Lilburne* now deſires, allow Counſel to a Priſoner for ſuch an Act as this is, or had the Copy of the Indictment. It ſhall not be denied Mr. *Lilburne*, which is his Right by Law, in its due Place; but to make new Precedents and new Laws, which, my Lord, when done by ſuch a Bench as this is, moſt of the Judges in *England* being preſent, runs to all criminal Caſes whatſoever, whether in Treaſon, Murder, or other Felonies: It is true Mr. *Lilburne* is now only concerned in it; but if granted to him, it would be a Precedent to all future Times; by means of which there would never be an end of Trials in criminal Caſes. And it is a wonderful ſtrange Thing to me, that when the Priſoner hath pleaded the uſual way, you proceed not immediately to Trial. It is true Mr. *Lilburne* hath pleaded his own Ignorance, and therefore deſires longer time: But, my Lord, to make a Precedent of this Nature, that never was known by the Laws of *England*, is very dangerous, very perilous. My Lord, the Thing that I preſs is not in relation to Time, but in relation to the public Juſtice; for the ſame Reaſon it is granted him, it ought not to be denied to any Man that aſketh it neither for Treaſon or Felony. And of what evil Conſequences it would be, I leave your Lordſhip and the Court to judge.

My Lords, I do humbly deſire that Mr. *Lilburne* may be dealt with all legal, juſt, and fair Proceedings from the Court. My Lord, I do deſire accordingly that Proceedings may for the Commonwealth be ſo too; and that Mr. *Lilburne* may be without Delay, according to Law, proceeded againſt for his notorious Treaſons.

Lieut. Col. *Lilburne.* Sir, with your favour, I ſhall crave but one Word: This Gentleman declares unto you what an evil Precedent it would be to give me a little Time to conſult with Counſel, to frame a Plea for my Life; and yet that Judge was pleaſed to ſay the Law of *England* is founded upon the Law of God, and the Laws of Reaſon unſpotted, uncorrupted, or undefiled. I am ſure the Law of God, and the Law of uncorrupted Reaſon, is to do as you would be done to, and not to lay Snares for your Neighbour's Life; I am ſure the Law of God would have all Trials indifferent, and no Man's Life ſurprized or taken away by Niceties or Formalities, tho' never ſo notoriouſly accuſed. And, Sir, for Mr. *Prideaux*, and others of you, ſo often to call me notorious Traitor, as you do; I tell you, Sir, you reproach me: For though I am never ſo notoriouſly accuſed, yet in the Eye of the Law of *England* I am an innocent Man, yea, as innocent as any of thoſe who call me Traytor, till ſuch Time as I be legally convicted of the Fact or Crime laid unto my Charge; and therefore, Sir, I beſeech you, ceaſe your calumniating of me, for you thereby deal not fairly nor legally with me. And, Sir, I confidently hope I ſhall appear in the Eye of the Law, in the Eyes of you, and in the Eyes of all Men that hear me this Day, an innocent, a juſt, and a true *Engliſhman*, that really loves the Welfare of his native Country, if I may have fair Play, and the Scope of the Law. And therefore, Sir, blemiſh me not in the Ears of the Auditors, till the Law, and a Conviction by it, do blemiſh me: For I tell you I am in the Eye of the Law as innocent as any of yourſelves, till I be juſtly convicted. And therefore I pray ceaſe the calling of me Traitor in this manner.

Ld. *Keble.* What need we any more when we are of your Opinion? We wiſh you may come as clearly off as you ſay you hope to do.

Mr. *Attorney.* My Lord, and that it may be ſo declared, and that the World may know whether Mr. *Lilburne* be an innocent Man, or no, I pray put it to the final iſſue, and let the Law judge.

Lieut. Col. *Lilburne.* Under favour, for me to be denied Law, which I conceive is done unto me when I am denied Counſel, and to put the Niceties and Formalities of the Law upon me, the Signification of which are writ in ſuch Language and Tongues as I cannot read, much leſs underſtand; and would you deſtroy me for the not knowing of that which it is impoſſible for me to know? Sir, I beſeech you be not ſo extreme towards me. That Gentleman ſaith the Law of God is the Law of *England*; and it would have no Snares laid to take away a Man's Life: I pray let me have the Benefit of that.

Mr. *Attorney.* Once you had; and it is but juſt you ſhould; and I am ſure it will be granted unto you.

Ld. *Keble.* Mr. *Lilburne*, You ſay well; the Priſoner doth not know the Law; you do not, and many others do not: But I tell you again, you know ſo much of the Law as is ſuitable to this Plea; you yourſelf know whether your Conſcience accuſe you guilty of the Fact laid unto your Charge, or not. For our parts, we ſay no more than one-and-twenty Men upon their Oaths have informed us, upon ſufficient Teſtimony of Witneſſes, that what they had ſaid we ſhould further inform ourſelves of, before your Life be taken away; yea, ſuch is the Law of *England*, the tendereſt Law in the World of a Man's Life. I ſay again, that no ſuch Trial for Life is to be found in the World, as in *England*. In any Place but in *England*, a Man's Life may be taken away upon two or three Witneſſes; but in *England* two or three Witneſſes do not do it: For there are two Juries beſides, and you have four-and-twenty Men returned; you have one-and-twenty Men upon their Oaths and Conſciences that have found you guilty: And yet when you have done that, it is not enough by the Law of *England*, but you are alſo to have twelve rational underſtanding Men of your Neighbours to hear all over again, and to paſs upon your Life. This is not uſed in any Law in the World but in *England*, which hath the righteouſeſt and mercifulleſt Law in the World: and this we ſit here to maintain, and let all the World know it, that according to the Rules thereof we have proceeded againſt you.

Judge *Michel.* Mr. *Lilburne*, you were ſpeaking of the Laws being in other Tongues; thoſe that we try you by are in *Engliſh*, and we proceed in *Engliſh* againſt you; and therefore you have no cauſe to complain of that.

Lieut. Col. *Lilburne.* By your Speeches you ſeem to bind me up to a ſingle Plea: Truly I conceive that it is not equitable by the Law of God, and the Laws of Reaſon. No Man's Life is to be deſtroyed by Niceties and Formalities; yet contrary to your ſolemn Promiſes, you take all Advantage againſt me by them, and make my Ignorance in the tickliſh Formalities of the Law to be the means of my own Deſtruction: altho' before I pleaded you engaged unto me you would take no Advantage by my Ignorance in your Formalities, and my Miſtakes in them ſhould be no Diſadvantage unto me: and yet now I have pleaded, you ſeem to hold me cloſe to a ſingle Plea. Truly, Sir, I think that is not juſt nor fair ſo to break your Promiſes, and by fair Words to ſmooth me on into Nets and Snares; and to make uſe of my Willingneſs to be tried by the Law of *England* to drill me on to my own Deſtruction. Truly, Sir, had I ever thought or believed I ſhould have been denied Counſel, I would have died before ever I would in any Manner have pleaded to your Charge, or have yielded to your ſmooth Inſinuations.

Juſtice *Jermin.* Thoſe Men that know the Laws of *England*, know well that it taketh away no Man's Life but upon clean Proof, and upon manifeſt Contempts of the Law. The Law is, Whoſoever ſhall go ſuch a way in a Court as evidently gives affront to the Law, that ſuch one takes away his own Life. The Facts that you are charged with, if they had taken effect, would have taken away the innocent Lives of many: Therefore you are now before us charged with the Fact; and every Man's Conſcience knows whether he committed the Thing charged upon him or no; and your ſelf does know whether you be guilty of that you are accuſed of, or no. But the Court muſt not ſpend any further time; for Mr. Attorney-General hath returned the Writ of *Venire facias*, for the calling or ſummoning of a Jury of Life and Death.

Ld. *Keble.* Mr. *Lilburne*, you ſay you well underſtand your ſelf: You knew of your coming, and you knew of the Fact that you have committed.

Lieut. Col. *Lilburne.* Truly, Sir, ſix Months ago I heard much of my Trial; and I longed for it, but could not have it, but was ſtill kept in Priſon, and abundance of Provocations put upon me, to make me cry out of my Oppreſſions; and then to hang me therefore, by a Law made after my pretended Crime was committed, is not juſt. And truly, Sir, I heard but by uncertain common Fame of my Trial now. Some Parliament Men told my Wife and Friends that my chiefeſt Crime was correſponding with the Prince; and to defend myſelf againſt that, I fitted myſelf, never dreaming that only Books ſhould be laid to my charge, and therefore I could not as to that come prepared: And therefore do humbly deſire Counſel, a Copy of my Indictment, and Time to bring in my Witneſſes.

Ld. *Keble.* Hear what is ſaid to you: For your Witneſſes, you ſhould have brought them with you; we will give you leave to ſend for them: We will give you Time to do, to conſider with yourſelf what to ſay for yourſelf, you ſhall, till To-morrow Seven a-Clock.

Lieut. Col. *Lilburne.* Sir, ſome of my Witneſſes live an hundred or eighty Miles off; and yet I muſt bring them To-morrow Morning: How is that poſſible? And therefore I deſire Time to bring them in, and alſo *Subpœna's*; for ſome of them are Parliament Men, and ſome of them Officers of the Army, and they will not come in without Compulſion.

Ld. *Keble.* That's the Time we will give you longer; you knew of your coming long ago, and therefore ought to have come provided.

Lieut. Col. *Lilburne.* Sir, I beſeech you give me a convenient Time, eight or ten Days, that ſo I may get them together; for how could I be provided beforehand for any thing, but for that which I was at the firſt impriſoned for, nothing of which is now laid to my Charge? Could I divine upon what you would proceed againſt me? But, Sir, I have that within me, I bleſs God, that will be a Portion of Comfort with me, to carry me through all your Malice and Injuſtice.

Ld. *Keble.* Never talk of that which is within you; God is in us, as well as in you: Never make a flouriſh of what is in you; for the Fear of God is before our Eyes as well as yours; and what we do, we ſhall have comfort in, in that it is according to the Laws of *England*, the Rules of which we are ſworn to obſerve, and every Man will do righteous things as well as you.

Lieut. Col. *Lilburne.* Pray will you give but eight Days Time then?

Ld. *Keble.* We will give you no more; you ought to have brought them with you, you knew of it long ago; and the Court cannot, nor will not wait upon you.

Lieut. Col. *Lilburne.* By your Favour, Sir, thus; then let me have a little time to conſult with Counſel.

Ld. *Keble.* I tell you, that if the Matter be proved, there needs no Counſel.

Lieut.

Lieut. Col. *Lilburne.* Sir, I ſhall not much inſiſt upon that, but the Queſtion is, Whether the Matter be Treaſon in Law or no, and whether in Law it be rightly expreſſed in the Indictment, as to Time and Place, with other Circumſtances thereunto belonging? And I queſtion the Legality of the Indictment, and that ought in Law to be diſputed, before the Matter of Fact come to be ſpoken to.

Ld. *Keble.* Sir, you ſaid at firſt, you would ſpeak as a rational and moderate Man, and yet you will not be anſwered. If Matter of Law do ariſe out of your Fact, that we have told you again and again, you ſhall have Counſel and Time.

Lieut. Col. *Lilburne.* Sir, by your Favour, it may be too late to deſire Counſel after the Fact is proved. And beſides, having legal Exceptions againſt the Indictment, why ſhould you run me upon the Hazard of my Life, by tickliſh Niceties and Formalities; and as my Proſecutor Mr. *Prideaux* ſaith----[*But being interrupted, cry'd out*] Sir, I beſeech you, do but hear me.

Ld. *Keble.* Your Diſtemper will break out, your Heart is ſo full of boiling Malice and Venom, you cannot contain yourſelf.

Lieut. Col. *Lilburne.* Mr. *Prideaux* is pleaſed to urge, that the granting of me my Deſire in reference to Counſel, will be ſo inconvenient a Precedent, as will deſtroy the Commonwealth: therefore to avoid the Danger of ſuch a deſtroying Precedent, as he is pleaſed to call it, I deſire to have ſome time aſſigned to me to get my Witneſſes together, and then I ſhall, I doubt not, but convincingly ſhew you the Hazard and deſtroying Miſchief of that deſperate Precedent in denying Men liberty to conſult with Counſel, when they are upon Trials for their Lives. For my own Judgment, my own Conſcience doth tell me, that it is my undoubted Right by the Law of *England*, by the Law of God, and the Law of Reaſon; and if it be totally denied me, I can but die: and upon that ſcore, by the aſſiſtance of God, I am reſolved to die.

Ld. *Keble.* You ſpeak great Words of your own Judgment, your own Conſcience, your own Zeal, and the like: and I tell you, our Conſciences, and our Religion, and our Zeal, and our Righteouſneſs, I hope ſhall appear as much as yours: You would make yourſelf Judge in your own cauſe, which you are not, and ſo make Cyphers of us; but all your high Words of Conſcience and Righteouſneſs is but a Flouriſh, to make the People believe or be apprehenſive as tho' we had none, you had all: but you ſhall know, here we ſit with as much Tenderneſs and Integrity as you ſtand there, and to do that uprightly which is according to Law and Juſtice.

Lieut. Col. *Lilburne.* I ſhall not in the leaſt make any Compariſons, neither do I in that particular; I only ſpeak of my own particular, in reference unto that God in whom I have believed, and in whom I enjoy Content, Peace and Quietneſs of Mind: and yet for my part, I ſhall rather die than willingly go any further, except I have Counſel firſt.

Ld. *Keble.* Well, Mr. *Lilburne*, the Court is very tender not to take up any of your time; you have heard what was declared to you there, that Mr. Attorney hath made Proceſs againſt you returnable To-morrow at Seven of the Clock, and therefore to ſpend more time will be but your Loſs and Damage. The Sheriffs of *London* are to take care to return the Jury To-morrow Morning, and therefore the Court doth adjourn till ſeven a-clock To-morrow in the Morning; and in the mean time they do commit the Priſoner at the Bar to the Lieutenant of the *Tower* again.

Lieut. Col. *Lilburne.* Sir, I did not hear you the firſt Words.

Ld. *Keble.* You ſhall not be denied to hear it again, the Court deſires to be good Huſbands of Time for you; we could have ſate long enough to have trifled away your Time that you may ſpend in your Meditations, and take your Friends Advice; do not ſtand upon and deſtroy yourſelf by Words.

Juſt. *Jermin.* Mr. *Lilburne*, all that are here are to take Notice of it, that the Priſoner at the Bar hath had more Favour already, than ever any Priſoner in *England* in the like caſe ever had: for by the Laws of *England*, in the Matter of Treaſon, whereof you are indicted, you ought to have been tried preſently, immediately: But becauſe all the World ſhall know with what Candor and Juſtice the Court do proceed againſt you, you have till To-morrow-Morning; which is the Court's extraordinary Favour, and the Doors are wide open, that all the World may know it.

Lieut. Col. *Lilburne.* Sir, I can ſhew one hundred Precedents to the contrary in your own Books, to diſprove what you ſay.

Ld. *Keble.* Adjourn the Court.

Lieut. Col. *Lilburne.* I humbly thank you for what Favour I have already received.

The Court adjourned till the next Morning, and the Priſoner remanded to the Tower.

Guild-Hall, Oct. 26, 1649, *being* Friday, *At the Trial of Lieut. Col.* John Lilburne, *the Second Day.*

THE Priſoner being brought to the Bar, ſpake as followeth: Sir, I pray hear me a Word or two.

Ld. *Keble.* Mr. *Lilburne*, I am afraid ſomething troubles you; I will have no-body ſtand there *, let all come out but one Man.

* *That was in the Bar, where his Brother Col.* Rob. Lilburne, *his Sollicitor Mr.* Sprat, *and other of his Friends ſtood.*

Lieut. Col. *Lilburne.* Here's none but my Brother and my Sollicitor.

Ld. *Keble.* Sir, your Brother ſhall not ſtand by you there; I will only have one hold your Papers and Books, and the reſt not to trouble you: wherefore the reſt are to come out.

Lieut. Col. *Lilburne.* Sir, I beg of you but one Word, tho' I do not know any Reaſon why of myſelf I ſhould not have the Privilege of the Law, as well as any Man in *England*; yet beſides what Yeſterday I alledged for myſelf, for to have Counſel aſſigned, yet To-day give me leave to mention an unqueſtionable Precedent for my Purpoſe, and that is Major *Rolfe*, who being an Officer in the Army, and being lately indicted for High-Treaſon (before the Lord Chief Baron *Wilde*, that now is at *Hampſhire* Aſſizes) for conſpiring to poiſon and piſtol the late King, which by Law was the higheſt of Treaſons, did conceive himſelf, in regard of his Ignorance, unable to defend himſelf ſingly againſt his Enemies Deſign, which was to take away his Life: whereupon he becomes an humble Suitor to the Lord Chief Baron *Wilde*, that he might have Counſel aſſigned him; and the Court, before ever the Grand Jury received any Teſtimony againſt him to find the Bill, aſſigned him Counſel, who as I underſtand were one Mr. *Nichols*, now a Judge of this Bench, and ſitting there; and Mr. *Maynard* of the *Temple*: they were both aſſigned his Counſel, and from Mr. *Maynard* himſelf I have it, yea, from his own Mouth; who being aſſigned his Counſel, they came into the Court, where the Grand Jury was called before the Judge. Mr. *Maynard*, and Mr. *Nichols* now a Judge here, had liberty there to be in the open Court, where the Witneſſes, before the Indictment was found, were called, and in open Court were ſworn, and in open Court gave in their Evidence before the Grand Jury; Major *Rolfe*'s Counſel being by in open Court, to hear all the Evidence that was given againſt Major *Rolfe*, who in his Indictment was indicted for two matters of Fact; the firſt was, That he had declared that in ſuch a Month, and at ſuch a Place, he had an intent to piſtol the late King, which by the Letter of the Law of 25 *Edw.* III. *chap.* 2. was Treaſon. Then there was another Charge, That ſuch a Day he had ſo ſaid or declared to poiſon him, in the Preſence of ſuch a one; and they were both put into one Indictment. Whereupon Mr. *Maynard* being aſſigned by the Lord Chief Baron *Wilde*, that now is, to be of Counſel for *Rolfe* in the ſame caſe (but with abundance of more Advantage to him, than I am now in), Mr. *Maynard* was then of Counſel to the Priſoner, and had liberty to hear what the Witneſſes ſwore againſt him, and to make his beſt Advantage of it, and that in open Court, before the Indictment was found by the Grand Inqueſt; and altho' there were two expreſs Witneſſes againſt him, yet but one of them ſwore to one Thing, and another to another. Mr. *Maynard* being one that knew the Law better than Major *Rolfe* did himſelf, he apply'd the two Statutes of *Edward* VI. *viz.* the 1 *Edw.* VI. *chap.* 12. and 5 and 6 *Edw.* VI. *chap.* 11. to *Rolfe*'s Caſe; which Statutes do expreſly declare, That no Man ought to be convicted of Treaſon, but by two ſufficient Witneſſes upon plain and clear Evidence to each Fact of Treaſon: which Evidence, as Sir *Edward Coke* ſays in the Third Part of his *Inſtitutes*, ought to be as clear as the Sun at Noon-day, and not upon one ſingle Witneſs, and upon conjectural Preſumptions, or Inferences, or Strains of Wit. Now, Sir, I am an *Engliſhman* as well as Major *Rolfe*, and I have been an Officer in the Parliament-Army as well as he, and there fought for them as heartily as ever he did in his life, and he was accuſed for the higheſt of *Engliſh* Treaſons. And therefore I humbly crave, that in regard there are many particular Errors in the Indictment, as to Matter, Time, and Place, that therefore in reference to the Illegality of the Indictment, according to this Precedent by one of your own Fellow-Judges, that you would, according to my Birth-Right declared in Major *Rolfe*'s Caſe, aſſign me Counſel as he had, to help my Ignorance, that ſo I may not be deſtroyed by Surpriſal, and illegal and unjuſt Prerogatives.

Ld. *Keble.* You ſee with what a great deal of Favour, inſtead of a few Words, we have heard you many; this is a Privilege: but this that you ſay upon it, it may be it was done; but that we do, ſhall be according to that you and we ſhall find to be according to the Laws of the Land, and our Conſcience, and the Privilege of the Subject: That they did before the Grand Jury, and the Witneſſes, the Witneſſes are here ſworn in Court in preſence of the Grand Jury, ſo far we go with them: That of Mr. *Maynard* and Mr. Juſtice *Nichols* being aſſigned Counſel, for what cauſe it was then they beſt know, it is nothing that doth now concern us, though the Treaſon was againſt thoſe Laws that then were in being; we muſt come to Proof, it may be he confeſſed his Fact; if you will do ſo too, it alters the caſe.

Lieut. Col. *Lilburne.* No, Sir, he never confeſſed it, for if he had, he had been found guilty; but he was ſaved merely by the Skill and Honeſty of his Counſel Mr. *Maynard*, and his Indictment null'd and evaded before ever the Grand Jury found it, and that upon this Point of Law, becauſe by the two Statutes of *Edward* VI. there ought to be two plain and clear Witneſſes to every part of Treaſon; and tho' *Rolfe* was accuſed by two Witneſſes, yet there were two Facts, and but one Witneſs to the Proof of each of them.

Ld. *Keble.* When you come to Trial, if we ſee there be need of Counſel, the Court will be inſtead of Counſel to you; nay the Court, if they ſee any matter of Law for Counſel, tho' you do not aſk it, they will give you it. And therefore ſet your Heart at Reſt; for if there be any thing rational in Law that we can ſpy out, as well as your Counſel, we will help you in it.

Lieut. Col. *Lilburne.* Sweet Sir, I crave but one Word more; I am upon my Life, and if you deny me what the Law affords me, and that which hath been granted to be Law by Cavalier-Judges, yea, and by your Fellow-Judges, who are now in Power at this Day; the Lord deliver me from ſtanding in need of you to be my Counſellors!

Ld. *Keble.* We are upon our Lives too, as well as you.

Lieut. Col. *Lilburne.* No, by your Favour, not in ſo imminent a manner as I am.

Ld. *Keble.* We are upon our Lives and our Souls to all Eternity.

Lieut. Col. *Lilburne.* Sir, I beſeech you hear me one Word.

Ld. *Keble.* I will hear no more.

Mr. *Prideaux.* My Lord, I deſire the Court would proceed, and not prolong Time, ſeeing he has pleaded Not Guilty, and confeſſed ſomething.

Lieut. Col. *Lilburne.* No, Sir, you do me Wrong, and abuſe me: I never confeſſed any thing, neither did I plead Not Guilty; for my Plea was conditional, grounded upon your Promiſes, not to take any Advantage of my Ignorance in your Formalities.

Ld. *Keble.* Go on; be ſilent, Mr. *Lilburne.*

Lieut. Col. *Lilburne.* If you take away my Life without affording me the Benefit of the Law, my innocent Blood be upon your Heads!

Ld. *Keble.* Sir, theſe paſſionate Words will do you no Good, you had better forbear them.

Lieut. Col. *Lilburne.* Pray hear me then.

Ld. *Keble.* Do you ſay that we do offer to take away your Life, Sir? If we do take it away contrary to Law, we are liable to anſwer for it: but we ſhall judge what you have done. [*The Lieutenant-Colonel preſſing to ſpeak, was not ſuffered, but bid be ſilent.*] Sir, I adviſe you, Sir, ſpare yourſelf with Patience, and hear the Court.

Juſtice *Jermin.* Be quiet, Sir.

Lieut. Col. *Lilburne.* I beſeech you, Sir, let me hear but the Grand Jury ſpeak; for I underſtand from ſome of themſelves, they never found me guilty of Treaſon, but do conceive themſelves wronged by ſome Words Yeſterday, that paſſed from ſome of the Judges; I pray let me hear them ſpeak.

Ld. *Keble.* Mr. *Lilburne*, you ſaid you would be rational, you would be moderate; you do break out; you will do yourſelf more Hurt than any here can do you: you muſt be ſilent and hear the Court, we can loſe no more Time to hear you. Cryer, call the Jury.

Cryer. The Jury called——[*And Mr.* Lilburne *earneſtly preſſed to be heard, but could not.*] Cryer. *Miles Petty, William Wormwell.*

Lieut. Col. *Lilburne.* Sir, I beſeech you let me but ſee theſe Gentlemen's Faces.

Ld. *Keble.* You, Maſter *Sprat*, you muſt not talk to the Priſoner; you may ſtand and hold the Books: you did offend Yeſterday, but you ſhall not do ſo To-day, for you ſhall not ſtand near the Priſoner to talk to him.

Lieut. Col. *Lilburne.* My Lord, the Law ſays, a Stander-by may ſpeak in the Priſoner's Behalf at the Bar, much more whiſper to him; but eſpecially if he be his Solicitor.

Cryer. *John Sherman, Thomas Dainty, Ralph Ely, Edmond Keyzer, Edward Perkins, Ralph Packman, Francis Woodall, William Commins, Henry Hanſon, Roger Jenkenſon, Joſias Hamond, Richard Allen, Richard Nevill, John Mayo, Henry Tocley, Arthur Due, Roger Sears.*

Clerk. You good Men of the City of *London*, appear. *Stephen Ives, John Sherman, Ralph Ely, Roger Jenkenſon, Joſias Hamond, Richard Allen, Richard Nevill, Roger Sears, John Mayo, Nicholas Murren.*

Clerk. You Priſoner at the Bar, theſe good Men that are here preſented before the Court, are to be of your Jury of Life and Death; if therefore you will challenge them, or any of them, you muſt challenge them before they go to be ſworn, and then you ſhall be heard.

Cryer. Every Man that can inform my Lords the Juſtices, and the Attorney-General of this Commonwealth, againſt Maſter *John Lilburne* Priſoner at the Bar, of any Treaſon or Felony committed by him, let them come forth, and they ſhall be heard, for the Priſoner ſtands upon his Deliverance; and all others bound to give their Attendance here upon pain of Forfeiture of your Recognizance, are to come in.

Lieut. Col. *Lilburne.* Sir, I beſeech you give me leave to ſpeak.

Ld. *Keble.* You cannot be heard.

Lieut. Col. *Lilburne.* Truly, Sir, I muſt then make my Proteſt againſt your unjuſt and bloody Proceedings with me, before all this People; and deſire them to take notice, that yeſterday I pleaded to my Bill conditionally, that no advantage ſhould be taken againſt me for my Ignorance in your Formalities, and you promiſed me you would not.

Ld. *Keble.* We give you too much Time; you will ſpeak Words that will undo you: is this your Reaſon? You ſhall talk in your legal time, and take your legal Exceptions, we will hear you till Midnight.

Lieut. Col. *Lilburne.* Then it will be too late, Sir.

Juſtice *Jermin.* You have given a great Slander, and that doth not become a Man of your Profeſſion; you ſpeak very black Words.

Lieut. Col. *Lilburne.* I beſeech you, do but hear me one Word; I do not know the Faces of two of the Men that were read unto me, I hope you will give me time to conſider of them.

Ld. *Keble.* No, Sir, you ought not to have it.

Lieut. Col. *Lilburne.* Will you let me have ſome Friends by me that are Citizens of *London*, that know them, to give me information of their Qualities and Conditions? for without this, truly you may as well hang me without a Trial, as to bring me here to a Trial, and deny me all my legal Privileges to ſave myſelf by.

Ld. *Keble.* If you be your own Judge, you will judge ſo; go on.

[Mr. *Sprat*, or Col. *Robert Lilburne*, whiſpers to the Priſoner to challenge one of the Jury, which the Judge excepted againſt.]

Lieut. Col. *Lilburne.* Sir, by your favour, any Man that is a By-ſtander may help the Priſoner, by the Law of *England.*

Ld. *Keble.* It cannot be granted: and that Fellow come out there, with the white Cap, pull him out.

Lieut. Col. *Lilburne.* You go not according to your own Law in dealing thus with me.

Juſtice *Jermin.* Your Words were never a Slander, nor never will be; hold your peace. Cryer, go on.

Cryer. *Stephen Blyth*, look upon the Priſoner.

Abraham Seal, John King, Nicholas Murren, (*Thomas Dariel*) [the Priſoner excepted againſt him] *Edward Perkins, Francis Peale.*

Juſtice *Jermin.* Was he recorded and ſworn before he ſpake, or no?

Cryer. No, my Lord.

Juſtice *Jermin.* Then let him continue, if he be right recorded.

Cryer. The Oath was not given quite out.

Juſtice *Jermin.* Then he hath challenged in time; let him have all the lawful Favour that may be afforded him by Law.

William Commins ſworn, *Simon Weedon* ſworn.

Lieut. Col. *Lilburne.* He's an honeſt Man, and looks with an honeſt Face, let him go.

Henry Tooley ſworn, *Arthur Due* excepted againſt.

Ld. *Keble.* Take away Mr. *Due*, let him ſtand a little by.

Henry Hanſon put by, being ſick; one that could not hear, excepted againſt; *John Sherman, Ralph Head, Roger Jenkenſon, Joſias Hamond, Richard Allen, John Mayo, Roger Sears, Henry Hanſon* excepted againſt; *Edmond Keyſer* ſworn.

The Jury called.

Clerk. Twelve good Men and true, ſtand together, and hear your Evidence.

Juſtice *Jermin.* Cryer of the Court, let the Jury ſtand ſix of the one ſide, and ſix of the other.

Clerk.	1. *Miles Petty,*	7. *Ed. Perkins,*
	2. *Stephen Ives,*	8. *Ralph Packman,*
	3. *John King,*	9. *William Commins,*
	4. *Nicholas Murren,*	10. *Simon Weedon,*
	5. *Thomas Dainty,*	11. *Henry Tooley,*
	6. *Edmond Keyzer,*	12. *Abraham Smith.*

Of the Jury, ſix live about *Smithfield*, one in *Goſling-ſtreet*, two in *Cheapſide*, two in *Bread-ſtreet*, and one in *Friday-ſtreet.*

Juſtice *Jermin.* It's well done.

Cryer. The Lords the Juſtices do ſtraitly charge and command all manner of Perſons to keep ſilence while the Priſoner is in Trial.

Mr. *Broughton. John Lilburne*, hold up thy Hand.

Lieut. Col. *Lilburne.* As I did yeſterday, I acknowledge myſelf to be *John Lilburne*, Freeman of *London*, Son to Mr. *Richard Lilburne*, of the County of *Durham*, and ſome time Lieutenant-Colonel in the Parliament-Army.

Juſtice *Jermin.* You refuſe to hold up your Hand; and tho' you break the Law of *England*, the Court will not break it.

Lieut. Col. *Lilburne.* I do what the Court declares is my Right and Duty to do; I do no more than declare my Name be ſo as it is.

Ld. *Keble.* Read the Indictment.

Mr. Broughton *reads.* Hold up thy Hand, *John Lilburne*; thou ſtandeſt here indicted of High Treaſon by the Name of *John Lilburne*, late of *London* Gentleman, for that thou, as a falſe Traitor, not having the Fear of God before thine Eyes, but being ſtirred and moved up by the Inſtigation of the Devil, didſt endeavour not only to diſturb the Peace and Tranquility of this Nation, but alſo the Government thereof to ſubvert, now eſtabliſhed without King or Houſe of Lords, in the way of a Commonwealth, and a Free-State, and happily eſtabliſhed; and the Commons in Parliament aſſembled, being the Supreme Authority of this Nation of *England*, to diſgrace, and into Hatred, baſe Eſteem, Infamy and Scandal, with all the good, true, and honeſt Perſons of *England*, to bring. That is to ſay, that thou the ſaid *John Lilburne*, on the firſt Day of *October* in the Year of our Lord 1649, and in divers other Days and Times, both before and after, in the Pariſh of *Mary the Arches*, in the Ward of *Cheap, London*, aforeſaid, of thy wicked and deviliſh Mind and Imagination, falſly, maliciouſly, adviſedly, and traitorouſly, as a falſe Traitor, by writing and imprinting, and openly declaring, that is to ſay, by a certain ſcandalous, poiſonous, and traitorous Writing in Paper, intitled, *A ſalva Libertate*; and by another ſcandalous, poiſonous, and traitorous Book, intitled, *An Impeachment of High Treaſon againſt* Oliver Cromwell, *and his Son-in-Law* Henry Ireton *Eſqs; late Members of the late forcibly diſſolved Houſe of Commons; preſented to publick View by Lieutenant-Colonel* John Lilburne, *cloſe Priſoner in the* Tower *of* London, *for his real, true, and zealous Affections to the Liberties of this Nation:* And by another ſcandalous, poiſonous, and traitorous Book, imprinted, and intitled, *An Outcry of the Young-men and Apprentices of* London, *or an Inquiſition after the loſt fundamental Laws and Liberties of* England, *directed* Aug. 29. 1649. *in an Epiſtle to the private Soldiers of the Army, eſpecially all thoſe that ſigned the ſolemn Engagement at* Newmarket-Heath, *the fifth of* June 1647. *but more eſpecially the private Soldiers of the General's Regiment of Horſe, that helped to plunder and deſtroy the honeſt and true-hearted* Engliſhmen, *traitorouſly defeated at* Burford, *the fifteenth of* May 1649. And alſo by another ſcandalous, poiſonous, and traitorous Book, intitled, *The legal fundamental Liberties of the People of* England, *revived, aſſerted, and vindicated*, didſt publiſh that the Government aforeſaid is tyrannical, uſurped, and unlawful; and that the Commons aſſembled in Parliament are not the Supreme Authority of this Nation. And further that thou the ſaid *John Lilburne*, as a falſe Traitor, God before thine Eyes not having, but being moved and led by the Inſtigation of the Devil, endeavouring, and maliciouſly intending to ſubvert the Government aforeſaid, as is aforeſaid, well and happily eſtabliſhed; thou the ſaid *John Lilburne*, afterwards (that is to ſay), the aforeſaid firſt Day of *October* (*a*), in the Year of our Lord 1649 aforeſaid, and divers other Days and Times, as well before as after, at *London* aforeſaid, that is to ſay, in the Pariſh and Ward aforeſaid, at *London* aforeſaid, maliciouſly, adviſedly, and traitorouſly didſt plot, contrive, and endeavour to ſtir up, and to raiſe Force againſt the aforeſaid Government, and for the Subverting and Alteration of the ſaid Government; and thoſe wicked, malicious, and traitorous Adviſements to put in execution, *&c.* And thou the ſaid *John Lilburne* afterwards, that is to ſay, the aforeſaid firſt Day of *October* in the Year of our Lord 1649 aforeſaid, and divers Days and Times as well before as after, at *London* aforeſaid, that is to ſay, in the Pariſh and Ward aforeſaid, of thy depraved Mind, and moſt wicked Imagination, in and by the aforeſaid ſcandalous, poiſonous, and traitorous Book, intitled, *An Impeachment of High Treaſon againſt* Oliver Cromwell, *and his Son-in-Law* Henry Ireton *Eſqs; late Members of the late forcibly diſſolved Houſe of Commons; preſented to publick View by Lieutenant-Colonel* John Lilburne, *cloſe Priſoner in the* Tower *of* London, *for his real, true, and zealous Affection to the Liberties of his Native Country:* falſly, maliciouſly, adviſedly, and traitorouſly, didſt publickly declare, amongſt other things in the ſaid Book, theſe falſe, ſcandalous, malicious, and traitorous Words following: 'But, my true Friends, (meaning the Friends of the ſaid *John Lilburne*) 'I (meaning the aforeſaid *John Lilburne*) ſhall 'here take upon * me the Boldneſs, conſidering the great 'Diſtractions of the preſent Times, to give a little fur- 'ther Advice to our Friends aforeſaid, from whoſe Com- 'pany or Society, or from ſome of them, hath been begun 'and iſſued out the moſt tranſcendent, clear, rational and juſt things, for 'the People's Liberties and Freedoms, that the foreſaid *John Lilburne* hath 'ſeen or read in this Nation, as your notable and excellent Petition of '*May* the 20th, 1647. burnt by the Hands of the common Hangman, 'recorded in my Book called *Raſh Oaths unwarrantable*, pag. 29, 30, 31, '32, 33, 34, 35. with divers Petitions of that nature, and the Petition

* *This Paſſage is in* p. 5.

(*a*) *Note, that Mr.* Lilburne *was impriſoned by the Council of State as a Traitor, the* 28*th of* March, 1649. *and they there came, and after arraign him as a Traitor, for Actions done above five Months after, waving all the pretended Crimes for which they firſt impriſoned him.*

'of the 19th of *January* 1648. recorded in the following Diſcourſe, *pag.* '45, 46, 47, 48. and the Maſculine Petition of the 11th of *September* 1648. 'ſo much owned by Petitions out of ſeveral Counties: yea, and by the 'Officers of the Army's large Remonſtrance from *St. Albans*, the 16th of '*November* 1648. *pag.* 67, 68, 69. The Subſtance of all which, I (thou the foreſaid *John Lilburne* meaning) 'conceive is contained in the printed 'Sheet of Paper, ſigned by my Fellow-Priſoners, Mr. *William Walvin*, 'Mr. *Richard Overton*, and Mr. *Thomas Prince*, and myſelf, dated the 1ſt 'of *May* 1649. and intitled, *The Agreement of the Free People of* England.' Which falſe, ſcandalous, and traitorous Book, called *The Agreement of the People of* England, tends to the Alteration and Subverſion of the Government aforeſaid. 'The Principles of the aforeſaid Agreement, I (meaning yourſelf the ſaid *John Lilburne*) 'hope and deſire you (the Friends of the aforeſaid *John Lilburne* meaning) 'will make the final 'Centre, and unwavering Standard of all your Deſires, Hazards and En'deavours, as to the future Settlement of the Peace and Government of 'this diſtreſſed, waſted, and divided Nation: the firm eſtabliſhing of the 'Principles therein contained, being that only which will really and in 'good earneſt marry and knit that Intereſt, whatever it be, that dwells 'upon them, unto the diſtreſſed or oppreſſed Commons of this Nation.

'But the Principles of the foreſaid Agreement being ſo deteſtable and 'abominable to the preſent * ruling Men, as that which 'they know will put a full End to their Tyranny and Uſur'pation, and really eaſe and free the People from Oppreſſion 'and Bondage; that it is ſomething dangerous to thoſe 'that go about the Promotion of it; yet I ſhall adviſe and exhort you, (meaning the Friends of him the aforeſaid *John Lilburne*) 'vigorouſly to 'lay all Fear aſide, and to ſet on foot the Promotion of it (meaning the ſaid Agreement) 'in the ſame method we took for the Promotion of the 'foreſaid Petition of the 9th of *January* 1647. laid down in the follow'ing Diſcourſe, *pag.* 23, 24, 25. and to write to all your Friends in all 'the Counties of *England*, to chuſe out from amongſt themſelves, and 'ſend up ſome Agents to you (two at leaſt for each County, with Money 'in their Pockets to bear their Charges) to conſider with your called and 'choſen Agents, of ſome effectual Courſe ſpeedily to be taken for the 'ſettling of the Principles thereof (meaning the aforeſaid falſe Agreement, 'deviſed by yourſelf the aforeſaid *John Lilburne*), and to ſet up the pro'moting of (the foreſaid feigned Agreement meaning) as that only 'which in an earthly Government can make you (the aforeſaid Friends of the ſaid *John Lilburne*) 'happier; at leaſt, to know one another's 'Minds, in owning and approving the Principles of the foreſaid falſe A'greement, that ſo it may become to you (meaning the foreſaid Friends of the foreſaid *John Lilburne*), 'and all your Friends, your Centre, 'Standard, and Banner, to flock together to, in time of thoſe foreign 'Innovations, and domeſtick Inſurrections, that are like ſpeedily to bring 'Miſeries enough upon this poor diſtreſſed Nation, (the aforeſaid Nation of *England* again meaning) 'and unanimouſly reſolve and engage one to 'another, neither to ſide with, or fight for, the Chimeras, Fooleries, and 'Pride of the preſent Men in Power, (the aforeſaid Parliament of *England* meaning) 'nor for the Prince's Will, nor any other baſe Intereſt 'whatſoever: the which if you (the aforeſaid Friends of the ſaid *John Lilburne* meaning) 'ſhould fight for, it would be but an abſolute Murder 'of your Brethren and Countrymen you know not wherefore, unleſs he 'or they will come up to thoſe juſt, righteous, and equitable Principles 'therein contained, and give rational and good Security for the conſtant 'adhering thereunto.

* *Theſe Lines are in* p. 7.

'And upon ſuch Terms, I do not ſee but you may juſtifiably, before 'God or Man, join with the Prince himſelf; yea, I am ſure, a thouſand 'times more juſtly, than the preſent Ruling Men (upon a large and ſerious 'Debate) joined with *Owen Roe O-Neale*, the grand bloody Rebel in '*Ireland*; who, if we muſt have a King, I (meaning he the aforeſaid *John Lilburne*) 'for my part had rather have the Prince (meaning *Charles Stuart*, Son to the late King) 'than any Man in the World, becauſe of 'his large Pretence of Right; which if he come not in by Conqueſt, by 'the hands of Foreigners, (the bare attempting of which may apparently 'hazard him the Loſs of all at once) by gluing together the now divided 'People, to join as one Man againſt him; but by the hands of *Engliſhmen*, 'by Contract upon the Premiſes aforeſaid, (which is eaſy to be done) the 'People will eaſily ſee, that preſently thereupon they will enjoy this tran'ſcendent Benefit (he being at Peace with all Foreign Nations, and 'having no regal pretended Competitor), *viz.* The immediately diſband'ing of all Armies and Garriſons, ſaving the old Cinque-Ports: and ſo 'thoſe three grand Plagues of the People will ceaſe, *viz.* Free-Quarters, 'Taxations, and Exciſe; by means of which, the People may once again 'really ſay, They enjoy ſomething they can in good earneſt call their 'own. Whereas for the preſent Army to ſet up the pretended falſe Saint '*Oliver* (or any other) as their elected King, there will be nothing there'by, from the Beginning of the Chapter to the End thereof, but Wars, 'and the cutting of Throats, Year after Year; yea, and the abſolute keep'ing up of a perpetual and everlaſting Army, under which the People are 'abſolute and perfect Slaves and Vaſſals, as by woful and lamentable Ex'perience they now ſee they perfectly are; which Slavery and abſolute 'Bondage is like daily to increaſe, under the preſent tyrannical and arbi'trary new-erected robbing Government. And therefore rouze up your 'Spirits before it be too late to a vigorous Promotion, and ſettling of the 'Principles of the foreſaid Agreement, as the only abſolute and perfect 'Means to carry you off all your Maladies and Diſtempers.'

Here Lieutenant-Colonel *Lilburne*, in the firſt Day's reading the Indictment, taking notice of the Judge *Thorp* and Mr. *Prideaux* to whiſper together, cry'd out, and ſaid to this effect:

L. Col. *Lilb.* Hold a while, hold a while, let there be no Diſcourſe but openly; for my Adverſaries or Proſecutors whiſpering with the Judges, is contrary to the Law of *England*, and extremely foul and diſhoneſt Play: and therefore I pray let me have no more of that Injuſtice.

Mr. Attorney. It is nothing concerning you (let me give him Satisfaction), it is nothing concerning you, Mr. *Lilburne*.

L. Col. *Lilb.* By your favour, Mr. *Prideaux*, that is more than I do know; but whether it be or not, by the expreſs Law of *England*, it ought not to be; therefore I pray let me have no more of it.

Mr. *Broughton.* And further; thou the ſaid *John Lilburne* ſtand'ſt indicted, for that thou the aforeſaid firſt Day of *October*, in the Year of our Lord 1649, and divers Days and Times, as well before as after, in *London* aforeſaid, and in the Pariſh and Ward aforeſaid, didſt maliciouſly, adviſedly and traitorouſly publiſh another falſe, poiſonous, traitorous and ſcandalous Book, intitled, *An Outcry of the Young Men and Apprentices of* London, *or an Inquiſition after the loſt Fundamental Laws and Liberties of* England: having theſe traitorous and ſcandalous Words (amongſt other things) following *; that is to ſay, *We* (meaning the Young Men and Apprentices of *London*) conſidering what is before premiſed, *are neceſſitated and compelled to do the utmoſt we can for our own Preſervations, and for the Preſervation of the Land of our Nativity; and never, by popular Petitions, addreſs our ſelves to the Men ſitting at* Weſtminſter *any more, or to take any more notice of them, than as of ſo many Tyrants and Uſurpers; and for the time to come to hinder (as much and as far as our poor deſpiſed Intereſt will extend to) all other whatſoever from ſubſcribing or preſenting any more popular Petitions to them; and only now as our laſt Refuge, mightily to cry out to each other, of our intolerable Oppreſſions, in Letters and Remonſtrances ſigned in the behalf and by the Appointment of all the reſt, by ſome of the ſtouteſt and ſtiffeſt among us, that we hope will never apoſtatize, but be able by the Strength of God to lay down their very Lives for the maintaining of that which they ſet their Hands to.* And further, That thou the aforeſaid *John Lilburne* afterwards, that is to ſay, the aforeſaid firſt Day of *October*, in the Year of our Lord 1649, and divers other Days and Times, as well before as after, not being an Officer or Soldier, or Member of the Army aforeſaid, at *London* aforeſaid, in the Pariſh and Ward aforeſaid, as a falſe Traitor, did maliciouſly, adviſedly, and traitorouſly endeavour to ſtir up a dangerous, mutinous and traitorous Diſtemper, Mutiny and Rebellion in the Army, now under the Command of *Thomas* Lord *Fairfax*, and didſt endeavour to draw *Thomas Lewis*, *John Skinner*, and *John Toppe* from their Obedience to their ſuperior Officers, *&c.* and further, didſt deliver unto the three Soldiers before-named, the ſaid Book, intitled, *An Out-cry of the Young Men and Apprentices of* London: having theſe Words following contained in them: 'Surely all Senſe and Compunction of Conſcience is not totally 'departed from you; hear us therefore in the earneſt Bowels of Love and 'Kindneſs, we intreat and beſeech you, with Patience, and do not abuſe 'us for complaining and crying out, for the Knife hath been very long at 'the very Throats of our Liberties and Freedoms; and our Burdens are 'too great and many for us, we are not able to bear them, and contain 'our ſelves; our Oppreſſions are even ready to make us deſpair (or forth'with to fly to the prime Laws of Nature, *viz.* the next violent Remedy 'at hand, light where it will, or upon whom it will); they are become as 'devouring Fire in our Boſoms, ready to burn us up, rendring us deſpe'rate and careleſs of our Lives, prizing thoſe that are already dead above 'thoſe that are yet alive, who are rid of that Pain and Torment that we do 'and muſt endure, by ſenſible ſeeing and beholding, not only the Dying, 'but the daily Burial of our native Liberties and Freedoms, that we care not 'what becomes of us, ſeeing that we are put into that original State of 'Chaos and Confuſion, wherein Luſt is become a Law; Envy and Malice 'are become Laws, and the ſtrongeſt Sword rules and governs all by Will 'and Pleaſure; all our antient Boundaries and Land-marks are pulled up 'by the Roots, and all the Ties and Bonds of human Society in our *Engliſh* Horizon totally deſtroyed and extirpated. Alas, for Pity! we had 'rather die, than live this Life of a languiſhing Death, in which our Maſters 'poſſeſs nothing (to buy themſelves or us Bread to keep us alive) that they 'can call their own; therefore it's no boot to ſerve out our Times, and 'continue at our drudging and toiling Trades, whilſt theſe Oppreſſions, 'Cruelties and Inhumanities are upon us, and the reſt of the People, ex'poſing thereby the Nation, not only to domeſtick Broils, Wars, and 'Bloodſheds, (wherein we are ſure our Bodies muſt be the principal 'Butts) but to foreign Invaſions by *France*, *Spain*, *Denmark*, *Swethland*, '*&c.* as was well obſerved by an endeared and faithful Friend of the fore'mentioned late treacherouſly defeated Party at *Burford*, in their Book of 'the 20th of *Auguſt* 1649, intitled, *The Levellers vindicated, or the Caſe of 'the Twelve Troops truly ſtated*, pag. 11 *and* 12. which we cannot but 'ſeriouſly recommend, with them, to your ſerious Peruſal and Judgment, 'and deſire to know of you (but eſpecially the private Soldiers of the 'Gen. Regiment of Horſe, who we underſtand had a hand in ſeizing upon 'and plundering our true Friends at *Burford*), whether you do own the abo'minable and palpable treacherous Dealings of your General and Lieute'nant-General *Cromwell*, and their perfidious Officers with them, or no? '(that ſo we may not condemn the Innocent with the Guilty, and may 'know our Friends from our Foes:) As alſo to tell us, Whether you do 'approve of the total Defection of your Army, under which it now lieth, 'from their Faith and fallen Engagement made at *Newmarket-Heath*, the '5th of *June* 1647, not one of thoſe righteous Ends, in behalf of the 'Parliament and People, on which your Vow was made, being yet ful'filled or obtained; but on the contrary (as we have before-rehearſed), a 'whole Flood-gate of Tyrannies are let in upon us, and overwhelm us; 'and whether you [*the aforeſaid private Soldiers meaning*] juſtify all thoſe 'Actions done in the Name of the Army, upon your Account, and under 'the Pretence of that Engagement, ſince the Engagement itſelf was bro'ken, and your Council of Adjutators diſſolved? And whether you will 'hold up your Swords to maintain the total Diſſolution of the People's 'choiceſt Intereſt of Freedom, *viz.* frequent and ſucceſſive Parliaments, by 'an Agreement of the People, or obſtruct the annual Succeſſion? Whether 'you do allow of the late ſhedding the Blood of War in time of Peace, to the 'Subverſion of all our Laws and Liberties? And whether you do counte-

* *Which Words are in pag.* 11.

'nance

'nance the Extirpation of the Fundamental Freedoms of this Common-'wealth, as the Revocation and Nullity of the great Charter of *England*, 'the *Petition of Right*, &c.? And whether you do assent to the Erection 'of Arbitrary Prerogative Courts, that have or shall over-rule, or make 'void our antient Way of Trials in criminal Cases by a Jury of Twelve 'Men of the Neighbourhood? And whether you will assist or join in the 'forcible Obstruction of this martial and tyrannical Rule over us? Also 'whether you will fight against and destroy those our Friends that shall 'endeavour the Composure of our Differences, together with he Pro-'curement of our Freedoms, and Settlement of our Peace (your Plenty 'and Prosperity), according as it was offered by the four Gentlemen 'Prisoners in the Tower of *London*, upon the first Day of *May* 1649, as 'a Peace-offering to the Nation, by the Agreement of the People. '[*the aforesaid feigned Agreement meaning*] Lastly, We [*the aforesaid Young 'Men and Apprentices of* London *meaning*] earnestly beseech you [*the 'aforesaid private Soldiers again meaning*] to acquaint us, whether from 'your Hands, to your Power, we may expect any Help or Assistance 'in this our miserable, distressed Condition, to the Removal of those 'Iron Bonds and Yokes of Oppression [*the aforesaid Government in way 'of a Commonwealth and Council of State meaning*] that have thus enforced 'us to complain, and address our selves thus to your Consideration; 'for we [*the aforesaid Young Men and Apprentices again meaning*] cannot 'chuse but acquaint you [*the aforesaid private Soldiers again meaning*] 'that we are seriously resolved, through the Strength and Assistance of 'God, with all the Interest we have in the World, to adhere to the 'righteous Things contained in our treacherously defeated forementioned 'Friends Vindication, [*the aforesaid traitorous Book, intitled*, The Level-'lers Vindicated, or the Case of the Twelve Troops truly stated, *again 'meaning.*]

And further, thou the said *John Lilburne*, as a false Traitor, by most wicked traitorous Conspiracies, Designs and Endeavours of thine aforesaid, afterwards, that is to say, the aforesaid first Day of *October*, in the Year of our Lord 1649 abovesaid, and divers other Days and Times, as well before as after, didst in the Parish and Ward of *London* aforesaid, in and by the aforesaid scandalous, poisonous and traitorous Book, intitled, *An Impeachment of High-Treason against* Oliver Cromwell *and his Son-in-law* Henry Ireton, *&c.* most falsly, maliciously and traitorously publish, and openly declare, amongst other Things, in the said Book, these following scandalous, treacherous, tumultuous and traitorous Clauses and Words following; that is to say, 'But I [*meaning thy self the said* John 'Lilburne] and many other Persons [*meaning the aforesaid Friends*] 'intreat you seriously to consider that I cannot advise you to make Ad-'dresses to him [*meaning the aforesaid* Thomas *Lord* Fairfax, *Captain-'General*] as the General of the Nation's Forces [*the Forces of this Nation 'of* England *meaning*]; for he [*the aforesaid Captain-General meaning*] 'is no General, but is merely a great Tyrant [*meaning the aforesaid 'Captain-General*] standing by the Power of his own Will, and a strong 'Sword borne up by his Vassals, Slaves and Creatures [*the Soldiers of the 'Army aforesaid meaning*], having no Commission to be General, either 'from the Law or the Parliament, nor from the prime Laws of Nature 'and Reason. For First, when he was made General by both Houses of 'Parliament, it was expresly against the Letter of the Laws. And Se-'condly, when he refused to disband, *&c.* he hath rebelled against his 'Parliament-commission, and thereby destroyed and annihilated it, *&c.*'

[The Reader is desired to take Notice, That in the Indictment itself there was a great many other Things than in this is expressed; as particularly divers Passages out of a Book, called Mr. *Lilburne*'s, intitled *The Legal Fundamental Liberties of* England *revived*, *&c.* as also out of another Book, intitled, *A Preparative to an Hue and Cry after Sir* Arthur Haslerig, *&c.* as also out of *The Agreement of the People, of the first of* May 1649. with several other remarkable Things in Matter and Form, that were more neglected to be taken than the Pleadings; because it was not supposed, but the Indictment (being a Record) a true Copy of it might easily be had; considering that by Law all Records ought freely to be used by any Freeman of *England*, and Copies of them denied to none that desire to take them: But that Privilege being in this Cause already disputed and denied; in which regard, the Reader must at present accept of the best imperfect Notes that the Publisher could pick up.] But to go on.

And further, That thou the said *John Lilburne*, as a false Traitor, all and singular the Clauses and *English* Words abovesaid, and many other traitorous, poisonous and malicious Expressions in and by the aforesaid Writings, and by the aforesaid several Books, as aforesaid recorded, and by thee the aforesaid *John Lilburne* published, and openly declared in the several Books so as aforesaid printed, and by the aforesaid Writings, and by thee the aforesaid *John Lilburne*, in Manner and Form aforesaid, published and openly divulged and declared divers other scandalous, malicious, tumultuous and treacherous Clauses and Words in the said Books contained, falsly, maliciously, advisedly and traitorously, hast published and openly declared, to the Intent to stir up and raise Forces against the Government aforesaid, in the way of a Commonwealth, and free State as aforesaid established; and for the Suppressing and Alteration of the said Government, and to stir up Mutiny in the Army aforesaid; and also to withdraw the said *John Tooke*, *Thomas Lewis* and *John Skinner*, and many other Soldiers, from their Obedience to their superior Officers and Commanders, and to set them in Mutiny and Rebellion against the publick Peace, and to manifest Contempt of the Laws of this Commonwealth and free State, and against the Form of the Statutes in this Case made and provided.

The Indictment being reading, and the Noise of the People i the Hall great, the Prisoner said he could not hear, and had some few^n nes before read over to him.

Lieut. Col. *Lilburne.* Pray hold your Peace, Gentlemen; I beseech you be quiet. [*speaking to the People.*]

Ld. *Keble.* Quiet yourself, we will quiet them for you.

Broughton. Which Country are you? so that you are to find whether he is guilty or no, he having already pleaded, Not Guilty. If you find that he is guilty of any the High Treasons laid to his charge, then you are to enquire what Goods, Lands or Chattels he stood possessed of when he committed the said High Treasons; but if you find Not Guilty, you shall then enquire whether he did not fly for it; and if he did not fly for it; then you are to say so, and no more: therefore hearken to your Evidence.

Lieut. Col. *Lilburne.* May it please your Honour—

Cryer. If any Man can give any Evidence to my Lords the Justices of *Oyer* and *Terminer*; against Mr. *John Lilburne*, let him come in, and he shall be heard.

Lieut. Col. *Lilburne.* I desire to be heard to speak two or three Words: I humbly desire the Favour to speak two or three Words. I humbly desire the Favour to be heard two Words:

Ld. *Keble.* It is not a fit time; you shall be heard in your due time: but hear what the Witnesses say first.

Lieut. Col. *Lilburne.* I conceive I am much wronged, in saying that I pleaded Not Guilty, for I pleaded no such Plea; I appeal to the Court, and to all that heard me, whether I pleaded any such Plea: for before I pleaded, the Court became engaged to me, to take no Advantage of my Ignorance of the Formalities of the Law; and promised to give me as much Privilege as my Lord Duke of *Hamilton* and others enjoyed before the Court of Justice.

Ld. *Keble.* We know all this.

Lieut. Col. *Lilburne.* Sir, by your Favour, I pleaded conditionally, and now I make my absolute Plea to the Indictment, which is this: That I except against the Matter and Form of it, Matter, Time and Place, and humbly crave Counsel to assign and plead to the Errors thereof.

Ld. *Keble.* You must hear us, we hear you; a Word is a great deal; these Things we have taken perfect Notice of, the Court is not ignorant of them; therefore they need not so suddenly be repeated to us again; you need not repeat these Things; for I tell you again, they are all fresh in our Memories, and that we have done we must maintain, or we have done nothing.

Lieut. Col. *Lilburne.* Truly it is requisite for me to say, that I am wronged, I had no such single Plea; I plead a Plea at large to the Errors of the Indictment; and first now crave Liberty of the Law of *England* to have Time and Counsel assigned me.

Ld. *Keble.* You shall have the Laws of *England*, although you refuse to own them in not holding up your Hand; for the holding up of the Hand hath been used as a Part of the Law of *England* these five hundred Years. Go on.

Mr. the Counsel that was an Assistant to Mr. Prideaux.

My Lord, the Prisoner at the Bar stands indicted as a Traitor, for that he contriving, and maliciously intending not only to disturb the publick Peace, but also to bring the Government of the Nation, happily settled in a free State or Commonwealth, without a King, or an House of Lords, and the Commons in Parliament assembled to bring in Disgrace and Contempt amongst all good Men; he did the first of this Instant *October*, and divers times before and since in this City, falsly and maliciously, advisedly and traitorously, by writing, printing and openly declaring, in and by one Paper of his, called *A Salva Libertate*, and by divers other Papers and Books, whereof one he calls, *An Impeachment of High-Treason against* Oliver Cromwell *and his Son-in-law* Henry Ireton; and another Book of his, intitled, *An Out-cry of the Young Men and Apprentices of* London, directed to all the private Soldiers of the Army, *&c.* A third, *A Preparative to an Hue and Cry after Sir* Arthur Haslerig; and a fourth, *The Legal Fundamental Liberties of the People of* England *revived*: That he did in these Books publish, That the said Government is tyrannical, usurped and unlawful; and that the Commons in Parliament assembled are not the Supreme Authority of this Nation. He stands further indicted, That he, as a false Traitor, did maliciously, advisedly and traitorously plot and contrive to raise Force against the present Government, and for the Subversion and Alteration of it; and for the fulfilling of his most malicious and traitorous Designs, he did, in and by the said traitorous Books, falsly, maliciously and advisedly utter and declare several most false and scandalous, malicious and traitorous Words and Writings, that in the Indictment are particularly named and expressed. And thirdly, That as a Traitor, not being an Officer, nor a Soldier, or a Member of the Army under the Command of the now Lord General *Fairfax*, he did most maliciously and traitorously endeavour to withdraw certain Soldiers of that Army from their Obedience to their superior Officers, which are particularly named in the Indictment: And that for the full Accomplishment of his Contrivances and Endeavours, he did maliciously, advisedly and traitorously publish and deliver the poisonous Book, called *An Impeachment*; and in particular directed by the Title of the Book to all the People of *England*, being for that End published by him to publick View: In which Book are contained most false and scandalous, malicious, mutinous and traitorous Expressions, as in the Indictment are set forth. And further, That in the said Book, which he called *An Impeachment*, That the present Government is tyrannical and usurped; and that the Commons of *England* in Parliament assembled are not the Supreme Authority. And he further stands indicted, and the Jury further finds and presents, that by all these and other Expressions written by him, and published by him in written Papers and printed Books, he hath falsly, maliciously and traitorously stirred up Strife on purpose, and to the intent, to stir up and raise Force against the present Government, settled in the way of a Commonwealth and free State, without King and Lords, on purpose it to subvert and destroy. And further, he hath also most traitorously endeavoured to withdraw the private Soldiers from their Obedience and Subjection to their superior Officers: And all this in manifest Contempt of the Laws of this Commonwealth in that Behalf made and provided, and to the Hazard of the Overthrow and utter Subversion of the said Government.

To

To this Indictment the Gentleman hath pleaded Not Guilty, and hath put himself upon his Country; and if we can prove this against his Plea, it is at an Issue.

Lieut. Col. *Lilburne.* I deny that, Sir; I never pleaded any such single Plea as Not Guilty: And you Gentlemen of the Jury, I beseech you take notice he extremely wrongs me in saying so; for my Plea was a conditional Plea, and as a Plea at large.

Mr. Attorney. My Lord, and you Gentlemen of the Jury, you have heard the Indictment read unto you, and you have heard it opened unto you; and you have heard what Mr. *Lilburne* says, That he did not plead Not Guilty: And I hope he is ashamed of his Plea, now he hears the Indictment opened unto him. My Lord, in this Indictment there are contained these several Grand Treasons:

The first is, That he hath advisedly, traitorously and maliciously published, That the Government that is now established, by way of a free State or Commonwealth, without either King or House of Lords, is tyrannical, usurped and unlawful. And further, That the present Parliament now assembled, are not the Supreme Authority of the Nation.

The second is, That he hath plotted, contrived and endeavoured to stir up, and raise Forces against the present Government, and for the Subversion and Alteration of the same.

The third is this that relates to the Army; you have heard what his Expressions have been, and they have been read unto you, concerning them and the rest, That he, not being an Officer, or Soldier, or Member of the present Army, hath offered to stir up Mutiny in the Army, and to withdraw the Soldiers from their Obedience and Subjection to their superior Officers, and thereby to stir them up to Mutiny and Discontent.

These are the main Parts and Substance of what I intend to charge him with in the Evidence, to prove that which was contained in the Indictment. My Lord, you have heard, in what hath been read out of the Indictment, what Expressions they are; those that are traitorous to the Publick, and have been so declared, so judged, so executed, these are here Mr. *Lilburne*'s engaged true Friends: The Parliament, the Government, the Authority of both Parliament and Army, they are Tyrants, Usurpers, Mercenaries, Janisaries, Murtherers, Traitors, standing by their own Power and Swords, and over-ruling all by their Wills: These are the Expressions that he used. My Lords, I shall not trouble you with any thing of Aggravation; for, my Lord, I do conceive, that the reading of the Books themselves aggravates every thing against him; and I think there is no *Englishman* (as Mr. *Lilburne* so often stiles himself to be) will own such Words or Acts as these are.

And truly, my Lord, if I had read the Books, and not known the Person, I should not have thought he had been either a Christian, or a Gentleman, or a Civil Man, to have given such base and bitter Language; but, my Lords, and you of the Jury, I shall hold you no longer, the Evidence being so plain, and the Matter so foul, that it will not admit overmuch, or stand in need of any Dispute; and to make it plain and clear to your Judgments and Consciences, there are Witnesses in the Court evidently to prove every thing that will stand in need to be proved for the Indictment.

My Lords, the Words are maliciously, advisedly, and traitorously: I shall not catch at Words, but, as himself says, what he prints is of mature and deliberate Consideration; and such are his Books in print, that himself hath either printed, or caused to be published.

The first that he is charged withal, is that which is called *An Outcry*: It hath a very dangerous Title, and in the Direction especially to the Soldiers of the Army; but especially to the private Soldiers of the General's Regiment of Horse, that helped to plunder the true-hearted *Englishmen*, traitorously defeated at *Burford*; so that the Rebels at *Burford* were Mr. *Lilburne*'s dear Friends. My Lords, it hath not only a dangerous Title, but was published at a dangerous Time, yea, and for a dangerous End, which was to stir up the great Mutiny that was in the City of *Oxford*. My Lord, for the Proof of this we shall offer this, That Mr. *Lilburne* himself was Captain *Jones*'s Associate in the publishing that Book: For Mr. *Lilburne* and this Captain *Jones* brought this Book to the Press to be printed. We shall offer unto you where he hath published it to Soldiers of the Army, to engage them in a Mutiny and Discontent against their superior Officers. Therefore in the first place call *Thomas Newcombe*.

Thomas Newcombe *sworn.*

Justice *Jermin.* Before you speak, look upon the Prisoner first, whether you know him, or not.

Mr. Attorney. My Lord, if you please, he may take the Book in his Hand, and see whether he printed it, and when he printed it, and who brought it to the Press.

Mr. *Newcombe.* I printed of this Book only the last Sheet, not knowing where the former Part of it was done; which Book was brought to me by Lieut. Col. *Lilburne* and Capt. *Jones*, which Capt. *Jones* did agree with me in the Price: I was stopp'd in the Proceedings in it. I say that Capt. *Jones*, together with Lieut. Col. *Lilburne*, did bring it to me, and that Capt. *Jones* did agree with me in the Price; but I was taken before I did perfect it: But Capt. *Jones* did indent with me for the Price. But this I must say, Lieut. Col. *Lilburne* came alone with the Copy; and afterwards at Night he came again, and had a Proof of it; and that he was present when it was corrected.

Mr. Attorney. And when the first Sheet was printed, then they came at Night again, and examined the Proof with Captain *Jones* and his Corrector?

Ld. *Keble.* And he brought the Copy of the whole Draught of the Book unto you?

Lieut. Col. *Lilburne.* Sir, by your Favour, if Mr. *Prideaux* have done with the Witness, I crave my Right by Law to ask him some Questions. In the first place, I desire he may be asked, Whether I was either Reader of the original Copy, or the Overlooker of the printed Proof?

Mr. *Newcombe.* You had a printed Sheet of it, and that was all.

Lieut. Col. *Lilburne.* I desire to know whether I was either the Reader of that he printed, or the Looker upon the written Copy?

Mr. *Newcombe.* You looked upon the Sheet that was printed, Captain *Jones* read the Manuscript.

Lieut. Col. *Lilburne.* Ask him the Question thus, Whether was I the Corrector of the Thing printed, or the Looker-on upon the printed Copy? And whether, or no, he can swear that printed Sheet, that he says I had, was corrected and revised, and was a true and perfect Sheet, according to the Original?

Mr. *Newcombe.* It was a Copy of the Sheet before it was corrected or revised.

Mr. Attorney. And Mr. *Jones* did read the Original, and Lieut. Col. *Lilburne* corrected the Copy?

Lieut. Col. *Lilburne.* Under favour, you are mistaken: He says, that I cast my Eye upon the Copy; but doth not in the least say, that I corrected it. And therefore, Sir, you do abuse me, in going about to make him say more than his own Conscience tells him is Truth.

Ld. *Keble.* While the Examination was, he saith you read the Proof.

Lieut. Col. *Lilburne.* Sir, he says no such Thing, by your favour.

Ld. *Keble.* Mr. *Newcombe*, was not Mr. *Lilburne* there the second time at Night, and did he not look upon the Copy?

Mr. *Newcombe.* That he did, my Lord: But, my Lord, I shall tell you the Manner of our Trade in this particular. The Manner is, That after we have set a Form of the Letter, we make a Proof of it, which Proof we have a Corrector does read: My Corrector he had one, being he corrected it, and Capt. *Jones* look'd upon the Manuscript. And Lieut Col. *Lilburne* had a Copy of the same Sheet uncorrected; but he did not correct it, nor read to the Corrector. There was two pulled off; the Corrector had one, and Mr. *Lilburne* had the other; and Captain *Jones* looked upon the Manuscript, and read it to the Corrector.

Lieut. Col. *Lilburne.* He has declared unto you, That he was taken printing the Thing before it was perfected: I desire to know whether I was at his House to give any further Directions at all after it was taken.

Mr. Attorney. That is no Thanks neither to you nor him.

Lieut. Col. *Lilburne.* I pray let him answer the Thing: Let me have fair Play above board. Sir, I beseech you let me hold him close to the Question. He says he was taken before the Sheet was perfected: Truly, I think they are his very Words.

Mr. *Newcombe.* I said in my Examination that it was a Proof of that printed which you had.

Lieut. Col. *Lilburne.* I desire again to know this of him, Whether before he had printed or perfected that Sheet he had doing, he was not taken, and both the Forms?

Ld. *Keble.* Mr. *Lilburne*, you must desire us to ask him the Question; and not you to demand it of yourself.

Lieut. Col. *Lilburne.* I shall, Sir.

Mr. *Newcombe.* It was before the Forms were taken.

Lieut. Col. *Lilburne.* I ask you, Whether before the Things were compleat and perfect, your Forms were not both taken, and your Person seized upon?

Mr. *Newcombe.* There were only some few Copies printed, and then I was seized upon, and the Forms taken away before I had perfected the Sheet. But this, I say, He did not indent with me for the Price; neither had I the Copy from Mr. *Lilburne*'s Hands, but from Captain *Jones*'s Hands.

Justice *Jermin.* You say that he had one Proof, and *Jones* another: When was this you speak of? Give us the Time as near as you can.

Mr. *Newcombe.* I cannot justly say the Time; but as I remember, it was about seven or eight Weeks since.

Mr. Attorney. Stand you aside; and call *John Tooke*, *John Skinner*, *Thomas Lewis*, *John Hawkins*, and *John Merriman*, Witnesses sworn.

Mr. Attorney. John Tooke, do you declare now your Knowledge. That which I call him for, is to this Purpose, that Mr. *Tooke* being a Soldier of the Army, one of them mentioned in the Indictment, Mr. *Lilburne* delivered him one of the *Outcries*, on purpose to draw him from his Obedience to his superior Officers.

Ld. *Keble.* Shew him the Book.

Mr. *Tooke.* I have seen the Book; but I had not the Book in my Hand before.

Mr. Attorney. Tell what you know; that is all we ask you.

Mr. *Tooke.* About seven Weeks ago, being at Dinner with *Thomas Lewis* and *John Smith*, all Soldiers, after Dinner we met with Lieut. Col. *Lilburne* in *Ivy-Lane*; and *Thomas Lewis* knowing of him, took acquaintance of him.

Justice *Jermin.* All Soldiers under my Lord General *Fairfax*?

Mr. *Tooke*, Yes, Sir.

Justice *Jermin.* Go on.

Mr. *Tooke.* Mr. *Lilburne* asked me to go and drink a Cup of Beer: We did so. And so when we went in, he asked whether we had seen such a Book as the *Apprentices Outcry?* And Mr. *Lewis* answered, That he had seen it in a Man's Hand. Then Lieut. Col. *Lilburne* said he had one in his Pocket, that was given him; and if he pleased to accept of it, he would give it him. So told him he had thought to buy one of them, for he heard they were sold in the City; but he would accept of his. So Mr. *Lilburne* delivered it to Mr. *Lewis*.

Mr. Attorney. What did Master *Lilburne* say further unto you?

Mr. *Tooke.* He said, That you Soldiers keep us all in Slavery.

Lieut. Col. *Lilburne.* I beseech you let me ask him one Question.

Mr. *Tooke.* There was some to be sold; but I forgot the Place.

Mr. Attorney. Did he name a Place and Person to you, where you might have some of them?

Mr. *Tooke.* He did name a Place, but I have forgot it, where there were more Books to be sold.

Lieut. Col. *Lilburne.* Sir, I beseech you let me ask you one Question—

Ld. *Keble.* Mr. *Lilburne*, for your Direction, you must make your Question to us, and require us to ask him the Question; and then if your Question be fair, it shall not be denied you.——

Lieut.

Lieut. Col. *Lilburne.* Then thus: Whatſoever this Gentleman ſays of meeting him in *Ivy-Lane*, and deſiring him to go to drink with me, yet I deſire you to aſk him, whether I did take Notice or Cognizance of any of them firſt? or whether they did ſpeak to me before, before ever I ſaid any thing to them?

Ld. *Keble.* To what end do you aſk this?

Lieut. Col. *Lilburne.* Becauſe in your Indictment I am charged, that I went among the Soldiers to ſeduce them from their Obedience to their ſuperior Officers; when I have made it my Endeavour to ſhun them as much as I can, and not to come nigh the Place where I know they are, if I can avoid it; no, although I meet with them, not to diſcourſe with any of them, unleſs they begin firſt.

Ld. *Keble.* I tell you this, which may direct you afterwards: Whoſoever began to diſcourſe firſt, if you did give them the Book afterwards, it is all one.

Lieut. Col. *Lilburne.* But, ſhall pleaſe you, I am upon my Life; and by Law I ought not to be denied to aſk the Witneſſes that ſwear againſt me any Queſtion that I pleaſe, that I myſelf judge pertinent for my Advantage.

Mr. Attorney. Call *Thomas Lewis.*

Thomas Lewis. And it ſhall pleaſe you, I am upon my Oath to ſpeak the Truth; and I ſhall deſire by the Help of God ſo to do, and no more. One Day, which I conceive to my Remembrance was the 6th Day of *September* laſt, we being upon a Guard at *Paul's*, went to an Houſe to refreſh ourſelves; and when I came forth I met with Lieut. Col. *John Lilburne*, whom I had formerly known, and ſometimes viſited in his Impriſonment, and whom I was very glad to ſee, having a little before heard as though ſome ſudden Accident or Miſchance had befallen him; and I did aſk of him how he did. He ſaid unto me, he was well: And ſo with that ſays he, What, are you upon the Guard? To my beſt Remembrance, this was his Expreſſion; yet ſee whether it was he, or another that ſaid it. As I take it, theſe were his Words: Says he, I have almoſt forgotten you. Sir, I was known to you formerly, having ſometimes been with you in the *Tower*. Says he, Will you go drink? If you pleaſe, we will: And ſo upon that we went to a Place called the *Red-Croſs* in *Newgate-Market*. And there we ſitting down to drink, having not much Diſcourſe for the preſent, we ſitting ſtill, he aſked me at length, Have you heard of a Book called the *Outcry of the Apprentices?* Sir, ſaid I, I have heard of it, and have a longing deſire to buy one of them to read it; and my Reaſon why I ſaid ſo was, becauſe I did underſtand it was to be ſold at the *Exchange*; there I intended to go and get one of them. Says he, I had one given to me; and if you will, I will give it unto you. So I received the Book with Thankfulneſs; and further expreſſing, which was ſomething mean, it would ſave me a Penny in buying of it. And I further intreated him, if he could direct me where I might buy ſome more of them. I have a Friend, ſays he, in ſuch a Place; if you would go to him, and tell him that I am here, I ſhould think myſelf beholden to you. Now the Place's Name was *Martin's-Lane*, but the Man's Name, whither I went, I have forgot, and the Man too: I never heard of the Man before nor ſince; ſo I told Mr. *Lilburne.* Now, he ſaid to me, peradventure where you find that Man, you may have ſome more of the Books. Now theſe were the Words, to my beſt Remembrance and Knowledge, as I deſire to ſpeak with a pure Conſcience.

Mr. Attorney. Mr. *Lilburne* gave you one of thoſe Books?

Mr. *Lewis.* Yes, Sir; and I put it into my Pocket, and when I had done, Mr. —— he will deliver him ——— Whether there was any Books or Paſſages betwixt them? And upon which he told him, Yes; there is a Book that Mr. *Lewis* has, that has ſuch a Title.

Mr. Attorney. What did you with the Book?

Mr. *Lewis.* I delivered it to the Lieutenant.

Mr. Attorney. The ſame Book that you received from Mr. *Lilburne*, you deliver'd to the Lieutenant?

Mr. Attorney. What did Lieutenant Colonel *Lilburne* ſay to you concerning your Pay? Did not he aſk you, *&c.*

Lieut. Col. *Lilburne.* I pray, Sir, do not direct him what to ſay, but leave him to his own Conſcience and Memory, and make him not for fear to ſwear more than his own Conſcience freely tells him is true.

Mr. *Lewis.* The Diſcourſe was thus: Says he, You Soldiers (to my beſt Remembrance) are the Men that keep us all in Slavery. Now what to conceive of that Expreſſion, I muſt leave that unto you. And as concerning our Pay, he aſked us, How is your Pay? Theſe were the Words, or to that effect. But there was Money come for us, and ready to be delivered out unto us.

Mr. Attorney. Call *John Skinner:* He was one of thoſe that was in Company, and can ſpeak to it.

Mr. *Skinner.* To my beſt Remembrance, and it ſhall pleaſe you, it was the Beginning of *September*, I cannot juſtly tell what Day, that I met with Mr. *Lilburne* in *Ivy-Lane*, near unto *Paul's*; and meeting with him, I was going towards the Guard, and ſo was Mr. *Lewis* with me, being walking forth of the Lane, having been refreſhing ourſelves. And near the End of the Lane we met with Lieutenant Colonel *Lilburne*, which Lieutenant Colonel Mr. *Lewis* very well knew; and knowing of him, aſked him how he did, and how it went on with him, in regard he had heard before he was in Priſon; ſo I did not take any heed what he ſaid further. Neither do I know whether Mr. *Lewis* aſked Mr. *Lilburne* to go with him to drink, or Mr. *Lilburne* aſked him; but to the *Red-Croſs* in *Newgate-Market* we went to drink. And Mr. *Lilburne* did aſk Mr. *Lewis*, whether or no he had ſeen the Book which was called the *Apprentices Outcry.* Mr. *Lewis* anſwered him, that he had not ſeen the Book, (as I remember) but he had heard of that Book that it was forth, and he did intend to buy one of them, in regard they were publickly ſold abroad. Says Mr. *Lilburne*, I have ſuch a Book in my Pocket, which was given me even now; and I will give it you, if you will.

Lieut. Col. *Lilburne.* I pray, let me hear two or three Lines before.

Mr. *Skinner.* Whereupon you anſwered, and ſaid, I have the Book in my Pocket, and it was given me, and I will give it you. And Mr. *Lewis* received it, and that was all. And preſently I went away.

Mr. *Prideaux.* You hear, Gentlemen of the Jury, that it is the ſame Book that he received from the Hands of Lieut. Col. *John Lilburne.*

Lieut. Col. *Lilburne.* My Lord, I beſeech you hear me before the Witneſſes go: And he that was ſworn before, I deſire to aſk him this Queſtion, Whether or no that this is the very Book that is mentioned in the Indictment? And whether or no they have examined the Words of it with the Indictment?

Mr. *Prideaux.* You need not; that ſhall be proved preſently. Mr. *Skinner*, That Book which Mr. *Lilburne* gave you, what did you with it?

Mr. *Skinner.* It was delivered unto my Lieutenant, who ſtands there.

Lieut. It was delivered unto my Captain upon the Guard.

Capt. *Merriman* took the Book into his Hand, and ſaid, This individual Book, ſigned in ſeveral Places by me, I delivered to Mr. *Froſt*, Secretary to the Council of State; and Mr. *Froſt* cauſed me to ſign it in ſeveral Places, whereby it could not be miſtaken; and that is the very individual Book.

Mr. *Prideaux.* My Lords, and you Gentlemen of the Jury, we have thus far gone in the Evidence: That Mr. *Lilburne* brought the laſt Sheet of it to the Preſs the firſt Time he came with Capt. *Jones*; and he came the ſecond Time with him to examine it; that is, he had a printed Copy, that was then printing, to be printed, and was the Corrector for the Preſs, reading the Original Copy: So far is he privy to the printing of the Book. In the next place, three Witneſſes (Soldiers of the Army) ſwear he gave them one of thoſe Books, and one of them gave it to his Lieutenant, and the Lieutenant to the Captain; and the Captain ſwears, this individual Book is that which Maſter *Lilburne* gave into the Hands of Mr. *Lewis.* What can be more plain than this? I pray you judge. For here is plain Teſtimony of Mr. *Lilburne's* delivering this *Outcry* to the three Soldiers, and one of them to his Lieutenant, and his Lieutenant to his Captain, and his Captain to Mr. *Froſt*, with Marks upon it: So this is by Conſequence proved unto you, this is the individual Book that Mr. *Lilburne*, Priſoner at the Bar, gave to the three Soldiers; and which is to be made uſe of when you have occaſion upon the Evidence, to read it, as now it is in the Court with you.

Lieut. Col. *Lilburne.* By your Favour, I have had no Anſwer to the Queſtion, that I humbly craved an Anſwer to; which is, Whether the Soldiers are poſitively able to ſwear that this is the individual Book which they ſay they had from my Hands? And whether they are able to ſwear that this individual Book is a true and exact Copy, without Addition or Subſcription, of that Original Manuſcript that the Printer ſaith Capt. *Jones* delivered to his Hands, which, he ſaith, I had an uncorrected Sheet of?

Mr. *Prideaux.* We ſhall clear that to you when we come to make uſe of it.

Lieut. Col. *Lilburne.* I beſeech you, Gentlemen of the Jury, to take notice of my Queſtion, and what I am denied.

Mr. *Prideaux.* The next Thing that is charged upon him is a Paper written and entitled, *A Salva & Libertate.* My Lord, I ſhall open the Thing to you, being directed (my Lord) for the Proſecution of Mr. *Lilburne.* And having Things of a very high Concernment that are charged againſt him, I did by Word of Mouth ſend to have him come to me; which I underſtood he did decline, becauſe the Lieutenant had no Warrant. The Lieutenant of the *Tower* was pleaſed to acquaint me with it; and I thereupon directed my Warrant to the Lieutenant to bring him before me. And Mr. *Lilburne*, *&c.*

Lieut. Col. *Lilburne.* My * Lord, and pleaſe your Honours, thus: If we be upon Matter of Fact, let us come to it: Let us have no Introduction to teach the Witneſſes what to ſay, what beyond their own Conſciences dictate unto them.

* *This was the firſt or ſecond Time that Mr.* Lilburne's *Tongue ſlipped the calling him Lord.*

Mr. *Prideaux.* I ſhall go no further in it; let the Lieutenant of the *Tower* ſpeak himſelf.

The Lieutenant of the Tower *ſworn.*

Mr. *Prideaux.* Lieutenant of the *Tower*, you are queſtioned about the *Salva Libertate* that Mr. *Lilburne* delivered unto you: Have you the Original?

Lieut. Tower. Yes, Sir, I have.

Mr. *Prideaux.* How came you by it?

Lieut. Tower. I ſhall be ſhort in what I ſay, becauſe I will not trouble the Court.

Lieut. Col. *Lilburne.* Let me hear you, then.

Lieut. Tower. Being abroad, there was a Meſſage left with my Servants, That I ſhould bring up Lieutenant-Colonel *Lilburne* to Mr. Attorney's Chamber in the *Temple*; and when I came in, I had notice of it. I did then ſend to Lieutenant-Colonel *John Lilburne* to let him know what Command I had received from the Attorney-General, the next Day to carry up Lieutenant-Colonel *John Lilburne* to the Attorney-General's Chamber. But Lieutenant-Colonel *Lilburne* not well underſtanding whether I had a written Warrant, or no; but before he came at home he recalled himſelf, and came back, and deſired the Sight of my Warrant. I told you before I had no Warrant, but by Word of Mouth. Why, ſays he, do you think I will go upon a verbal Warrant? Saith he, I will not go unleſs you force me. But the next Day Mr. Attorney-General was acquainted that he refuſed to come without a Warrant. When the Warrant was made, I met with Lieutenant-Colonel *Lilburne* about Ten of the Clock in the *Tower*, who intreated me to let him ſee it. I ſhewed it him, he read it, he deſired a Copy of it, takes it; which when he had, he went from me; and about two Hours after he came to me, about One of the Clock, and ſaid, I pray receive this from me; for (ſays he) I do intend not to own the Authority and Power of that Gentleman that ſent me the Warrant. Whereupon I told him, I would ſhew this ſame to the Attorney-General: Why, ſays he, I give you it to that Purpoſe. When the Time came, Lieut. Col. *Lilburne* did go along with me in an orderly, civil way: I had no body but my Man; for I told him, I will take no body but my Man, if you will engage yourſelf to me that you will return peaceably: which he did, and ſo we went very orderly to Mr. Attorney's Chamber; which is all for that I can ſay.

Mr. *Attorney.* If you pleaſe, that the Lieutenant may upon his Oath declare, whether that be the true Original he had from Mr. *Lilburne's* own Hands, or no?

Lieut. Tower. It was never out of my Cuſtody ſince he gave it me.

Ld. *Keble.* Mr. *Lilburne*, you do acknowledge it to be your own Hand-writing? Shew it him.

Lieut. Col. *Lilburne.* I am too old with ſuch ſimple Ginns to be catched; I will caſt mine Eyes upon none of your Papers, neither ſhall I anſwer to any Queſtions that concern myſelf: I have learned more Law out of the Petition of Right, and Chriſt pleading before *Pilate*, than ſo.

Mr. *Attorney.* Would you had learnt more Goſpel!

Judge *Jermin.* You may anſwer a Queſtion, whether it be true or falſe; and confeſs, and glorify God.

Lieut. Col. *Lilburne.* I have ſaid, Sir; prove it: I am not to be catched with ſuch Fooleries.

Ld. *Keble.* You ſee the Man, and the Quality of the Man; this is the Paper that he delivered into his own Hand, and that is ſufficient, as well as if it was of his own Hand-writing.

Lieut. Col. *Lilburne.* Good Sir, your verbal Bench-Law is far ſhort of your written Text in your own Law-Books.

Judge *Jermin.* Put it into the Court.

Ld. *Keble.* Your writing or not writing is nothing; you delivered the Book.

Lieut. Col. *Lilburne.* Sir, I deſire to know in what Place, whereabouts in the *Tower* of *London*, the Lieutenant of the *Tower* ſaith he received this Paper.

Ld. *Keble.* Let him name the Place where it was delivered.

Lieut. Tower. The Place was at the Steps, at the Bottom of the narrow Paſſage at my Garden-end, in the Cart-way where the Carriages come up.

Lieut. Col. *Lilburne.* Whether is that Place in the Liberties of *London*, or is it Part of the County of *Middleſex?*

Lieut. Tower. The *Tower* is in * *London*, ſome Part of it, and ſome Part in *Middleſex*; but unto which Place that Part of the *Tower* belongs, I am not able certainly to ſay, but it hath commonly been reputed in *Middleſex.*

* *But it is ſure that Place is in* Middleſex, *as was reſolved in Sir* Tho. Overbury's *Caſe.* See Coke's *3d Part Inſt.* fol. 130. chap. *Indictment.*

Mr. *Attorney.* My Lord, you may ſee the Valiantneſs of this Champion for the People's Liberties, that will not own his own Hand; although I muſt deſire you, Gentlemen of the Jury, to obſerve that Mr. *Lilburne* implicitly confeſſeth it.

Lieut. Col. *Lilburne.* Sir, I deny nothing: And what now can be proved mine, I have a Life to lay down for the Juſtification of it, but prove it firſt.

Mr. *Attorney.* My Lord, the next thing to prove the Charge againſt him is a very high one, it is ſtyled Mr. *Lilburne*'s, and his Name is to it: It is intitled, *An Impeachment of High-Treaſon againſt* Oliver Cromwell, *and his Son-in-Law* Henry Ireton, *Eſqs; late Members of the late forcibly diſſolved Houſe of Commons, preſented to publick View by Lieutenant-Colonel* John Lilburne, *cloſe Priſoner in the* Tower *of* London. My Lord, I doubt he will not own it; but yet, my Lord, he may be aſked the Queſtion.

Lieut. Col. *Lilburne.* I ſhall deny nothing I do: And yet I have read the Petition of Right, Sir, that teacheth me to anſwer to no Queſtions againſt or concerning myſelf, and I have read of the ſame to be practiſed by Chriſt and his Apoſtles.

Mr. *Attorney.* You will not own it, the Book you have read?

Lieut. Col. *Lilburne.* You may make your Advantage of it.

Mr. *Attorney.* We ſhall prove it; call Witneſſes.

Thomas Daffern, *Richard Lander* Marſhal, Major *Hawkſworth*, Governor of *Warwick-Caſtle*; all ſworn.

Mr. *Attorney.* Mr. *Daffern*, if you pleaſe he may be aſked where he met Mr. *Lilburne*, the Time when, what Book was given him, and to what Purpoſe it was given him.

Mr. *Daffern.* Why, it was upon the 12th of *Auguſt* laſt. Having been in *Southwark*, I met with Lieutenant-Colonel *Lilburne* upon the Bridge, I went back with him to his Houſe at *Wincheſter-Houſe* in *Southwark*: He had Leave to viſit his Family at that time, being very ſick, and I told him I was going into *Warwickſhire* the next Day; and he having heard that Colonel *Ayres* was then removed from *Oxford* to *Warwick-Caſtle*, he gave me a Book to carry to him, and I delivered it to him at *Warwick-Caſtle.*

Mr. *Attorney.* The Book that he gave you, you gave to the Governour: Did you ſee any more of them?

Mr. *Daffern.* I never ſaw any of them but that, which was both the firſt and the laſt I have ſeen of them.

Mr. *Attorney.* *Lander* the Marſhal was preſent at that Time, was he not?

Mr. *Lander.* That I was; and I had it from him, and I delivered the Book to Major *Hawkſworth* the Governour.

Mr. *Attorney.* Major *Hawkſworth*, what did you do with the Book?

Major *Hawkſworth.* I ſent it to Colonel *Pureſoy*, in a Paper ſealed with three or four Seals.

Mr. *Attorney.* Call Colonel *Pureſoy.*

[Col. *Pureſoy* ſworn.]

Lieut. Col. *Lilburne.* I hear not one Word: Under Favour, but one Word, I crave but one Word, I have an Exception. Firſt, Col. *Pureſoy* is one of thoſe that call themſelves the Keepers of the Liberties of *England*; and for committing Crimes againſt them I am indicted, and he is one of them, and therefore a Party, and in that reſpect in Law he can be no Witneſs againſt me. It would have been very hard for the King to have been a Witneſs againſt that Man that was indicted for committing Crimes againſt him; ſuch a Ting in all his Reign was never known.

Col. *Pureſoy.* I received this Book, ſealed in a Letter, from the Governour of *Warwick-Caſtle*, Major *Hawkſworth*; I know his Hand, and I know the Day he ſent me this very individual Book; and my Hand is at it, and the Governour who ſent it up to me, which I declare to be the very individual Book that I received from him.

Mr. *Attorney.* Mr. *Lilburne*, you are miſtaken; Col. *Pureſoy* is a Member of Parliament, he is none of the Keepers of the Liberties of *England.* But why will you put us to all this Trouble to prove your Books, ſeeing your Hand is to them? My Lord, I had thought the great Champion of *England* would not be aſhamed to own his own Hand.

Lieut. Col. *Lilburne.* I have anſwered once for all: I am upon Chriſt's Terms, when *Pilate* aſked him whether he was the Son of God, and adjured him to tell him whether he was or no; he replied, *Thou ſayeſt it:* So ſay I, Thou Mr. *Prideaux* ſayſt it, they are my Books: But prove it; and when that is done, I have a Life to lay down to juſtify whatever can be proved mine.

Judge *Jermin.* But Chriſt ſaid afterwards, *I am the Son of God:* Confeſs, Mr. *Lilburne*, and give Glory to God.

Lieut. Col. *Lilburne.* I thank you, Sir, for your good Law, but I can teach myſelf better.

Mr. *Attorney.* Here Mr. *Lilburne* makes a Book, which was given to the Hands of Mr. *Daffern* by Mr. *Lilburne* himſelf; Mr. *Daffern* he ſwears, that the ſame Book he gave to Col. *Ayres*; Mr. *Lander* the Marſhal of the Garriſon of *Warwick* ſwears, that the ſame Book *Daffern* gave to Col. *Ayres*, he had from him, and gave to Major *Hawkſworth* the Governour; the Governour ſwore, that that Book he received from the Marſhal, he ſent ſealed up in a Letter to Mr. *Pureſoy*; who alſo ſwears, that that ſame Book he ſet his Hand to it to know it again by, and that the individual Book that is now given into your Hands, is the ſame Book that was delivered to him: The Title is, *An Impeachment of High-Treaſon againſt* Oliver Cromwell *Eſq.*

Lieut. Col. *Lilburne.* Sir, I wonder you are not aſhamed ſo far to preſs the Teſtimony beyond that they themſelves ſwear. Mr. *Daffern* doth not name the Book at all that was given to him, neither doth he ſwear it to be mine; and therefore, Sir, you abuſe yourſelf, the Court, the Witneſs, and me too.

Mr. *Attorney.* Maſter *Lilburne*, I have done you Right in it, and no Wrong at all; for Col. *Pureſoy* doth name it. The next is a very dangerous Book of his, called, *A Preparative to the Hue and Cry after Sir* Arthur Haſlerig. Mr. Lieutenant of the *Tower*, you are upon your Oath, I pray you ſpeak your Knowledge to that.

Lieut. of Tower. My Lord, it is true, Lieut. Colonel *Lilburne* gave me in the *Tower* ſuch a Book; but I cannot ſay, whether that be the ſame Book that he delivered to me, or no: I have ſuch a Book alſo at home, but I am not able to ſay that is the very Book he gave me; and whether this be the ſame Book, I know not.

Mr. *Prideaux.* Call Mr. *Nutleigh* and Mr. *Radney.*

[Maſter *Nutleigh* ſworn.]

Lieut. Col. *Lilburne.* I pray let the Witneſſes ſtand here, the Jury ſay they cannot hear them.

[*Edward Radney* called and ſworn.]

Lieut. Col. *Lilburne.* I pray you, let me know what theſe Gentlemen are; I do not know them, neither can I remember at preſent that I ever ſaw them before.

Ld. *Keble.* You ſee they look like Men of Quality.

Mr. *Prideaux.* They are my Servants, Mr. *Lilburne.*

Mr. *Nutleigh.* My Lord, and *(a)* pleaſe your Lordſhip, the 14th of *September* laſt, the Priſoner at the Bar, Lieut. Colonel *John Lilburne*, being before Mr. Attorney-General, and I being by in the Chamber, I did ſee him deliver this Book to Maſter Attorney-General, this ſpecifical Book; and he did own it, and called himſelf the Author of it, ſave only the Erratas of the Printer.

Lieut. Col. *Lilburne.* The laſt Clauſe, I beſeech you, Sir; the Jury deſires to hear the laſt Clauſe.

Mr. *Nutleigh.* My Lord, he *(b)* ſaid he was the Author of that Book, the Erratas of the Printer excepted.

Lieut. Col. *Lilburne.* Let him be aſked this Queſtion, Whether in that Expreſſion, *Saving the Erratas of the Printer*, there did not follow theſe Words, *which are many?* I deſire to know whether there were not ſuch Words, or not?

Mr. *Radney.* I was preſent, my Lord, when the Priſoner at the Bar preſented this Book to Mr. Attorney, and owned it, ſaving the Erratas of the Printer.

Lieut. Col. *Lilburne.* Were there no more Words?

Mr. *Radney.* Not to my Remembrance. [*And ſo ſaid they both.*]

Lieut. Tower. My Lord, I was preſent at the ſame time, when Lieut. Colonel *Lilburne* did preſent a Book to Mr. Attorney-General, with ſuch a Title as this: And truly if I be not much miſtaken, there was uſed by him theſe Words, *which are many.* Thus it was in the whole: Says he, *Here is a Book which is mine, which I will own, the Erratas or Errors of the Printer excepted, which are many*; and if I miſtake not very much, thoſe are the very Words Maſter *Lilburne* ſaid.

Mr. *Attorney.* My Lords, and you Gentlemen of the Jury, you ſee that here are three Witneſſes, and they do all agree in this, that Maſter *Lilburne*, the Priſoner at the Bar, did deliver this Book to me, owning it as his *(c)* own: The Errors or Erratas of the Printer only excepted. And as for that Clauſe, *which are many*, only the Lieutenant of the *Tower* ſwears to that ſingly; and therefore I deſire it may remain in Court, as that individual Book that they ſaw Maſter *Lilburne* give me. But, my Lord, there is another Book in the Indictment, intitled, *The legal fundamental Liberty of the People of* England *revived and aſſerted: Or, An Epiſtle written the Eighth of* June, 1649, *by Lieutenant-Colonel* John Lilburne, *to Mr.* William Lenthall, *Speaker to the Remainder of thoſe few Knights, Citizens, and Burgeſſes, that Colonel* Thomas Pride, *at his late Purge, thought convenient to leave ſitting at* Weſtminſter. My Lords, for this Book, it owns Maſter *Lilburne*, if he will own it, it hath his Name to it; But I have my Leſſon from him; my Lord, he will

(a) But Mr. Lilburne *hath been heard to profeſs, he ſaw not theſe Gentlemen in the Chamber that he diſcourſed with Mr.* Prideaux *in, altho' he looked divers times about him.*

(b) That is an errant Lye; for divers that heard the Words, aver them to be thus: It is my Book, and I will own it; *and ſo it might be, although he had bought it.*

(c) So is an Ox a Man buys with his Money, it is his own; and ſo is a Gold Ring he ſtuds, after he hath found it, it is his own: And yet it doth not follow, that the Owner either begot the Ox, or made the Gold Ring.

own

own nothing; he will publish enough, but, my Lord, he will not own it when he comes to be questioned for it; that is not the true Principle of a true Christian, nor an *Englishman*, nor a Gentleman.

Lieut. Col. *Lilburne*. I deny nothing, by your Favour.

Mr. *Attorney*. And confess as little. My Lord, for this you have two Books in proof before you: *The Preparative to the Hue and Cry*, and the *Salva Libertate* owns these very individual Books: For the *Preparative to the Hue and Cry*, in the marginal Note at the second Page, owns and avows this Book, called, *The Legal Fundamental*, &c. to be Master *Lilburne*'s. And Master *Lilburne* himself did own *the Preparative to the Hue and Cry* before three Witnesses to be his: and therefore the *Salva Libertate*, Mr. Lieutenant of the *Tower* hath sworn that he received it from his own Hands. My Lords, as for this Book the *Salva*, which he does not acknowledge, we shall read the Words in the Indictment, although it had been as ingenuous for Master *Lilburne* to have confess'd it, as for us to have prov'd it: And for the proof of it, read the Title.

Clerk. The Title read: *A Preparative to an Hue and Cry after Sir* Arthur Haslerig, *a late Member of the forcibly dissolved House of Commons; and now the present Wicked, Bloody, and Tyrannical Governor of* Newcastle upon Tyne.

Mr. *Prideaux*. Read the marginal Note in Page 2.

Clerk. Page 2. in the Margin: 'That those Men that now sit at '*Westminster* are no Parliament, either upon the Principles of Law or 'Reason: See my Argument and Reasons therefore, in my second Edi-'tion of my Book of the 8th of *June* 1649, intitled, *The Legal Funda-'mental Liberties of the People of* England *revived and asserted*, pag. 48, '49, to 63.'

Mr. *Attorney*. This Book hath Mr. *Lilburne*'s Name to it, and here in this his *Hue and Cry* he owns it, and the third Page in the Margin hath it again.

Clerk. Page 3. 'Peruse carefully, I intreat you, the Quotations in 'the 6th and 8th Pages of my forementioned Impeachment of High 'Treason against *Cromwell*: As also of the 12th and 15th Pages of the 'second Edition of my forementioned Book, dated the 8th of *June*, 1649, 'intitled, *The Legal Fundamental Liberties*, &c.'

Mr. *Attorney*. Read the fourth in the Body of the Book.

Clerk. Page 4. 'At which Trial, by Strength of Arguments, I forced 'the Judges openly to confess, that Generals were nothing in Law: See 'also the second Edition of my Book of the 8th of *June*, 1649, intitled, '*The Legal Fundamental Liberties of the People of* England *revived, as-'serted, and vindicated*, pag. 49.'

Lieut. Col. *Lilburne*. Let him speak whether it be 29 or 49.

Clerk. Forty-nine; but there is not so many Pages in the Book).

Mr. *Attorney*. Mr. Lord, here is a *Salva Libertate*, which is his own Book, tho' he will not own it. My Lord, I had thought the great Champion of *England* for the People's Liberties, would never have been so unworthy as not to have owned his own Hand: but read in the 24th Page of the *Salva* in his own written Hand.

Clerk. Page 24. 'I have by almost eight Years dear-bought Experi-'ence found the Interest of some of my forementioned Judges 'to be too strong for me to grapple with, and the only * Cause, 'to my apprehension, that all this while keeps me from my 'own.' And in the Margin he saith; 'See also the second 'Edition of my forementioned Book, intitled, *The Legal 'Fundamental Liberties of the People of* England *revived*, &c.'

* *This was brought in by Iretd and Ironsides.*

Mr. *Attorney*. Now, my Lord, there is the *Salva Libertate* that was given from his own Hand, that owns it; I mean this Book, called, *The Legal Fundamental Liberties*, &c.

Mr. *Attorney*. Read the Title of it.

Clerk. *A* Salva Libertate *sent to Col.* Francis West, *Lieutenant of the* Tower *of* London, *on* Friday *the 14th of* September, 1649, *by Lieut. Col.* John Lilburne.

Mr. *Prideaux*. Read where it is marked.

Clerk. 'But if you would produce unto me a written Warrant which 'hath some more Face of legal Magistracy in it than verbal Commands, 'and according to my Right and Privilege let me read it; I would go 'with you either by Land or Water as you please, because I was in no 'capacity to resist you: Altho' I then told you I judg'd a Paper-Warrant '(altho' in Words never so formal) coming from any pretended Power or 'Authority in *England* now visible, to be altogether illegal; because the 'intruding General *Fairfax*, and his Forces, had broke and annihilated 'all the formal and legal Magistracy of *England*, yea, the very Parliament 'itself; and by his Will and Sword (absolute Conqueror like) had most 'tyrannically erected, set up, and imposed upon the free People of this 'Nation, a Juncto, or Mock-Power sitting at *Westminster*, whom he and 'his Associates call a Parliament; who, like so many armed Thieves and 'Robbers upon the Highway, assume a Power by their own Will, most 'traitorously to do what they like.'

Mr. *Attorney*. That's not the Place, look towards the latter End.

Clerk. Then here it is: 'Sure I cannot chuse but acquaint you, that 'I have long since drawn and published my Plea against the present 'Power, in my second Edition of my Book of the 8th of *June* 1649, in-'titled, *The Legal Fundamental Liberties of the People of* England *revived, 'asserted, and vindicated*; which you may in an especial manner read 'in the 43d, 44th, 45th, to the 49th Page: Which by the Strength of 'the Lord God Omnipotent, my large experienced Help in Time of 'Need, I will seal with the last Drop of my Blood.'

Mr. *Attorney*. My Lord, For the Book called *The Legal Fundamental Liberties of* England, his Name is to the Book; but I shall not put much Weight upon that: But in others of his Books, as in his *Preparative to an Hue and Cry*, which he owns, and which is proved he owns by three Witnesses, in several Places of that Book he owns this as his Book, *viz. The Legal Fundamental Liberties of* England *revived*, &c. he calls it *mine*, and *his forementioned Book*: And in his *Salva Libertate* he owns it again, gives it the very Date, and the very Title that is in this Book. My Lords, we have done with this. My Lords, now I shall go on to make use of it, and to shew (my Lord) out of these Books his Words and Language, to make good the Charge that hath been read in the Indictment against Mr. *Lilburne*. My Lords, if you please, for that I shall begin first in reading to the Jury the very Act itself, which makes the Fact to be Treason.

My Lord, for that, here is the Act that doth declare the Commonwealth for the future to become hereafter a Free State; and the other declaring that Fact to be Treason, that shall say it is Tyrannical or Unlawful. These are general Acts which need not be prov'd; but if the Prisoner does desire it, we shall prove it.

Clerk. *Die Lunæ*, 14 *May*, 1649. Ordered by the Commons assembled in Parliament.

Lieut. Col. *Lilburne*. Hold, Sir! Prove your Act first, whether it be an Act of Parliament.

Mr. *Attorney*. My Lords, I shall not struggle with Mr. *Lilburne* in plain Terms; but I thought when Acts were published, the Courts of Justice were bound in Duty to take Notice of them: But if it be so he will have it proved, we will; altho' it be but a slender Cavil, for this is one of the published Copies.

Lieut. Col. *Lilburne*. But under your Favour, Mr. *Prideaux*, as there may be Counterfeit Money (which we see there is every Day), so there may be Counterfeit Statutes too; and this may be one, for any thing I know; therefore I desire it may be prov'd to be a true Statute or Act of Parliament.

Mr. *Nutleigh*. This is a true Copy of the Act of Parliament, which I examined with the Record.

Lieut. Col. *Lilburne*. The Record! Where is that to be found?

Mr. *Nutleigh*. At *Westminster*, with the Clerk of the Parliament.

Lieut. Col. *Lilburne*. Is this Gentleman able to depose it to be a true Law in all the Parts of it? For by the Laws of *England*, the People are not to take any notice of Acts made, but by a Parliament; neither are they to take Notice of those Acts that are not proclaimed. Sir, I beseech you let me know where the Record and Rolls are, and where he examined this; and whether he is able to swear, whether they have been proclaimed in every Hundred and Market-Town, according to the old, and not yet repealed Law of *England*.

Ld. *Keble*. At *Westminster*, he tells you.

Lieut. Col. *Lilburne*. I beseech you, where at *Westminster*?

Ld. *Keble*. The Clerks of the Parliament are known to the City of *London* here, you know it well enough.

Lieut. Col. *Lilburne*. That is no Answer to my Questions: I pray let me have fair Play; for it is a Question to me, whether the Books of the Clerk of the House of Commons be a *(a)* Record in Law, or no.

Ld. *Keble*. Read, Clerk.

Clerk. *An Act of the 14th of* May 1649, *declaring what Offences shall be adjudged Treason.*

'WHEREAS the Parliament hath abolished the Kingly Office in '*England* and *Ireland*, and in the Dominions and Territories 'thereunto belonging, and hath resolved and declared that the People 'shall for the future be governed by its own Representatives, or National 'Meetings in Council, chosen and intrusted by them for that Purpose; 'hath settled that Government in the Way of a Commonwealth and Free 'State, without King or House of Lords: Be it therefore enacted by 'this present Parliament, and by the Authority of the same, That if any 'Person shall maliciously or advisedly publish, by writing, printing, or 'openly declaring, That the said Government is Tyrannical, Usurped, 'or Unlawful; or that the Commons in Parliament assembled are not 'the Supreme Authority of this Nation; or shall plot, contrive, or en-'deavour to stir up or raise Force against the present Government, or for 'the Subversion or Alteration of the same, and shall declare the same 'by any open Deed: That then every such Offence shall be taken, 'deemed, and adjudged by the Authority of this present Parliament to be 'High Treason. And whereas the Keepers of the Liberty of *England*, 'and the Council of State constituted, and to be from Time to Time 'constituted, by Authority of Parliament, are to be, under the said Re-'presentatives in Parliament, intrusted for the Maintenance of the said 'Government with several Powers and Authorities, limited, given, and 'appointed unto them by the Parliament: Be it likewise enacted by the 'Authority aforesaid, That if any Person shall maliciously and advisedly 'plot, or endeavour the Subversion of the said Keepers of the Liberty of '*England*, or the Council of State, and the same shall declare by any 'open Deed; or shall move any Person or Persons for the doing thereof, 'or stir up the People to rise against them, or either of them there, or 'either of their Authorities; that then every such Offence and Offences 'shall be taken, deemed, and declared to be High Treason.

'And whereas the Parliament, for their just and lawful Defence, have 'raised and levied the Army and Forces under the Command of *Thomas* 'Lord *Fairfax*, and are at present necessitated, by reason of the manifold 'Distractions within this Commonwealth, and Invasions threatned from 'abroad, to continue the same; which under God must be the instru-'mental Means of preserving the well-affected People of this Nation in 'Peace and Safety: Be it further enacted by the Authority aforesaid, 'That if any Person, not being an Officer, Soldier, or Member of the 'Army, shall plot, contrive, or endeavour to stir up any Mutiny in the 'said Army, or withdraw any Soldiers or Officers from their Obedience 'to their superior Officers, or from the present Government, as afore-'said; or shall procure, invite, aid, or assist, any Foreigners or Stran-'gers to invade *England* or *Ireland*; or shall adhere to any Forces raised 'by the Enemies of the Parliament, or Commonwealth, or Keepers of 'the Liberties of *England*; or if any Person shall counterfeit the Great 'Seal of *England* (for the time being) used and appointed by Autho-'rity of Parliament: That then every such Offence and Offences shall 'be taken, deemed, and declared by the Authority of this Parlia-'ment, to be High-Treason; and every such Person shall suffer Pain 'of Death, and shall forfeit unto the Keepers of the Liberty of

(a) And well might be: for Mackwel, *in his* Manner of passing of Statutes, *in his Preface thereunto, saith, That the Commons had no Journals at all before* Edward *the* [illegible].

England

'*England*, to and for the Uſe of the Commonwealth, all and ſingular 'his and their Lands, Tenements and Hereditaments, Goods and Chattels, 'as in caſe of High-Treaſon hath been uſed by the Laws and Statutes of 'this Land, to be forfeit and loſt. Provided always, That no Perſons 'ſhall be indicted and arraigned for any of the Offences mentioned in this 'Act, unleſs ſuch Offenders ſhall be indicted or proſecuted for the ſame 'within one Year after the Offence committed.'

Mr. *Prideaux*. Read the other Statute.

Clerk. Tueſday, 17 *July* 1649. *Ordered by the Commons aſſembled in Parliament, That this Act be forthwith printed and publiſhed.* Hen. Scobell, Cler. Parl.

An Act declaring what Offences ſhall be adjudged Treaſon.

'WHEREAS the Parliament hath aboliſhed the Kingly Office 'in *England* and *Ireland*, and in the Dominions and Territories 'thereunto belonging; and having reſolved and declared, that the Peo-'ple ſhall for the future be governed by its own Repreſentatives, or 'National Meetings in Council, choſen and entruſted by them for that 'purpoſe, hath ſettled the Government, by way of a Commonwealth, 'and Free State, without King or Houſe of Lords: Be it enacted by 'this preſent Parliament, and by the Authority of the ſame, That if 'any Perſon ſhall maliciouſly or adviſedly publiſh by writing, printing, 'or openly declaring, That the ſaid Government is tyrannical, uſurp-'ed or unlawful; or that the Commons in Parliament aſſembled are 'not the Supreme Authority of this Nation; or ſhall plot, contrive 'or endeavour to ſtir up, or raiſe Force againſt the preſent Government, 'or for the Subverſion or Alteration of the ſame, and ſhall declare the 'ſame by any open Deed; that then every ſuch Offence ſhall be taken, 'deemed and adjudged by Authority of this Paliament, to be High-'Treaſon. And whereas the Keepers of the Liberties of *England*, and 'the Council of State, conſtituted and to be from Time to Time 'conſtituted by Authority of Parliament, are to be, under the ſaid 'Repreſentatives in Parliament, entruſted for the Maintenance of 'the ſaid Government with ſeveral Powers and Authorities li-'mited, given and appointed unto them by the Parliament: Be 'it likewiſe enacted by the Authority aforeſaid, That if any Perſon ſhall 'maliciouſly and adviſedly plot or endeavour the Subverſion of the ſaid 'Keepers of the Liberties of *England*, or the Council of State, and 'the ſame ſhall declare by any open Deed, or ſhall move any Perſon or 'Perſons for the doing thereof, or ſtir up the People to riſe againſt them, 'or either of them, their, or either of their Authorities; that then 'every ſuch Offence and Offences ſhall be taken, deemed and declared 'to be High Treaſon. And whereas the Parliament, for their juſt and law-'ful Defence, hath raiſed and levied the Army and Forces now under 'the Command of *Thomas* Lord *Fairfax*, and are at preſent neceſſitated 'by reaſon of the manifold Diſtractions within this Commonwealth, and 'Invaſions threatned from abroad, to continue the ſame, which, under 'God, muſt be the inſtrumental Means of preſerving the well-affected 'People of this Nation in Peace and Safety: Be it further enacted by 'the Authority aforeſaid, That if any Perſon, not being an Officer, Sol-'dier, or Member of the Army, ſhall plot, contrive or endeavour to ſtir 'up any Mutiny in the ſaid Army, or withdraw any Soldiers or Officers 'from their Obedience to their ſuperior Officers, or from the preſent 'Government, as aforeſaid; or ſhall procure, invite, aid or aſſiſt any 'Foreigners or Strangers to invade *England* or *Ireland*, or ſhall adhere to any 'Forces raiſed by the Enemies of the Parliament, or Commonwealth, 'or Keepers of the Liberty of *England*: or if any Perſon ſhall counterfeit 'the Great Seal of *England*, for the time being, uſed and appointed by 'Authority of Parliament: that then every ſuch Offence and Offences 'ſhall be taken, deemed and declared by Authority of this Parliament 'to be High-Treaſon; and every ſuch Perſon ſhall ſuffer Pains of Death, and 'alſo forfeit unto the Keepers of the Liberty of *England*, to and for the Uſe 'of the Commonwealth, all and ſingular his and their Lands, Tenements 'and Hereditaments, Goods and Chattels, as in caſe of High-Treaſon 'hath been uſed by the Laws and Statutes of this Land to be forfeit and 'loſt. Provided always, That no Perſons ſhall be indicted and arraigned 'for any the Offences mentioned in this Act, unleſs ſuch Offenders ſhall 'be indicted and proſecuted for the ſame within one Year after the Of-'fence committed. And be it further enacted by the Authority afore-'ſaid, That if any Perſon ſhall counterfeit the Money of this Common-'wealth, or ſhall bring any falſe Money into this Land, counterfeit, or 'other like to the Money of this Commonwealth, knowing the Money to 'be falſe, to merchandiſe or make Payment, in Deceit of the People of 'this Nation; or if any Perſon ſhall hereafter falſly forge, and counter-'feit any ſuch kind of Coin of Gold or Silver as is not the proper Coin 'of this Commonwealth, and is or ſhall be current within this Nation, 'by Conſent of the Parliament, or ſuch as ſhall be by them authorized 'thereunto; or ſhall bring from the Parts beyond the Seas into this 'Commonwealth, or into any the Dominions of the ſame, any ſuch 'falſe and counterfeit Coin of Money, being current within the ſame, as 'is aboveſaid, knowing the ſame Money to be falſe and counterfeit, to 'the intent to utter or make payment with the ſame, within this Common-'wealth, by Merchandiſe or otherwiſe; or if any Perſon ſhall impair, 'diminiſh, falſify, clip, waſh, round or file, ſcale or lighten, for wicked 'Lucre or Gain-ſake, any the proper Monies or Coins of this Common-'wealth, or the Dominions thereof, or of the Monies or Coins of any 'other Realm, allowed and ſuffered to be current within this Common-'wealth or the Dominions thereof: that then all and every ſuch Offences 'above-mentioned, ſhall be, and are hereby deemed and adjudged High-'Treaſon; and the Offenders therein, their Counſellors, Procurers, Aiders 'and Abettors, being convicted according to the Laws of this Na-'tion of any of the ſaid Offences, ſhall be deemed and adjudged Trai-'tors againſt this Commonwealth, and ſhall ſuffer and have ſuch Pains 'of Death and Forfeitures, as in caſe of High-Treaſon is uſed and or-'dained. Provided always, and be it enacted by the Authority afore-'ſaid, That this Act touching the Monies and Coins aforeſaid, or any 'thing therein contained, nor any Attainder of any Perſon for the ſame, 'ſhall in any wiſe extend, or be judged to make any Corruption of 'Blood to any the Heir or Heirs of any ſuch Offender, or to make the 'Wife of any ſuch Offender to loſe or forfeit her Dower of or in any 'Lands, Tenements or Hereditaments, or her Title, Action or Intereſt 'in the ſame.'

Mr. Attorney. My Lords, and you Gentlemen of the Jury, you have heard theſe Laws read unto you: The Clauſes that we are to make out in Proof againſt Mr. *Lilburne*, are theſe: That if any Perſon ſhall maliciouſly or adviſedly publiſh by writing, printing, or openly declaring that the ſaid Government is tyrannical, uſurped or unlawful; or that the Commons in Parliament aſſembled are not the Supreme Authority of this Nation, are Traitors: Theſe we ſhall join together with his Books. My Lord, you are here in Court, and have received the Proofs againſt him; and we ſhall now make it out, that he hath done what this Statute forbids, out of his own Books that have come from himſelf, as the Author of them. My Lord, we ſhall begin with that Charge againſt him, in declaring the Government to be tyrannical, uſurped and unlawful; and for that end, ſee his *Impeachment of Lieutenant-General* Cromwell, *&c.* p. 8.

Juſtice *Jermin*. Mr. *Lilburne*, doth your Paper of the 17th of *May* agree with that which was read, or no?

Lieut. Col. *Lilburne*. No, Sir; I conceive, Sir, you aſk'd me whether this Act I have in my Hand, do agree with that which was read?

Juſtice *Jermin*. Yes, Sir, I do.

Lieut. Col. *Lilburne*. It does not.

Juſtice *Jermin*. Then you will make uſe of it by and by?

Lieut. Col. *Lilburne*. I, Sir, intend ſo, if you will let me.

Mr. Attorney. My Lord, the firſt is, That Mr. *Lilburne* hath declared the preſent Government to be tyrannical, uſurped and unlawful: and that *in ipſiſſimis verbis*, that he hath ſo declared, in a very high way, in the very Words: So his Book, entitled, *An Impeachment of High-Treaſon againſt* Oliver Cromwell, *and his Son-in-law* Henry Ireton, *&c.* Read *fol.* 8.

Clerk. Fol. 8. 'Yea, and the abſolute keeping up of a perpetual and 'everlaſting Army, under which the People are abſolute and perfect 'Slaves and Vaſſals, as by woful and lamentable Experience they now ſee 'they perfectly are; which Slavery and abſolute Bondage is like daily to 'increaſe under the preſent tyrannical and arbitrary, new erected, rob-'bing Government.'

Mr. Attorney. And ſo, my Lord, it is here expreſſed to be a tyrannical and arbitrary Government, which are expreſly within the Words of the Law; for they are *a tyrannical Government*. My Lords, we ſhall not ſtick here with him, but you ſhall ſee the whole Courſe of all his Pen's Writing hath been to this Purpoſe: That goes very far, my Lord; ſee the Title-page of the laſt Book.

Clerk. Title-page. 'Before a legal Magiſtracy, when there ſhall be 'one in *England*, which now in the leaſt there is not.'

Mr. *Attorney*. See *fol.* 1.

Clerk. Page 1. 'I have fully, both by Law and Reaſon, undeniably and 'unanſwerably proved, that the preſent Juncto ſitting at *Weſtminſter* are no 'Parliament at all in any Senſe, either upon the Principles of Law or 'Reaſon, but are a Company of uſurping Tyrants and Deſtroyers of 'your Laws, Liberties, Freedoms and Proprieties, ſitting by vertue of 'the Power and Conqueſt of the Sword.'

Mr. Attorney. Read the Title-page of the ſame Book.

Clerk. *An Impeachment of High-Treaſon againſt* Oliver Cromwell, *and his Son-in-law* Henry Ireton, *Eſquires, Members of the late forcibly diſſolved Houſe of Commons; preſented to publick view, by Lieutenant-Colonel* John Lilburne, *cloſe Priſoner in the Tower of* London, *for his real, true and zealous Affections to the Liberties of his native Country*. In which following Diſcourſe or Impeachment he engageth, upon his Life, either upon the Principles of Law (by way of Indictment, the only and alone legal way of all Trials in *England*) or upon the Principles of Parliaments antient Proceedings, or upon the Principles of Reaſon (by Pretence of which alone they lately took away the King's Life), before a legal Magiſtracy, when there ſhall be one again in *England*, which now in the leaſt there is not.

Mr. Attorney. Indeed, my Lord, and you of the Jury, Mr. *Lilburne* is a very great Rooter, not a Leveller, but a Rooter to root out the Laws of *England* by the Roots.

J——. There is not——

Lieut. Col. *Lilburne*. By your favour, Mr. *Prideaux*, I knew the time when others ſaid it as well of you; and it is not long ſince you were penn'd down in a black Bill, to my Knowledge, as unſavoury Salt, with many others, to be thrown out of the Houſe of Commons. I pray, Sir, whether were thoſe Rooters that went about to root up that Houſe by force of Arms, or Mr. *Prideaux* and others to give them cauſe, at leaſt in their Apprehenſions?

Mr. Attorney. My Lord, a legal Magiſtracy in *England*, as now, he ſaith, in the leaſt there is not: if there be no Magiſtracy, I will conclude, there is no Propriety left in this Nation; but Mr. *Lilburne* ſaith, there is no Magiſtracy; and if ſo, then no Propriety.

Lieut. Col. *Lilburne*. It would be a very ſtrange Argument that you would infer; I wiſh you and I were to diſpute that in point of Law for our Lives, that to deny a Magiſtracy legally conſtituted, according to the Formalities of Law, does not deſtroy Propriety. For indeed, Sir, Propriety is an Antecedent to Magiſtracy, and is firſt in being before it. But, Sir, to end the Diſpute, he that owns the Law of *England* (as I do) that diſtinguiſheth *meum* and *tuum*, can never be a Deſtroyer of Propriety: I wiſh your Practice were as conſonant to Propriety as my Principles.

Mr. Attorney. Read the ſecond Page at the Mark.

Clerk. 'Now, I ſay, conſidering that which is before declared, I can-'not upon any terms in the world, either with Safety, Juſtice or Con-'ſcience,

'science, as things ſtand with me at preſent, give my Conſent, but hinder (as much as I am able) all Addreſſes from me, or any other that ſhall own the uſurping Tyrants as a Parliament, eſpecially by Petition, which was a Courſe (ſaith the pretended Parliament Solicitor againſt the King, in his *Caſe* ſtated, page 24.) which God's People did not take with *Rehoboam*; for they never petitioned him (although he was their lawful Supreme Magiſtrate), but adviſed him: he refuſing their Counſel, and hearkening to young and wicked Counſellors, they cry out, *To thy Tents, O* Iſrael! and made quick and ſhort Work of it.'

Mr. *Prideaux*. My Lord, here are Words again to make good as aforeſaid, That the Parliament are uſurping Tyrants. Read alſo *Page* 28.

Clerk. Read on *Page* 28. in the Margin of the ſaid Book. 'And if 'thoſe very things ſhould be judged Treaſon, as they are, and were in the 'Earl of *Strafford*, I wonder what ſhould become of all our preſent 'Juncto at *Weſtminſter*, and their new Thing called a *Council of State*? 'Undoubtedly the moſt, if not all of them, muſt go to *Tyburn* or *Tower-hill*, there by a Halter or Ax to receive their juſt Deſerts. *Amen*.

Mr. Attorney. There is an *Amen* pronounced to us, let him have it that deſerves it: But go on. Read the 11th *Page* of his Book called, *The Apprentices Out-cry*.

Clerk reads Page 11. 'We ſay, conſidering what is before premiſed, 'we are neceſſitated and compelled to do the utmoſt we can for our 'own Preſervation, and the Preſervation of the Land of our Nativity, 'and never by popular Petitions, *&c.* addreſs our ſelves to the Men ſitting at *Weſtminſter* any more, or to take any more notice of them, than 'as of ſo many Tyrants and Uſurpers; and for time to come to hinder '(as much and as far as our poor deſpiſed Intereſt will extend to) all 'others whatſoever from ſubſcribing, or preſenting any more popular Petitions to them; and only now as our laſt Paper-Refuge, mightily cry out 'to each other, of our intolerable Oppreſſions, in Letters and Remonſtrances ſigned in the behalf, and by the appointment of all the reſt, by 'ſome of the ſtouteſt and ſtiffeſt among us, that we hope will never apoſtatize, but be able, thro' the Strength of God, to lay down their very 'Lives for the maintaining of that which they ſet their Hands to.'

Mr. Attorney. Read *Page* 2.

Clerk reads on Page 2. 'But even our Parliament (the very Marrow and 'Soul of all the People's native Rights) put down, and the Name and Power 'thereof tranſmitted to a pick'd Party of your forcible ſelecting, and ſuch 'as your Officers (our Lords and Riders) have often and frequently ſtyled no better than a Mock-Parliament, a Shadow of a Parliament, a ſeeming Authority, or the like, pretending the Continuance thereof, but till 'a new and equal Repreſentative by mutual Agreement of the free People 'of *England*, could be elected; although now for Subſerviency to their 'Exaltation and Kingſhip, they prorogue and perpetuate the ſame, in the 'Name, and under Colour thereof, introducing a Privy Council, or, as 'they call it, a *Council of State*, of Superintendency and Suppreſſion to all 'future Parliaments for ever, erecting a martial Government, by Blood 'and Violence impulſed upon us.

Mr. Attorney. Read *Page* 3. at the Mark.

Clerk. Page 3. 'Trade is decayed and fled; Miſery, Poverty, Calamity, Confuſion, yea and Beggary grown ſo ſore and ſo extreme upon the 'People, as the like never was in *England*, under the moſt tyrannical of 'all our Kings that were before theſe in preſent Power, ſince the Days 'of the Conqueror himſelf: no Captivity, no Bondage, no Oppreſſion 'like unto this; no Sorrow and Miſery like unto ours, of being enſlaved, 'undone and deſtroyed by our large pretended Friends.'

Mr. Attorney. Read *Page* 4.

Clerk. Page 4. 'And yet nothing but the groundleſs Wills and Humours 'of thoſe aforementioned Men of Blood rageth and ruleth over us: and is 'this all the Return and Fruit that People are to expect from your Hands?'

Mr. Attorney. Take this *Preparative to an Hue-and-Cry after Sir* Arthur Haſlerig, and read *page* 2.

Clerk reads on. The *Preparative to an Hue-and-Cry after Sir* Arthur 'Haſlerig, at *Page* 2. in the Margin: That thoſe Men that now ſit at *Weſtminſter*, are no Parliament, either upon the Principles of Law or Reaſon.

Mr. Attorney. Read *Page* 3.

Clerk. Page 3. 'They promiſe to amend, and to proceed according to 'the Form of the Law, as fully appears in their laſt fore-mentioned Declaration, and ſeveral others; as particularly the preſent Declaration of 'this preſent Juncto againſt Kingſhip, dated the 17th of *March*, 1648.'

Mr. Attorney. Read *page* 4.

Clerk. Page 4. 'But the ſaid Sir *Arthur Haſlerig*, &c. more arbitrarily, 'and more treacherouſly than *Strafford*, having no Pretence of Regal, Legal, or Parliamentary Commiſſions, or Authority, no not ſo much as 'from the preſent Nothing, or illegal Juncto, or the preſent illegal 'Thing called *the Council of State*, Mr. *John Jordan* now Member.'

Mr. Attorney. My Lord, he doth declare who he means by Juncto; Mr. *Jordan*, a Member of the preſent Juncto, the pretended Houſe of Commons. In the third place, for the firſt Proof of this Particular, I ſhall produce his Book, entitled, *The Legal and Fundamental Liberties of* England *revived*, &c. Read *Page* 41.

Clerk reads Page 41. 'But, Sir, I ſay, no wonder, all the things fore-'going rightly conſidered, they do own you now (as *Thomas Pride* hath 'made you) for the Supreme Authority of the Nation; although before 'they would neither ſubmit to King nor Parliament, (when it was a 'thouſand times more unqueſtionable, both in Law and Reaſon, than now 'you are) but fought againſt both King and Parliament, their Setters up, 'conquered them, repelled them, ſubdued them, and broke them both; 'and ſo pulled up by the Roots all the legal and viſible Magiſtracy and 'Authority in the Nation, and thereby left none but themſelves, who 'ſtand in parallel to none (as they have managed their Buſineſs) but to 'a Company of Murtherers, Thieves and Robbers, who may juſtly be 'diſpoſſeſſed by the firſt Force that are able to do it; no pretended Authority that they of themſelves, and by their Swords can ſet up, having 'in the Sight of either God or Man, either in Law or Reaſon, any more 'juſt Authority in them, than ſo many *Algier* Pirates and Robbers upon 'the Sea have.'

Lieut. Col. *Lilburne*. You read, as I take it, a ſecond Edition; whether is that a ſecond Edition or no?

Mr. Attorney. No, no, it is not ſo in the Indictment; it is no ſecond Edition, but the firſt. Read *Page* 56.

Clerk. Page 56. 'To which I anſwer; Firſt, That that Company of 'Men at *Weſtminſter*, that gave Commiſſion to the High Court of Juſtice 'to try and behead the King, were no more a Parliament by Law, or a 'Repreſentative of the People, by the Rules of Juſtice and Reaſon, than 'ſuch a Company of Men are a Parliament, or Repreſentative of the People, that a Company of armed Thieves chuſe and ſet apart to try, judge, 'condemn, hang, or behead any Man that they pleaſe, or can prevail 'over by the Power of the Sword to bring before them by force of Arms, 'to have their Lives taken away upon pretence of Juſtice, grounded 'upon Rules merely flowing from their Wills and Swords.'

Mr. Attorney. Read the Title-page.

Clerk. *The Legal Fundamental Liberties of the People of* England *revived, aſſerted and vindicated; or an Epiſtle written the eighth of* June 1649, *by Lieutenant-Colonel* John Lilburne *(Arbitrary and Ariſtocratical Priſoner in the Tower of* London) *to Mr.* Will. Lenthall, *Speaker to the Remainder of thoſe few Knights, Citizens and Burgeſſes, that Col.* Thomas Pride *at his late Purge thought convenient to leave ſitting at* Weſtminſter, *(as moſt fit for his and his Maſter's Deſigns, to ſerve their ambitious and tyrannical Ends, to deſtroy the good old Laws, Liberties, and Cuſtoms of* England, *the Badges of our Freedom, as the Declaration againſt the King of the 17th of* March 1648. pag. 23. *calls them, and by force of Arms to rob the People of their Lives, Eſtates and Properties, and ſubject them to perfect Vaſſalage and Slavery, as he clearly evinceth in his preſent Caſe,* &c. *they have done) and who (in truth no otherwiſe than pretendedly) ſtyle themſelves the Parliament of* England.

Mr. Attorney. Read *Page* 2.

Clerk. 'Sir, for Diſtinction-ſake, I will yet ſtyle you *Mr. Speaker*, although it be but to Col. *Pride*'s Juncto, or Parliament ſitting at *Weſtminſter* (not the Nation's, for they never gave him Authority to iſſue 'out Writs to elect or conſtitute a Parliament for them); and a little 'below, in the ſame ſecond Page, I accuſed *Oliver Cromwell* for a wilful 'Murtherer, and deſire you there to acquaint your Houſe therewith (who 'then had ſome little Hand of a Parliament-ſtamp upon it).'

Mr. Attorney. Read *Page* 28.

Clerk. Page 28. 'The like of which Tyranny the King never did in 'his Reign; and yet by St. *Oliver*'s means loſt his Head for a Tyrant. 'But the Thing that I principally drive at here, is to declare that *Oliver* 'and his Parliament, now at *Weſtminſter*, (for the Nation's it is not) having plucked up the Houſe of Lords by the Roots.'

Page 44. 'So that if it be Treaſon to call this a

'a Mock-Parliament, yea, and to ſay

'And if this be true, (for true (*a*) it is, then there is neither legal Juſtice, nor Juſtice of Peace in *England*.'

Mr. Attorney. Read *Page* 37.

Clerk. Page 37. 'For if they ever had intended an Agreement, why do 'they let their own lie dormant in the pretended Parliament ever ſince 'they preſented it? ſeeing it is obvious to every knowing Eye, that 'from the Day they preſented it, to this Hour, they have had as much 'Power over their own Parliament, now ſitting, as any School-Maſter 'in *England* had over his Boys.'

Clerk. Page 45. 'For your Intereſt and the King's, both being Intereſts of Truſt, as your Declarations do plentifully and plainly declare; 'but eſpecially your preſent *Juncto*'s late Declaration againſt the late beheaded King, and Kingly Government.'

Mr. Attorney. Read *Page* 58.

Clerk. Page 58. 'And let the preſent Generation of ſwaying Men, that 'under pretence of Good, Kindneſs, and Friendſhip, have deſtroyed and 'trod under foot all the Liberties of the Nation, and will not let us 'have a new Parliament; but ſet up by the Sword their own inſufferable, 'inſupportable, tyrannical Tyranny.'

Lieut. Col. *Lilburne*. I pray, Sir, are all theſe Quotations in the Indictment *verbatim?* I do not remember that I heard them there.

Mr. Attorney. No, we do not offer any Book but what is charged in the Indictment: For we do ſay, That he publiſhed thoſe Things among other Clauſes and Things in thoſe Books. So that we bring in no Book that is not contained in the Indictment. Read *Page* 64.

Clerk. Page 64. 'That ſo they might rule, direct, and counſel their 'Mock-Parliament.'

Mr. Attorney. Read *Page* 68.

Clerk. Page 68. 'That the High Court of Juſtice was altogether unlawful, in caſe thoſe that had ſet it up had been an unqueſtionable Repreſentative of the People, or a legal Parliament: neither of which they 'are not in the leaſt; but, as they have managed their Buſineſs in oppoſing all their primitive declared Ends, are a Pack of traitorous, ſelf-'ſeeking, tyrannical Men, Uſurpers of the Name and Power of Parliament.

Mr. Attorney. Read *Page* 72.

Clerk. Page 72. 'Then with much more Confidence, ſay I, This that 'now ſits is no Parliament; and ſo by conſequence the High Court of 'Juſtice no Court of Juſtice at all.'

Mr. Attorney. My Lord, that which we ſhall offer you next, is the *Salva Libertate*, which the Lieutenant of the *Tower* had from Mr. *Lilburne* himſelf. Read at the Mark.

Clerk †. 'A *Salva Libertate:* Altho' I then told you I judged a Paper 'Warrant, (altho' in Words never ſo formal) coming from any pretended Power or Authority in *England*, now viſible, to be altogether 'illegal; becauſe the intruding General *Fairfax* and his Forces had 'broke and annihilated all the formal and legal Magiſtracy of *England*, 'yea the very Parliament itſelf; and by his Will and Sword (abſolute 'Conqueror like) had moſt tyrannically erected, and ſet up, and impoſed upon the free People of this Nation a *Juncto* or Mock-'Power, ſitting at *Weſtminſter*, whom he and his Aſſociates call a 'Parliament; who, like ſo many armed Thieves and Robbers upon the

(a) Theſe Words are not in Page 44, *but are in the Book itſelf.*

'Highway, assume a Power, by their own Wills, most traitorously to do 'what they like, yea, and to fill the Land with their mock and pretended 'Magistrates, amongst the Number of which is the pretended Attorney-'General; in perfect Opposition of whom, to the utmost of my Might, 'Power, and Strength; I am resolved, by God's gracious Assistance, to 'spend my Blood, and all that in this World is dear unto me, supposing 'him not really and substantially worthy the Name of an *English* Free-'man, that in some Measure, in this Particular, is not of my Mind.'

Mr. Attorney. My Lord, in the Case of this Charge, what Mr. *Lilburne* is pleased to say concerning me, I shall say no more but only this; I shall not do so by him; I shall not spend my Blood against him. You see what he saith, That the present Government is tyrannical, usurped, and unlawful; that the Commons of *England* in Parliament assembled are not the Supreme Authority, but a *Junto*, a mock Power, a mock Parliament, a Company of Traitors, that rule merely by the Dictates of their own Will. I could alledge more of his Books unto you, which have Words in them very notorious, and very publick. He doth in express Words say, That the Government is arbitrary, tyrannical, and a new-erected, ruining, enslaving, robbing Government: To style them Tyrants, Usurpers, Traitors, parallel to none but Murderers, Robbers, Thieves: No Parliament at all, but *Thomas Pride*'s *Junto*, and School-Boys, Destroyers of the Laws and Liberties of the Nation, the present *Junto* (Chimeras, Fooleries, and the like): All these Expressions, and many more, which I am sorry I have Occasion to repeat to you; that so much Dirt should be thrown into the Face of any Magistrates of *England*: My Lords, these are now the best which do rule. My Lords, I hope you and the Gentlemen of the Jury will take Notice of it, as to be very clear, pregnant, evident Proof, that Mr. *Lilburne* hath thus published, and thus said. And besides this, you see what he does go to. He denies *(a)* Magistracy. So that now we are all alike, a *Chaos*, a Confusion: and this he hath brought us to, or would have endeavoured it. My Lords, I shall not aggravate; and if I did say no more, it were enough. But I come to the second general Head of the Charge; which is, That he hath plotted and contrived to levy or raise Forces to subvert and overthrow the present established Government, in the Way of a free State or Commonwealth. My Lords, if I should say nothing more to the Jury, this that hath been already read is evident Proof of that: For certainly those that shall say that the Governors be Tyrants, that the Parliament is tyrannical, that they are Men of Blood, Destroyers of Laws and Liberties; this cannot be of any other Use but to raise Force against them, for subverting and destroying of them, as he himself saith, as so many Weasels or *(b)* Polecats; especially if you consider to whom these Words were declared, to the Army in general, especially to the General's Regiment of Horse, that helped to plunder and destroy Mr. *Lilburne*'s true Friends, defeated at *Burford*; and some of which were most justly, as Traitors, executed.

My Lords, If I would say nothing more to the Jury but this, there is full and pregnant Proof already: But yet, my Lord, further to shew the Malice of Mr. *Lilburne*'s Heart, and that he did intend to raise Force, to incite and invite them to help him to subvert and destroy the Parliament: And for the Proof of this, read the fifth Page of his *Impeachment of High-Treason against* Oliver Cromwell.

Clerk reads Page 5. 'But, my true Friends, I shall here take upon me 'the Boldness (in regard of the great Distractions of the present Times) 'to give a little further Advice to you, from whose Company or Society '(or from some of them) hath begun and issued out the most transcendent, 'clear, rational, and just Things for the People's Liberties and Free-'doms, that I have seen or read in this Nation, as your notable Petition of '*May* 20, 1647, burnt by the Hands of the common Hangman, recorded 'in my Book, called, *Rash Oaths Unwarrantable*, Page 29, 30, 31, 32, '33, 34, 35. with divers other Petitions of that Nature; and the Petition 'of the 19th of *Jan.* 1647, recorded in the following Discourse, Page '45, 46, 47, 48, *&c.* and the masculine Petition of the 11th of *Sept.* '1648, so much owned by Petitions out of several Counties, yea, and by 'the Officers of the Army's large Remonstrance, from *St. Albans*, of the '16th of *November*, 1648, Page 67, 68, 69. The Substance of all which, 'I conceive, is contained in the printed Sheet of Paper signed by my Fel-'low-Prisoners, *Mr. William Walwyn*, *Mr. Thomas Prince*, and *Mr. 'Richard Overton*, and myself, dated the 1st of *May*, 1649, and intitled, '*An Agreement of the free People of* England, *&c.* The Principles of which 'I hope and desire you will make the final Centre and unwavering Stand-'ard of all your Desires, Hazards, and Endeavours, as to the future Set-'tlement of the Peace and Government of this distracted, wasted, and di-'vided Nation; the firm establishing of the Principles therein contained, 'being that only which will really and in good earnest marry and knit 'that Interest, whatever it be, that dwells upon them, unto the distressed 'and oppressed Commons or People of this Nation. Yea, the settling of 'which Principles is, that that will thereby make it evident and apparent 'unto all understanding People in the World, that the real and hearty 'Good and Welfare of this Nation hath cordially, and in good earnest, 'been that that their Souls have hunted for, and thirsted after, in all the 'late bloody Civil Wars and Contests; all the Contests of the King's 'Party, for his Will and Prerogative, being merely selfish, and so none 'of the People's Interest; and the Contest of the Presbyterians, for their 'make-bate, dividing, hypocritical Covenant, no better in the least; 'and the present Contest of the present dissembling Interest of Independ-'ents, for the People's Liberties in general (read the following Discourse, 'Page 27, 28, 29.), merely no more but Self in the highest, and to set up 'the false Saint, and most desperate Apostate, Murderer, and Traitor, '*Oliver Cromwell*, by a pretended Election of his mercenary Soldiers, un-'der the false Name of the Godly Interest, to be King of *England*, *&c.* '(that being now too apparently all the intended Liberties of the People 'that ever he fought for in his Life); that so he might rule and govern 'them by his Will and Pleasure, and so destroy and evassalize their Lives 'and Properties to his Lusts: Which is the highest Treason that ever 'was committed or acted in this Nation in any Sense or Kind; either, '1. In the Eye of the Law: Or, 2. In the Eye of the ancient (but yet too 'much arbitrary) Proceedings of Parliament: Or, 3. In the Eye of their 'own late declared Principles of Reason (by Pretence of which, and by 'no Rules of Law in the least, they took away the late King's Head); 'Which, if there were any Law or Justice in *England* to be had, or any 'Magistrates left to execute it (as in the least there is not),' *&c.*

Mr. Attorney. Read *Page* 7.

Clerk. Page 7. 'But the Principles of the foresaid Agreement being so 'detestable and abominable to the present ruling Men, as that which they 'know will put a full End to their Tyranny and Usurpation, and really 'ease and free the People from Oppression and Bondage, that it is some-'thing dangerous to those that go about the Promotion of it; yet I shall 'advise and exhort you vigorously to lay all Fear aside, and to set on 'Foot the Promotion of it, in the same Method we took for the Promo-'tion of the foresaid Petition of *January* 19, 1649, laid down in the fol-'lowing Discourse, *Page* 23, 24, 25. and write to your Friends in every 'County of *England*, to chuse out from among themselves, and send up 'some Agents to you (two at least from each County, with Money in 'their Pockets to bear their Charges), to consider with your culled and 'chosen Agents of some effectual Course, speedily to be taken, for the 'settling the Principles thereof (as that only which in an earthly Go-'vernment can make you happy, or at least to know one another's Minds 'in owning and approving the Principles thereof): That so it may be-'come to you and your Friends your Centre, Standard, and Banner, to 'flock together to, in the time of these foreign Invasions and domestick 'Insurrections, that are like speedily to bring Misery enough upon this 'poor and distressed Nation; and unanimously resolve and engage one to 'another, neither to side with, or fight for the Chimeras, Fooleries, and 'Pride of the present Men in Power, nor for the Prince's Will, or any 'other base Interest whatsoever (the which if you should fight for, it would 'be an absolute Murdering of your Brethren and Countrymen, you know 'not wherefore), unless he or they will come up to those just, righteous, 'and equitable Principles therein contained, and give rational and good 'Security for the constant adhering thereunto. And upon such Terms, 'I do not see but you may justifiably, before God or Man, join with the 'Prince himself; yea, I am sure a thousand times more justly than the 'present ruling Men (upon a large and serious Debate) joined with *Owen 'Roe O-Neale*, the grand bloody Rebel in *Ireland*: Who, if we must 'have a King, I, for my Part, had rather have the Prince than any Man 'in the World, because of his large Pretence of Right; which, if he 'come not in by Conquest, by the Hand of Foreigners (the bare attempt-'ing of which may apparently hazard him the Loss of all at once, by 'gluing together the now-divided People, to join as one Man against 'him) but by the Hands of *Englishmen*, by Contract upon the Principles 'aforesaid (which is easy to be done); the People will easily see, that pre-'sently thereupon they will enjoy this transcendent Benefit (he being at 'Peace with all foreign Nations, and having no regal pretended Com-'petitor), *viz.* the immediate disbanding all Armies and Garrisons, sav-'ing the *Old Cinque-Ports*; and so those three grand Plagues of the 'People will cease, *viz.* Free-Quarter, Taxations, and Excise: By 'means of which the People may once again really say, they enjoy some-'thing they can in good earnest call their own. Whereas, for the pre-'sent Army to set up the false pretended Saint *Oliver* (or any other) as 'their elected King, there will be nothing thereby, from the Begin-'ning of the Chapter to the End thereof, but Wars and the cutting of 'Throats Year after Year, yea, and the absolute keeping up of a perpe-'tual and everlasting Army, under which the People are absolute and 'perfect Slaves and Vassals, as by woful Experience they now see they 'perfectly are: Which Slavery and absolute Bondage is daily like to in-'crease under the present tyrannical and arbitrary new-erected robbing 'Government.'

Mr. Attorney. He hath blown the Trumpet, for all that will come in: He hath set up his Centre; he would have it to be a Standard for all his Friends to flock to him. And to make them the more quick in betaking them to their Arms, he hath falsely and maliciously there said, That the Parliament had joined with *Owen Roe O-Neale*; which I can assure all that hear me this Day, the Parliament always detested, abominated, disavowed, and declared against, and never had any Thoughts that Way. My Lord, the false Imputations of his laid upon the Parliament, are almost numberless. But, in the second Place, I come to that pretty Bauble, that's of his own making, the *Agreement of the People*, dated at the *Tower*, the 1st of *May*, 1649, and shall desire your Lordships to judge whether this Agreement of the People, which he made, and his Friends then in the *Tower*, and intitled, *The Agreement of the People*, as signed by them, for they called it *An Agreement of the free People of* England, strikes not at the very Root of all Government.

Lieut. Col. *Lilburne.* Pray, Sir, look whether it be licensed, or no, according to the Law of the Nation; and if it be licensed by publick Authority, how comes it to be Treason? That's very strange!

Mr. Attorney. It is so.

Lieut. Col. *Lilburne.* Pray, Sir, go and question the Licenser, then.

Mr. Attorney. We must question the Author; the Licenser will not excuse it. Read *Page* 2.

Clerk reads Page 2. 'This Agreement being the ultimate End and full 'Scope of our Desires and Intentions concerning the Government of 'this Nation.' And a little below: 'After the long and tedious Pro-'secution of a most unnatural, cruel, home-bred War, occasioned by

(a) *That's false: He doth no such Thing; but at most saith, The Army hath destroyed all the legal Magistracy of the Nation; and they are the Men that thereby are the real Levellers and Rooters.*

(b) *In calling Tyrants Weasels and Polecats, he hath said no more but what he hath learned out of* Saint John's *own Argument of Law against the Earl of* Strafford; *at which you have no Cause to be angry, because they are the Words of one of your own Brother Lawyers.*

'Divi-

'Diviſions and Diſtempers amongſt ourſelves; and thoſe Diſtempers 'ariſing from the Uncertainty of our Government, and the Exerciſe of 'an unlimited or arbitrary Power by ſuch as have been truſted with Su-'preme and Subordinate Authority, whereby Multitudes of Grievances 'and intolerable Oppreſſions have been brought upon us: And finding, 'after eight Years Experience and Expectation, all Endeavours hither-'to uſed, or Remedies hitherto applied, to have increaſed, rather than 'diminiſhed our Diſtractions; and that if not ſpeedily prevented, our 'falling again into Factions and Diviſions will not only deprive us of 'the Benefit of all thoſe wonderful Victories God hath vouchſafed againſt 'ſuch as ſought our Bondage, but expoſe us firſt to Poverty and Miſery, 'and then to be deſtroyed by foreign Enemies.'

Mr. Attorney. Read Page 3.

Clerk. Page 3. 'Agree to aſcertain our Government, to aboliſh all 'arbitrary Power, and ſet Bounds and Limits both to our Supreme and all 'Subordinate Authority, and remove all known Grievances; and accord-'ingly do declare and publiſh to all the World, that we are agreed as 'followeth. Page *ibid.* That the Supreme Authority of *England*, and 'the Territories therewith incorporate, ſhall be and reſide hencefor-'ward in a Repreſentative of the People, conſiſting of Four Hundred 'Perſons, but no more.'

Mr. Attorney. The Manner of the Choice of whom, *&c.* they leave to this Parliament. Read a little below.

Clerk. 'All Things concerning the Diſtribution of the ſaid Four 'Hundred Members proportionable to the reſpective Parts of the Na-'tion, the ſeveral Places for Election, the Manner of giving and taking 'of Voices, with all Circumſtances of like Nature, tending to the 'compleating and equal Proceedings in Elections, as alſo their Salary, 'is referred to be ſettled by this preſent Parliament, in ſuch ſort as the 'next Repreſentative may be in a certain Capacity to meet with Safety 'at the Time herein expreſſed; and ſuch Circumſtances to be made more 'perfect by future Repreſentatives.

'We agree that this preſent Parliament ſhall end the firſt *Wedneſday* in '*Auguſt* next, 1649, thenceforward to be of no Power or Authority; 'and in the mean time ſhall order and direct the Election of a new and 'equal Repreſentative, according to the Intent of this our Agreement; 'and ſo as the next Repreſentative may meet and ſit in Power and Au-'thority, as an effectual Repreſentative, upon the Day following, name-'ly, the firſt *Thurſday* of the ſame *Auguſt*, 1649.

Page ibid. 'We agree, if the preſent Parliament ſhall omit to order 'ſuch Election or Meeting of a new Repreſentative, or ſhall by any 'means be hindered from Performance of that Truſt, that in ſuch Caſe 'we ſhall for the next Repreſentative proceed in electing thereof in 'thoſe Places, and according to that Manner and Number formerly ac-'cuſtomed in the Choice of Knights and Burgeſſes; obſerving only the Ex-'ceptions of ſuch Perſons from being Electors or Elected, as are mention-'ed before in the firſt, third, and fourth Heads of this Agreement: it 'being moſt unreaſonable, that we ſhould either be kept from new fre-'quent and ſucceſſive Repreſentatives, or that the Supreme Authority 'ſhould fall into the Hands of ſuch as have manifeſted Diſaffection to 'our common Freedom, and endeavoured the Bondage of the Nation. 'And for preſerving the Supreme Authority from falling into the Hands 'of any whom the People have not or ſhall not chuſe, we are reſolved and 'agreed (God willing), that a new Repreſentative ſhall meet upon the firſt '*Thurſday* in *Auguſt* next aforeſaid: the ordering and diſpoſing of them-'ſelves, as to the Choice of a Speaker, and the like Circumſtances, is 'hereby left to their Diſcretion; but are in the Extent and Exerciſe of 'Power, to follow the Direction and Rules of this Agreement: and are 'hereby authorized and required, according to their beſt Judgments, to ſet 'Rules for future equal Diſtribution and Election of Members, as is here-'in intended and enjoined to be done, by the preſent Parliament.'

Mr. Attorney. Read Page 8.

Clerk. Page 8. 'And all Laws made, or that ſhall be made, contrary 'to any Part of this Agreement, are hereby made null and void.'

Mr. Attorney. My Lords, here by this *Agreement of the People*, that Mr. *Lilburne* hath publiſhed to the World, in which, my Lord, he hath deſigned how many the Supreme Authority ſhall conſiſt of, the Time when the Parliament ſhall diſſolve, as alſo the Time when his own Par-liament ſhall meet; this Parliament to be diſſolved the firſt *Wedneſday* in *Auguſt* 1649, all Laws contrary to this to be null and void: and in it you ſhall find ſome Expreſſions of Treaſon in the Height, that whoſoever ſhall do contrary to it, ſhall be moſt ſeverely puniſhed. In the next Book before this, it is deſired by him, that this *Agreement of the People* may be the Centre, the Banner, and Standard of all his Friends, and that they go on vigorouſly with it; which is, my Lord, to diſſolve this Parliament, and to put on this new one of Mr. *Lilburne*'s appointing. This, we conceive, which is of Mr. *Lilburne*'s appointing, would (if effected) be an abſolute Subverſion of this in being; and this is High Treaſon. My Lord, we ſhall go on with more yet, and that is with his *Outcry*. My Lord, if you pleaſe to ſee the Title, and ſee to whom it is directed, what was intended to be done with it: it is intitled, *An Outcry of the Young Men and Apprentices of* London, *directed* Aug. 29, 1649, *in an Epiſtle to the Private Soldiery of the Army, eſpecially all thoſe that ſigned the Solemn Engagement at* Newmarket-Heath, *the 5th of* June, 1647, *but more eſpecially to the private Soldiers of the General's Regiment of Horſe, that helped to plunder and deſtroy the honeſt and true-hearted* Engliſhmen, *traiterouſly defeated at* Burford, *the 15th of* May, 1649. A good Encouragement! they were traiterouſly defeated at *Burford*; but we are Rebels and Traitors, and our Army Murderers and Butchers, for giving ſome of thoſe declared Traitors their due Deſerts. But that you may ſee his Tendency by this Book, read Page 11.

Clerk. Page 11. 'We ſay, conſidering what is before premiſed, we are 'neceſſitated and compelled to do the utmoſt we can for our own 'Preſervation, and for the Preſervation of the Land of our Nativity, 'and never (by popular Petitions) addreſs ourſelves to the Men ſitting 'at *Weſtminſter* any more, or to take any more Notice of them than of ſo 'many Tyrants and Uſurpers, and for time to come to hinder (as much 'and as far as our poor deſpiſed Intereſt will extend to) all others what-'ſoever from ſubſcribing or preſenting any more popular Petitions to 'them. And only now, as our laſt Paper-Refuge, mightily cry out to 'each other of our intolerable Oppreſſions, in Letters and Remon-'ſtrances, ſigned in the Behalf, and by the Appointment of all the reſt, 'by ſome of the ſtouteſt and ſtiffeſt amongſt us, that we hope will ne-'ver apoſtatize, but be able through the Strength of God to lay down 'their Lives for the maintaining of that which they ſet their Hands to. 'You our Fellow-Countrymen (the private Soldiers of the Army) 'alone being the inſtrumental Authors of your own Slavery and ours; 'therefore, as there is any Bowels of Men in you, any Love to 'your native Country, Kindred, Friends or Relations, any Spark of 'Conſcience in you, any Hopes of Glory or Immortality in you, or any 'Pity, Mercy or Compaſſion, to an enſlaved, undone, periſhing, and 'dying People! O help! help! ſave and redeem us from total Vaſſal-'age and Slavery, and be no more like Brute-beaſts, to fight againſt us 'or our Friends, your loving and dear Brethren after the Fleſh, to 'your own Vaſſalage as well as ours!

'And as an aſſured Pledge of your future Cordialneſs to us, (and the 'true and real Liberties of the Land of your Nativity) we beſeech and 'beg of you (but eſpecially thoſe amongſt you that ſubſcribed the Solemn 'Engagement at *Newmarket-Heath*, the 5th of *June*, 1647,) ſpeedily to 'chuſe out amongſt yourſelves two of the ableſt and conſtanteſt faithful 'Men amongſt you in each Troop and Company, now at laſt (by cor-'reſponding each with other, and with your honeſt Friends in the Na-'tion) to conſider of ſome effectual Courſe (beyond all Pretences and 'Cheats) to accompliſh the real End of all your Engagements and Fight-'ings, *viz.* the ſettling of the Liberties and Freedom of the People; 'which can never permanently be done, but upon the ſure Foundation of 'a popular Agreement: who (*viz.* the People) in Juſtice, Gratitude, and 'common Equity, cannot chuſe but voluntarily and largely make better 'Proviſion for your future Subſiſtence (by the Payment of your Arrears) 'than ever your Officers or this pretended Parliament intends, or you can 'rationally expect from them: witneſs their cutting off three Parts of 'your Arrears in four, for Free-quarter; and then neceſſitating abun-'dance of your Fellow-Soldiers (now caſhier'd, *&c.*) to ſell their De-'bentures at two Shillings Six-pence, three Shillings, and at moſt four 'Shillings *per lib.*'

Mr. Attorney. See, my Lord, here we are ſtyled Tyrants, Uſurpers, introducing Government-Oppreſſions of the People; and Mr. *Lilburne* is reſolved with his Friends to join together, and to lay down their very Lives for this. This, I think, is a Trumpet blown aloud for all the diſcontent-ed People in the Nation to flock together, to root up and deſtroy this Par-liament, and ſo the preſent Government. But read alſo the ſame Book, *Pag.* 9.

Clerk. Pag. 9. 'For the effectual Promotion of which ſaid Agree-'ment, we are neceſſitouſly compelled to reſolve in cloſe Union to join 'our-ſelves, our Commiſſioners (choſen for that End) in Council, with 'our foreſaid *Burford* Friends, or their Commiſſioners; and to reſolve to 'run all Hazards to methodize all our honeſt Fellow-Prentices, in all the 'Wards of *London*, and the Out-pariſhes, to chuſe out their Agents 'to join with us or ours, to write exhortative Epiſtles to all the honeſt-'hearted Freemen of *England*, in all the particular Counties thereof, to 'erect ſeveral Councils amongſt themſelves; out of which we ſhall deſire '(and exhort) them to chuſe Agents or Commiſſioners (impowered and 'intruſted by them) ſpeedily to meet us and the Agents of all our (and the 'Agreement of the People) Adherents at *London*, reſolvedly to conſi-'der of a ſpeedy and effectual method and way how to promote the Elec-'tion of a new and equal Repreſentative, or Parliament, by the Agree-'ment of the free People: Seeing thoſe Men that now ſit at *Weſtminſter*, 'and pretendedly ſtyle themſelves the Parliament of *England*, and who are 'as they ſay (altho' moſt falſly) in the Declaration for a Free State, dated '*March* 17, 1648, *pag.* 27. intruſted and authorized by the Conſent of all 'the People of *England*, whoſe Repreſentatives they are; make it their 'chiefeſt and principalleſt Work, continually to part and ſhare amongſt 'themſelves all the great, rich, and profitableſt Places of the Nation; as 'alſo the Nation's public Treaſure and Lands; and will not eaſe our 'intolerable Oppreſſions, no not ſo much as of late receive our popular Pe-'titions, having upon *Thurſday* laſt, *Aug.* 23, 1649, rejected that moſt 'excellent of Petitions ready at their Door to be preſented to them by di-'vers honeſt Men (our true-hearted Neighbours of *Surrey*), the true Copy 'of which, for the Worth of it, altho' it be at large already printed in *Fri-'day Occurrences*, and the *Tueſday-Moderate*, we deſire here to inſert.'

Mr. Attorney. My Lord, this is a loud one! Whom does he join us withal, but only with thoſe very Men that juſtly ſuffered Death, many of them, for it? My Lord, now it's reſolved that theſe Men ſhall be cloſe-ly joined with them; and what to do? Still to promote *The Agreement of the People*, that which Mr. *Lilburne* hath hatched, and that muſt be the Baby that thoſe declared open Traitors and Rebels, that Mr. *Lilburne* will join with, muſt nouriſh up. My Lord, we ſhall go on further to ſhew, what Mr. *Lilburne* drives at; which is not much differing from us, for he would have a Free State: but, my Lord, this that is now in being, it doth not go in Mr. *Lilburne*'s Way, and therefore it muſt be overgrown by Force and Arms, that ſo Way may be made for his new *(a)* Commonwealth. We ſhall go further on, my Lord, and in the next place quote his Book, intitled, *The Legal Fundamental Liberties of the People of* England *revived, aſſerted, and vindicated*, &c. Read *Page* 57.

(a) And yet a few Days before his Trial, ſeveral principal leading Members of the Houſe and Council of State told his Wife, and ſeveral others of his Friends, That Mr. Lilburne *was turned Cavalier, and had joined with the Prince, and they had ſeveral Letters under his own Hand to prove it.*

Clerk

Clerk reads *page* 57. 'And the preſent Setters up of this tyrannical new 'Commonwealth, conſidering their many Oaths, Covenants, Promiſes, 'Declarations, and Remonſtrances to the contrary, (with the higheſt 'Promiſes and Pretences of Good for the People and their declared 'Liberties, that ever was made by Men) are the moſt perjured, per-'fidious, falſe, Faith and Truſt-breakers, and Tyrants, that ever liv-'ed in the World; and ought by all rational and honeſt Men to 'be the moſt deteſted and abhorred of all Men that ever breathed, by 'how much the more under Pretence of Friendſhip and Brotherly-Kind-'neſs they have done all the Miſchief they have done, in deſtroying our 'Laws and Liberties.'

Mr. Attorney. My Lord, and you Gentlemen of the Jury, you ſee Mr. *Lilburne* hath been pleaſed very often to give the Name of Tyrants to the Parliament: I would give no other Inſtance, nor ſhew no other Example but Mr. *Lilburne* himſelf, to diſprove himſelf; and with much Confidence affirm it, that never State had before, (neither King nor State) ſince the Foundations of it, ſo much Enmity, nor have endured with ſo much Patience any Man whatſoever, as they have done Mr. *Lilburne*; who notwithſtanding all his traitorous Provocations, and traitorous Deſigns, undertaken againſt them, is yet alive at this Day, and now hath fair Play to plead for his Life. I would take him for his own Confuter, and ſee by all that has been done by him, and ſee if he could make good his Actings, and make good the Parliament's dealing with him therefore, can be demonſtrated by him to proye them Tyrants. My Lord, I can hardly forbear, to ſee and hear his dangerous and deſperate Expreſſions, to invite all People for to take up Arms againſt the Parliament, to cut their Throats like Pole-cats and Weaſels. My Lords, here to ſtyle them the moſt perfidious, perjured, falſe, Faith and Truſt-breakers and Tyrants that ever lived in the World; and to be the moſt abhorred and deteſted of all the People, above all Men that ever breathed: O inſufferable, and the higheſt of Treaſons!

Lieut. Col. *Lilburne.* Sir, all the Wit of all the Lawyers in *England* could never bring it within the Compaſs of High-Treaſon, by the old and juſt Laws of this Nation, that abhors to oppreſs Men contrary to Law; and then if they ſeem but to cry out of their Oppreſſions, to make them Traitors for Words.

Mr. Attorney. I am confident the leaſt Lawyer in *England* would have brought this within the Statute of Treaſon of the 25 *Ed.* III. *chap.* 2. My Lords, you ſhall ſee there is none eſcaped; the Parliament with him are Tyrants, Traitors, and Uſurpers; and therefore he ſtirs up the People to deſtroy them. But in the third place, you ſhall ſee what Titles he gives to my Lord General *Fairfax*, and his chief Officers; that, my Lord, he that reads the Books, and doth not know the Perſons, he would think that they were Monſters, and not Men, altho' they are ſo famous and glorious, that all the World hath rung of them to their Praiſe. But, ſaith he, never was there more glorious Declarations made by Men than by them, and yet never performed any of them. Nay, he doth not only call them alſo Covenant and Engagement-Breakers, but he calls the Lord General Tyrant, Murtherer, and what not; and the Officers, perfidious Officers. My Lords, what I obſerved in the laſt Clauſe of the Act, is, That whoſoever goes about to draw the Soldiers from their Obedience to their ſuperior Officers, or from their Obedience to the preſent Government, that is High-Treaſon: and this likewiſe we ſhall find him guilty of in his *Legal Fundamental Liberties of* England *aſſerted and vindicated*; it is in the firſt ſide of the Epiſtle that in the firſt place I pitch upon: read it.

Clerk. Page 1. of the Epiſtle. 'I poſitively accuſe Mr. *Oliver Crom-'well* for a wilful Murtherer, (and deſire you to acquaint your Houſe 'therewith) for murdering Mr. *Richard Arnold* near *Ware*.'

Mr. Attorney. Which Man, my Lord, was condemned for a Mutineer by a Council of War, where the Lord Lieutenant of *Ireland* was but one Member; and the Parliament gave him and the reſt of that Council Thanks, for ſhooting that mutinous Soldier to death: and yet Mr. *Lilburne* calls him Murtherer therefore, and this is laid to my Lord Lieutenant's Charge for his part.

Lieut. Col. *Lilburne.* Doth not the Petition of Right abſolutely condemn all ſuch Acts in time of Peace, when the Courts of Juſtice are open? And the Judgment of the Earl of *Strafford* doth abundantly condemn it, who loſt his Life for a Traitor, for doing the very ſame Act in kind and likeneſs, at that time, when he in the Eye of the Law was as legal a General, as the General was that condemned that Man.

Mr. Attorney. My Lords——

Lieut. Col. *Lilburne.* I pray, Sir, hear me out, and ſure I am, the Declarations of all the Powers extant in *England* ever ſince, have been to maintain the Petition of Right inviolably; yea, even thoſe that are now in preſent Power: and if the Petition of Right be true, to ſhoot Soldiers, as *Arnold* was, is abſolute Murder. Nay, further, if the Judgment of the Parliament upon the Earl of *Strafford* for ſuch an Act be legal, then all thoſe that had a hand in ſhooting that Soldier are Traitors, and ought to die for it, as well as *Strafford*.

Clerk reads on the ſecond ſide of the Epiſtle. 'Of all which Crimes 'and Charges, and all your others againſt the King, contained in your 'foreſaid Declaration, I know not three of them but *Cromwell* and his 'Confederates, in your pretended Houſe and Army, are as guilty of the 'like in kind, tho' under a new Name and Notion, as the King was of 'the forementioned, if not more guilty.'

Mr. Attorney. Read Page 35.

Clerk. Page 35. 'But alas, poor Fools! we were merely cheated and 'cozened, it being the principal Unhappineſs to ſome of us, as to the 'Fleſh, to have our Eyes wide open, to ſee things long before moſt honeſt 'Men come to have their Eyes open. And this is that which turns to 'our Smart and Reproach, and that which we Commiſſioners feared at the 'firſt, *viz.* That no Tye, Promiſes, nor Engagements were ſtrong 'enough to the grand Jugglers and Leaders of the Army, was now 'made clearly manifeſt; for when it came to the Council, there came 'the General, *Cromwell*, and the whole Gang of Creature-Colonels, 'and other Officers, and ſpent many Days in taking it all in Pieces, and 'there *Ireton* ſhewed himſelf an abſolute King, if not an Emperor; 'againſt whoſe Will no Man muſt diſpute. And then *Shuttlecock*, *Roe* 'their Scout, *Okey*, and Major *Barton* (where Sir *Hardreſs Waller* ſat 'Preſident), begun in their open Counſel to quarrel with us, by giving 'ſome of us baſe and unworthy Language; which procured them from 'me a ſharp Retortment of their own Baſeneſs and Unworthineſs into 'their Teeth, and a Challenge from myſelf into the Field. Beſides, ſee-'ing they were like to fight with us in the Room in their own Garriſon, 'which when Sir *Hardreſs Waller* in my Ear reproved me for it, I juſti-'fied it, and gave it him again, for ſuffering us to be ſo affronted. And 'within a little time after, I took my leave of them for a Pack of 'diſſembling, juggling Knaves, amongſt whom in Conſultation ever 'thereafter I ſhould ſcorn to come (as I told ſome of them); for there 'was neither Faith, Truth, nor common Honeſty among them. And 'ſo away I went to thoſe that choſe and intruſted me, and gave pub-'lickly and effectually (at a ſet Meeting appointed on purpoſe) to divers 'of them, an exact Account how they had dealt with us, and cozened 'and deceived us; and ſo abſolutely diſcharged myſelf from meddling or 'making any more with ſo perfidious a Generation of Men, as the Great-'ones of the Army were; but eſpecially the cunningeſt of *Machiavelians*, 'Commiſſary *Henry Ireton*.'

Mr. Attorney. Read Page 37. at the Mark.

Clerk. Page 37. 'Which the General and his Council knew well enough: 'and I dare ſafely ſay it upon my Conſcience, that an Agreement of 'the People, upon Foundations of juſt Freedom, gone through with, 'is a Thing the General, and the chiefeſt of his Council, as much 'hate, as they do Honeſty, Juſtice, and Righteouſneſs (which they 'long ſince abandoned); againſt which, in their own Spirits, they are 'abſolutely reſolved (I do verily believe) to ſpend their Heart-Blood, 'and not to leave a Man breathing in *Engliſh* Air, (if poſſibly they 'can) that throughly and reſolutely proſecutes it; a new and juſt Parlia-'ment being more dreadful to them, than the great Day of Judgment, ſo 'much ſpoken of in Scripture. And altho' they have beheaded the King, 'yet I am confidently perſuaded, their Enmity is ſuch at the People's 'Liberties, that they would ſooner run the hazard of ſetting the Prince 'in, to reign in his Father's ſtead, than further really a juſt Agreement, 'or endeavour a new Parliament rightly conſtituted.'

Mr. Attorney. Read Page 38.

Clerk. Page 38. 'Whenas, alas! it is as viſible as the Sun when it 'ſhineth in its Glory and Splendor, that *Korah*, *Dathan*, and *Abiram*, 'of old, were never ſuch Rebels againſt Authority, as the General 'and his Council are; nor the Anabaptiſts at *Munſter*, with *John* of '*Leyden*, and *Buperdullion*, were never more Contemners of Authority; 'nor *Jack Straw*, nor *Wat Tyler*; nor all thoſe famous Men, men-'tioned with a black Pen in our Hiſtories, and called Rebels and Trai-'tors, can never be put in any Scale of equal Balance, for all manner of 'Rebellions and Treaſons againſt all ſorts and kinds of Magiſtracy, 'with the General and his Council.'

Mr. Attorney. See, my Lord, and you Gentlemen of the Jury, you ſee Mr. *Lilburne* gives the General and his Officers as bad Titles, as he can give the worſt of Rebels and Traitors, or the worſt of Men. But we go on to his *Outcry*; Read the Title of it.

Clerk. An Outcry of the Young-men and Apprentices of London, *page* 8. where it is thus: 'Sure all Senſe and Compunction of Conſcience is not 'totally departed from you.'

Mr. Attorney. If it pleaſe you, my Lord, becauſe the Jury may obſerve it, the Book is directed to the Soldiers of the Army, and that is an *Outcry*, &c. Now read Page 8.

Clerk. Page 8. 'Sure all Senſe and Compunction of Conſcience is not 'totally departed from you: hear us therefore, in the yearning Bowels of 'Love and Kindneſs, we entreat and beſeech you, with Patience, and do not 'abuſe us for complaining and crying out; for the Knife hath been 'very long at the Throats of our Liberties and Freedoms, and our 'Burdens are too great and too many for us; we are not able to bear 'them, and contain ourſelves; our Oppreſſions are even ready to make 'us deſpair, or forthwith to fly to the prime Laws of Nature, *viz.* 'the next violent Remedy at hand, light where it will, or upon whom 'it will. They are become as devouring Fire to our Bones, ready to 'burn us up, rendring us deſperate and careleſs of our Lives, prizing 'thoſe that are already dead above thoſe that are yet living, who are 'rid of that Pain and Torment that we do and muſt endure, by ſenſibly 'ſeeing and beholding not only the Dying, but the daily Burial of our 'native Liberties and Freedoms; that we care not what becomes of us, ſee-'ing that we are put into that original State, or Chaos of Confuſion, where-'in Luſt is become a Law, Envy and Malice are become Laws, and the 'ſtrongeſt Sword rules and governs all by Will and Pleaſure; all our antient 'Boundaries and Landmarks are pull'd up by the Roots, and all the Ties 'and Bonds of human Society in our *Engliſh* Horizon totally deſtroy-'ed and extirpated. Alas, for pity! we had rather die, than live in 'this Life of languiſhing Death, in which our Maſters poſſeſs nothing '(to buy themſelves or us Bread, to keep us alive) that they can 'call their own. Therefore it is no boot for us to ſerve out our 'Times, and continue at our drudging Trades, while theſe Oppreſ-'ſions, Cruelties, and Inhumanities are upon us, and the reſt of the 'People; expoſing thereby not only the Nation to domeſtick Broils, 'Wars and Bloodſheds, (wherein we are ſure our Bodies muſt be 'the principal Butts) but to foreign Invaſions, by *France*, *Spain*, '*Denmark*, *Swedeland*, &c. as was well obſerved by our endeared and 'faithful Friends, of the forementioned late treacherouſly defeated 'Party at *Burford*, in their Book of the 20th of *Auguſt*, 1649. en-'titled, *The Levellers vindicated, or, the Caſe of their twelve Troops tru-'ly ſtated*, Pages 11, 12. which we cannot but ſeriouſly recommend '(with them) to your ſerious Peruſal and Judgment; and deſire to know 'of you (but eſpecially the private Soldiers of the General's Regi-'ment of Horſe, which we underſtand had a hand in ſeizing upon and 'plundering our true Friends at *Burford*), whether you do own the 'abominable and treacherous Dealings of your General and Lieutenant-

General

'General *Cromwell*, and their perfidious Officers with them, or no, that 'so we may not condemn the Innocent with the Guilty, *&c.*'

Mr. Attorney. Read page 11.

Clerk. Page 11. 'You our Fellow-Countrymen (the private Soldiers 'of the Army) alone, being the inſtrumental Authors of your own 'Slavery and ours; therefore as there is any Bowels of Men in you, any 'Love to your native Country, Kindred, Friends, or Relations, any 'Sparks of Conſcience in you, any Hopes of Glory or Immortality in 'you, or any Pity, Mercy or Compaſſion to an enſlaved, undone, dying, 'periſhing People: O help, help, ſave and redeem us from total Vaſ-'ſalage and Slavery, and be no more like brute Beaſts, to fight againſt 'us or our Friends, *&c.*

'And as an aſſured Pledge of your future Cordialneſs to us, (and the 'true and real Liberties of the Land of your Nativity) we beſeech and 'beg of you, (but eſpecially thoſe amongſt you that ſubſcribed the 'ſolemn Engagement at *Newmarket*, the 5th of *June* 1647,) ſpeedily to 'chuſe out from amongſt yourſelves two of the ableſt and conſtanteſt 'faithful Men amongſt you, in each Troop and Company, now at laſt '(by correſponding each with other, and with your honeſt Friends in 'the Nation) to conſider of ſome effectual Courſe (beyond all Pretences 'and Cheats) to accompliſh the real End of all your Engagements and 'Fightings, *viz.* the ſettling the Liberties and Freedoms of the People; 'which can never be permanently done, but upon the ſure Foundation of 'a popular Agreement: who *(viz.* the People) in Juſtice, Gratitude, and 'common Equity, cannot chuſe but voluntarily and largely make better 'proviſion for your future Subſiſtence, than ever your Officers, or this 'pretended Parliament intends, *&c.*'

Mr. Attorney. Read the Title of his *Impeachment.*

Clerk. An Impeachment of High Treaſon againſt Oliver Cromwell, *&c.*

Mr. Attorney. Read page 2.

Clerk. Page 2. 'But I ſhall rather deſire and adviſe you, by Letter, like 'yourſelves to addreſs yourſelves to the Lord *Fairfax*, by the Sword of 'whom and his Soldiers I am now in Priſon for my Honeſty and Inno-'cency, and nothing elſe, and demand my Liberty of him. If he re-'fuſe, print it, and do as God and Reaſon ſhall direct you; for it was his 'and his Soldiers Force, that fetch'd me out of my Bed the 28th of '*March* 1649, without all Shadow of Law or Juſtice, and againſt the 'Tenour of all their own Declarations, the particular Pages of which 'you may read in the following Letter to Mr. *Holland*, page 5. and by 'Force of Arms carried me to *Whitehall*, and then to *Derby-houſe*, before 'a Company of Men that in Law had no more power to commit my 'Body to Priſon, than ſo many Thieves and Robbers upon *Shuters-'Hill* have: who by the Rules of their own Wills (as in the ſecond 'Edition of the Picture of them I have fully declared) ſent me by Force 'of Arms to the *Tower*, for all my ſhort Eternity in this World.

'But I intreat you ſeriouſly to conſider, that I cannot adviſe you to 'make Addreſs to him as the General of the Nation's Forces; for he is 'no ſuch thing, but is merely a great Tyrant, ſtanding by the Power of 'his own Will, and a ſtrong Sword, borne by his Vaſſals, Slaves, 'and Creatures; having no Commiſſion to be General, either from 'Law, the Parliament, or from the prime Laws of Nature and 'Reaſon.'

Mr. Attorney. Read *An Outcry of the Young Men and Apprentices*, page 3.

Clerk. Page 3. 'Your Heart ſeems to us as obdurate as the flinty 'Rock; as ſavage and inhuman, as if the Fleſh and Blood, the Bones 'and Marrow of the People were become your Meat.'

Mr. Attorney. Stay, Mr. *Broughton:* The Jury will take notice, that this is directed to the Soldiers of the General's Regiment; this ſpeaks to them.

Clerk reads on. *Directed* Aug. 29, 1649, *in an Epiſtle to the private Soldiers of the Army, eſpecially all thoſe that ſigned the ſolemn Engagement at* Newmarket-Heath, *the fifth of* June, 1649, *but more eſpecially to the private Soldiers of the General's Regiment of Horſe.*

Mr. Attorney. Now read page 3.

Clerk. Page 3. 'Your Hearts ſeem to us as obdurate as the flinty 'Rock; as ſavage and inhuman, as if the Fleſh and Blood, the Bones and 'Marrow of the People were become your Meat, as already it is in effect; 'and inſtead of Encouragement and Support to our true Friends and real 'Believers, (at leaſt in faithful Deſire and Endeavour) as ſhall ſtand in 'the Gap betwixt our Deſtroyers and us, all ways and means are uſed to 'impoveriſh, deſtroy, and ſuppreſs them; and in them to break and vaſ-'ſalage the Spirits of all the *Engliſh*, which in all Ages have had the Pre-'heminencies of other Nations, that there may not be ſo much of Gal-'lantry or Courage left amongſt the People, that one amongſt them ſhall 'dare to aſſert or maintain their Freedom.' And a little below, 'If any 'do but murmur and complain, preſently their Houſes, as with Furies, 'are beſet with armed mercenary Janizaries, Guards, and Centinels ſet 'upon their Doors and Paſſages.'

Mr. Attorney. My Lord, and you Gentlemen of the Jury, you hear what Stuff this of Mr. *Lilburne*'s is; yea, ſuch Stuff as that it would make any Man loath to hear it. The laſt Clauſe of the Act is, 'If any Perſon 'not being an Officer, Soldier, or Member of the Army, ſhall plot, con-'trive or endeavour to ſtir up any Mutinies in the Army, or to withdraw 'any Officers or Soldiers from their Obedience to their ſuperior Officers, 'or to the preſent Government; it is High Treaſon.' You have here the ſeveral Books read to you, and the Calumniation laid upon the chiefeſt of them, to ſtir the reſt up to Mutinies againſt them; but they are very well known, and therefore nothing that Mr. *Lilburne* can ſay will ſtick upon them, to their Prejudice. But, my Lord, you ſee here, and you of the Jury, how he appeals from the Officers to the Soldiers, interrogates to know what they could do, and whether they will acknowledge they will own them, and not fight againſt them, and what Aid and Aſſiſtance they will give to him and his Friends againſt their own General, and the reſt of their ſuperior Officers. You ſee alſo what he calls that noble General, that all the World doth honour, and his Fame rings through the World; and yet he calls him a grand Tyrant, ſtanding by the Power of his own Will, and a ſtrong Sword, a Deſtroyer of the Parliament, of the Laws and Liberties of *England*. You ſee what he calls the common Soldiers; Furies and mercenary Janizaries, which none but *Turks* have. You have heard the ſeveral Charges proved unto you; for my part, I think it as clear as Noon-day. We have not raiſed any advantage upon any ſlipping Words that have ſlipt from him, which we might have done; and I could have urged ſome more Witneſſes, to have proved his Books publiſhed by him to publick View, tho' when he comes in the face of the publick Court of Juſtice he will not own them, which ſhews his Deſign to be the more dangerous. He will write, print, publiſh, beſpatter, and reproach; yea, and raiſe Tumults and Rebellion in a clandeſtine way: but if we chance to queſtion him therefore, he will not own it; you ſee we have been fain to fetch it out of the Fire—and yet this is one of *England*'s and its Liberties valiant Champions.

Lieut. Col. *Lilburne.* You have done no more to me, than the Scribes and Phariſees did to Jeſus Chriſt; and in my dealing with you, I have but walked in the Steps of my Lord and Maſter Jeſus Chriſt and his Apoſtles. For I am ſure of it, Jeſus Chriſt, in his Pilgrimage on Earth, freely, openly, and publickly taught and declared himſelf to be the Son of God, the Meſſias or Saviour of the World that was propheſy'd of; and yet when he came amongſt the Scribes and Phariſees, and *Pilate* the *Roman* Governour, who by Queſtions went about to inſnare him, he confeſſeth nothing, but ſaith, I ſpake openly to the World, I ever taught in the Synagogues and in the Temple, whither the *Jews* always reſort, and in ſecret have I ſaid nothing; why aſkeſt thou me? Aſk them which heard me what I have ſaid unto them: Behold, they know what I have ſaid. And when *Pilate* adjured him to anſwer him, whether he was ſuch a one or no, Well, ſaith he, thou ſayeſt it: So ſay I, Thou, Mr. *Prideaux*, ſayeſt it; they are my Books, but prove it.

Mr. Attorney. But I think here are enough, and too many: And therefore, Gentlemen of the Jury, if you reſpect the Government of the Parliament, the Honour of the Council of State, the Honour of the Nation, or of the Army, or the Preſervation of the Law of the Nation, you cannot ſay but that the Priſoner is guilty of ſuch Crimes and Treaſons as he is now accuſed of, and accordingly find him ſo: For it cannot be ſuppoſed that you will lay him in a ſingle Balance againſt the Honour of all the Powers in the Nation, and alſo the Peace thereof.

Foreman. We deſire the Act of Treaſons to make uſe of.

Lieut. Col. *Lilburne.* I beſeech you hear me a few Words: They deſire to have it along with them. Sir, with your favour, I ſhall humbly crave Liberty to ſpeak a few Words: I ſhall keep me cloſe to that which is my Right and my Duty, and that is to the Matter of Law in my Indictment. There are many Things put into the Indictment by the Teſtimonies of Witneſſes now ſworn, that are pretended to be acted in ſeveral Counties. Whether that be according to Law, or no, I do not know whether you will judge it ſo, or no; but ſure I am, if either thoſe expreſs Statutes that I have already cited to the Jury, or the third Part of *Coke*'s *Inſtitutes*, be Law, I ought not to be tried for Treaſon but by a Jury of the next Neighbourhood, in the ſelf-ſame County the Fact is pretended to be committed in. And therefore it is very queſtionable to me, whether my Indictment be legal, for that it chargeth me with Facts of Treaſon committed in three ſeveral Counties; and that being Matter of Law, I deſire Counſel to argue that Point, in the firſt place. There are alſo a great many other Exceptions I have to make againſt the Illegality of the Indictment; and having particularized one, I humbly crave that which is my Right by Law, that I may have Counſel aſſigned unto me. You have ſaid, you will do what ſhall become ingenuous and underſtanding Men and juſt Judges in it; and therefore I crave leave, according to my undoubted Right, to have Counſel aſſigned to plead in Matter of Law to the Inſufficiency of the Indictment, and particularly to that Point I have nominated. There are alſo a great many Things ariſe out of the Matter of Fact that will be Points of Law likewiſe, and ſome of them appear to be ſo. There were never two clear and poſitive Witneſſes to one Fact ſworn againſt me; but to moſt of the particular Treaſons there is but one a-piece; and I cannot yield that to be legal, but queſtionable in Law, which I deſire Counſel to diſpute. I know not of any of all the Books fixed upon me, but the *Outcry*, that hath two plain Witneſſes to it; and yet it is not ſworn that I am the Author of it. The State of the firſt is this: That I was at the Printer's before the Copy was taken away; and that I gave one of thoſe Books to a Soldier. To ſum up the Notes of the Matter of Fact that thereon hath been endeavoured to be proved, is too hard a Taſk to be done by me immediately; and therefore I conceive it but juſt for you to aſſign me Counſel, to agree with the Counſel againſt me what are the Points of Fact upon the Proof, from which the Points of Law are to be deducted. And whatever you, that call your ſelves my Judges, may think of this, yet I hope and verily believe that theſe my honeſt Fellow-Citizens, that are the Gentlemen of my Jury, who have (thereby), as Men, the Iſſues of my Life and Death in their hands, will think it but a juſt and rational Motion and Requeſt; and therefore, before them again, I deſire to have Counſel aſſigned, to plead in Law to the Errors of the Indictment, and alſo to the Law ariſing upon the Fact. This, with a larger Privilege, was granted by one of your own Brother Judges to Major *Rolfe* laſt Year, as his Right by Law; and I do again appeal to Mr. Juſtice *Nichols*, then one of *Rolfe*'s Counſel, for the Truth of this. I pray ſpeak, Sir; is it not true? [But the Judge ſitting as if he had neither Life nor Soul, Mr. *Lilburne* further ſaid:] I hope, Sir, it doth not enter into your Thoughts preſently to put me to an undigeſted extemporary Anſwer to ſo large an Indictment as that is that hath been read againſt me, that it is impoſſible for any Man's Brain, if it were as big as the biggeſt Magazine in *London*, to carry it in his Head: And, Sir, I hope you do not conceive that my Memory is of a greater Largeneſs than the greateſt Magazine in this City. You engaged unto me, when I pleaded firſt to my Indictment, that you would not take Exceptions or Advantage againſt me

me for my Ignorance in the Formalities of the Law: I desire you to make good your Promise now unto me, and assign me Counsel to help my Ignorance, that so the Counsel against me and my Counsel may agree, as I have seen it done heretofore in the Case of Duke *Hamilton*, upon the Points of Fact, from which Law is to be deducted. And if you please to grant me this legal and equitable Favour, I shall think my self very much obliged unto you: Without which Justice, I cannot conceive upon what Ground it can be comprehended I can go on; for my Time and Strength now it is so far spent, that I conceive you cannot think my Body is made of Steel to stand here four or five Hours together, spending my Spirits, to answer so many as I have to deal with, and be able, after all this, to stand to return an Answer to above five Hours Charge, and that upon Life, when it seems you will suffer me to mend no Blots. I hope you do not lie upon the Catch, to weary and tire me out, by putting more upon me than a Horse is able to endure; and then go about to hang me, because I, thro' Tiredness, want bodily Strength and Abilities to make and pronounce my Defence.

Sir, to my Apprehension, there does arise upon the Matter of Fact divers Disputes in Law: I beseech you therefore allow me my Right in Law, by assigning me Counsel to help me where I am ignorant, and you shall see I shall do that which shall become an ingenuous and rational Man, and I will put my self clearly upon the Trial of the Country, or my Jury, according to the Law.

Ld. *Keble.* *Lilburne*, this that you have heard, and that we have patiently sat to hear, and prepared a Stool for you to have sat upon, to have given you that Liberty that nobody should interrupt you more than us; you have heard the fair Course that hath been taken in it. The Books, the Charges upon the Matter, they are but three, they are not hard for your Memory.

The Particulars of those, we do not expect that the Jury should remember them. The Books are here; they have of them: But amongst them there are many more. But free your self from the Matter of Fact, if you can, and these Books: And when you have freed yourself from the Matter of Fact charged upon you, and then make it appear that from the Matter of Fact Law arises; and then, if you can, when the Matter of Fact is clear, and Law doth arise, you shall have Counsel, and you shall have no Defect in us to interrupt you, but to help you in what we may properly know as our Right to do. But if you do not first clear and make out this, which is the Issue upon the Point, to answer the Matter of Fact, we cannot allow you any Counsel. The Thing that is to be disputed cannot possibly be much on your side; it will be but very short: For it is not possible, I say, to be much in Time, or Confusion of your Memory, to give an Answer to this particular Matter of Fact: The first is the publishing of those Books, and the owning of them; and the next is the Books of themselves. But this must be first cleared, before you can have any Counsel assigned you at all.

Lieut. Col. *Lilburne.* I must confess it is a very hard Task for me to contest with the present Power, whose Agents have free Liberty to say against me what they please; and I am denied, and that upon my Life, all the Privileges of an *Englishman*, and with your Insinuations and great Words drawn on by my Ignorance to ensnare my self: and notwithstanding all your Promises to take no advantage against me for my Ignorance in the Formalities of the Law, yet are the Punctilio's and Nicetics thereof more urged against me, than they have been against hostile Enemies. And yet for my Part, no Man can tax me for being in Hostility at any time against them in present Power; and yet upon my Life I am denied that which I had from those, as my Right by Law, against whom I have been in Arms, and fought against in the Field: yea, and that which, in a higher Nature than I desire, hath been acknowledged just and legal by some of your own Brother Judges but the last Year, which they have granted to some of my own Countrymen, Freemen of *England*, but this last Year, in a higher nature by many degrees than I plead for. There is Judge *Nichols*, that I understand was one of Major *Rolfe*'s Counsel: And I understand from Mr. *Maynard*'s own Mouth, that he and Mr. *Maynard* were, by Baron *Wyld*, assigned of *Rolfe*'s Counsel, in Case of the highest Treason that the Law of *England* ever knew, and that before the Grand Inquest found the Indictment; and that Mr. *Maynard*, *&c.* had Liberty, as Major *Rolfe*'s Counsel, by Baron *Wyld*'s Order, to stand in the Court, not only to hear the Witnesses sworn, but also to hear the Words of their Testimony, then caused by the Judge to be given in open Court. And there being but two Witnesses to two Facts contained in the Indictment, Mr. *Maynard*, upon the Allegation of the two Statutes of *Edward* the Sixth, that requires two Witnesses to the Proof of every Fact of Treason, and that to be plain and clear, overthrew *Rolfe*'s Indictment in Law, that it was never found; and so saved the poor Man's Life, who in likelihood had perished, had it not been for the Ability and Integrity of his Counsel. And all this Mr. Justice *Nichols* knows is very true, and that I have told you nothing about it but what is just. It is true, I have read part of the plain Law of *England*, that is in *English* (but I am ignorant of that part of your Law, which is three times so much as that which is in *English*; and that Law, or the practick Part of the Law is in *French* and *Latin*, which I have truly told you I can neither read nor understand): Therefore I humbly crave my Privilege and undoubted Right by the Law of *England*, (which in a higher nature was granted to Major *Rolfe*, as his unquestionable Right) to have Counsel assigned me, to help me in those Things I am ignorant of, I mean the Formalities and Bottom of the Law. I beseech you, Sirs, do not put me upon Extremities, and upon extraordinary Things, but consider among yourselves that righteous Rule of Jesus Christ, and of the Scripture, *To do as you would be done to*; and do not put Impossibilities upon me, by over-ruling by your Power all my just Claims and Pleas in Law, and require more of me than I am capable to perform. And therefore I beseech you, as you would approve yourselves to be as righteous Judges before the Eye of that God that sees your Heart, and knows whether malicious and Fore-thoughts of Malice harbours therein against me his faithful Servant; do not cunningly and designedly destroy me for my Ignorance in the essential or circumstantial Matter or Form of that huge Indictment, that has so much Matter of Law in it as it hath, and to take away my Life by denying me that which is the unquestionable legal Right of the Freemen of *England*; the which if you will but allow me, I do not doubt but to come off clearly and freely.

Ld. *Keble.* Mr. *Lilburne*, you are now at a full Point, and this you have said now, you have said often, and we have heard it; and that which you say now, we have answered before.

Lieut. Col. *Lilburne.* Sir, it's your own Law; Sir *Edward Coke* declares I ought to——

Ld. *Keble.* Mr. *Lilburne*, I shall add this more to it, That you at this Time have here such a Court, which never any of your Condition ever had in *England*, so many grave Judges of the Law.

Lieut. Col. *Lilburne.* Truly I had rather have had an ordinary one; Sir, I mean a legal and ordinary Assize or Sessions.

Ld. *Keble.* But this you have, and this is to take off, or prevent that which you would do now, if there had been one Judge, and no more; and if you had not had this great Presence of the Court, you would have been malapert, and have out-talked them; but you cannot do so here.

Lieut. Col. *Lilburne.* Truly, Sir, I am not daunted at the Multitude of my Judges, neither at the glittering of your Scarlet Robes, nor the Majesty of your Presence, and harsh austere Deportment towards me, I bless my good God for it, who gives me Courage and Boldness.

Ld. *Keble.* That your Trial is so publick as your Offence, is for this End, that all Men may take Notice, that you have fair Play: and therefore according to Law, you ought to make your Case, in Matter of Fact, clear; for that I must tell you again, and once is as good as if I had told you a thousand times over, unless you can clearly do that, you say nothing to it. If you will take that for clear Proof that hath been alledged against you, you may shorten your self; but otherwise make that Defence that you judge most sufficient to disprove the Fact: for till that Time, you are clear gone in Law, and no Counsel must or can be assigned you.

Lieut. Col. *Lilburne.* I have been a great while yesterday pleading my Right by Law for Counsel, and now I have stood many Hours to hear your Proofs to the Indictment. I hope you will not be so cruel to put me to a present Answer, when bodily Strength is spent.

Ld. *Keble.* We know it as well as yourself you were here, and stood divers Hours yesterday, and to-day you have done the like; but we came before you, and stand after you.

Lieut. Col. *Lilburne.* Sir, will you put a Man to more than a Horse is put to, or is able to go through with? The righteous Man is merciful, even to a very Beast.

Ld. *Keble.* We have been as long as you have.

Lieut. Col. *Lilburne.* But, under Favour, you have sat.

Ld. *Keble.* You had that Liberty too; dispute no more, we must go on.

Lieut. Col. *Lilburne.* I desire but a Week's Time to return you an Answer to your large Indictment; and if not so long, then give me leave but till To-morrow Morning to consider of my Answer. I am upon my Life.

Ld. *Keble.* No, you must dispatch it now.

Lieut. Col. *Lilburne.* Then give me leave but to withdraw into any private Room for an Hour to recollect my Thoughts, peruse my Notes, and refresh my Spirits. [And hereabouts Judge *Jermin* did whisper the Lord *Keble* in the Ear; and presently said Judge *Jermin*, It's against the Law to allow you any more Time; the Jury stand here charged, the Evidence is given, you must immediately go on, or yield that for Truth which hath been proved against you.]

Lieut. Col. *Lilburne.* Well, then, if it must be so, that you will have my Blood, right or wrong; and if I shall not have one Hour's Time to refresh me, after my Strength is spent, and to consider that which hath been alledged against me, then I appeal [*which he uttered with a mighty Voice*] to the righteous God of Heaven and Earth against you, where I am sure I shall be heard, and find Access; and the Lord God Omnipotent, and a mighty Judge betwixt you and me, require and requite my Blood upon the Heads of you and your Posterity, to the third and fourth Generation! [Immediately after the uttering of which the Scaffold fell down which was on the left Hand, which occationed a great Noise and some Confusion, by Reason of the People's tumbling; but Silence being made, the Prisoner was busy at his Papers and Books, being invited by Sheriff *Pack* to come out of the Bar, for fear he should have fallen with the rest, and so he might have lost his Prisoner.]

Ld. *Keble.* How came the Prisoner there?

Lieut. Col. *Lilburne.* I went not thither of my own Accord, but by Mr. Sheriff's Invitation; and if I am in a Place where I ought not to be, blame Mr. Sheriff, and not me.

Ld. *Keble.* Dispatch, Sir.

Lieut. Col. *Lilburne.* Sir, if you will be so cruel as not to give me leave to withdraw to ease and refresh my Body, I pray you let me do it in the Court. Officer, I entreat you to help me to a Chamber-pot. [Whilst it was fetching, Mr. *Lilburne* followeth his Papers and Books close; and when the Pot came, he made Water, and gave it to the Foreman.]

Ld. *Keble.* Proceed, Mr. *Lilburne.* [But he pressed for a little Respite, which was granted him with much ado, as also a Chair to sit down upon; but within a very little Space the Lord *Keble* said,]

Ld. *Keble.* The Court cannot stay for you, proceed on to answer.

Lieut. Col. *Lilburne.* Good Sir, would you have me to answer to Impossibilities? Will you not give me Breath? If you thirst after my Blood, and nothing else will satisfy you, take it presently, without any more to do. [But the Prisoner struggled out a little Respite.]

Ld. *Keble.* The Court can stay no longer; take away his Chair, for I cannot see the Bar, and plead what you have to say, for it grows very late.

Lieut. Col. *Lilburne.* Well, seeing I must to it, the Will of God be done! [But his Brother being next to him, was heard to press him to pause a little more:] No, Brother, saith he, my Work is done; I will warrant you, by the Help of God, I will knock the Nail upon the Head. And so he went into the Bar, and set the Chair before him, and laid his Law Books open upon them, in order, as he intended, to use them; and being ready, said, Sir, I humbly crave the Favour, since it is my hard Lot and Fortune, at least in my own Apprehension, to have so much hard

hard Measure and Injustice as I have, to know whether or no you will permit me, after that I have pleaded to a Matter of Fact, according to the Law of *England*, that has been allowed to the highest Traitors, in all the Books that I have read of, that I may speak in my own behalf unto the Jury, my Countrymen, upon whose Consciences, Integrity and Honesty, my Life, and the Lives and Liberties of the honest Men of this Nation, now lies; who are in Law Judges of Law as well as Fact, and you only the Pronouncers of their Sentence, Will and Mind: I say, I desire to know, when I have pleaded to Matter of Fact, whether you will be pleased to give me leave to speak to them a few Words besides.

Ld. *Keble.* Master *Lilburne*, quietly express your self, and you do well; the Jury are Judges of Matter of Fact altogether, and Judge *Coke* says so: But I tell you the Opinion of the Court, they are not Judges of Matter of Law.

Lieut. Col. *Lilburne.* The Jury by Law are not only Judges of Fact, but of Law also: and you that call yourselves Judges of the Law, are no more but *Norman* Intruders; and in Deed and in Truth, if the Jury please, are no more but Cyphers, to pronounce their Verdict.

Judge *Jermin.* Was there ever such a damnable Blasphemous Heresy as this is, to call the Judges of the Law, *Cyphers?*

Lieut. Col. *Lilburne.* Sir, I intreat you give me leave to read the Words of the Law, then; for to the Jury I apply, as my Judges, both in the Law and Fact.

Ld. *Keble.* We will not deny a Tittle of the Law.

Judge *Jermin.* Let all the Hearers know, the Jury ought to take notice of it, That the Judges that are sworn, that are Twelve in Number, they have ever been the Judges of the Law, from the first time that ever we can read or hear that the Law was truly expressed in *England*; and the Jury are only Judges, whether such a thing were done or no; they are only Judges of Matter of Fact.

Lieut. Col. *Lilburne.* I deny it; here's your own Law to disprove you; and therefore let me but read it. It is a hard Case when a Man is upon the Trial of his Life, that you will not suffer him to read the Law to the Jury, for his own Defence; I am sure you have caused to be read at large those Laws that make against me.

Ld. *Keble.* But I shall pronounce to clear the Righteousness of that Law, whatsoever others will pretend against it that know it not.

Lieut. Col. *Lilburne.* Sir, under favour, I shall not trouble myself with any thing, but what is pertinent to my present Purpose. Here is the first Part of *Coke*'s *Institutes*; it is owned by all the Lawyers that I know, or ever heard of in *England*, for good Law.

Ld. *Keble.* If you can convince us, that Matter of Law does concern the Jury, you say something.

Lieut. Col. *Lilburne.* Sir, I have been shuffled too much out of my Liberties already, give me leave to read but the Law to the Jury; I will make use of nothing now to them, but your own Words; and when I have done, I will leave myself to them, and the Guidance of God upon their Conscience. And having the Book open in his Hand, he said, In the first Part of *Coke*'s *Institutes*, *Sect.* 366. *fol.* 226, 227, 228, in his Exposition of *Plowden*, hath these Words——

Ld. *Keble.* Have we dealt so fairly with you all this while? Pray be confident, those that are Quotations there, are not for your Purpose; but I thought how good a Lawyer you were, for to set *Coke*'s *Commentaries* upon *Plowden*, when there is no such Book or Commentary. Go to your Matter of Fact, which is clear; but for this, let it fall down, and spare your self, and trouble your self no more with *Coke*; he has no Commentary upon *Plowden.* [But Master *Lilburne* pressed to speak.

Judge *Jermin.* Hold, Sir.

Lieut. Col. *Lilburne.* What, will not you allow me Liberty to read your Law? O unrighteous and bloody Judges!

Judge *Jermin.* By the Fancy of your own Mind, you would puzzle the Jury; we know the Book a little better than you do; there is no such Book as *Coke*'s *Commentary* upon *Plowden.*

Ld. *Keble.* Sir, you shall not read it.

Judge *Jermin.* You cannot be suffered to read the Law; you have broached an erroneous Opinion, That the Jury are the Judges of the Law, which is enough (*a*) to destroy all the Law in the Land; there was never such damnable Heresy broached in this Nation before.

The Crier cries out, Hear the Court.

Lieut. Col. *Lilburne.* Do your pleasure, then here I'll die: Jury, take notice of their Injustice; but seeing they will not hear me, I will appeal to you, and say, It is an easy Matter for an abler Man than I am, in so many Interruptions as I meet with, to mistake *Plowden* for *Littleton*, I am sure here are *Coke*'s *Commentaries* upon *Littleton* *, and these be his Words: *In this Case the Recognitors of the Assize may say and render to the Justices their Verdict at large upon the whole Matter.* Which I am sure is good Law, forasmuch as we see it continually done in all Actions of Trespass or Assault, where the Jury doth not only judge of the Validity of the Proof of the Fact, but also of the Law, by assigning what Damages they think is just.

* 366.

Ld. *Keble.* I am sure you are in an Errour, in a gross one, as possibly a Man can be in; this is so gross, that I thought it could not have come from Master *Lilburne*, that professeth himself to be a rational and knowing Man.

Lieut. Col. *Lilburne.* And in another place he saith, 'For as well as 'the Jurors may have Cognizance of the Lease, they also may have Cog-'nizance of the Condition.' And further there *Coke* saith, 'Here it is 'to be observed, That a special Verdict, or at large, may be given in 'any Action, and upon any Issue, be the Issue General or Special.' And in Section 368, *Littleton* hath these Words: 'Also in such Case, where 'the Inquest may give their Verdict at large, if they will take upon them 'the Knowledge of the Law, upon the Matter they may give their Ver-'dict generally.' *Coke*'s Words upon it are fully to the same Purpose, who saith, 'Although the Jury, if they will take upon them (as *Littleton* here saith) 'the Knowledge of the Law, may give a general Ver-'dict.' I am sure this is pertinent to my Purpose, and now I have done, Sir.

Ld. *Keble.* You have spent a little Time, but you have done yourself no good; I thought you had understood the Law better than I see you do.

Lieut. Col. *Lilburne.* Now, Sir, as to Matter of Fact, according to your own Desire, seeing you have broke your Promise, and will allow me no Counsel, but lye at Catch with me, I shall come to it without any Preamble. The Statute of 1 *Edward* VI. *chap.* 12. (I desire the Jury may take Notice of the Statutes) and the 5th and 6th of *Edward* the Sixth, *chap.* 11. here's the Statute-Book, which doth expressly declare, That no Man shall be condemned for Treason, Petty-Treason, or any such like Crime, but by the Evidence and clear Proof of two legal and sufficient Witnesses. Sir *Edward Coke* in his third Part of *Institutes*, *Chap.* of *High-Treason*, is absolutely of the same opinion, *fol.* 12. *In this Branch*, says he, *four things are to be observed. First, this Word* (probablement) *provably; that is, upon direct and manifest Proof, not upon conjectural Presumptions, or Inferences, or Strains of Wit, but upon good and sufficient Proof of two Witnesses.* And this is *fol.* 12. And herein the Adverb (*probablement*) provably, hath a great Force, and signifieth a direct and plain Proof.

And, secondly, this Word (attaint) *necessarily implieth, That he be proceeded with, and attainted, according to the due Course and Proceedings of Law, and not by absolute Power, or by other Means, as in former times it hath been used.*

And *fol.* 24. *chap. Petty-Treason*, he saith, *It hath been holden, That upon the Trial of Misprision of Treason, there must be two lawful Witnesses, as well upon the Trial as the Indictment*; as it was resolved by the Justices in the Lord *Lumley*'s Case, *Hill.* 14 *Eliz.* reported by the Lord *Dyer* under his own Hand; and in the Margin he hath this Note upon it, *That this is the last Resolution of the Judges upon it.* And a little below, in the same *fol.* and *fol.* 25. he saith, *Therefore upon the Indictment, which is in manner of an Accusation, by the Statutes of* 1 Edward VI. cap. 12. *and* 5 *and* 6 Edward VI. cap. 11. *two lawful Witnesses are requisite.* And in *fol.* 240. he hath the same, his Words are these: *Attainders of Treason*, &c. *ought to be upon plain and direct Evidence* (as before is said); *for if the Party be executed, Restitution may be had of his Lands, but never can be had of his Life.* Now I have done, Sir.

Ld. *Keble.* I hope the Jury hath seen the Evidence so plain and so fully, that it doth confirm them to do their Duty, and to find the Prisoner guilty of what is charged upon him.

Judge *Jermin.* This that you have said, makes much for the Jury.

Lieut. Col. *Lilburne.* We shall see that by and by; but I shall proceed on to answer your Proof to the Indictment, and that in the same Method that your Witnesses swore. And therefore, Sir, in the first Place, to the first, which is *Thomas Newcombe* the Printer; he swears in these Words: That I was present with Captain *Jones*, from whose Hands he says he received the last Sheet of the Book, called *The Outcry of the Young-men and Apprentices of* London: But he says, Captain *Jones* agreed with him for the Printing of it, and not I; for in that Particular he doth not in the least accuse me, neither doth he in the least accuse me in any manner in the World of being the Author of it; and that I did any more at his House, but take away a single Sheet of it before it was corrected; which, says he, I brought away with me. In answer to whose Testimony I return this; and I earnestly entreat you, Gentlemen of the Jury, to observe it well; and therefore, in the first Place, he is but a single Testimony to this. But, secondly, I answer, That he confesses moreover, that before he had compleated that Sheet that he received from Captain *Jones*, he was taken; and not only he, but his Forms also were taken from him. So that by his own Confession, that Copy that was brought by Captain *Jones*, when I was present with him, proved abortive, it was never wrought; for he says, it was taken before he had perfected it; and to my Knowledge they had it in their Possession. So that it clearly appears, it was never perfectly wrought off, and therefore the Books were never perfected: therefore I hope that it will not be Treason in me, being a Freeman of *England*, to walk the Streets with my Friend, and to go into a House with him where he hath Business to do; admit it to be a Printing-house, where he intends to have a Sheet of Paper printed: his Affairs, Business, or Actions are nothing to me, neither are they now in the least laid to my Charge; and if they were, as they are not, yet that Sheet miscarried, and was taken before it was perfected. So that truly, Sir, you may go seek the Printer of it; for you see That miscarried that Captain *Jones* delivered to the Printer in my Company; and that Sheet which he saith I had away, was an uncorrected one, which could serve me for no other Use, but waste Paper, and cannot be adjudged to be a true Copy of that which was contained in the Indictment; neither doth he or any other swear, that at the Printer's they see, or know where was done the Title of that *Outcry* contained in the Indictment. So that for any thing the Jury knows, the first Part of that Book hath no Dependance upon the Sheet that was spoiled, and not brought to Maturity in Master *Newcombe*'s Hands, as he himself upon his Oath declares. So that truly, Sir, in Law Master *Newcombe*'s Testimony proves nothing at all against me, as to that Book mentioned and contained in the Indictment: And therefore, you Gentlemen of the Jury, my Life is in your hands, I beseech you take Notice, That in all his Testimony there was not one Word that he declared, to accuse me to be the Author of that Book, or that my Name was to it; for you shall find the Names of Ten that own it; so that I think his Testimony is gone, and is not worth a Straw.

In the next place, there were three Soldiers, *viz. John Tooke*, *Thomas Lewis*, and *John Skinner*, that swear against me: The Substance of all their Testimonies centers in one; and *John Tooke* in the first place saith, about seven Weeks ago he met with Lieut. Colonel *John Lilburne* in *Ivy-Lane*, where *Lewis* knowing of him, gave him a Salute; and they being glad to see him that he was well in Health, and the like, out of Friendship went to drink a Cup of Beer together at the *Red-Cross* in *Newgate-market*, where he saw a Book, called *The Apprentices Outcry*, given unto

(*a*) *Yes, but there was at* Reading, *when Colonel* Martin, *after they were sworn, caused all the Jury before the Judges sitting upon the Bench, to put on their Hats, as their Right; being they were then the chief Judges in the Court, and the other inferior to them.*

Master

Maſter *Lewis*; and he heard theſe Words uttered by Lieutenant Colonel *Lilburne*, *You Soldiers are thoſe that keep us in Slavery*. The ſecond Witneſs, being *Thomas Lewis*, ſaith, That the ſixth of *December* or *September*, for ſo was his Words, he met me in *Ivy-Lane*, and took Acquaintance of me, aſked me how I did, and I thank'd him: and he further declares, That he was very much refreſh'd to ſee me, that I was well, and in Health, and was glad to ſee that thoſe Things that were given out of me by common Fame (that I was kill'd or dead) that they were not true. Therefore he being my old Acquaintance, as he ſaith, we went to drink a Cup of Beer together; and ſays he (as he remembers), Lieut. Col. *Lilburne* aſked him if he had ſeen a Book call'd *The Apprentices Outcry*, and he ſaid No, he had not ſeen it, but he had heard of it, and was thinking to go and buy one of them, for that he longed to read it, and heard it was publickly ſold: and ſays he, Lieut. Col. *Lilburne* ſaid he had one which was given him, and if he pleaſed he would give it me, which he thankfully received; and afterwards we ſtaid a little Time to drink a Cup of Beer, and had ſome Diſcourſe. But he doth fix no Evil upon me, that fell from me in that Diſcourſe; neither doth he ſay, that I did ſtir him up to Mutiny, or to make Diviſion in the Army; only he ſaith, I told him, that if he went to ſuch a Man, whoſe Name he hath forgot, it is poſſible he might buy ſome more of them, for they were publickly ſold all over the City. So that you Gentlemen of the Jury may take Notice, that he declares the Things by common Fame were publickly ſold, and one of them he ſays was given to me, and I gave it to him. Truly, I hope the Jury hath more Conſcience in them, than to go about to take away my Life for giving away a ſingle Sheet and a Half of Paper, that no Man ſwears I was the Author of, or the Cauſer of it to be printed and publiſhed: but the moſt that can be fix'd upon me, is, That I had one of them given me, and I gave it to a Soldier, my familiar Friend, who had a great Deſire to ſee it, and was going to buy one of them, being publick up and down *London*, at that Time, which is all that he doth charge upon me; only he ſays further, that there was a little Diſcourſe: but his Teſtimony doth not reach to accuſe me of any evil or malicious Counſel given them, or any Aggravations of Spirit, as tho' I did incenſe him or them againſt their Officers or Fellow-Soldiers, thereby to ſtir them up to Mutiny and Rebellion. For truly I have made it my Work, for to be as ſparing in my Diſcourſe as could be, in the Company of any belonging to the Army; yea, and to ſhun coming nigh the Place, if I can avoid it, where they are. And he ſaith, I had no aggravating Spirit within me, nor uttered any Provocations to make them riſe in Mutiny againſt their Officers; and there is none of them all that does in the leaſt fix that Book upon me, to be mine, as the Author of it.

Only he ſaith further, That upon his declaring he longed to ſee the Book, that Lieut. Col. *Lilburne* told him that ſuch a Man, whoſe Name he hath forgot, might poſſibly ſell them ſome of them, if they had a mind to them, or to get ſome of them: and truly I do not believe that Treaſon.

Further he ſays, all the worſt Diſcourſe I had with them, was, that I aſked them a Queſtion, which was, When they had any Pay? and they told me, they had not had any Pay in five Weeks: and that was the worſt of all. There proceeded from me no aggravating Expreſſions upon it, or mutinous Provocations. But truly that this Diſcourſe ſhould come within the Compaſs of Treaſon, to aſk my old Acquaintance a Queſtion, that had oftentimes viſited me when I was the Lords Priſoner in the *Tower*, or to drink a Cup of Beer with him, or give a Sheet and a Half of Paper that was publickly ſold; truly, I hope there will be no righteous Jury in the World that will give a Judgment againſt me for Treaſon therefore; no, I hope for more righteous Juſtice from a Jury of Citizens of *London*, whom I hope to find Men of Conſciences and Judgment, yea, of ſuch righteous Judgment, as that they will abhor to go about to take away my Life, and my Blood, and lay the Blemiſh and Stain of Treaſon upon me and my Poſterity for ever, upon ſuch a Thing as this is. And this is all, and the utmoſt of all, that the Evidence doth witneſs againſt me.

Then in the third place there was *John Skinner*, who was the third; and he ſays the ſame in Effect, and no more: and therefore I need not go upon that any further, but ſhall leave it, I hope, to the enlivened Conſciences of my Jury, my Fellow-Citizens of *London*.

In the next place, the ſecond Thing laid to my Charge is the *Salva Libertate*, delivered to the Lieutenant of the *Tower*, as he ſays. Now truly, the Lieutenant of the *Tower* is but a ſingle Witneſs to this, and the Law ſaith poſitively, there ſhall be two Legal Witneſſes, to prove every Fact of Treaſon, whoſe Teſtimony or Evidence ought to be as clear and evident as the Sun at Noon-day, without any conjectural Preſumptions or Inferences, or Strains of Wit: and truly the Lieutenant is but a ſingle Witneſs at moſt. I ſhould be loth to reproach or beſpatter the Man; yet I muſt ſay this, being upon my Life, that he is not only a ſingle Witneſs, but a Gentleman in whoſe Cuſtody I was Priſoner, contrary to Law; who kept me Priſoner in Times by-paſt, above twelve Months together, at the Houſe of Lords illegal Command, contrary unto Law and Juſtice: for which, above a Year ſince, I did commence at the Common Law an Action of four or five Thouſand Pound againſt him, as I did alſo againſt Col. *Tichburn*, that I have ſeen upon this Bench, ſitting as one of my Judges: which I think is not equal, nor juſt, nor legal, that he with whom I have a Suit of four or five Thouſand Pound depending, when thereby my profeſſed Adverſary, ſhould be one of my Judges: and therefore I deſire he may be commanded off the Bench, and withdraw, as being my profeſſed Adverſary, and therefore in Law uncapable to be my Judge. And truly having the ſame Action depending ſtill againſt the preſent Lieutenant of the *Tower*, before the Judges of the *King's-Bench*, for his detaining me in Priſon above a Year together, contrary to Law; he is thereby in the Eye of the Law my profeſſed Adverſary, and therefore in Law cannot be admitted as a competent Witneſs againſt me, upon my Life. Yet the Lieutenant of the *Tower* doth not in the leaſt ſwear that the Hand is mine, or that he did ſee me write it; but only he ſaith, that I did deliver ſuch a Paper to him: but he is but a ſingle Witneſs, and ſo I ſay by the Law of the Land not valid or good; but his Teſtimony is clearly gone and wiped off, as alſo all Things that do depend thereupon. There are beſides five or ſix Witneſſes produced to ſeveral Charges; but the Law expreſly ſaith, that there muſt be two plain and clear Witneſſes to every particular Charge, or Fact of Treaſon, that muſt take away my Life, and this is your own Law: and therefore he is but a ſingle one, and therefore invalid, and altogether not ſatisfactory or binding. And then beſide, which is conſiderable, truly I think the *Tower* of *London*, in the place where he ſaith I gave him thoſe Papers, is not within the Juriſdiction of the City of *London*; and how I ſhould come to be arraigned by a Jury of my Fellow-Citizens here in *London* therefore, againſt whom I muſt confeſs that for my part I have nothing for their Honeſty and Integrity to object, I know not: for I know not the Faces of any two of them, and therefore impoſſible for me to ſay any thing againſt them. I ſay, I know not how by a *London* Jury I can be tried for a Fact fixed upon me to be committed in *Middleſex*. I beſeech you, Gentlemen of the Jury, miſtake me not; for I have nothing to accuſe you of; and I hope you will be ſo conſcientious and tender in the Trial of me for my Life, that you will put your Caſe as my Caſe, and do by me as you would be done unto by me, if you were in my Caſe and Condition; and the righteous God of Heaven and Earth direct you ſo to do! And therefore the Lieutenant of the *Tower* being but a ſingle Witneſs at moſt, and in Law not a competent one neither, being my profeſſed Adverſary, that hath moſt illegally kept me in Priſon, for which I have commenced long ſince my Action at Law for my legal Reparations againſt him; I ſay, therefore in the Eye of the Law his Teſtimony ſticks not, and I hope, in the righteous Opinion of the Jury, can do me no Harm: and if ſo his Teſtimony be invalid, then the *Salva Libertate* cannot reach me, to do me any Hurt; but it and all thoſe my pretended Books called by my Name, are all waſh'd away and gone, and my Adverſaries muſt go ſeek new Authors for them, or at leaſt procure new and better Teſtimony to prove them mine; for that which they have produced hitherto is worth nothing.

Then the next is *Thomas Daffern*; and he ſays, that the Twelfth of *Auguſt* 1649, he met with Lieut. Col. *Lilburne* upon the Bridge, as he was going home to viſit his ſick and diſtreſſed Family, and he went back with him to his Houſe in *Southwark*, at *Wincheſter-houſe*, which I am ſure is not in *London*; and therefore at *Guild-Hall* in *London*, by a *London* Jury, in Law cannot be try'd: for he poſitively ſaith, That at *Wincheſter-houſe* in *Southwark*, which is in the County of *Surrey*, Lieut. Col. *John Lilburne* gave him a Book to carry to Col. *Ayres*, a Priſoner at *Warwick-Caſtle*; but he does give in no Teſtimony at all that it is mine, or that that Book was Lieut. Colonel *Lilburne*'s Book, of his making or penning; but a Book he gave him, and that is all he ſays: which is no more but that he received a Book at *Wincheſter-Houſe* in *Southwark*, from the Hands of Lieut. Col. *Lilburne*, to carry to Col. *Ayres*, now a Priſoner at *Warwick-Caſtle*. Now, truly, he is but a ſingle Teſtimony, and he ſwears nothing particularly as to me; and beſides, what he ſwears is to a Fact done in another County, and therefore his Teſtimony is not worth a Straw; it's gone, it's invalid in Law, it ſignifies nothing, it is not ſo good as a Spider's Web. By vertue of which, the Marſhal's Teſtimony, and the Governour's of *Warwick-Caſtle*, as alſo Col. *Purefoy*'s, need no other Anſwer from me, but to pity them for the long Journey they have made to no purpoſe.

The next thing charged upon me, is the *Preparative to an Hue an Cry after Sir* Arthur Haſlerig; to which the Lieutenant of the *Tower* ſays, that Lieut. Col. *John Lilburne* gave him one of thoſe Books in the *Tower*, which truly I am confident is in *Middleſex*: and truly I conceive, under favour, it will be a Point diſputable in Law, that I ſhould be tried for my Life in this Place, admit there were a thouſand Witneſſes to make it good that the Lieutenant of the *Tower* had one of them from me, either in the Place he formerly named, or at his own Houſe; for that Fact was done in the *Tower*, that is out of the County of *London*, and ſo not triable by a Jury of Citizens of *London*. But he further ſaith, Whether the Book that he now has, be the ſame that he received from the Hands of Lieut. Col. *Lilburne*, that he is not able to depoſe.

Then the reſt of the Witneſſes that do depoſe againſt me in relation to the *Hue and Cry*, are *James Nutleigh* and *Edward Radney*, both of them Mr. *Prideaux*'s Servants; and the moſt that they ſay is, That when I was before their Maſter, upon the 24th of *September* 1649, at his Chamber in the *Temple*, to be examined by him, they ſay they ſaw me deliver *A Preparative to an Hue and Cry after Sir* Arthur Haſlerig, to their Maſter's Hands, and tell him that was mine, and I would own it, ſaving the Printer's Erratas; which, ſays the Lieutenant of the *Tower* upon his Oath, I expreſſed to be many.

In anſwer to which, I ſay, I do not know whether the *Temple* be within the Liberties of *London* or no; and if it be not, I know no Ground in Law, wherefore a *London* Jury ſhould try me here. But more fully I ſay, for any thing the Jury knows, or for any thing the Witneſſes ſwear, the Printer's Erratas, which are many, are all and every of thoſe Clauſes that Offence or Exceptions are taken againſt; for not one of thoſe Clauſes which you except againſt, are not proved not to be the Printer's Erratas: and therefore there is no Validity or Weight in thoſe Teſtimonies alſo, for they do not prove in the leaſt that any ſix Lines of the Book is mine; all of them ſay that I owned no more of the Book than was free from the Printer's Erratas. And the Lieutenant of the *Tower* ſwears that the Clauſe was added, *Which are many:* And therefore you, the Gentlemen of the Jury, I appeal to your Conſciences, and to your Judgments, and the Lord ſet it home to your Underſtandings, that you may not be guilty of the Blood of an innocent Man, by Partiality, Fear, or Affrightment of Spirit; for in Law, Equity, and Juſtice, all their Three Teſtimonies put together have no Validity, no Strength, nor Force in them: and ſo much for that.

The next Thing fixed upon me, is *The Legal Fundamental Liberties of the People of* England *revived, aſſerted, and vindicated*; and truly all that is brought to prove *The Legal Fundamental Liberties of* England to be mine, is but merely the Relations that are in the forementioned Books: for I do not remember (nay, I am ſure of it) that there

there is so much as a single Testimony that does give in any Evidence against me that it is mine; and therefore I can answer to that nothing more than what I have said already: The Testimonies all being invalid, at least in the Eye of the Law; and therefore that's gone too, and blown away as Chaff before the Wind.

Lastly, for the *Agreement of the People*, truly that is dated the first of *May* 1649. And truly, for aught I know, and I am sure of it too, it is before the Date of any of those Acts upon which I am indicted for my Life; and therefore not within the Compass of it. For *Paul*, that great Apostle, said; and he that spoke by the Spirit of God that dwelt within him, and to whom it was given in an extraordinary manner, that so he might thereby be enabled to write the infallible Truths of God, said, *Where there is no Law, there can be no Transgression.* But that Agreement was in being, and publickly abroad with a legal *Imprimatur* to it, before any of the Acts, upon which I am arraigned, had a Being; And therefore, admit it should be granted to be mine, yet it can be no Transgression, for any thing prejudicial in the Eye of the Law unto me. But besides, there is not any Testimony at all, that so much as lays it to my Charge to be mine; and therefore it pinches me not, nor does any of all the rest of your Charges. And besides all that I have already said in my own behalf, to shew in Law the Invalidity and Insufficiency of all the Testimony you have produced against me, I add this by way of Addition to it, That there hath not been so much as one single Witness or Testimony to prove that the Books laid to my Charge are rightly and truly dated, and not post-dated; which if any of them, or all of them should be, admit the Proofs were sufficient in Law; yet unless the Days of them be firmly proved to be exactly according to the original Copies, and not post-dated, for any thing the Jury knows, they might be made and writ before ever the Acts, they are said to transgress, had a Being. And therefore if there were so many Testimonies in Law to prove the Books mine, (which there is not in the least) yet, I say, admit there had been a thousand Witnesses to the Proof of every one of those Books; yet notwithstanding in the Eye of the Law, I leave it to the Consciences of my Jury, whether I be not free in that Particular, seeing there is none swears punctually and positively to the Dates of them. But to put all out of Danger, as I deny nothing, so in that Particular I do not own a Jot, a Line, a Word, a Syllable of any one of them. Now, Sir, having done so far as I have, and clearly discovered to the Jury, and all that hear me this Day, that all the Proofs alledged against me do not stick, in the least, any Guilt upon me, truly I have clearly answered and invalidated all the verbal Proofs, according to the clear Letter and true Intention of the Law. I have no more to say to all the Evidences that have been read in Books against me. I leave it to the Consciences of my Jury, believing them to be a Generation of Men that believe in God the Father, and believe they shall have a Portion in the Resurrection of the Dead, and stand before the Tribunal of the Lord Almighty, to give an Account unto him, the Lord of Life and Glory, and the Judge of all the Earth, of all their Actions done in the Flesh: I leave it to their Judgments and Consciences, to judge righteously between me and my Adversaries; and the Lord of Life and Glory, to judge right between me and you, that in all those Things in your long Scrowl you pretend me guilty of, I hope I have so clearly and fully answered all and every of your Proofs, that not any one thing sticks. And to their Consciences I cast it; hoping that they do look upon themselves as standing in the Presence of him that sees their Hearts, and knows now whether there be any Malice in them towards me, or no; which, for my Part, I do not believe there is; for I profess, I know no wrong I have particularly done them as Men, or generally as *Englishmen*. My Conscience is free and clear as in the Sight of God, and, I hope, of all unbiassed Men. And, to my Knowledge, I never saw the Faces of any two of them before this Day; and therefore, entirely as an *Englishman*, that loves and honours the good old Laws of *England*, and earnestly desires, and endeavours, and struggles, for the Preservation of Justice and just Magistracy, which I wish with all my Soul may be preserved; and therefore having suffered much for the Preservation of the common and just Liberties of *England*, to their Consciences and to their Judgments I leave both this Matter, and the constant Series of all my Actions in this my Pilgrimage and Vale of Tears here below.

Ld. *Keble*. Mr. *Lilburne*.

Lieut. Col. *Lilburne*. Your Pleasure, Sir?

Ld. *Keble*. Nothing, Sir, but this: Our Consciences are before God, as well as yours; and therefore you need not speak thus.

Lieut. Col. *Lilburne*. Sir, I have only two or three Words more, which I have spoken to you: But these Men, that are my Jury and Judges, in whose Hands only are the Issues of my Life, have not as yet heard them. I pray you, give me liberty, according to your Promise, to go on without Interruption. You Gentlemen of the Jury, I have many material Things to produce Witnesses unto for my Justification; but no Time in the least will be allowed me, as you see, to produce them, which I ought by Law to have had; especially considering I have been lock'd up so long close Prisoner, and have nothing for which I was first imprisoned laid unto my Charge, and have so high, potent, and mighty Adversaries as I have; and truly every Man is shy of me, for fear he may come into trouble for coming near me. And therefore, I have but two or three Words more to speak to the Jury; I beseech you, let me freely go on.

Ld. *Keble*. Make them thirty to your Defence, and you may speak them.

Lieut. Col. *Lilburne*. I shall, by God's Assistance; I shall keep close to my Defence. Now, Gentlemen of the Jury, I think I have sufficiently pleaded for myself at this present; and that to clear up fully unto your Judgments, and to your Understandings, that by the Law of *England* there is not so much as any one Fact proved against me; for the Law is express, that to every particular Fact of Treason there must be two sufficient Witnesses, not by Constructions, or the like: Upon which Score and Plea that Gentleman, Master *Nichols*, that sits there as a Judge, and Master *John Maynard*, saved Major *Rolfe*'s Life, being to be arraigned for the highest of *English* Treason before Baron *Wyld*. Now, Gentlemen, if, notwithstanding what I have said, any Thing shall yet stick upon your Spirits, I shall intreat you to consider the Intention of the Law of *England*: It is repeated several Times in Sir *Edward Coke*'s *Institutes*; it is a Maxim in the Law, I have it here in the third Part of his *Institutes*, *fol.* 6. *Et actus non facit reum, nisi mens sit rea.* Sir, if you please to do me the Favour but to *English* it, and explain it for the Jury? For tho' I understand the Substance of it, yet I am not exactly able to *English* the *Latin*, but only to understand the Sense of it. I conceive the Sense of it is this: It is not the Act, but the Intention of the Mind, that declares the Guilt. But therefore as in reference unto that, I shall say no more but only this to them, That the constant Series of all my Actions, from my Youth hitherto, have manifested, that I have, with an affectionate and compassionate *English* Spirit within me, that hath put me forth for many Years together really to endeavour the Prosperity and Good of the Land of my Nativity, and not its Mischief and Destruction; and that hithertoward, in all my Contests, I have had the Law, and the declared publick Justice of the Nation to my Side, having never done any Mischief to my Country, unless it be a Mischief to oppose great Men's Wills. I have now been seven Months in Prison, I know not wherefore, although originally I was committed to Prison pretendedly for Treason: And both the Acts upon which now I am indicted, have been made long since my first Commitment. There is not any one Syllable of all those Things for which I originally in general, without Accuser or Prosecutor, was voted a Traitor by the present Power; and for which I was proclaimed a Traitor throughout all the Market and great Towns in *England* six Months ago. There is not now, I say, any one of those Things laid to my Charge. But truly I have been laid into Prison for nothing, as by this Day's Work clearly appears, by the Men in present Power: Unto divers of whom I have often sent, to know what it is they require at my Hands; and have also from time to time declared my ready Willingness to compose and end all Differences that concern me, having proffered again and again to refer myself unto the final Determination of four of their own Members, finally to end and determine all Differences betwixt them and me; whereof I was willing that Judge *Rigby* should be one of them: A Gentleman (though now a Judge) I have found very honest and faithful, and to whom I have been much obliged for many hearty Favours I have from time to time received from him. I say, I have sent to him and Colonel *Martin*, and abundance of Members besides, from time to time; to some of whom I have written, with some of whom I have spoken. I say, I have sent many Messages with the earnestest Desire in the World, That if I had offended any Man in the House, that if he would be pleased fairly and friendly to refer it to the final Judgment and Determination of four Members of their own House, I would stand to it. And let all the World judge whether, or no, this Proposition was not suitable to a Christian, and suitable to an honest Man; yea, to a Man that judged him-self in the strictest Scrutiny of his own Conscience to be free and innocent in his own Soul, and in his own Conscience, from all Guilt, Crimes, or Treasons; or else, if I had not, I would not have put myself upon the Judgment of those that were engaged in Interest and Self-preservation against me: And yet for the Things that they imprisoned me for as a Traitor in general, which I hear nothing of this Day, which is wonderful strange Law and Proceedings, to my Understanding. But besides, Sir, under favour, I have not only done this, but I have yet thousands of my Friends, I will undertake I could produce Ten thousand of old and young, Males and Females, Citizens and Countrymen, Men of Honesty and Integrity, that have in the common Cause always adhered to the Freedoms of the Nation, that have petitioned the Parliament several times, yea, from time to time, with abundance of rational and fair Petitions, and truly stated my Case to them, and acquainted them with my Condition, and with the rest of my Fellow-Prisoners; and earnestly begged and intreated of them, that they would not be hasty in condemning and destroying me before they had heard me, and afforded me a legal Trial, from first to last, according to the due Forms and Process of the Law of *England*. And yet for all this, till I came before you, I never saw Accuser or Prosecutor, nor Indictment or Charge, nor nothing in all the Earth, legally to demonstrate me so much as a supposed Offender. And yet for all this, no Satisfaction in the World would be received; notwithstanding in one Petition they desiring that they would be pleased, seeing they were incensed against us, and that they had taken Indignation against us, they did not desire to justify us in any thing we had done; but in regard, to their own Knowledge, we had been all four faithful, zealous, and serviceable Instruments in the common Cause of the Nation: In which, to the hazard of my Life an hundred times over, I have engaged for them, with my Sword in my Hand, with as much Resolution, and as much Faithfulness, as any Man on Earth ever served a Generation of Men; having never betray'd my Trust, or ever given any Suspicion in the least, that I would; or ever so much as stagger'd in my Principles, nor ever so much as disputed any Commands, though never so desperate, that were laid upon me; no, nor ever turned my Back in the Field of their Enemies in any of their Services, so long as 'twas possible for a Man that had any Brains left him to stand; but was one of those seven hundred Men at *Brentford*, (myself being there a Volunteer, without any particular Command) that with Dint of Sword stood it out against the whole Body of the King's numerous Army for many Hours together, and never stirred off the Ground till both Horse and Foot had, as it were, encompassed us round, and till we came to a Readiness to beat out one another's Brains with the Butt-end of our Musquets: where I was taken a Prisoner, and led Captive in a most barbarous and disgraceful manner to *Oxford*, where I suffered abundance of unexpressible Hardships, and underwent the Shock, and rid the Storm, as stoutly as any Man there, although I believe I was as much courted by Messages from the King himself, as any or all the Parliament-Men that were there my Fellow-Prisoners; for there I have had no less than four Earls and Lords in one Day sent unto me by him, to draw me over to them: But I bless God, that kept me upright and entire unto my Integrity and Principles, and suffered me not to turn my Back upon them. But, Sir, notwithstanding

ſtanding all this, (I ſay) our Friends deſired of the Parliament that they would be pleaſed to take ſufficient Security, according to the Law, for our Forth-coming at all times, to anſwer ſuch Things as ſhould be laid to our Charge: But their Petitions were contemned, themſelves ſlighted and abuſed, and by no Means could get any ſatisfactory Anſwers to them. Sir, I ſpeak here to you, and to my Fellow-Citizens the Jury, as in the ſight and preſence of God, that knows I lye not: And if you find me to be in a Lye, in the leaſt, in what I have ſaid, then never credit Man of my Profeſſion again for my Sake. Truly, Sir, I ſay, they deſired them that we might be releaſed from our Impriſonment, putting in Security to anſwer whatſoever legally could be charged upon us; only they craved we might have the ſame legal Privileges that they demanded at the Hands of the King, when he impeached the Lord *Kimbolton* and the five Members of High-Treaſon; which Privileges are eaſily and plainly to be read in their own firſt *Primitive Declarations*, *pag.* 38, 39, & 76, 77. Now abundance of the Free People of this Nation, in my Behalf, having craved the ſame Privileges that were demanded for the Lord *Kimbolton*, and in the Behalf of the five Members, and the like; all that they deſired was no more but the ſame Privileges that they craved for them; which was, That I might have the due Proceſs of the Law, from firſt to laſt; and I and my Accuſers come Face to Face at the Beginning before an ordinary Magiſtrate; and if they had any Thing to lay to my Charge, that they would legally, according to Law, proceed with me. But, I ſay, none of theſe would be granted, altho' themſelves in ſeveral of their Declarations have declared all theſe Things to be the common Right of all or any of the People of *England*, as well as Parliament Men. Yet notwithſtanding all this, they continued in their incenſed Condition againſt me, and would come to no legal nor fair Iſſue with me; nor let me in the leaſt know what was the End or Thing they required of me, or what was the Thing that would ſatisfy for the Extenuation of their Indignation againſt me; but contrariwiſe dealt harder and harder with me; in laying new and freſh inſupportable Burthens and Provocations upon me: For, after all this, they cauſed me to be lock'd up cloſe Priſoner in the Heat of Summer, ſet Sentinels Night and Day at my Door, denied me the Acceſs of my Wife and little Babes; for a certain Seaſon neither Wife nor Child could ſo much as ſet their Feet within the Gates of the *Tower* to ſee me, or comfort me in my Diſtreſs.

Ld. *Keble.* Mr. *Lilburne*, is this your Defence?

Lieut. Col. *Lilburne.* I beſeech you, as either the Law, or Fear of God, Conſcience or common Honeſty dwells within you, let me have a little fair Play to go on to ſpeak for my Life without Interruption; I ſhall not trouble you long, for I have almoſt done.

Ld. *Keble.* When your Matter of Fact is to defend your ſelf, and to anſwer the Proof upon that; and that is it we are to hear, and not to hear you tell the Story of all your Life: and then if we ſhould reply to theſe particular Things, they will be ſuch as moſt of them will vaniſh, and do you no Service, but take up a great deal of Time. Do not tell us a Story, but go on to finiſh the Matter of Fact.

Lieut. Col. *Lilburne.* It has been your Favour to give me Leave to tell it over to you, I pray give me Leave to declare it to my Jury, who have not heard it before; and it is very material to my Preſervation, and my Life lies upon it: therefore do not deal with me as Proctors, and engaged Men, with thoſe that thirſt for my Blood; and laying aſide that Evenneſs of Hand betwixt both Parties, that ought to be in all juſt and righteous Judges.

Ld. *Keble.* 'Tis nothing to this; if it be any Thing in the World to do you good, in the Way of your Courſe of Defence, you ſhould have it.

Lieut. Col. *Lilburne.* Well, if you will let me go on no further to make my Defence, I cannot over-rule you, though you over-rule me; my Blood be upon your Heads, and the Lord God of Heaven and Earth reward you for all your blood-thirſty Cruelty towards me his innocent Servant this Day! And ſo I have done with it: and what I have ſaid, I have done with it, and leave it to the Jury, earneſtly begging and intreating them to take Notice of your cruel and unjuſt Dealing with me, in denying me all the Privileges of an *Engliſhman*, when I am upon my Life.

Ld. *Keble.* What is material, you ſhall not be debarred in it.

Lieut. Col. *Lilburne.* O Lord, Sir! What ſtrange Judges are you, that you will neither allow me Counſel to help me to plead, nor ſuffer me my ſelf to ſpeak for my own Life! Is this your Law and Juſtice, Sir? I have no more to ſay but this, ſeeing you ſtraighten me; although you ſaid you would hear me till Midnight. I hope I have made it evident to all rational Men, that all or any Part of the Teſtimony given in againſt me, does not in the exact Eye of the Law in the leaſt touch me, although I have been moſt unjuſtly impriſoned, and moſt barbarouſly uſed, and tyrannized over; yea, and my Eſtate by Will and Power taken from me; that ſhould have kept me and mine alive, and the legal and cuſtomary Allowance of the *Tower* denied me to this Day. And although I have uſed all chriſtian and fair Means to compoſe my Differences with my Adverſaries, yet nothing would ſerve their Turns, but I muſt have Oppreſſion upon Oppreſſion laid upon me, enough to break the Back of a Horſe; and then if I cry out of my Oppreſſions in any Kind, I muſt have new Treaſon-Snares made to catch me, many Months after their Oppreſſions were firſt laid upon me, that if I ſo much as whimper or ſpeak in the leaſt of their unjuſt Dealing with me, I muſt die therefore as a Traitor. O miſerable Servitude! and miſerable Bondage, in the firſt Year of *England*'s Freedom! I have now no more to ſay unto you, but only this: Your own Law tells me, Sir *Edward Coke* ſpeaks it three or four Times over in his 3d *Part of Inſtitutes*, That it is the Law of *England*, that any By-ſtander may ſpeak in the Priſoner's Behalf, if he ſee any Thing urged againſt him contrary to Law, or do apprehend he falls ſhort of urging any material Thing that may ſerve for his Defence and Preſervation. Here's your own Law for it, Sir; *Coke* is full and pregnant to this Purpoſe in his *3d Part of Inſtitutes*, *fol.* 29, 34, 37. But this hath ſeveral Times been denied me in the Caſe of Mr. *Sprat*, my Sollicitor; and now I demand it again, as my Right by Law, that he may ſpeak a few Words for me, according to his often Deſire, both to me and the Court. I have almoſt done, Sir; only once again I claim that as my Right which you have promiſed, That I ſhould have Counſel to Matter of Law; and if you give me but your own Promiſe, which is my undoubted Right by your own Law, I fear not my Life: But if you again ſhall deny both theſe legal Privileges, I ſhall deſire my Jury to take notice, that I aver you rob me of the Benefit of the Law, and go about to murther me, without and againſt Law: and therefore as a free-born *Engliſhman*, and as a true Chriſtian that now ſtands in the Sight and Preſence of God, with an upright Heart and Conſcience, and with a chearful Countenance, caſt my Life, and the Lives of all the honeſt Freemen of *England*, into the Hands of God, and his gracious Protection, and into the Care and Conſcience of my honeſt Jury and Fellow-Citizens; who I again declare by the Law of *England*, are the Conſervators and ſole Judges of my Life, having inherent in them alone the judicial Power of the Law, as well as Fact: you Judges that ſit there being no more, if they pleaſe, but Cyphers to pronounce the Sentence, or their Clerks to ſay *Amen* to them; being at the beſt in your Original, but the *Norman* Conqueror's Intruders. And therefore, you Gentlemen of the Jury are my ſole Judges, the Keepers of my Life, at whoſe Hands the Lord will require my Blood, in Caſe you leave any Part of my Indictment to the cruel and bloody Men. And therefore I deſire you to know your Power, and conſider your Duty, both to God, to Me, to your own Selves, and to your Country: And the gracious aſſiſting Spirit and Preſence of the Lord God Omnipotent, the Governour of Heaven and Earth, and all Things therein contained, go along with you, give counſel and direct you, to do that which is juſt, and for his Glory!

[The People with a loud Voice cried, *Amen*, *Amen*, and gave an extraordinary great Hum; which made the Judges look ſomething untowardly about them, and cauſed Major-General *Skippon* to ſend for three more freſh Companies of Foot-Soldiers.]

Mr. Attorney. Gentlemen of the Jury, you have heard the Evidence in Behalf of the State; you have heard the Inſinuations of the Priſoner upon them, as calling you his Fellow-Citizens, and the like: He hath ſaid, and ſpoken; we have proved, and it is in your Conſciences to believe Proof, before Saying. The Priſoner begun to cite you two Acts of Parliament; the one in the 1ſt of *Edward* the Sixth, and the other 5th and 6th of *Edward* the Sixth; and by thoſe two Acts he would ſignify to you, that you ſhould have two plain and evident Witneſſes to every particular Fact: yet he did forget to cite another Statute made in the firſt and ſecond Years of *Philip* and *Mary*, that overthrows and annihilates thoſe two Statutes that would have two plain Witneſſes to every Fact of Treaſon; and in all Caſes of Treaſon will have them freed, according to the common Courſe of Law, the Common Law for the Trial of them. If that muſt be material, or if that ſtick with you, that you cannot determine it, my Lords the Judges will direct you in it, and in all other Points of Law. But certainly that Exception was a little vain too; for we did not inſiſt with one particular Witneſs in nothing at all: for that of *Newcomb*, the Priſoner did not repeat fully what he ſaid; for I remember he ſaid this, That Mr. *Lilburne* and Captain *Jones* came together, and brought the Copy of the laſt Sheet that was to be printed: if one come with him, and the other delivered it to the Printer, they are both equally guilty alike. They came again the ſame Day at Night; and when the firſt Sheet was printed, to be ſure it was true and right, Mr. *Lilburne* did take the Pains to take one of the Copies into his Hand, and corrected it.

Lieut. Col. *Lilburne.* By your favour, Sir, he urg'd no ſuch Thing: by your favour, Sir, they are the expreſs Words of the Teſtimony, to the quite contrary; and I wonder, Mr. *Prideaux*, you are not aſhamed to aver ſuch notorious Falſhoods, as you do, in the open Face of the Court, before thouſands of Witneſſes; for *Newcomb* ſaid no ſuch Thing, as you falſly affirm; neither is there any ſuch Statute in Queen *Mary*'s Time that doth aboliſh thoſe two Statutes of *Edward* the Sixth, that I inſiſt upon for two Witneſſes: name your Statute if you can; here's the Statute-Book, let the Jury hear it read; do not abuſe them with your impudent Falſhoods.

Mr. Attorney. Well, Sir, I leave it to the Judgment of the Jury, Sir. My Lord, as for all the reſt, and particularly for that of the *Salva Libertate*, it is true, there is but one Witneſs, which is ſufficient enough by the fore-mentioned Act of Queen *Mary*: but, my Lord, it is under Mr. *Lilburne*'s own Hand, he will not deny it.

Lieut. Col. *Lilburne.* By your Favour, there is no Man ſo ſwears, in the leaſt, that it is my Hand: Jeſus Chriſt denied none of his Accuſation; yet when they went about to enſnare him by Queſtions, he anſwered *Pilate*, &c. *Thou ſayeſt ſo: go to thoſe that heard me, they know what I ſaid; why aſk you me?* Sir, I beſeech you produce your Act of Parliament in Queen *Mary*'s Time, to prove, in Caſes of Treaſon, there ought to be but a ſingle Witneſs.

Mr. Attorney. Do not interrupt me, Mr. *Lilburne.*

Lieut. Col. *Lilburne.* I pray you then do not urge that which is not right nor true, but notoriouſly falſe; for if you perſevere in't, I will interrupt you, and tell you of it to the Purpoſe.

Juſtice *Jermin.* Though you do recite many Things, yet I muſt tell you, the Law of the Land ſaith, The Counſel for the Commonwealth muſt be heard.

Lieut. Col. *Lilburne.* I beſeech you, then, let there be no more added to the Teſtimony, than Right and Truth; for my Life lyes upon it, and I muſt and will declare the Baſeneſs and the Falſeneſs of it.

Mr. Attorney. I would not do the tenth Part of the Hair of your Head wrong; but being intruſted, I ſhall do my Duty, and diſcharge my Conſcience in my Place, which is fully and plainly to open that unto them which in my Conſcience I think is right and juſt.

Lieut. Col. *Lilburne.* I do repeat it thus, as in my Conſcience, that he did ſay, when the Copy was firſt brought, Capt. *Jones* gave him the Copy, and Captain *Jones* did agree with him for the printing of it; and Capt. *Jones* did read the Original to his Corrector, which Corrector amended the Printer's Faults, and that I had an uncorrected Sheet away; and that his Forms were taken before he had perfected that.

Mr.

Mr. Attorney. And Mr. *Lilburne* came the second Time.

Lieut. Col. *Lilburne.* Will you spend all day in vain Repetitions? You would not give one leave to breathe, nor freely to speak Truth, without Interruption, although you were laying Load upon me for five Hours together: I pray, Sir, do not now go about to tire the Jury with tedious Repetitions, nor to sophisticate or adulterate their Understandings with your Falshoods and Untruths.

Justice *Jermin.* Mr. *Lilburne*, the Law of the Land is, That the Counsel for the State must speak last.

Lieut. Col. *Lilburne.* Sir, your Law is according to the Law of God, you said; and that Law, I am sure, will have no Man to bear false Witness: Why doth Mr. *Prideaux* tell the Jury such Falshoods as he doth, and take up six times more time to take away my Life, than you or he will allow me to defend it?

Mr. Attorney. For the *Salva*, that it was delivered in the *Tower*, which is not in *London*, I hear not one Witness to prove that.

Lieut. Col. *Lilburne.* That is a disputable Point in Law, whether it be in *London* or *Middlesex.*

Mr. Attorney. And then, my Lord, as for the *Agreement of the People*, Mr. *Lilburne* says, it was dated the 1st of *May*, 1649, and it was before the Act was made that is dated *May*, 1649, and it is before the Law was made in *July*, 1649. We do not question him for that; but when he comes to bring in those Books in *August* last, then he does new publish that *Agreement of the People:* He incites them to set it up as their Center, Standard and Banner.

Lieut. Col. *Lilburne.* Let me not thus be abused; that Book was never fixed upon me, I was never taxed to be the Author of it, or so much as the Disperser of one of them; what Baseness is this in you, Mr. *Prideaux*, thus falsly to use me?

Ld. *Keble.* He does you no wrong, but all the fair Play that can be; he doth fix that *Agreement* no otherwise upon you, than by your Books it is.

Mr Attorney. I do acknowledge the *Agreement of the People* that you are charged with, is dated the 1st of *May*, 1649, and that the Evidence may allow this; as also, that that *Agreement of the People* that was then published, and which you in your Books did own, was and is signed by Mr. *Walwin*, Mr. *Prince*, and Mr. *Overton*, your Fellow-Prisoners, as well as yourself.

Lieut. Col. *Lilburne.* There is no Book yet proved mine; and if that *Agreement* were mine, yet it is dated before both your Acts, and was in print before they had a Being; and therefore in the Eye of your own Law, can be no Transgression; and you yourself do not so much as accuse me for publishing or dispersing one of them, since your Acts were publickly declared.

Mr. Attorney. That which you owned and signed, Mr. *Lilburne*,

Lieut. Col. *Lilburne.* By your favour, Sir, I never owned or signed any Book that is proved against me yet; and no Book in the Eye of the Law can be accounted mine, until it be legally proved mine, or voluntarily confessed to be mine by myself.

Mr. Attorney. My Lord, that is owned to be so printed. When he must come and incite the People, and stir them up from those Particulars therein contained, to insist with Particulars, as the dissolving of the Parliament, the having of a new, and such other Particulars therein contained; and that this *Agreement* shall be the Center, the Banner, and the waved Standard, unto which they shall flock, and to send Agents into several Countries to put this into Execution. Now, my Lords, for this Book, it is not doubted but that there are two Witnesses that the *Preparative to the Hue and Cry* was owned by Mr. *Lilburne* to be his own, the Erratas of the Printer only excepted; and that the Lieutenant of the *Tower* likewise joins in it. My Lords, I think there was not a Clause read to you out of it, but what is full and home to the Purpose: and as for the *Out-cry*, the Printer's Testimony is complete. And *The legal fundamental Liberties* is owned by him in his *Impeachment of High-Treason against Lieut. Gen.* Cromwell, *and his Son-in-law Commissary* Ireton; and he doth there also sufficiently own the *Agreement* of the first of *May:* And, my Lords, I do not know there was any thing that was offered here in that Book, but was first proved in the Court. We do not offer any thing of Error that was past, to take Mr. *Lilburne* upon any Speeches that fell from him unawares, although he hath sufficiently done it: but in much speaking there wants not Offence: it falls out here in this. Mr. *Lilburne* hath been very free in his writing, in his speaking, in his printing, and it now riseth in Judgment against him, and the Law must now give him his due; which you, my Lords, are sole Judges of, and from whom the Jury and the Prisoner both must receive it, for all that which Mr. *Lilburne* hath said to the contrary. And the Jury answers to the Matter of Fact, and they are upon their Oaths sworn to do the things that are just and right. My Lords, I shall leave the Evidence to them, with this Note or Observation upon it: That notwithstanding all Mr. *Lilburne* hath flourished and said, I will not say as he hath done, and seek by glossing Speeches or Insinuations to wind into the Affections of the Jury, as he cunningly and smoothly hath done, by calling them his Fellow-Citizens, and the like. You Gentlemen of the Jury, you are to answer now according to your own Consciences, betwixt God and you; your Oath is, That you are not to respect Favour or Affection, nor to meddle with him upon any respect, than in Justice, and as it is already clearly witnessed and proved before you. My Lords, you have heard the several Charges he is accused upon, you have heard a great deal of foul Matter and Dirt, that is fit for nothing but to be cast upon the Ground, and returns to Mr. *Lilburne* again; for truly when he casts it upon the purest Marble or Brass, it falls off again: God be thanked that it returns to Mr. *Lilburne*, the right Owner! The Prisoner hath cast these Accusations and these Blemishes upon others, but now they are upon the Ground they will fall off, and do retort and return upon his own Face: He hath taken a great deal of Pains to dig deep for Mistakes, nay, for notorious and gross Calumniations; had he the Ingenuity to remember the Words of the Scripture, *That the Pit he hath digged for others, he is fallen into himself*, he would have some Remorse of Conscience in him: but all the Mischiefs and all the Evils that can be thought upon, which he imagined to heap upon others, is now most justly fallen upon himself. It is said of those Flies whose Matter is Corruption, they always light upon sore Places, upon galled Backs, upon Carrion; other Birds, when they fly upon fair Meadows, will not touch these. Certainly the Parliament of *England* the Army, all the Officers of it (whose Fame, both as Parliament and Army, all Men know in an extraordinary manner), are now put in a Balance against Mr. *Lilburne:* But for the Army and the Officers of it, no Man can say but they have been faithful and true to their Trust, gallant and courageous, and extreme successful to the Peace and Happiness of this Nation; and God is pleased at this instant to own them, and bless them in a miraculous manner.

Lieut. Col. *Lilburne.* And yet notwithstanding, did not you help to vote them Traitors once? I am sure I was in a Chamber in *Whiteball* last Year, when their Commissioners (now Members of your House) put your Name down in their black Bill for a Malignant: but it seems you have recanted your Errors, and engaged to be a good acquiescing Creature, or else you had not been here this Day in the Condition you are in. But for all their Faithfulness, *&c.* have they not rebelled twice against their Creators, Lords and Masters?

Mr. Attorney. Never Army hath done greater Things, and yet they have not escaped Mr. *Lilburne*'s Tongue and Pen; they have not escaped it, my Lords, but he hath lashed them to the Purpose. I shall be as good as my Word, not to aggravate the Offences, for they are so vile, they aggravate themselves enough; and therefore I leave it thus, the naked Truth, and the Worth of it, as the Books themselves have offered themselves. But I shall say thus much more: The Honour of the Parliament of *England*, all the Magistracy therein, the Honour of the Government, the Honour and Renown of the Army, that hath done such great and wonderful Things, is now at Stake against Mr. *Lilburne*; and there being a Law published, that did give warning; and Mr. *Lilburne* had been tried for his Life sooner, upon my Knowledge; I say, Mr. *Lilburne* had been sooner tried, and sooner condemned and executed, if the Law had been sooner made and published. But as he saith right well, *Where there is no Law, there is no Transgression*; and therefore there being a Law against which he hath offended, he must smart for it.

Lieut. Col. *Lilburne.* I am sure I was imprisoned most unjustly, without any the least Shadow or Colour in Law, many Months before your Acts were made, and extremely oppressed; and now you go about to hang me as a Traitor, for at most but crying out of your Oppression. O unrighteous Men! The Lord in Mercy look upon me, and deliver me and every honest Man from you, the vilest of Men!

Mr. Attorney. And that Law was published and proclaimed in this City, by means of which, Mr. *Lilburne* and others had timely notice that they should not do such Things as are there forbidden; it is also told them the Penalties of it, which are those that are due for the highest High-Treason: and yet notwithstanding you see with what Boldness, with what Confidence, in despite of all Law and Authority, these Books have been made and published by Mr. *Lilburne.* And whereas he is pleased to say many Times, that many Men have petitioned for him to the Parliament, he will not affirm to you that ever he petitioned himself; but in all his Discourse here, he calls them *the present Men in Power*, *the Gentlemen at* Westminster: nay, my Lord, he hath not so much as owned the Power of the Court since he came before you, but hath often called you Cyphers, and the like.

Lieut. Col. *Lilburne.* That is no Treason, Sir: they intitle themselves *the present Power*; and would you hang me for not giving them a better Style, than they themselves give to themselves? I think the Style of *present Power* or *present Government*, is a very fit Style for them.

Mr. Attorney. My Lord, I have told you long, it is the Jury that are Judges upon the Fact; and to you I must appeal for Law, if you do believe the Evidence is plain and full against him, for which he stands indicted: and so God direct all your Judgments! I have done.

Lieut. Col. *Lilburne.* Sir, by your favour, I shall desire to address myself in one Word to you; which is, to desire that the Jury may read the first Chapter of Queen *Mary*, in the Statute-Book, and the last Clause of the Chapter of the thirteenth of *Elizabeth*; where they shall clearly see, especially in the Statute of Queen *Mary*, that they abhorred and detested the making of Words or Writing to be Treason; which is such a Bondage and Snare, that no Man knows how to say or do, or behave himself, as is excellently declared by the Statute of *Hen.* IV. *v.* 2. I have done, Sir.

Ld. *Keble.* Gentlemen, you of the Jury, you are sworn; you are Men of Conscience, Gravity and Understanding: To tell you of the Duties of your Place, that have gone through it so often, is a vain Thing. The Sacredness of an Oath, which a Man must not transgress in the least, not to save the World; you have gone so often through it, and understand it, that I need say no more. The Charge you have heard, and the Proofs; but for Proof single, or double, or treble, as some of them do amount unto a Witness in this, yea, that doth double another Man's Witness; if I swear this Thing, and another swear the same, a third the same, that is doubled upon all their Testimonies. Mr. *Lilburne* hath cited two Statutes of *Edward* the Sixth, to prove there must be two Witnesses; but I must tell him, were there but one to each Fact, it were enough in Law: for as for that which was cited of King *Edward* the Sixth, you have had it fully answered by a latter Law of Queen *Mary*, which doth over-rule that, and also enacts that the Common Law of *England* shall be the Rule by which all Treasons shall be try'd; which reacheth to this Case too, that there need no more but one Witness, and this is Law: and therefore, Gentlemen of the Jury, that must not stick with you. That which you have heard, to concern you of the Truth of the Matters, is this: You are not bound affirmatively to have two Witnesses, but in that one Witness with the Circumstances concurs, that is sufficient: That which should prevail with you, is to consider the Strength of the Accusation, which rests in the Books, and doth consist of three Heads, which are laid down in the Books themselves; which doth in the first place so firmly express, and so far vilify the Parliament and State, as it

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is now eſtabliſhed in *England*; the ſecond doth look unto the Counſels and Incitations of him for the ſtirring up of Tumults, Commotions, and Wars in this Nation; and the third, are the Things cited in his Books to that end and purpoſe, to divide the Army, and then the other will take the better effect. Theſe are the three main Charges, and theſe the Books that come from him do ſo plainly teſtify: that the Books are proved to be his, you are fit Judges of; but it clearly appears by thoſe his Books, that theſe things were in his intention.

For that he ſays, it is *Mens* that does make a Man guilty, the Mind, that is intended as it is expreſs'd: *Actus non facit reum, niſi Mens ſit rea.*

Now that Mind is *rea*, when there is Faith publiſhed; but I tell you this, theſe Books being admitted true, I ſay that never Man that acted the higheſt of Treaſons, as he hath done, hath had ſo much Liberty as he hath had: and as I ſaid before, never Man of his Condition, nor any Condition in *England*, that was indicted in ſuch a Caſe, ever had a Trial in ſuch a Court, in ſuch an Auditory, ſuch a Preſence as he had.

Lieut. Col. *Lilburne.* The more's my Sorrow.

Ld. *Keble.* The more's your Sorrow, indeed! You have good Cauſe to be ſorrowful indeed for this Act of yours thus declared: if your intentions had taken effect, your Plot was the greateſt that ever *England* ſaw, for it ſtruck at no leſs than the Subverſion of this Commonwealth, of this State, to have laid and put us all in Blood; your Plot was ſuch, that never ſuch was ſeen in the World before to proceed from a private Man as you are; therefore it muſt needs be heavy upon your Conſcience. Therefore, my Maſters of the Jury, look into your Conſcience, and ſee what that ſaith unto you, which he ſtands ſo much upon: The Witneſſes Teſtimonies are now plain and good in Law, in this Cauſe they are multiply'd; I do not know in one Particular that there is a Teſtimony ſingle, but it is aggravated with many Circumſtances: therefore let not that trouble you, you are the proper Judges of the Matter of Fact, being of the Country; and if you have fully apprehended the dangerous things plotted in thoſe Books of Mr. *Lilburne*'s, you will clearly find that never was the like Treaſon hatch'd in *England.* And ſo in God's Name, as the Priſoner doth lead to your Conſciences, ſo go and do.

Lieut. Col. *Lilburne.* I deſire your Favour, that there may be a Courſe taken, that neither my Proſecutors, nor any belonging to them, may have Acceſs unto the Jury till they have done.

Juſtice *Jermin.* You Gentlemen of the Jury, I did expect it, it was expected by the Court, that ſome Matter of Law, or ſome Queſtion of Law, might ariſe upon the Evidence; which if it had, it was the Duty of the Court to have cleared it: but there does not appear, and therefore there is an End, as to the Diſpute of the Law.

Foreman. We are no Lawyers indeed, my Lord.

Lieut. Col. *Lilburne.* I have begged it, and you have promiſed it, that I ſhould have Liberty to plead in Law to the Illegalities of the Indictment; but you have deny'd me that legal Right: yea, you will not permit my Solicitor to ſpeak a few Words for me. I dare undertake, there was never ſuch a Trial upon *Engliſh* Ground as this hath been; where a Man hath been deny'd all the legal Rights of an *Engliſhman*, as I have been. You Gentlemen of the Jury, who now are my ſole Judges, I pray you take Notice of it.

Juſtice *Jermin.* There never was any ſuch Kind of Abuſe offered to a Court as you have given, nor never was ſuch Language uſed to any Court of Juſtice before, that I did hear of, as you have given: and certainly the Behaviour at the Bar doth ſet forth what the Humours and Character of the Man is; for in this Caſe, if any ſuch dangerous Thing of acting of Commotion or Mutiny in the Army or in the Nation ſhould have follow'd, it had been too late then to have thought of the Remedy. Therefore the Wiſdom of the Parliament hath declared, That whoſoever ſhall by writing, printing, or by openly declaring, publiſh that the preſent Government of *England* is Uſurped or Tyrannical, it is Treaſon. There is the Fact, upon which all the Evidence does depend; and you are to judge, whether in all thoſe Books there be not by Mr. *Lilburne* a traitorous Fact committed; and how clearly this does appear unto you, with all Circumſtances thereunto belonging, I leave you to judge: and how ſhort his pretended Replies are to be ſeen, or invalidate the Strength of the Witneſſes, I alſo leave you to judge. I ſay, I might eaſily ſhew you, how ſhort his pretended Anſwers are of real Satisfaction, but I leave it to your Judgments.

Lieut. Col. *Lilburne.* Sir, my Anſwers are real Anſwers, not pretended ones, as you are pleaſed to call them.

Juſtice *Jermin.* But in this Buſineſs the Evidences are ſufficient to make a Man guilty of Treaſon; for here was not ſimply a paſſionate Act, or inconſiderate Speech, but what he hath done, he hath done deliberately and adviſedly, which is ſufficient to make him, or any Man that ſo doth, guilty of Treaſon. All this that was publiſhed was in *Auguſt*, the Act is in *July* preceding. Now it is very true, and I will *Engliſh* it for Mr. *Lilburne*, *Actus non facit reum, niſi Mens rea:* The Act of a Man does not make him guilty, unleſs his Mind be guilty. But I pray, how ſhall any Man know the Guilt of a Man's Mind, but by thoſe polluting and poiſonous Words that come out of his Mouth? That's the Mind. What I hear a Man ſay, I may lawfully ſay he thinks: and it is a Rule in Law, that the outward Acts do ſhew forth inward Intentions: that very Rule I will not ſpeak it in *Latin*, becauſe I ſpeak to one that does ſay he does not underſtand *Latin*, otherwiſe I could ſpeak more *Latin.* Now here is the Matter, Whether or no, upon the whole Evidence that you have heard, there does not appear ſufficient Matter to make this Priſoner guilty, not of raſh, but of adviſed and deliberate Treaſon; and as plainly of plotting and contriving to raiſe Mutiny and Sedition in the Army, thereby totally to ſubvert and deſtroy the preſent Government: and truly, I have not heard more of Skill has been uſed, and more Attempts made, than I think you have heard, and do remember. I doubt not, but as you will take care of the Life of a Man, that you muſt not take away the Life of an Innocent; ſo will you be as careful of your own Souls, and the publick Safety: and that's all that I deſire, and I pray God to direct you for the beſt.

Lieut. Col. *Lilburne.* If you will not let me have Counſel, let my Solicitor ſpeak Matter of Law for me.

Juſtice *Jermin.* Mr. *Attorney*, you muſt take ſome Care to ſuppreſs this, he will not be anſwered by us. I pray demand Juſtice of the Court againſt him.

Lieut. Col. *Lilburne.* Well, Sir, then I have done.

[The Foreman deſires the Act for Treaſon, and one of the Jury deſired to drink a Cup of Sack, for they had ſat long, and how much longer the Debate of the Buſineſs might laſt, he knew not; and therefore deſired, that they might have amongſt them a Quart of Sack to refreſh them.]

Juſtice *Jermin.* Gentlemen of the Jury, I know for my Part, in ordinary Juries that they have been permitted to drink before they went from the Bar; but in Caſe of Felony or Treaſon, I never ſo much as heard it ſo, or ſo much as aſked for; and therefore you cannot have it.

[But one of the Judges moved they might have it.]

Juſtice *Jermin.* I may not give Leave to have my Conſcience to err; I dare not. And thus if the Reſt of the Judges be of Opinion, you ſhall have a Light if you pleaſe, the Fellow that keeps you ſhall help you to it; but for Sack, you can have none, and therefore withdraw about your Work.

Lieut. Col. *Lilburne.* Sir, I underſtand, the Officer that is to keep their Door hath declared ſomething of Bitterneſs of Spirit againſt me; I deſire therefore he may have ſome indifferent Man joined with him, to ſee I have fair Play; which was granted, and he ſworn.

The Jury go forth about Five a-Clock, the Court adjourned till Six a-Clock, and the Court commands the Lieutenant of the *Tower* and the Sheriffs to carry the Priſoner into the *Iriſh* Chamber, which they did. The Priſoner ſtays about three Quarters of an Hour, and the Jury being come into the Court again, the Priſoner was ſent for; and after the Crier had cauſed Silence, the Jury's Names were called, *viz.*

1. *Miles Petty,*	2. *Stephen Iles,*	3. *Abraham Smith,*
4. *John King,*	5. *Nicholas Murren,*	6. *Thomas Dainty,*
7. *Edmond Keyſar,*	8. *Edward Perkins,*	9. *Ralph Packman,*
10. *William Commens,*	11. *Simon Werdon,*	12. *Henry Tooley.*

Clerk. Are you agreed of your Verdict?

Jury. Yes.

Clerk. Who ſhall ſpeak for you?

Jury. Our Foreman.

Cryer. John Lilburne, hold up thy Hand. What ſay you, (look upon the Priſoner) is he guilty of the Treaſons charged upon him, or any of them, or Not Guilty?

Foreman. Not Guilty of all of them.

Clerk. Nor of all the Treaſons, or any of them that are laid to his Charge.

Foreman. Not of all, nor of any one of them.

Clerk. Did he fly for the ſame?

Foreman. No.

[Which *No* being pronounced with a loud Voice, immediately the whole Multitude of People in the Hall, for Joy of the Priſoner's Acquittal, gave ſuch a loud and unanimous Shout, as is believed was never heard in *Guild-Hall*, which laſted for about half an Hour without intermiſſion; which made the Judges for fear turn pale, and hang down their Heads; but the Priſoner ſtood ſilent at the Bar, rather more ſad in his Countenance than he was before. But Silence being made:]

Clerk. Then hearken to your Verdict, the Court hath heard it: You ſay, that *John Lilburne* is not Guilty of all the Treaſons laid unto his Charge, nor of any one of them; and ſo you ſay all, and that he did not fly for it?

Jury. Yes, we do ſo.

Clerk. Gentlemen of the Grand Inqueſt, the Court doth diſcharge you. And you Gentlemen of Life and Death, the Court doth diſcharge you alſo. Lieutenant of the *Tower*, you are to carry your Priſoner to the *Tower* again, and Major-General *Skippon* is to guard you: and all whom you deſire, are to aſſiſt you.

The Priſoner withdraws, and the Court adjourned till *Wedneſday* following.

Extraordinary were the Acclamations for the Priſoner's Deliverance, as the like hath not been ſeen in *England*; which Acclamations and loud rejoicing Expreſſions went quite through the Streets with him to the very Gates of the *Tower*, and for Joy the People cauſed that night abundance of Bonfires to be made all up and down the Streets. And yet for all his Acquittal by the Law, his Adverſaries kept him afterwards ſo long in Priſon, that the People wondered, and began to grumble that he was not diſcharged; and divers of his Friends went to the Judges, the Parliament, and Council of State, by whoſe Importunities, by the ſeaſonable Help of the Lord *Gray* of *Grooby*, Colonel *Ludlow*, Mr. *Robinſon*, and Colonel *Martin*, his Diſcharge was procured, a Copy of which thus followeth:

WHEREAS Lieutenant-Colonel John Lilburne *hath been committed Priſoner to the* Tower, *upon ſuſpicion of High-Treaſon, in order to his Trial at Law; which Trial he hath received, and is thereby * acquitted: Theſe are therefore to will and require you, upon ſight hereof, to diſcharge and ſet at Liberty the ſaid Lieutenant-Colonel* John Lilburne *from his Impriſonment; for which this ſhall be your ſufficient Warrant.*

* The Jury juſtified in their Verdict by the Council of State.

Given at the Council of State, at *Whitehall*, this 8th Day of *November* 1649.

To the Lieutenant of the Tower *of* London, *or to his Deputy.*

Signed in the Name and by the Order of the Council of State, appointed by Authority of Parliament.
John Bradſhaw, *Preſident.*

Lilburne *was afterwards*, January 20, 1651, *baniſhed by the Parliament, and went away on* January 28, *but returned the* 14*th* June 1653. *for which he was tried at the* Old Bailey, *upon the late Act for his Baniſhment, the* 20*th* Auguſt *following*, [See Vol. VII. State Trials, pag. 354.] *but was acquitted by the Jury, for which they were examin'd before the Council of State; which Examination here follows.*

The

The Examination of the Jury who try'd and acquitted Lieutenant-Colonel John Lilburne, *at the Seſſions-Houſe in the* Old-Baily, *upon Saturday the 20th of* Auguſt, 1653. *Taken before the Council of State the 23d of the ſame Month, in purſuance of an Order of Parliament of the 21ſt.*

THOMAS GREENE, of *Snow-Hill*, Tallow-Chandler, Foreman of the Jury, being aſked what the Grounds and Reaſons were that moved him to find the ſaid Lieutenant-Colonel *John Lilburne* not guilty upon the Indictment preferred againſt him at the Seſſions-Houſe in the *Old-Baily*, ſaith, 'That he did diſcharge his Conſcience in what he then 'did, and that he will give no other Anſwer to any Queſtions which 'ſhall be aſked him upon that Matter.'

And being in particular demanded of him, whether he conceived it not ſufficiently proved, that the Act whereupon he was indicted was an Act of Parliament; whether he was not ſatisfied that the Copy of the Act produced was a true Copy of the Act itſelf, or that the *John Lilburne* at the Bar was the *John Lilburne* mentioned in the Act; and what other Thing it was which moved the Jury to find as afore-ſaid: the Examinant anſwered, 'That he will give no other Anſwer, than as aboveſaid, 'and deſired that he might be no further preſs'd therein.'

And being further aſk'd, why he would not give an Account of the Grounds and Reaſons of their Verdict, he ſaid, 'He would not do it, for 'Reaſons beſt known to himſelf.'

Michael Rayner, of *Friday-Street*, Leather-Seller: He ſaith, That he was one of the Jury that tried Lieutenant-Colonel *John Lilburne*, upon *Saturday* the 20th inſtant; and that he was ſummoned to ſerve the Jury upon *Wedneſday* was ſevennight, and did conſtantly attend in Court, and upon the Service, until the Trial was over; and that he was not ſollicited by *John Lilburne*, nor any other on his behalf. And the Queſtions mentioned in the foregoing Examination being aſked him, he anſwered, 'That he was ſatisfied in the Verdict he gave in that Caſe; 'and that he ſhould give no other Anſwer thereto.'

And being further preſs'd therein, he deſired that a Day's Time might be given unto him to conſider of it, and he ſhould give Satisfaction to the aforeſaid Queſtions.

He was further aſked, who adviſed him to make this Anſwer to the Council: Whereunto he anſwered, 'That the Jury were all of that 'Mind; and that they agreed to give this Anſwer at a Meeting they had 'all together at the *Windmill-Tavern* in *Coleman-Street* this Morning; 'which Meeting they had upon Occaſion of the Order of Parliament for 'examining this Buſineſs: And that he had notice to come to this Meet-'ing by one or two of his Partners, whoſe Names (he ſaith) he doth 'not well know.'

And being further demanded of him, Whether Mr. *Scobell*, Clerk of the Parliament, did not give Evidence that Lieut. Col. *John Lilburne* at the Bar was the very *Lilburne* againſt whom the Act was made? He ſaid he did give that Evidence; and that he did believe he ſaid true; and that the Copy of the Act of Parliament produced was a true Copy: But ſaith, 'That he and the reſt of the Jury took themſelves to be Judges of Mat-'ter of Law, as well as Matter of Fact; although he confeſſed that the 'Bench did ſay that they were only Judges of the Fact.'

He further ſaid, He was very unwilling to be of the Jury.

THomas *Tunman*, of *Cow-Lane*, Salter, another of Lieutenant-Colonel *John Lilburne*'s Jury, who ſaith that the Verdict was Not guilty. And being aſked the Queſtions in the firſt Examination, he ſaith, 'That 'he was ſworn to find according to the Iſſue and Evidence, and that he 'did find according to his Conſcience; and poſitively refuſed to give any 'other Anſwer: And did deny that the Jury, aforeſaid, had agreed 'together to give one and the ſame Anſwer to the Council, or that they 'had met together this Morning, or at any other Time ſince *Saturday*-night laſt, until they came to the Council.' And being aſked in par-icular whether the ſaid Jury did not meet together this Morning at the *Windmill-Tavern* in *Coleman-Street*, he poſitively anſwered, they did not.

EManuel *Hunt*, of St. *Sepulchre's*; who ſaith, He was one of *John Lilburne*'s Jury, upon his Trial on *Saturday* laſt; and that the Jury found him not guilty: But his Memory being ſhort, doth not well re-member the Iſſue.

He being aſked, whether it was not proved that the Priſoner was the *John Lilburne* mentioned in the Act, ſaith, 'He was not ſatisfied that 'it was ſo proved; and that there are many *John Lilburnes*; and that '*John Lilburne* was indicted of Felony, which he did believe he was not 'guilty of; and that what was found was done by the Conſent of all, 'and did ſatisfy their Conſciences therein; and refuſed to give any other 'Anſwer than as aforeſaid.'

And it being demanded of him, whether the Jury had not met together, to agree of the Anſwer they were to give to the Council, he anſwered, 'They met together the Night of the Trial to drink a Pint of Wine; 'and that they met not ſince until this Day.' And being aſked what Time of the Day, he anſwered, 'Five of them met here.' But being aſked particularly, whether they met not at the *Windmill-Tavern* in *Coleman-Street* this Morning, he did acknowledge they did, and that Mr. *Tunman* in particular was there: But refuſed to declare who gave him notice of this Meeting.

JAmes *Stephens*, of the *Old-Baily*, Haberdaſher, who ſaith, That he was one of Lieutenant-Colonel *John Lilburne*'s Jury; and that having conſidered of the Matter whereof he was indicted, they found him not guilty. And being aſked the Queſtions in the firſt Examination, he acknowledged, 'That he was ſatisfied that the Priſoner was the *John Lil-'burne* mentioned in the Act; nor did he yet queſtion the Validity of the 'Act: But the Jury having weighed all which was ſaid, and conceiving 'themſelves (notwithſtanding what was ſaid by the Council and Bench 'to the contrary) to be Judges of Law as well as of Fact, they found him 'not guilty.'

He acknowledged that all the Jury met this Morning at the *Windmill-Tavern* in *Coleman-Street*, to conſider what Anſwer to give to the Council; and that the *Foreman* of the Jury ſpoke to him to be there, telling him he had heard there was an Order of Parliament for ſummoning them before the Council: And further ſaith, That *Tunman* was at that Meeting.

RIchard *Tomlins*, of St. *Sepulchres*, Book-Binder, who ſaith he was one of Lieutenant-Colonel *John Lilburne*'s Jury; and that the Jury found him not guilty. And being aſked what was the Point in iſſue, he deſired to be excuſed in that, ſaying, 'What he can tell, is one thing; 'but to accuſe himſelf, is another thing.' It being further demanded of him, whether he was ſatisfied that the Priſoner was the *John Lilburne* mentioned in the Act, he ſaid he was not. And being aſked what made him think ſo, he anſwered, 'He was not bound to give any Account of 'what he did in that Buſineſs, but to God himſelf.'

WIlliam *Hitchcock*, of *Watling-Street*, Woollen-Draper; who ſaith he was of Lieutenant-Colonel *John Lilburne*'s Jury, and that the Jury found him not guilty. He being aſked the Queſtions expreſſed in the Foreman's Examination, he anſwered, 'He had diſcharged his Con-'ſcience in what he had done; and deſireth the Council not to aſk him 'any Queſtions, for he can give no other Anſwer, and is reſolved to give 'no other Anſwer.'

And being aſked concerning the Meeting of the Jury, to agree of an Anſwer to be given to the Council, he firſt denied that they had any other Meeting than what they had the ſame Night his Trial was. But being aſked particularly if they met not at the *Windmill-Tavern* in *Coleman-Street* this Morning, he acknowledged they did; 'But denied he heard of 'any Order of Parliament for ſending for the Jury; nor did they meet 'upon the Buſineſs of *John Lilburne*, or that they did at the Meeting 'ſpeak of it: but only met to drink a Pint of Wine, as they had agreed 'to do the ſame Night they gave up their Verdict.'

THomas *Everſhot*, of *Watling-Street*, Woollen-Draper; who ſaith he was one of *John Lilburne*'s Jury, and that they found him not guilty: But denied to give any Anſwer to any further Queſtions, ſaying, 'He was ſatisfied in his own Conſcience in what he did.' And being aſked whether the Jury did not meet this Morning, to agree of an Anſwer to be given to the Council, denied that they did, or that they met at all ſince the Night of the Trial, until they met at the Council.

The Perſons following were exam'ned the 29th of Auguſt, 1653, *in the Morning.*

THomas *Smith*, of *Cornhill*, Haberdaſher of Small-Wares: He ſaith he was of *John Lilburne*'s Jury, and found him not guilty. But refuſed to anſwer to any other Queſtions; ſaying, 'He was called to 'ſerve his Country in this Particular; and that he had done it according 'to the beſt of his Underſtanding: Acknowledged the Meeting of the 'Jury at the *Windmill-Tavern* Yeſterday Morning.'

GIlbert *Gayne*, of *Dunſtan's* in the Weſt, Grocer: He ſaith he was one of *John Lilburne*'s Jury, and found him not guilty. And he being aſked what the Iſſue was, he acknowledged that he was indicted for Felony, for coming into *England*. But ſaith, 'That the Jury did find 'as they did, becauſe they took themſelves to be Judges of the Law, as 'well as of the Fact: And that although the Court did declare they 'were Judges of the Fact only, yet the Jury were otherwiſe perſuaded 'from what they heard out of the Law-Books.' He confeſſeth he him-ſelf did at firſt differ from the Jury, but was convinced by their Reaſons. He confeſſed the Meeting of the Jury.

GRiffith *Owen*, of *Biſhopſgate* Ward, Brewer: He acknowledgeth he was of Lieutenant-Colonel *John Lilburne*'s Jury, and that they found him not guilty, 'Becauſe he was not ſatisfied that the Priſoner 'was the *John Lilburne* mentioned in the Act; and that he had never 'ſeen *John Lilburne* before that Day, nor was he ſollicited in his be-'half by any Perſon.' He acknowledgeth the Jury met Yeſterday Morn-ing at the *Windmill-Tavern*; but made no Agreement what Anſwer to make the Council.

XLVII. *The Trial of Mr.* Christopher Love *, *before the High Court of Juſtice, for* High-Treaſon, *the 20th of* June, 1651, 3 Car. II.

THE Court being ſet, and called over, the Lieutenant of the *Tower* was commanded to bring forth his Priſoner: And Maſter *Love* was brought to the Bar. After the reading of divers late Acts of Parliament concerning Treaſon, Maſter *Prideaux*, the Attorney-General for the Commonwealth, ſpake as followeth:

Attorney-Gen. My Lord, you have heard ſeveral Acts of Parliament read, and the Offences therein mentioned. My Lord, I have here a Charge againſt Mr. *Love*, the Priſoner at the Bar; and I humbly deſire that it may be read. And you may pleaſe to take his Anſwer to it, whether by Confeſſion or otherwiſe.

[The Clerk is commanded to read the Charge.]

The Clerk. A Charge of High-Treaſon, and other High Crimes and Offences, exhibited to the High Court of Juſtice by *Edmond Prideaux*, Attorney-General for the Commonwealth of *England*, for and on the behalf of the Keepers of the Liberties of *England*, by Authority of Parliament, againſt *Chriſtopher Love*, late of *London*, Clerk; by him preferred and commenced againſt the ſaid *Chriſtopher Love*.

That is to ſay,

THAT *he the ſaid* Chriſtopher Love, *as a falſe Traitor and Enemy of this Commonwealth and Free State of* England, *and out of a traitorous and wicked Deſign to ſtir up a new and bloody War, and to raiſe Inſurrections, Seditions and Rebellions within this Nation, did in ſeveral Days and Times, that is to ſay, in the Years of our Lord* 1648, 1649, 1650, 1651, *at* London, *and at divers other Places within this Commonwealth of* England, *and elſewhere, (together with* William Drake, *late of* London, *Mercer*; Henry Jermin, *late of* London, *Eſq*; Henry Piercy, *late of* London, *Eſq*; John Gibbons, *late of* London, *Gentleman*; Edward Maſſey, *late of* London, *Eſq*; Richard Graves, *late of* London, *Eſq*; Sylas Titus, *late of* London, *Gentleman*; James Bunce, *late of* London, *Alderman*; *and other their Accomplices, yet unknown) traitorouſly and maliciouſly combine, confederate, and complot, contrive, and endeavour to ſtir and raiſe up Forces againſt the preſent Government of this Nation, ſince the ſame hath been ſettled in a Commonwealth and Free State, without a King and Houſe of Lords, and for the Subverſion and Alteration of the ſame.*

And the better to carry on and accompliſh their ſaid traitorous and wicked Deſign, he the ſaid Chriſtopher Love, *together with the ſaid* William Drake, Henry Jermin, Henry Piercy, Richard Graves, Edward Maſſey, John Gibbons, Sylas Titus, James Bunce, *and others (ſince the Death of* Charles Stuart, *late King of* England, *who, for his notorious Treaſons, and other Tyrannies and Murders, by him committed in the late unnatural and cruel Wars, was by Authority, derived from Parliament, juſtly condemned to Death and executed), ſeveral Days and Times, in the reſpective Years aforeſaid, at* London *aforeſaid, and at ſundry other Places of this Commonwealth, and ſince this Nation was ſettled in the way of a Commonwealth or Free State, as aforeſaid, did traitorouſly and maliciouſly declare, publiſh and promote* Charles Stuart, *the eldeſt Son of the late King of* England, *to be King of* England *(meaning this Commonwealth), without the Conſent of the People in Parliament, firſt had and ſignified by Authority and Ordinances to that purpoſe.*

And further, to carry on and accompliſh their ſaid traitorous and wicked Deſign, he the ſaid Chriſtopher Love, *on ſeveral Days and Times in the reſpective Years aforeſaid, at* London *aforeſaid, and in divers other Places within this Commonwealth of* England, *and elſewhere, together with the ſaid* William Drake, Henry Jermin, Henry Piercy, Richard Graves, Edward Maſſey, John Gibbons, Sylas Titus, James Bunce, *and other their Accomplices, as aforeſaid, did traitorouſly and maliciouſly invite, aid, and aſſiſt the* Scots, *being Foreigners and Strangers, to invade this Commonwealth of* England, *and adhered to the Forces of the Enemy raiſed againſt the Parliament and Commonwealth aforeſaid, and Keepers of the Liberties of* England *aforeſaid.*

And further, to carry on and accompliſh the ſaid traitorous and wicked Deſign, he the ſaid Chriſtopher Love, *divers Days and Times between the 29th Day of* March 1650, *and the 1ſt Day of* June 1651, *at* London, *and other Places, as aforeſaid, did traitorouſly and maliciouſly give, hold, uſe, and maintain Correſpondence and Intelligence by Letters, Meſſages, Inſtructions, and other Ways, prejudicial to this Commonwealth, with the ſaid* Charles Stuart, *Son of the late King, and with the late Queen, his Mother, and with the ſaid* Henry Jermin, Henry Piercy, *and divers other Perſons, being of Counſel, and abiding with* Charles Stuart.

And further, to carry on and accompliſh the ſaid traitorous and wicked Deſign, he the ſaid Chriſtopher Love, *ſeveral Days and Times in the reſpective Years aforeſaid, at* London *aforeſaid, and divers Places within the Commonwealth of* England, *and elſewhere, as aforeſaid, did traitorouſly and maliciouſly uſe, hold, and maintain Correſpondence and Intelligence with divers Perſons of the* Scotiſh *Nation; that is to ſay, with the Earls of* Argyle, Lowdon, Lothian, *and* Belcarras, *and with one* Bayley *Gent. and divers other Perſons of the* Scotiſh *and other Nations, whom he the ſaid* Chriſtopher Love *well knew to adhere to the ſaid* Scotiſh *Nation in this War againſt the Parliament and Commonwealth of* England.

And further, he the ſaid Chriſtopher Love, *within the Times, and at the Places before mentioned, did traitorouſly and maliciouſly abet, aſſiſt, countenance, and encourage both the* Scotiſh *Nation and divers other Perſons adhering to them in this War againſt the Parliament; and did ſend and convey, or cauſe to be ſent and conveyed, Moneys, Arms, Ammunitions, and other Supplies, to* Scotland, *and other Places, and to the ſaid* Titus, Maſſey, *and others in Confederacy againſt this Nation, without ſpecial Leave and Licence from the Parliament of* England, *or Council of State, or the Captain-General of the Parliament's Forces.*

And further, to carry on and accompliſh the ſaid traitorous and wicked Practice and Deſign, he the ſaid Chriſtopher Love, *within the Times, and at the Places before mentioned, did traitorouſly and voluntarily relieve the ſaid* Sylas Titus, Edward Maſſey, *Colonel* Bamfield, *and one* Maſon, *late of* London, *Gent. and one* Sterks, *late of* London, *Gent. who then were, and yet are under the Power of the* Scotiſh *Nation, and in Arms againſt the Parliament and Commonwealth of* England, *with Moneys, Arms, and Ammunition. All which Treaſons, and traitorous and wicked Practices and Deſigns of him the ſaid* Chriſtopher Love, *were and are to the apparent Hazard of the publick Peace of this Commonwealth and Free State, Parliament and People of* England, *and to the manifeſt Breach, Contempt and Violation of the Laws of the Land, and contrary to the Form of divers Statutes and Acts of Parliament in ſuch Caſe made and provided.*

And Maſter Attorney-General (by Proteſtation, ſaving to himſelf in the behalf of the Keepers of the Liberties of England, *to exhibit any other Charge againſt the ſaid* Chriſtopher Love, *and to reply to the Anſwer he ſhall make to the Premiſes) doth for the ſaid Treaſons, on the behalf of the Keepers of the Liberties of* England, *impeach the ſaid* Chriſtopher Love *as a Traitor and publick Enemy to this Commonwealth and Free State of* England: *And doth pray that he may be put to anſwer all and ſingular the Premiſes; that ſuch Proceedings, Trial, Examination, Judgment, and Execution, may be thereupon had againſt him, as ſhall be agreeable to Juſtice.*

The Clerk. Chriſtopher Love, *you ſtand charged on the behalf of the Keepers of the Liberties of* England, *by Authority of Parliament, of High-Treaſon, and other high Crimes and Offences againſt the Parliament and People of* England: *This High Court therefore requires you to give a poſitive and direct Anſwer, whether you are guilty or not guilty of the Crimes and Treaſons laid to your Charge.*

Mr. *Love.* My Lord, before I plead, I humbly crave leave to expreſs myſelf in a few Words to this Court; and afterwards to make humble Propoſals of what I deſire in order to this Trial. In the firſt place, being I am this Day called to a great and weighty Work, in the Entrance to it I do earneſtly beg the Prayers of all them that have an Intereſt in God, that he would carry me through this whole Trial with ſuch Gravity, Godlineſs, and Meekneſs of Wiſdom, as becomes a Profeſſor and Preacher of the Goſpel; and that he would keep me in this Hour of Temptation rather from Sin than from Suffering. Sir, I am this Day made a Spectacle to God, Angels, and Men; ſingled out from among my Brethren to be the Object of ſome Men's Indignation and Inſultation. By my appearing in this Place, I am made a Grief to many that are Godly, and a Laughing-ſtock to the Wicked.——[Here he was interrupted by the Court.]

* *Lord Preſident of the Court.* Mr. *Love*, how long time do you intend to take up?

* *Mr.* Keble.

Mr. *Love.* I will be brief, Sir.

Ld. Preſident. We have been calling upon God to direct us and you, and all good People, that Juſtice may be done; and you would glorify God rather than Man, if you would confeſs, knowing what was done in that great Sin of *Achan*; there was great Pains taken, and the whole Nation was fain to be examined, and their Houſes divided; and at laſt when it came to *Achan*, you know what *Joſhua* ſaid to him, *Confeſs and tell the Truth, and glorify God.* This is that, that if you reſpect God before Man you may now clear yourſelf, and ſet forth his Glory upon Earth; and your next Work is to plead Guilty or Not Guilty. For we ſee that thoſe Ways you go, would take up Time, and we have taken all into our Thoughts before-hand.

Mr. *Love.* I do not deſire to protract Time, but I would not lie under a Prejudice.

Ld. Preſident. When you go out of your Way, we muſt help you; and know, if any be under a Prejudice here, their prejudging is rather in mercy than in prejudice to you.

Mr. *Love.* I hope you will not be more ſevere to a Miniſter, than you were to Lieut. Col. *John Lilburne.* When you were at the Court at *Guild-Hall*, at the Trial of *Lilburne*, you gave him the Liberty of two Hours to plead, before he pleaded Guilty or Not Guilty.

Ld. Preſident. To a Miniſter! You ſay well: but I tell you, we do more to a Chriſtian than to a Miniſter; and we are all Chriſtians, and your Miniſtry is but an Office; and therefore what Mr. *Lilburne* had, it was the Favour of the Court then: but Time is ſpent, and pray do not you follow that now.

Mr. *Love.* Whereas your Lordſhip is pleaſed to urge the Caſe of *Achan* to me, if my Caſe were the ſame as *Achan*'s was, I ſhould do as *Achan* did, confeſs and give Glory to God; but *Achan*'s was a peculiar and extraordinary Caſe, and therefore I pray it may not be laid to me. God was the Informer and Diſcoverer, and God did by Lot diſcover *Achan* to be the Man.

Ld. Preſident. Will you plead?

Mr. *Love.* I deſire Liberty to ſpeak a Word. I had not diverted my Diſcourſe, but upon your Lordſhip's Words.

Attorn. Gen. My Lord, I hope he will be ſo ingenuous as not to be long.

Ld. Preſident. Take this in your way, Mr. *Love*, God is at preſent here, as he was in the Caſe of *Achan*. Go on.

Mr. *Love.* Sir, by my appearing in this Place, I am made a Grief to many that are Godly, and a Laughing-ſtock to the Wicked, and a Gazing-ſtock to all; yet, bleſſed be God, not a Terror to myſelf. Sir, I am, as *Jeremiah* was, born a Man of Strife and Contention: Not actively, I

* *Clar. Hiſt. Vol.* III *p.* 327.

ſtrive

ſtrive and contend with none; but paſſively, many ſtrive and contend with me. Yet I truſt God will make me, as he did *Jeremiah*, an Iron Pillar and brazen Wall againſt thoſe that do oppoſe me, that I ſhall not be diſmayed at their Faces, leſt I be confounded before them. Strong Suggeſtions againſt me are generally received; and great Oppoſition ſtrongly maintained: And in this Condition no Man dare ſtand by me: But God ſtands by me, and ſtrengthens me.—[Here he was interrupted again.]

Ld. Preſident. Sir, come to the Buſineſs in Hand.

Mr. *Love.* I beſeech you, Sir, ſpare me: You gave Mr. *Lilburne* more time.

Attorn. Gen. My Lord, when he ſhall come with ſuch Speeches that are nothing to the Buſineſs in hand! My Lord, he inſtances in *Lilburne*'s Caſe: You know that Debate; it was in relation to a Narration.

Mr. *Love.* Sir, it was the Narration of his Doings and Sufferings, that he might not be miſrepreſented to the Court.

Attorn. Gen. You know you are a Miniſter: And if it be your Purpoſe to ſpin out Time, to think to ingratiate yourſelf to the People, it will not do. My Lord, this is a Court of Juſtice, that proceeds according to the eſtabliſh'd Laws, and Laws that have been read to him. Mr. *Love* is a Miniſter; and had he applied himſelf to God, as he might have done, he need not have been brought hither, if he had not gone that way he did. But, my Lord, I deſire he may go on to the Charge, and give his Anſwer to it. My Lord, before we have done, we ſhall have many Occaſions of Diſcourſe between him and I.

Mr. *Love.* I beſeech your Lordſhip allow me that Favour that you allow to every one you try, that I may not ſtand under Miſrepreſentations to you, who are my Judges.

Ld. Preſident. Are not we of as much Credit as you? Are not we judged Miniſters as well as you, and more than you? And I tell you, that which you require, we have already done, and wiſh you as much Happineſs as to our Brother: And for you to ſpend Time about that which is nothing to the Buſineſs, it muſt not be ſuffered.

Attorn. Gen. My Lord, let the conſtant known Laws of the Commonwealth of *England* be obſerved, as well as other Laws; of which that is one, That he ought not to ſpeak any thing till he hath pleaded Guilty, or Not Guilty. My Lord, I deſire to take my Courſe. I do not make Speeches againſt him, to miſrepreſent him to you, otherwiſe than he ſtands charged. And, my Lord, I would not have him to clear himſelf till he come to the Trial, whether he be not accuſed juſtly. It is not my Nature, but the Duty of my Place; and the Duty of his Place, as a Priſoner, is to plead, and to put himſelf upon Trial. That being done, there will be Occaſion enough for him to plead his own Innocency. My Lord, to take up two Hours Time in talking of that which is not material, ſhould not be.

Mr. *Love.* I inſiſt upon that Liberty that Mr. *Lilburne* had.

Ld. Preſident. He did plead firſt.

Mr. *Love.* No, my Lord, he did not plead firſt: and I have much to move before I plead.

Ld. Preſident. You can ſay nothing till you plead.

Mr. *Love.* My Lord, I deſire not much Time.

Attorn. Gen. My Lord, let the Time now inſiſted on be what Time it will, Mr. *Love* will have Time to ſpeak for himſelf; and it is ſo far from being to the Point, that it is trifling: And this rather makes him ſeem guilty, than it gives him any Acquittance.

Mr. *Love.* Prove me guilty firſt, Sir. Sir, do not prejudge me.

[Then Command was given to read his Arraignment.]

The Clerk. Chriſtopher Love, *you ſtand charged, on the behalf of the Keepers of the Liberties of* England, *by Authority of Parliament, of High-Treaſon, and other High Crimes and Offences, againſt the Parliament and People of* England: *This High Court therefore requires you to give a poſitive and direct Anſwer, whether you are Guilty or Not Guilty of the Crimes and Treaſons laid to your Charge.*

Mr. *Love.* I refuſe not to plead; but I beſeech you give me leave to ſpeak before I anſwer.

[Mr. *Love* having a Paper in his Hand, the Judge ſaid:]

Ld. Preſident. How many Leaves is it?

Mr. *Love.* But two or three; and if this Court be more ſtrict and ſevere to me, than that was to Mr. *Lilburne*, I cannot help it. What I ſhall ſay, ſhall be ſomething in general; and I beſeech you give me leave to ſpeak to it.

Attorn. Gen. Sir, not before you plead.

Mr. *Love.* Yet I have this Liberty, that when Matter of Law ariſeth in the Indictment, to make a Motion, and to move for Counſel, and to ſhew the Illegality of it: And though I confeſs I am extremely ignorant of the Law, yet I underſtand that after I have pleaded, I am not capable of Counſel.

Ld. Preſident. You are miſtaken, Mr. *Love.*

Mr. *Love.* I ſuppoſe I am not miſtaken: For in the third Part of Judge *Coke*'s *Inſtitutes* I find it thus: 'The Priſoner, when he pleads Not Guilty, 'whereby he denies the Fact, after the Plea of Not Guilty, can have no 'Counſel; but if he have any Matter of Law to plead before, he may urge 'it.'

Ld. Preſident. He pleads he is ignorant of the Law, and yet can make uſe of it.

Mr. *Love.* I am to plead for my Life: And I am to uſe Scripture, Law, and any other lawful Means to ſave my Life. *Paul* did plead the *Roman* Law.

Ld. Preſident. Some of us know as much of *Paul* and Scriptures as you do.

Mr. *Love.* Sir, I make no Compariſon. [Then Mr. *Love* reads out of Judge *Coke*'s *Inſtitutes:* 'The ſafeſt way for the Party indicted, is to 'plead upon his Arraignment the ſpecial Matter for the Overthrow of the 'Indictment.'] And this muſt be done before I plead. ['And to require 'Counſel for the pleading thereof, which ought to be granted; and to 'require a Copy of ſo much of the Indictment, which is neceſſary for 'framing his Plea, which ought to be granted. And theſe Laws ought 'to be conſtrued favourably; for that the Indictment is commonly found 'in the Abſence of the Party.'

Ld. Preſident. But your Indictment is in your Preſence. You are out of your way.

Mr. *Love.* Sir, you bring me out of my way.

Ld. Preſident. Your Indictment is not yet found: There is nothing done behind your Back, only the reading of this; but that is nothing but a written Parchment till you plead unto it.

Mr. *Love.* I have ſomething to except againſt the Legality of this Indictment.

Ld. Preſident. Go on, then.

Mr. *Love.* Sir, the firſt Motion I ſhall make is for Counſel, to adviſe in Matters of Law relating to this Trial: And as I do gather from hearing the Indictment, there are ſeveral Matters of Law that do ariſe, in which I deſire to have Counſel aſſigned me. And the firſt is, Whether the Act, by which this Court is conſtituted, of the 26th of *March*, 1650, that forbids receiving or ſending Letters or Meſſages to or from *England* or *Ireland*, do enable you to receive a Charge againſt me concerning Letters to or from *Scotland*, *Scotland* not being mentioned in that Act by which you are conſtituted. Therefore ſeeing this is Matter of Law, I deſire I might have Counſel to adviſe with about it.

Attorn. Gen. Mr. *Love*, then, doth admit that he hath received and ſent Letters to *Scotland*.

Mr. *Love.* I admit nothing, Sir; you charge me with it, but I do not grant it.

Attorn. Gen. Then you will give us leave to prove it. If he will admit that he hath ſent and received Letters from *Scotland*, and ſo demur that it is not in your power, I will join with him. But, my Lord, there was a particular Act read, that doth relate particularly to *Scotland*; and that this Court hath Cognizance of that Act, was read beforehand; but Mr. *Love* did not obſerve what was read to him. And it is ſo far in favour of Juſtice to him, that you read in the Laws and Clauſes upon which he ſtands impeached; and that there is a Law againſt ſending to *Scotland*. But, my Lord, theſe Debates are lingring of Time; if a Man will demand Counſel, he admits the Fact, that the Fact is true; but being true, he ought not to be condemned upon it; if ſo, I will join with him; but if he plead Not Guilty, I ſhall be ready to prove it.

Mr. *Love.* I beſeech you, Sir, I do apprehend there is another Matter of Law ariſeth, and that is from the Act of the 26th of *March* 1650, there is a Prohibition of ſending Letters or Meſſages to any in Arms againſt the Parliament; now I am charged with ſending and writing in Letters to *Scotland*; now it doth not appear to me that *Scotland* was in Arms againſt the Parliament of *England*, but for their own Preſervation. Therefore I deſire Counſel in this, Whether I that am accuſed of writing and ſending into *Scotland*, am therefore accuſed of writing and ſending to thoſe who are in Arms againſt the Parliament of *England*; or whether they were in Arms for the Preſervation of *Scotland*, or in Oppoſition to the Parliament of *England*.

Attorn. Gen. If you will admit ſtill, that you have ſent or received from *Scotland*, then I readily grant it.

Mr. *Love.* I will admit of nothing; I have ſo much of a Chriſtian in me, that I will deny nothing that is proved to be true; and ſo much of an *Engliſhman*, that I will admit of nothing that is ſeemingly criminal.

Ld. Preſident. You are a Chriſtian, and you are here in the Preſence of God, as *Achan* was.

Mr. *Love.* If it be proved againſt me.

Ld. Preſident. Then your Denial of it will be a high Tranſgreſſion againſt God.

Mr. *Love.* I could urge the Cauſe of Jeſus Chriſt, who, when he was accuſed before a Judicatory, anſwered not a Word.

Ld. Preſident. You are out.

Mr. *Love.* When Chriſt was accuſed in a civil Buſineſs to be a Mover of Sedition (as now I am), they asked him, whether he was King of the *Jews?* and he anſwered them not a Word. But this is that I doubt, whether there be not Matters of Law ariſing from the Charge read againſt me, and that in reſpect of the Time of the Act of the 26th of *March* 1650, which gives Power to you to determine ſeveral Crimes, and to proceed to the Trial of the Offender. And, Sir, it is alſo to me doubtful, whether this be not Matter of Law, *viz.* Whether this Trial ought not to be by a Jury of Twelve of the Neighbourhood, or whether in any different way from it. And I doubt it upon this ground, your Lordſhip having given me this Hint, for I was preſent at the Trial of Mr. *Lilburne*, amd the Formality of the Law tied him to plead to this, That he muſt be tried by God and his Country. He refuſed it, and your Lordſhip urged it upon him, that he might ſafely plead it by God, becauſe God was in all Judicatories: and by his Country, becauſe, ſaid you, by Country is meant the Jury of a Man's Equals. And this is a Trial according to the Law of the Land. Now if you have declared that in *Guild-Hall*, I beſeech your Lordſhip inform me, whether a different Way from this of a Jury of the Neighbourhood be according to Law in *Weſtminſter-Hall?*

Ld. Preſident. You ſhall be informed: That was a Trial by the Law, as it then ſtood; theſe now are all upon Acts of Parliament, and Laws of the Land, that are of as high a Nature as they: Thoſe are antient Laws, and theſe are Statutes lately made, and of an extraordinary Nature, and were made to meet with ſuch Perſons as you, that have done ſuch things as you have done. And now for your Neighbourhood, I hope you have twenty or forty Neighbours that are within the Equity of the Law.

Mr. *Love.* If they be a Jury, I have power to except againſt 35 of them.

Attorn. Gen. My Lord, he pretends Mr. *Lilburne*'s Trial; but when you come to hear the Evidence, you ſhall hear what he was doing then: he was preparing himſelf then in his Buſineſs; he thought his Time might come; and I am informed, that ſince he hath been in the *Tower*, *Lilburne* hath been his Counſel.

Mr. *Love.* Mr. *Prideaux*, Sir, you are no God to know my Thoughts.

Attorn. Gen. I did ſay this from his own Expreſſion; he was a diligent Obſerver there, that he might know what was done there, that ſo he might prepare himſelf.

Mr. *Love.* Sir, you did declare this after the Change and Abolition of a King and Houſe of Lords, That a Trial by a Jury of Twelve of the Neighbourhood was according to Law; and you urged Maſter *Lilburne* with this, That he might plead, and do no harm unto himſelf. And not only ſo, but the Houſe alſo declared, That ſince the Change of Government, they would never alter that Way of Trial: and upon the ninth of *February* 1648, they did declare, That though they thought fit to aboliſh the Kingly Office and the Houſe of Lords, yet they reſolved

reſolved they would ſtill retain and preſerve the Fundamental Laws of the Nation, for and concerning the Preſervation of the Liberties, Lives, and Eſtates of the People. Now, Sir, they declaring they would never alter this Way of Trial, and you declaring this Way of Trial by Juries to be according to the Fundamental Laws of the Land, I beſeech you give me the Reaſon why it is denied to me.

Attorn. Gen. My Lord, it is very unuſual for a Priſoner to debate with the Court; here he is to be controuled: let him know he is a Priſoner upon the Trial of his Life, before that Court that hath been impowered by the Parliament; they who did never bind their own Hands. I muſt ſay, my Lord, they cannot bind their own Hands; and it is this Trial that they have thought fit to give him. And for his excepting againſt 35, then you will hardly be a Court left. My Lord, I think, if he look upon the Court, he will find no Enemies here, knowing them to be of his Neighbourhood, and moſt of them of *London*, and, I think, he known to them, and they to him, the moſt of them. But, my Lord, theſe Diſputes are not allowed to others; and the Gentleman will (I hope) have ſo much Modeſty at laſt, that he will think he hath ſaid a little too much to the Court; and I think it is not good to provoke too far. And, my Lord, he hath ſaid much, and you have given him fair Anſwers, and thoſe that are clear and undeniable. But if he ſpeak of the Juriſdiction of the Court, and that he will not plead, let him ſpeak in plain *Engliſh*, and he ſhall hear me in plain *Engliſh*.

Mr. *Love*. Although I am not ſatisfied as to the Foundation and Original of this Court, yet I refuſe not a Trial, hoping that Tenderneſs of Conſcience will appear in you, and Clearneſs in me, and Weakneſs of Proof againſt me. Upon this I do not refuſe a Trial, but I will plead, if I may have that which the Law allows me. And according to my weak Meaſure and Unſkilfulneſs in the Law, upon the Charge read againſt me, I do apprehend there may be ſome Things objected againſt the Legality of the Indictment, and many Things to take it off, both for Matter of Time and Form, and other Things, by a Lawyer. Therefore I entreat I may have Counſel to be with me, both in my Chamber, and here in the Court; and then I will plead.

Attorn. Gen. I am not here to make a Bargain; but this I will ſay to him, He hath had ſo much Tenderneſs and Reſpect, as few Men more. He hath had notice of his Trial above a Fortnight; and, my Lord, he hath not been denied Counſel.

Mr. *Love*. I could do nothing in Order to my Trial, becauſe I have ſent for Counſel, and they would not come near me, becauſe they were not aſſigned by this Court; and my Studies being another Way, and being unſkilful in the Law, therefore I could do nothing in Preparation to my Trial. Therefore I pray do not deſtroy me in a Hurry; the more fair the Trial is, the more juſt you will be, and I the more guilty, if it be proved againſt me.

Attorn. Gen. I appeal to Maſter *Love*, whether or no it was not denied to *Lilburne*; and there is none that hears him, but ſees he hath prepared himſelf, and peruſed ſeveral Acts whereupon he is impeached. But theſe are Diſcourſes, my Lord, which if he will put too nigh upon the Court, that we ſhould diſpute, we cannot force Words from him.

Mr. *Love*. Mr. *Prideaux* is pleaſed to urge Mr. *Lilburne*, but I have more Matter of Law ariſing from the Charge than he had; and have not that Trial by Way of a Jury as he had; and there are many Things in the Charge ſaid to be done before the Act of the 29th of *March*, 1650, which gives you Cognizance only of Things done from that Time; ſo that many Things there are, in which Counſel would adviſe me: therefore I beſeech you deny me not that Right and juſt Favour.

Ld. Preſident. You do not breathe the ſame Air and the ſame Breath, for it comes from you both Yea and Nay: for you ſay you are ignorant, and yet will not be informed by any Thing that can be ſaid; and ſo your Ignorance is wilful. But in this Caſe, I am ſure, what Law ſoever you can plead, yet there be ſome Acts and Matters you have denied.

Mr. *Love*. I have urged Matter of Law ariſing out of the Charge, from the 29th of *March* 1650. There was no Act then, that I know of, that did prohibit the ſending of Letters or Meſſages to or from *Scotland*; and I am indicted for Letters or Meſſages ſent to, and received from *Scotland*, before that time.

Attorn. Gen. I would fain give you Satisfaction; do not caſt away yourſelf. My Lord, we do uſe in Law to lay it ſo for the Fact, we cannot tell what the Proof will be; whether the Proof will be within theſe three Months or ten Months; and it is laid in Relation to other Offences.

Mr. *Love*. I have here the Letters of ſeveral Counſellors, and they return me their Denial; if I could have got their Counſel, I would; and yet if I had it, I could not tell what they ſhould have adviſed me in, not having a Copy of my Charge.

Ld. Preſident. If you had deſired a Copy of your Charge, you might have had it. You muſt know you are before thoſe that have Law and Conſcience, and that are bound to be of Counſel for you, and that is the Court; and it is their Duty to ſee that whatſoever the Law of *England* allows you to have, that That you ſhould have: but you muſt have it in a due and proper Time and Manner of Law appointed. You are not now for the preſent where *Lilburne* was, nor before ſuch a Court; he was before a Commiſſion of *Oyer* and *Terminer*, who are to proceed according to thoſe Laws, and upon that the Commiſſion directs; and that is by that which the known and fundamental Laws of *England* direct unto. But this is not in all Particulars the like; the Jury there hath a large Latitude, who proceed by Way of Grand Jury and Petty-Jury, which are both included in this Court; ſo that in all Things the Proceedings upon that are not as upon this. But thus far the Proceedings are alike; you have your Charge, and you are to plead to it, for that is the firſt Thing to be done; there is nothing can anſwer your Charge, but whether you be Guilty or Not Guilty. If you plead Not Guilty, then the Evidence will be called; and if then any Matter of Law ariſeth upon the Evidence, it is the uſual Courſe to aſſign you Counſel, and to be Counſel for you, and to tell you it is Law to have Counſel; but for you to demand Counſel, and firſt to have Counſel aſſigned you, it is againſt that Form and Legality that the Law of *England* appoints; for till you put yourſelf upon Trial, we cannot allow you Counſel to the Trial; ſo that you muſt plead, and it is our Duty to tell you ſo. And it is the Duty of this Court to be as careful, when you have put yourſelf upon Trial, that all the Benefit of the Law may be afforded you; therefore you need not fear it; for if any of theſe Things ariſe, you now fear, upon the Evidence, then will be your Time and our Time to ſtand upon this you now do, touching Matter of Law; but in the mean Time, in Truth, that which we are to tell you, and which we are bound in Juſtice and Conſcience to let you know, is this: That you are out of your Way; and therefore do not deſtroy yourſelf: for if you refuſe to plead, there is Nothing then but a plain downright Judgment.

Mr. *Love*. In ordinary Courts of Judicature the Judges do counſel for the Priſoner; but you are here Judges not only in Matter of Law, but of Matter of Fact alſo; and therefore I cannot adviſe with you: For ſhould I confeſs any Thing, then it ariſeth out of my own Mouth, and you will condemn me upon it. Seeing therefore both lie in you, both Matter of Law and Matter of Fact, I beſeech you afford me Counſel, and let me have a Copy of my Charge, and Solicitors, that they may be here with me in Court, and then I ſhall willingly plead.

Attorn. Gen. This cannot be done, nor ever was done, to have Counſel aſſigned, until upon Matter of Fact ſomething did appear; and for the Copy of the Charge, it was never demanded, I think, before; and it is in vain for us to ſpeak, if the Gentleman do refuſe to plead: I ſhall then preſs you for Juſtice.

Mr. *Love*. I do not refuſe to plead: but yet I ſhould be guilty of my own Blood, ſhould I not plead for that juſt and neceſſary Means for the Preſervation of my Life: Through my Ignorance I may run myſelf into Hazard and Danger, therefore I beſeech you deny me not that juſt Favour.

A Lawyer, a Member of the Court. Mr. *Love*, you are not prodigal, you ſay, of your Blood; nor are we, I hope, prodigal of your Blood; we are to anſwer for all; therefore I pray let me beg thus much of you: If you plead Not Guilty to the Charge, then there is a Proceeding to be by Maſter Attorney, to prove you guilty of it; and if by any Evidence that he ſhall produce, or in any Thing that ſhall fall out from yourſelf in Anſwer to the Evidence, there ſhall ariſe Matter of Law, truſt us, I pray you, we do promiſe you that we will give you the Benefit of the Law in it; and when there comes Matter of Law to be decided, which we are perſuaded is Matter of Law, then you ſhall have Counſel aſſigned you; but there is no Counſel to be allowed till the Priſoner deſire it, and ſhew Matter of Law for which he deſires it.

Another Lawyer of the Court. The main Thing you ſtand upon, Mr. *Love*, is this: That there is no mention made in any Act, that this Court can take cognizance of ſending to, or receiving from *Scotland*; but therein you are miſtaken; for the Buſineſs of holding Correſpondency with *Scotland*, is in expreſs Words appointed to be under the Juriſdiction of this Court; therefore I think you are utterly miſtaken in that. Then, Sir, for Counſel, if there comes any Thing in the World that is legal, and is a fit Thing Counſel ſhould be heard in, I think I may promiſe it, we will not make ourſelves ſo far guilty of your Blood, as to deny you that Juſtice that belongs to any Man; for it is your juſt Right to have it, and we cannot deny it, when a Point of Law ariſeth. And you do not urge Matter of Law, only you queſtion the Juriſdiction of the Court, and we muſt over-rule you in that; for we are not to diſpute the Power of the Court: For if the Parliament give us Juriſdiction, and by a ſpecial Act appoints, That the Buſineſs of holding Correſpondency with *Scotland* ſhould be within the Cognizance of this Court, we muſt obey, and not diſpute.

Mr. *Love*. I ſuppoſe, Sir, a Man may demur concerning the Juriſdiction of a Court to one Point: as, if he be accuſed for Treaſon at the *Common Pleas*, he may demur to the Juriſdiction of that Court in that: ſo, Sir, I apprehend there are ſome Things read againſt me in the Charge, of which this Court cannot take Cognizance, for that they are ſaid to be done before the Act for the conſtituting of this Court came forth; ſo that I may demur to the Juriſdiction of the Court in that Particular.

Ld. Preſident. For you to anticipate your Evidence before we come to it, we do not tie you to the Charge, but to the Proof; and we muſt apply our ſelves to the Proof, and not to the Charge.

Attorn. Gen. And for the Buſineſs of *Scotland*, which troubles him much, it is expreſſed in this very Act, That the ſame Offences are to be enquired, tried and judged by the High Court of Juſtice, in ſuch Manner and Form, as other Offences are to be tried, in expreſs Terms.

Mr. *Love*. But there is no Time mentioned; for there are two Acts, wherein if the Priſoner be not indicted within a Year, then the Fact ſhall not be proſecuted. Therefore I muſt demur to the Charge, as not legal in Matter of Form. There are two Acts declaring what Offences ſhall be Treaſon, wherein it is ſaid in thoſe two Acts, That if the Party be not indicted within a Year, he ſhall not be indicted at all. Now the Indictment that is againſt me, looks back to Things that are pretended to have been done by me in 1648 and 1649; and ſo according to thoſe two Acts I am not to be queſtioned for them, it being above a Year before I was indicted.

Ld. Preſident. How is it poſſible that this comes to be an Exception until you hear the Evidence? If you hear the Evidence, and do find that the Witneſs do ſpeak to this not within the Time of the Limitation, then is your Exception proper; but no Counſel can divine what Time they can give Evidence for.

Mr. *Love*. Sir, I am now to look to the Charge of Treaſon read againſt me, and not to the Evidence; and in the Charge I am indicted for thoſe Things, for which I apprehend I ought not to be indicted. For according to thoſe two Acts, I ought not to have been indicted for Things pretended to have been done by me ſo long ago: and this I apprehend to be Matter of Law. And for the Witneſſes, let them ſpeak to what Time they will, yet this I am ſure, they cannot prove that I was indicted within a Year for thoſe Things that are charged upon me to be done in 1648 and 1649, for that were to prove an Impoſſibility: So that it appears to me, I am indicted

dicted for those things for which I ought not to be indicted.

Ld President. It may be so; and if so, those things will fall off of themselves; there may be some things true, and some things not true; and the Counsel may fail in proof of some of them, and you may clear yourself: yet this cannot be before the pleading. When you come to plead, if the Matter be not proved against you, and within the time limited, it will fall off of itself without any Words at all; and all this time is lost to all this Auditory, and no Counsel can give you Advice in this.

Mr. *Love.* I still say, I do not refuse to plead, but if you would afford me Counsel, I should think my Life in a great deal less danger. For I do not know, whether I may not, by the Advice of Counsel, confess some part of the Indictment; whether I may not demur in Law upon some part, or a great part of the Indictment, which I have done already: as that I am charged for Treason for those things that are not within your Cognizance or Power, as I apprehend, and things done before your Acts; and for such things, that if I had done them, I must have been indicted for them within a Year, or else not at all; and these I deem legal Exceptions.

A Member of the Court. My Lord, he is very ignorant of the Law; for the Fact must be put in question before matter of Law can arise; for if the Fact be one way, then the Law falls out that way; if the Fact be false, then another way. Now if Mr. *Love* brings in any of these Exceptions for matter of Fact upon Proof, whether he sent Letters into *Scotland*, or in such a time, whether that be any Offence, that will all arise after the matter of Fact proves true or false: But before that, under favour, none can speak to any thing against an Indictment, unless he speak against the Jurisdiction of the Court. And then for other matters they are saved unto him. And you will, I suppose, admit of Counsel in matter of Law; but his Desire cannot be granted unto him until he plead, and until the matter of Fact be some way determined.

Mr. *Love.* I beseech you acquaint me then with the meaning of these Words in Judge *Coke*'s Institutes, *The Prisoner at the Bar may have Counsel to overthrow the Indictment.* It must be either to overthrow a Part of the Indictment, or to help the Plea, either to plead *Not guilty* in part, or to demur in part. Let me hear then, I beseech you, what is the meaning of those Words, That *the Prisoner at the Bar may have Counsel to overthrow the Indictment.* I cannot overthrow the Indictment when I plead; for then Witness comes in against me.

Attorn. Gen. He may overthrow the Indictment by the Witness; and I believe he is convinced, that the Court hath Jurisdiction in as full and express Terms as Law and Authority can give them. And for the next, I may say, your Lordship and the Court did never allow a Counsel to pick holes and find faults. But if he object that to you that is just and probable, and that which is dubious and doubtful, and fit to be debated in Law, assign him Counsel. You have heard all his particular Exceptions, and given your Judgment upon them all. But I hope he doth not here expect to have Lectures of Law read him, and to make him understand them. But as to those particular Exceptions that he hath made to you, I think some satisfaction is given, and that every Man is satisfied, and that there is no Colour of Doubt there, for matter of Fact, and the Times that he insists upon. For the Act directing what Offences are Treason, and not to be arraigned unless they be prosecuted within a Year, I must tell him, the Impeachment is laid from 1648 to 1651. Yet, my Lord, I shall make it appear, that the Indictment doth look backward to some Offences, and forward to others. It is laid first in general: he committed such and such Treasons and Offences in such and such Years. And I shall come with the Evidence, and apply them to such Times that are within your power, and in which the Law makes them Offences: and this is to be debated then, and not to be once spoken of now. My Lord, I shall begin from 1648, and run on with him, that he hath continued in a treasonable Disposition, and in treasonable Plottings, to the time he was laid up, and since; and will justify all: and therefore it behoves him to insist upon it. And I will make it appear, that he was one of the first that ever did appear against this Commonwealth in plotting; and he did continue so until the time of his Restraint, and after that time.

Mr. *Love.* Sir, you are no Witness; if you be a Witness, come and swear.

Attorn. Gen. I will use you with all the Duty of my Place; and if you give me not occasion, I shall not do otherwise.

Mr. *Love.* I shall give you no occasion.

Ld. President. This will make all that hear him to think that this is the very best of his Case; as we know it is.

Mr. *Love.* Sir, although I do not come here to have the Law expounded to me, yet I do come here to have the Benefit of the Law: and if the Law allows me this Benefit (I being unskilful) that if I can find in the Charge matter of Law arising, then to have Counsel to advise me, and to overthrow the Indictment; Why should I be denied this Benefit? And I do not yet, according to my understanding, see that you afford me the Benefit of the Law, you not granting me Counsel to advise me to overthrow the Indictment.

One of the Court. Mr. *Love*, if it were possible, I desire you might have satisfaction, for this that you desire is very just; and when it comes to its proper time, then you shall have it; but do not, by disorderly demanding of it out of your time, lose the Benefit you might have of it, when it comes to your time. That which you stand upon, and call Law, is not matter of Law; nor can you call it Law, till you hear what the Fact is. For can any Man judge what is matter of Law, till he know the matter of Fact? as it hath been told you well, that the Law ariseth out of the Fact; so that if you will anticipate the Evidence, and the Proof of the Fact, by urging this matter of Law which you did hear read in the Charge, you will do yourself wrong, and you are mistaken in it; for there is no matter of Law appears there, for it is barely, *Thus you have done.* And if you say this is Law, you exclude all the Witnesses. Whether you have done it or no, we cannot tell; and if you have done it, whether contrary to Law or no, we cannot tell, because we must apply the Witness to the Acts of Parliament that authorize us to sit here: And if we find that the Doubt grows upon what the Witnesses say, and upon what the Law saith, then doth matter of Law arise, and then it is time for you to say, it appears not by this Witness that it is within the Act. I do the rather speak this, because we do extremely desire you should receive Satisfaction; for I would not have any here have any thing put upon him, that may not appear just and according to Law; and none can ever say that a Man had Counsel assigned him before he pleaded here.

Ld. President. It is now the Sessions at *Newgate*, and there may be many Prisoners; and if every Prisoner should take the liberty to plead matter of Law, and say, I am no Lawyer, let me have Counsel assigned me, and I will answer; when should we have any Man answer? when would Men be executed for robbing, and stealing, and killing?

Mr. *Love.* That Court is different from this; you here are Judges both of Law and Fact, there the Judges are Judges of Law, and the Jury of matter of Fact. But, Sir, satisfy me in this; if there be any thing in Law before pleading to overthrow the Indictment, (as I perceive by Judge *Coke* there is, and to which I have received no satisfactory Answer) let me have that legal Benefit to overthrow the Charge. I have said what I can; but if I had Counsel here, they could say a hundred times more.

Ld. President. You have heard no body but yourself, for whatsoever hath been told you by the Court and your Friends about you, hath not been hearkened unto. We have spent thus much time, and People are weak, and if you will plead, do. Read his Charge once again; and I tell you the next is Judgment.

The Clerk. Christopher Love, *you stand charged on the behalf of the Keepers of the Liberties of* England, *by Authority of Parliament, of High-Treason, and of other high Crimes and Offences against the Parliament and People of* England; *this High Court therefore requires you to give a positive and direct Answer, whether you are Guilty or Not Guilty of the Crimes and Treasons laid to your charge.*

Mr. *Love.* I am not satisfied but that matter of Law doth arise from this Charge; and I do earnestly press I may have Counsel, and then I will plead.

Attorn. Gen. I do as earnestly press, that you would as positively say, that you cannot allow him Counsel till he hath pleaded.

Mr. *Love.* I now see Mr. Attorney's Words to be true. When he came to me to the *Tower*, and examined me, the 16th of this Month, he said, That seeing I would not acknowledge (as he called them) my Treasons, I was judged peremptory and obstinate. And I remember he said these Words to me; *Mr.* Love, *though you are too hard for me in the pulpit, yet I will be too hard for you at the Bar.* And truly now I find it so; and it is an easy matter for a Lawyer, armed with Law and Power, to be too hard for a poor naked Scholar, that hath neither Law nor Power.

Ld. President. Doth this do any good to you? If it were so that you are too hard for him, (for you are too hard for every Man in the Pulpit) yet you sometimes are so out, and in that you are controulable. If Master Attorney be too hard for you here, let him be too hard for you; but it is the Court that are to deal with you here: we will not do it because of his Saying, but you must think that the Court will be led by their Evidence, and not by Mr. Attorney.

Mr. *Love.* You gave this Favour to Master *Lilburne*, and I do not deny to plead: but I am not prodigal of my Blood, therefore I crave Counsel.

Ld. President. I do not know what to say more to give you satisfaction, than what I have said. You say you do not deny to plead, and yet you do not plead; you say Mr. Attorney is too strong for you, but you know it is not he, but the Evidence may be too strong for you. And do not you think that you have such Judges as will let you receive any prejudice? Mr. *Love*, you are a Minister, I pray shew forth the Spirit of a Minister of Jesus Christ; carry yourself so, as that you may not either wrong yourself or the Court. I would have you behave yourself without recriminating. You speak of Mr. Attorney, as if he could be too hard for you, as if we were all of his side, be it right or wrong: know that we are Men of Conscience, and have Souls to save as well as you.

Mr. *Love.* The Charge is long, and I never heard of it before, nor knew of it before.

One of the Court. We give you our Faith and Credit, that if any matter of Law ariseth, we will not make ourselves guilty of your Blood, but we will allow you Counsel: yourself hath read a Book in the Court, that shews the Court cannot allow you Counsel till you plead.

Ld. President. Did you ever consult with the Lieutenant of the Tower? What, will you cast away yourself?

Col. *West, Lieut. of the Tower.* I could, my Lord, advise him no more than what I knew, and that was the time of your sitting.

Mr. *Love.* I hope you will not in a hurry spill my Blood.

Lieut. of Tower. Since Saturday was seven-night he was not restrained.

Ld. President. Your Profession goes much in Profession; but when it is abused, it is the highest Transgression; you would evade things with mental Reservations, and say and unsay at the Bar, as high as any Jesuit can do.

Mr. *Love.* I will not lye for my Life; you may say what you please, and do what you please, I speak before God and this Audience.

Ld. President. Mr. *Love*, know that we are here in as sacred a posture as you are in the highest Place of your Calling; and if we do not know that God is here present, we are the miserablest Creatures in the World; and therefore if your Office and ours do not make us know that we are in the Presence of God and Jesus Christ, it will be but ill for us; and yet you hurry out, that it should be such a terrible thing in you more than in us. You have spoken many Words as a Shadow in the Air, there is nothing material in them, but the Strength of your Will against the Judgment of the Court.

Mr. *Love.* If I do plead to the Charge, I do allow the Matter and Form of the Charge to be legal. I desire to have Counsel to come to my Chamber; I do not say, to come to this Place, but to have liberty for them to come to my Chamber.

Mr. *Steele*, *Recorder of London.* I did not think to have ſpoken, nor have I uſually ſpoken in this Court, yet I will ſpeak a Word out of Tenderneſs to yourſelf. You have very often inſiſted upon it, that you ſhould have Counſel aſſigned before you plead, that is it you plead for: truly the Courſe of Law is this, That if the Priſoner charged at the Bar, before he plead ſhall demand Counſel, he muſt of Neceſſity put in ſome ſpecial Plea before the Time he can demand Counſel. The Court doth not inforce you to plead Guilty or Not Guilty to the Matter of Fact; but they ſay, of Neceſſity you muſt plead. If you put in a ſpecial Plea, and tell them that it is a ſpecial Plea, and deſire Counſel upon it, they will conſider it: but till you can declare what that ſpecial Plea is, for there is a general Plea, and a ſpecial Plea; the general Plea is *Not Guilty*, the ſpecial Plea is in ſome Particulars. Now for you to alledge neither the ſpecial Plea nor the general Plea, it is impoſſible that Counſel can be aſſigned you. And whereas you ſay you are concluded if you plead, and cannot object againſt the Indictment afterwards; no, Sir, I tell you in the Name of a Chriſtian, and one that knows a little of the Law, that all the Objections you have againſt the Indictment, the Formality of it, and thoſe Things you ſpeak of, as that of your Fact not being committed in ſuch a Time that the Act holds out, that the High-Court hath no relation to try you for *Scotland*; all theſe will be ſaved to you, if they ariſe upon Matter of Fact from the Evidence. True, if you make an Objection againſt the Juriſdiction of the Court, that hath no relation either to the ſpecial Plea, or general Plea, it cannot be. It is impoſſible an Objection ſhould be received againſt the Eſſence of the Court, there is none can poſſibly over-rule that for you but themſelves; it is ſuch a Thing, that no Counſel can be aſſigned you as to that, becauſe it ſtrikes at the very being of the Court. Now therefore I beſeech you in the Name of a Chriſtian, that you will not do yourſelf that prejudice; for Nature teacheth every Man to preſerve himſelf by all juſt ways and means; and I do believe that in this buſineſs you have apprehended it for your Preſervation, and that you are loth to do any Thing that tends to your deſtruction; but you may ſatisfy your Conſcience, in that you have done what you can. And when you have pleaded, and uſed all the arguments you can, and have heard the Judgment of the Court in it, you may ſatisfy your Conſcience, that in the Words of honeſt Men (unleſs it be the Juriſdiction of the Court, though you have tacitly ſpoken there) you ſhall have that Right and Privilege which the Law allows you. I confeſs, I never ſpake here before, and it is a Rule amongſt us, that none but the Preſident ſhould ſpeak; and we have done more to you, than to the greateſt Perſon that ever ſpake here; becauſe we think ſome Neceſſity lies upon us towards you, (in regard of your Calling and the Worth that hath appeared in you) to direct you what you have to do.

Mr. *Love.* Sir, a Man may demur touching the Juriſdiction of any Court, if he can ſhew any thing in the Indictment that the Court cannot take cognizance of, which he is charged with; tho' he do not demur ſimply as to their Juriſdiction in general, yet as to that Particular he may demur: as a Man may demur in Chancery, when a Cauſe is only triable at the Common Law.

Ld. Preſident. You muſt know, that he that ſpeaks againſt the Juriſdiction of the Court, ſpeaks againſt the Juriſdiction of the Parliament of *England.*

Mr. *Steele*, *Recorder of London.* Mr. *Love*, to help your Underſtanding, I did not ſay that Mr. *Love* did expreſly ſpeak againſt the Power of the Court, as if they had no Power to try him; but this he ſeemed to ſay, That what he hath offered againſt the Juriſdiction of the Court, in any thing he is queſtioned for, if he have not Counſel for it before, he cannot have it afterwards. Now if the Queſtion you offer be a mixed Doubt, for your Objection is mixed; for you ſay, the Court hath no Power to try the Facts whereof you are indicted: now is it poſſible the Court can judge of that, or know there is Matter of Law ariſeth out of it, till the Fact appear out of the Mouths of the Witneſſes? It may be the Fact will not be proved, then there will be no Matter of Law ariſing; if the Fact be proved that it was done at ſuch a Time, before the Act was made, when that appears to them, the Court then will ſtrike it off, you ſhall not need Counſel, then we ſhall not regard it: if upon the Fact any other Doubt ariſeth in relation to *Scotland*, (for it muſt be from two Witneſſes, your Doubting being mixed with matter of Fact) we ſhall then be able to judge of it.

Mr. *Love.* Sir, if any Crime be laid to my charge, that ought not to be laid, and that this Court can take no cognizance of, I ſhould have Counſel in it.

Ld. Preſident. We have ſpoken more to you than became us, perchance, and that from Tenderneſs to you; and if nothing can give you ſatisfaction, but over and over with the ſame things again, we can but ſpeak our Conſciences, and leave it to yourſelf.

Mr. *Love.* I do declare I do ſubmit to the Trial, and am willing to do it; but it behoves me to uſe all juſt means for the Preſervation of my Life: if you will give me but a Day's Time to conſult with Counſel.

Ld. Preſident. That is in your Learning ſufficient to ſay, you will do it, and yet do not do it; becauſe I ſay I will ſubmit, therefore I do ſubmit; this is no Obedience at all. I know no ſuch Logic as this; it is ſubmitting, that muſt do it; you will ſubmit, but you will not act: pray, Mr. *Love*, be ſo charitable as to take us to be Chriſtians.

Mr. *Love.* What Prejudice, Sir, can it be to this Court, being I have not ſpoken with any Lawyer, to give me but a Day's Time? I will deſire no more.

Attorn. Gen. I would fain know, why may not the next Priſoner ſay, You have done ſo in Mr. *Love*'s Caſe?

Mr. *Love.* You have accepted of ſpecial Pleas, you did it in the Caſe of Sir *John Stowel*; and if I thro' my Ignorance in Law cannot urge the Strength of Law, and a ſpecial Plea, as otherwiſe I might do, I beſeech you let me not be prejudiced by it.

Ld. Preſident. Sir *John Stowel* inſiſted upon ſpecial Matter he had to plead, and that was, the Articles of *Exeter*; but he did firſt plead to the Charge, Not Guilty: yet we gave him that benefit; and he had that which did laſt a great Debate of this Court, and ſo did *Hamilton*, and divers others: we will do no otherwiſe with you than with them.

Mr. *Love.* If you now deny me my ſpecial Plea, I cannot help it; which is this, That the writing or ſending Letters (if it could be proved againſt me) into *Scotland*, doth not come within your Act; and that it is only for *England* and *Ireland* that are mentioned therein.

Ld. Preſident. If there be a ſpecial Plea wherein there is no Difficulty, then we give no Counſel; but a ſpecial Plea muſt have ſomething that is dubious in the Judgment of the Court: but for this, that in the Letter of the Law every School-Boy underſtands, the Judge will not allow you Counſel in a trivial Matter; we have gone over and over with you again, and this is like other Diſcourſes with you: but certainly never was the like ſeen, that a Court was ſo trifled with.

Mr. *Love.* This is my humble Motion, allow me but Counſel to-morrow, that they may appear here.

Ld. Preſident. You may have Counſel to-morrow, as the Caſe ſhall be.

Mr. *Love.* Shall I have the Copy of the Charge?

Ld. Preſident. You ſhall have what is fit, you ſhall have nothing denied you when it comes to you to have it, you ſhall have that Reſpect; I do it not to flatter you: but refuſe to plead at your Peril.

Mr. *Love.* Will you give me but this Favour, that I may have but an Hour or two's Time to conſult with a Lawyer?

Ld. Preſident. I do not know but that this that is done, muſt be done for all that come to the Bar.

Attorn. Gen. I had thought there would have appeared in him that calls himſelf a Miniſter of the Goſpel, more Meekneſs and Obedience to Authority, not out-facing Authority; and it is not well-done of him. My Lord, I humbly beg, that having had thus much of your Patience, and Perſuaſion by Arguments, and all Means uſed to him, and nothing will prevail; that, my Lord, you will now be pleaſed to give your Judgment according to the Rules that the Law appoints you, upon him that refuſeth to plead.

Mr. *Love.* I do not refuſe to plead.

Ld. Preſident. Doth a Man of your Learning ſay you do not refuſe?

Mr. *Love.* A Man may demur to his Charge, and yet not refuſe to plead; and the Court may grant me a Day's Time, if they pleaſe; for I come here unarmed and unprepared.

Attorn. Gen. His Demur is to Matter of Fact.

Ld. Preſident. Will you put that upon Law, for Law, which is not Law? And by your putting yourſelf upon that, you confeſs the whole Charge.

Attorn. Gen. I deſire one Favour, my Lord, which is of Juſtice to him; which is, that you would be pleaſed to command your Clerk to read that Act that ſays, *If any Perſon before you refuſe to plead, he may hear the Sentence of the Law upon him.*

Ld. Preſident. Clerk, read the Act.

[The Clerk reads that Part of the Act about refuſing to plead.]

Attorn. Gen. My Lord, we deſire his final Sentence.

Mr. *Love.* My Lord, I deſire but the Favour of a Day's Time to conſult with Lawyers.

[The Lord Preſident conſults a while with the Court.]

Ld. Preſident. I now do deliver it from all of the Court, and all of them are of that Mind, and now plead, or you ſhall have Judgment.

Mr. *Love.* But if I plead, I deſire I may have Counſel to hear the Witneſſes.

Ld. Preſident. We will not make a Precedent; for it will be ſaid, it was Maſter *Lilburne*'s Caſe, and Maſter *Love*'s Caſe.

Mr. *Love.* Will you promiſe me, that I ſhall have Counſel to hear the Witneſs?

Ld. Preſident. We will promiſe you Juſtice. Read the Sentence.

[The Clerk goes to read the Sentence.]

Mr. *Love.* Not Guilty.

Attorn. Gen. My Lord, we do ſay in the Behalf of the Commonwealth, he is guilty of the Crimes and Treaſons laid to his Charge. And, my Lord, you now perceive, that when you have been long troubled, you ſee he comes very hardly to it; an innocent Man would not have made ſo much ado, and knowing his Innocency, would not have had ſo much Capitulation and Trifling with a Court of Juſtice. My Lord, for theſe Crimes you are pleaſed to obſerve they are of ſeveral Natures, and of long Continuance. And now, my Lord, for the State of the Evidence, it is commended to the Charge of another Gentleman, that is, Maſter Sollicitor-General of the Commonwealth, to open to you the State of the Fact, by which he ſtands here Impeached and Accuſed, the Nature of it, and how it ſhould have been carried on, the Series of Time, the Perſons with whom he complied, how plotted and contrived to undermine this Commonwealth, even to the Foundations of it. My Lord, when that is opened, I will then produce the Evidence to make it good againſt him.

Mr. Sollicitor-Gen. My Lord, Mr. *Love* urgeth much for himſelf, but he doth not tell you what. For my Part, I never ſaw his Face till now; but his own Carriage, if that do not do him Wrong, none will. He ſays, he is ſingled out from all the reſt of his Brethren, I ſuppoſe he means thoſe that are his Fellow-Conſpirators: the Reaſon of that is, becauſe he was the firſt, he had a Hand in the firſt Action and laſt Action; ſo that from the Beginning to the end he was the principal Man, both by Counſel, Friends, Purſe, and Encouragement: and that is the Reaſon he might juſtly be ſingled out to be firſt in the Puniſhment, becauſe he was firſt in the Fact. He ſays, God in *Achan*'s Caſe wrought the Diſcovery. My Lord, I think the Court will think, that God was the great Diſcoverer of this great Treaſon: for through the whole Series of it, it was preſs'd and carried on with as much Caution and Secrecy as the Wit of Man could contrive; and nothing but the Goodneſs of the God of Lights, the Father of Lights, could have brought this to light, who diſcovers the Secrets of all Hearts, and hidden things of Darkneſs; he hath diſcovered this. My Lord, the Nature of the Treaſon, it is not One or Ten Treaſons, but it is a Myſtery of Treaſons, woven together during the Space of two Years, under the Notion of Religion. Many of them that were

were the Conspirators giving out, that they were a Party distinct and separate, and so they did behave themselves like a Party separate from the rest of the Commonwealth. First, This Party did assume to themselves Sovereign Power, and did exercise it divers Ways; they did take upon them to send Agents abroad to treat with foreign Princes and States, Enemies to this Commonwealth, and to give Commission to that purpose, and to give Instructions to that purpose; they did demean themselves in this Point, as if this Party had been a Free State. My Lord, the very first of their Rise was that in *February* 1648. When the *Scots* had declared for the King, then they send immediately to their Brethren here, these Conspirators, to let them know that they intended to make Addresses to the new King very speedily, and that there were Propositions drawing to that Purpose; and did desire a firm Compliance with them, promising them faithfully (and how they kept it, we shall hear) as their Brethren of *Scotland*, that their Interest should be provided for as their own: and the Covenant, that was the Ground of all. When they had thus promised, they believed their Brethren, and thereupon went about the Work, and established a Council at *Dowgate*, and there they met, and plotted and contrived how in the first place to make an Agreement between the King and the *Scots*, to the Intent that when they were agreed, they might come with united Forces to invade this Commonwealth. They were plotting and contriving this about *Midsummer* 1649. They were taken notice of abroad to be considerable Men; and the King of *Scots*, as they called him, thought fit to send an Agent to them, to treat with them, which was one *Mason*, my Lord *Piercy*'s Man; his Errand here, was to reconcile both Parties, the Royal and Presbyterian Party, and to make them both subservient to do his Work. My Lord, he treated with the Countess of *Carlisle*, *William Drake*, and divers others, Citizens of *London*, and this was with the Privity of the Ministers. My Lord, he had Commission from the King to assure these Conspirators, that if they could procure the *Scots* to send more moderate Propositions than they had formerly sent (for the Treaty was broken off before, the Propositions were then immoderate) that they should be satisfied. Thereupon they were so confident of themselves, and so bold (and in this Master *Love* had a principal Hand) that without any more ado he frames a Letter to *Scotland*, to advise them, and to persuade them by all means to send more moderate Propositions. The *Scots* return them this Answer, That they saw no Cause to send more moderate Propositions; but they desiring a good Success of the Treaty, they should send beforehand to the King, to prepare and move him to comply with the Propositions when they came. Thereupon they were as ready, whereas they sent with the one Hand to the *Scots*, so with the other Hand to the King. They framed a Letter to the King, and I will express it in their own Language; this was the Substance of their Letter: First, they let the Prince know, that there was a considerable Party in *England* sensible of their Sufferings there (they made themselves so considerable;) and by and by you shall see what became of that. First, The King did understand them to be so considerable. Secondly, They were bound in Conscience and Loyalty, to the utmost to help him to his just Rights, if he were once engaged with them by taking the Covenant, *&c.* and prosecuting the Ends of it. Thirdly, That there was no Way to do this, but by closing with his Subjects of *Scotland*. Fourthly, that being done, all the Presbyterians were bound to assist him. And this which they did, must be sent away before Commissioners come, to prepare the King to give them good Entertainment. With this Letter there was a Letter sent to the late Queen, to desire her by all means to work the King to a Compliance with the *Scots*. And there was a Letter sent to my Lord *Piercy* and *Jermin* to that Purpose; taking Notice that the Queen, my Lord *Piercy*, and *Jermin*, were their very good Friends, and ready for this Conjunction: Whereof they took special Notice, and did approve of it as a Thing very acceptable, and which should be remember'd in due time. My Lord, this Letter was sent; and afterwards *Mason* he brings the Answer from the King, and Queen, and *Piercy*; all agreeing to this Work, That the *Scots*, if they came with Propositions, should be complied withal. But *Piercy* and *Jermin* writ further, and did advise them, to the Intent the King might not fall back again, that they would send a meet Person to be present about the King when the Commissioners came, that so he might see fair Play. And thereupon *Titus* was sent away, to be an Agent there for them at this Treaty: And this Treaty was at *Jersey*. But this Treaty took not effect, as was desired; Whereupon they resolved upon another Treaty of *Breda*. But at the Treaty at *Breda* the King advised in his Letter (which I shall read) in the latter end of the Letter that they would send Commissioners then to treat with him. My Lord, the Letter was written by the King back again to the Ministers: First, The King in the Letter took notice of the Ministers Non-compliance with the present Power, and of their Loyalty and good Affection to him; and that if God restored him, he would requite them. Secondly, He promised all satisfaction to the *Scots*. Thirdly, Made large Promises of high Favours particularly to the Ministers. Fourthly, Wished them to send Commissioners sufficiently instructed, to treat at *Breda*. Now, my Lord, in the Diary that came along with this (for there was a Diary of all *Titus*'s Negotiations) in that Diary it did appear, that the King was very much satisfied with the Correspondent's Application to him; and that that should be a main Argument to him to satisfy the *Scots*. So, my Lord, if they had not thus moderated and perswaded the King that they were a very considerable Party, he would never, in all Probability, have closed with the *Scots*, but have thought them very inconsiderable. But when he was informed that if he closed with the *Scots*, he should have a considerable Party in *England*, that made him think the *Scots* were worth closing with. My Lord, *Titus*, in his Negotiation at *Jersey*, did assure the King, That the Ministers were averse to the present Government both in Pulpit and in Print; and that they were well affected to serve him and the Nation; and that the Nation was ready to espouse his Quarrel, if he did join with the *Scots*. This he did assure him in the behalf of the Ministers. And to shew how they did own this, they did like this Assurance so well, that they send him another Letter; and they did likewise send him a Letter of Thanks for his good Service he had done, in possessing the King how considerable they were. My Lord, after this Business of *Jersey*, when *Titus* had done his good Service there, he was coming home to make his Relation; but hearing by the way that the Council of State had intercepted some Letters, he durst not come farther than *Calais*: And from thence he sends a Letter, to let them know all this; and withal, that he had something to communicate to these Conspirators, that was not fit to be communicated by Letter; and therefore desired that some meet Person might be sent to *Calais*. Thereupon this Letter being read in Mr. *Love*'s Study, (so secretly was it carried) there it was agreed that Major *Alford* should be the Man that should go to *Titus*, and should receive all this Account from him. Whereupon *Alford* he went away to *Titus* presently, and there he did speak to him; and *Titus* did acquaint him with all these Proceedings; and withal, they did advise that a Commission should be sent in the latter part of the Letter. So that now they had no more to do, but, since their Hopes failed them at *Jersey*, to have an Eye to the Treaty at *Breda*, where they desired to send Commissioners. My Lord, this Letter, to be presented at *Breda*, was managed at Mr. *Love*'s House. Colonel *Massey*, Colonel *Graves*, *Titus*, &c. these were the Parties. There were Letters sent to them to act accordingly: And *Titus* sent Letters to the King and Queen, and *Piercy*. And again, my Lord, for the Commission, it was as transcendent a Boldness as ever was done by private Men: The Commission was corrected by Mr. *Love*; for it was rough-drawn by *William Drake*, which was the *English* Agent here. But Mr. *Love*, in his Study, and Doctor *Drake*, did help to correct it. The Substance of the Commission was this: 'We, the Presbyterian Party in *England*, do authorize you *Francis* 'Lord *Willoughby* of *Parham*, *Edward Massey*, *James Bunce*, *Richard* 'Graves, and *Sylas Titus*, to treat on our behalf, and the rest of our 'Brethren the Presbyterians of *England*, with the King; and to 'assist our Brethren the *Scots* Commissioners in their Treaty with the 'King, and to do according to the Instructions annexed.' My Lord, here be the Heads of the Instructions; That the Commissioners should use all Arguments they could to move the King to give the *Scots* Satisfaction, and to take the Covenant; and particularly to inform him of the Condition of Affairs, and how Things stood in *England* at that time, all which then cried out for an Agreement with the *Scots*; giving them full Power of all Things; and what should be concluded by them the Commissioners, should be confirmed by the Confederates. I think, my Lord, here was a very large Commission; whatsoever they thought fit, they were willing to comply with and make good. My Lord, at Mr. *Love*'s House, at the same time it was moved, (according to a Letter from my Lord *Piercy* to *William Drake*) that a good Sum of Money might be sent the King, as a great Means to dispose the King to an Agreement with the *Scots*. But they did not think fit to be cozened of their Money; but if this Conjunction did follow, then to raise Money considerably. And they went on so far, as to debate how to raise this great Sum of Money for this pious Work, as you shall hear by and by, under what Notion when propounded. Those Men agreed that the best Way was, That the Ministers should have several Correspondents; and that they should propound the lending of ten, twenty, thirty, forty, or fifty Pounds for a charitable Use: But you must not ask what this charitable Use is for. And this charitable Use, What would it have been? If God had not bless'd the Battle at *Dunbar*, we should have seen it. My Lord, a little before the Battle at *Dunbar*, when they had Letters from *Massey*, or *Bailey*, or somebody, they then began to understand their Brethren better than before: For he did inform them, That notwithstanding what was pretended, yet for all that, there was no *English* imployed, nor was the King crowned. This did disturb the Minds of the Conspirators very much; insomuch that they did expostulate with a large Letter, written by Mr. *Love* and Dr. *Drake*, written in a Table-Book in Sack, and sent there. They did expostulate with them, because the Presbyterian Party, which was the over-ruling Party, were grown so confident of carying all before them, that they did neither crown the King, nor mind the *English*. They did blame them for this, seeing this going upon a single Interest, and upon one Party alone, which they did call Godly, would not do well. And, my Lord, it proved so indeed: They carried it on upon this till the Battle at *Dunbar* came, and then they began to be of another Mind. After that Battle, there was a Letter from the Commissioners of Estates, pressing for Arms and Ammunition; and Letters from *Massey* and *Titus* for Money to be sent. My Lord, these good-natured Men, notwithstanding they had been so handsomely dealt withal when their Brethren were in Power, yet for all that, so fierce and eager were they to carry on this great Design, which God knows what it would have come to, they notwithstanding, upon Mr. *Love*'s Proposition, (for he was the Man who did propound it) agreed to send five hundred Pounds presently to *Massey*. My Lord, this Money was raised, and Subscriptions taken by Mr. *Love* himself at his own Table. And this is proved by one who brought his ten Pounds: He brought it to Mr. *Love*, and would trust no body else with it. And this was sent away presently by Captain *Massey*. My Lord, there was a large Letter sent also with the Money, wherein was good Counsel; for besides the Money, he did write to advise his Brethren, that it would be notable Service to endeavour after Union. The Letter was sent; and that large Letter, inviting to Union, had been delivered to the Assembly; and that would help to quash the dissenting Party in *Scotland*, who had made the King a Prisoner. But now the State and Church were all agreed: And this was the Fruit of Mr. *Love*'s Letter. And if they had not been so united, they could have done no Harm. This Letter came so seasonably, that they conceived it very considerable. They pressing to Union very much, by this means did quash the dissenting Brethren; and by that means they came to be as now they are. My Lord, about *Christmas* last there came a Letter from *Massey*, which gave an Account of crowning their King, and of great Preparations to take the Field; and that the Correspondents

dents here ſhould beware of unſeaſonable Riſing; and that they were moſt afraid that theſe Perſons would riſe too ſoon, and ſpoil all. My Lord, in Anſwer to this Letter, they write back again to *Maſſey*, to adviſe him, on the other ſide, to take heed that he came not into *England* but well provided, and not to depend much upon the Aſſiſtance here in *England*: They were afraid he was too weak, as he was afraid they were too forward. My Lord, after *Cook* was apprehended, then the Correſpondents met no more at publick meetings; and yet they received Letters from *Drake*, *Maſſey*, *Bunce*, and the reſt, (whereof Mr. *Love* was ſtill made acquainted, as a principal Man) that told them of the hopeful Condition of the *Scotch* Army, that they intended to engage in *England*; adviſing the Party here not to be too forward. This was the ſecond Advice. And ſee the Reaſon of it: For if Mr. *Love* ſat at the Helm, as he did, all the Meetings being at his Houſe, after *Drake* went away, he ſtill ſtating the Queſtion, drew theſe Letters and corrected them. And if he were ſuch a main Stickler, truly there was very great Reaſon for his Advice. My Lord, about the middle of *March* laſt Colonel *Bamfield*'s Man brings an Anſwer to the Meſſage in the Table-Book, written in Sack, containing four or five Sheets of Paper. Upon this Packet there was nothing written but the Letter *L.* to deliver to one of the Conſpirators. And ſeeing nothing but the Letter *L.* written, he carried it to Mr. *Love*, and Mr. *Love* did own it as ſent to him. And that was the large Narrative of the State of Affairs in *Scotland*, after the Fight at *Dunbar*, how Things ſtood there. My Lord, with this Narrative was ſent alſo a Letter from Mr. *Bailey*, by Order from the General Aſſembly: They did order Mr. *Bailey* (which was the *Scotch* Correſpondent there) to write a large Letter. And there was another Letter from my Lords of *Argyle*, *Lowden*, and *Lothian*, &c. It is worth your obſerving what this Letter was that came from theſe Men: Firſt, Thanks for the good Affections of Mr. *Love* and the reſt of the Conſpirators. Secondly, Encouragement to perſevere; and to credit *Bamfield*'s Negotiation for Money. Thirdly, Promiſes to repay all, whatever they ſhould lend. But when and by whom this Payment ſhould be made, the Letter will tell you; and that is, when God ſhall bleſs their Endeavours in procuring a Free Parliament in *England*. So the Parliament in *England* muſt pay all the *Scotch* Debts, that theſe Conſpirators ſhall lend. Truly, I think it will be a very free Parliament indeed, when it comes ſo free out of the People's Purſes. My Lord, Mr. *Love* and others gave *Bamfield*'s Man, that brought this Narrative, out of their own Purſes ten Pounds, and ſent a Bill of Exchange of thirty Pounds to *Bamfield*. By one Witneſs it will be expreſly proved that ten Pounds of this Money came out of Mr. *Love*'s Purſe. My Lord, *William Drake*'s laſt Letter did inform that *Maſſey* would break into *England* as ſoon as there was Graſs for his Horſes: and therefore he ſent to have a good Bank of Money provided in readineſs; and that they ſhould think of timing a Party; and that they ſhould neither riſe too ſoon nor too late, but juſt when *Maſſey* came in. This Mr. *Love* told Major *Adams*. My Lord, now we come ſo near to the Time, as that one of theſe Conſpirators is apprehended by the Council of State: When he had been in Reſtraint three Days, he ſent to Mr. *Love*, and Mr. *Love* came to him. But he had been at a kind of Faſt; for they did keep Faſts once a Fortnight, at leaſt, and Prayers for the good Succeſs of this Deſign: That God would bleſs this wonderful Treaſon, which was for the making, by the *Scotch* Army, an utter Subverſion of this Commonwealth, and the free, and noble, and magnanimous People of *England* ſhould be made Vaſſals and Contributaries to the *Scotch* Nation. This was the Deſign; and for this Deſign the Miniſters faſted and prayed: But it is plain God did abhor ſuch Things. And, my Lord, Maſter *Love* took upon him to ſpeak to the Perſon under Reſtraint; 'Take heed, ſaith he, 'what you do, leſt you wrong yourſelf or others.' And ſaid, 'It is 'true, *Titus*'s Man hath broken up Papers; but we are all well enough: 'But give notice to the reſt of the Confederates, that they may not be 'ſurprized: But be you not troubled, becauſe we have prayed for you 'this Day.' And they implored the God of Truth, that nothing of all this ſhould come to light, but that we ſhould be in the dark ſtill in generals. My Lord, this is the true State of the Evidence, as near as I can preſent it, with a frail Memory: And, my Lord, I have opened nothing but Generals; your Lordſhip and the Court will judge it; and Maſter *Love* will have the leſs to do to anſwer. But it appears by this, that there hath been ſuch a Practice, ſuch a Series of Treaſon, Treaſon upon Treaſon, that one Act of Parliament is not enough to contain it; but all thoſe Acts of Parliament read, every one of them make him a Traitor. And, my Lord, I am ſorry I have taken up ſo much of your Time, eſpecially when you have ſpent ſo much Time before. If your Lordſhip therefore will be pleaſed to have the Patience to hear the Witneſſes, we ſhall prove more than I have yet opened.

Attorney Gen. My Lord, this was an early Treaſon that began betimes to cruſh the Commonwealth in its Infancy; and, my Lord, Maſter *Love* being ſingled out for Juſtice, you will anon obſerve there was ſingular Cauſe for it; and if he had had his Deſert, it had been long before now: but States can play ſometimes with Treaſons, and not take a time till they ſee fit. My Lord, this Treaſon, as I have opened it to you, began in the Year 1648. The King of *Scots*, ſo called, but take notice, that the ſame Nation and Perſons that proclaimed him King of *Scotland*, proclaimed him King of *England* alſo at the ſame Time in the ſame Nation: and thoſe Perſons that proclaimed this Perſon King of *Scotland*, the ſame proclaimed him King of *England*. My Lord, you have heard ſome of the Conſpirators, named *Titus* and *Drake*, active men both of them: Theſe Men have been ſo ingenuous, that they have fled for their Treaſons; notwithſtanding this Gentleman, a Miniſter of the Goſpel, he doth not do ſo: they have confeſſed their Offences, and are fled for them; they dare not appear, they have ſo much Guilt within them that prompts them to keep away; but this Gentleman hath not ſo much. My Lord, *Drake* was ſo active, and it was carried on with ſo much ſecrecy, and ſo much (as they thought) of Caution, that Maſter *Drake* writing, as that Gentleman next Mr. *Love* doth, in Short-hand, he burnt his Papers, and burnt all where any thing was to be ſeen; ſo that no Originals are to be ſeen. My Lord, in this caſe it hath been opened unto you what Tranſactions Mr. *Love* had with *Scotland*, and you have been pleaſed to obſerve it was a tender Point, that Mr. *Love* did enter Diſcourſe with the *Scotch* Nation, Mr. *Love* was very much troubled at it, and he may ſee juſt Cauſe to be troubled at it. And will you give me leave, there hath been Blood and Treaſure ſpent; as was told you by Mr. Sollicitor. I am afraid I might too juſtly ſay by that Gentleman, and thoſe he did ſeduce, that they have been too much the Cauſe of this Blood, even that Gentleman that ſtands at the Bar, that ſhould be a Man of Peace, and not of Blood. My Lord, I may juſtly ſay, That that Gentleman hath been too much the Cauſe of theſe late Engagements between theſe two Nations, and making himſelf a Party. And it is a ſad thing when Parties appear againſt a State. My Lord, I am too much afraid, whatever God pleaſes to work upon him, that it ſhould touch his Conſcience that he ſhould be inſtrumental in ſuch a Work. But I verily believe, had there not been Actings from hence, there had not been ſo much Forwardneſs in the King's Party to the *Scots*. My Lord, I will mind that Gentleman of what is ſaid of the Fifth of *November*; I am ſorry for it, that it ſhould be ſaid of our Miniſters, *whoſe Faith is Faction, whoſe Religion is Rebellion.* It is ſaid ſo of the *Romiſh* Miniſters, I hope it will not be ſaid ſo of the *Engliſh*, That their Faith is Faction; and that they pray for Strife, and faſt for Strife. My Lord, for theſe Men, *Drake* and *Titus*, they are gone, as I ſaid; and they did confeſs themſelves ſo much guilty, as that they have fled for it: and Mr. *Love* doth know (I am ſorry to ſee him in that Geſture) that he was converſant with them all, and doth know (I believe) that we can prove it; and when he hears the Men named, he will ſay ſo too. Truly, my Lord, I have nothing to ſay againſt the Perſon of the Man, but againſt his Vices and Faults; and nothing to his Function, and nothing to thoſe whom he pretends ſo boldly to repreſent, that is the Preſbyterian Party. We do all know there are many honeſt, precious, and godly men, that have received no Diſcountenance from the State; nor this Gentleman, that ſhould give him any Countenance or Encouragement to oppoſe the State. But it is ſomewhat a bold thing, for a particular man to be the Head of a Party, and they to engage as repreſenting a conſiderable Party, to engage to ſend Commiſſioners to agree upon Inſtructions: This is very bold. But, my Lord, God be thanked, many of thoſe that were ſeduced at firſt, were wiſe, and did come in before the laſt; and did not ſtrut it out, my Lord, with States and Juſtice, as that man hath done before now, and at preſent, even out-facing Juſtice, and boldly, I ſay, wiping his Lips: He hath done no Offence. My Lord, they were ſo bold with *Scotland*, that there was a known Agent there maintained and kept between *Scotland* and them: And I will tell him the Gentleman's Name; his Name was Mr. *Sterks*. And, my Lord, when he went away, the Act requiring thoſe of the *Scotiſh* Nation to be gone, that Gentleman did ſupply him with Money himſelf, and others gave eight or ten Pounds in his Purſe, to carry him away. My Lord, I believe he knows this: And I am ſorry that that Gentleman, that hath gone along with us in much of this War, that he ſhould at laſt ſo much betray his own Diſcretion, as rather to truſt a reconciled Enemy, than to be true to his own Friends. I ſay, he truſts a reconciled Enemy, and a weak Enemy; and that he will think, and will know, that they might betray him; as juſtly may be done, when Men ſo caſt themſelves upon the Party of the King, and Queen, and *Piercy*, and *Jermin*. It is no great Policy nor Diſcretion to have ſo many of Counſel: They ſay Three keeps Counſel; but this Gentleman hath now Twenty, Thirty, Forty, in *Scotland*, *France*, and *Holland*, and Agitations between them, and frequent Intercourſes. My Lord, I ſhall now call the Witneſſes out to you, which when Mr. *Love* doth ſee, himſelf will ſay are honeſt Men, and to be believed.

Mr. *Love*. My Lord, I beſeech you, let me ſpeak a Word.

Attorn. Gen. My Lord, he hath heard his Charge in particular; and thoſe Things which, if he be ingenuous to himſelf and his own Conſcience, he cannot but know we ſhall prove them: And before we prove them, I deſire to hear whether, or no, he will confeſs them.

Mr. *Love*. I hope this Court will not hearken to the Inſinuations of Inſtruments of State, who are well rewarded for their eager Proſecution of Men in ſuch a Condition as I am in: it is an eaſy matter, through Flouriſhes of Law, and Strains of Wit, to ſtir up the minds of my Judges againſt me.

Ld Preſident. You have heard the Matter opened to you, which you cannot in any chriſtian or godly Conſcience or Underſtanding but acknowledge, that ſuch Secrets as theſe you were privy to, and came to your hand: You cannot, before God and Man, do better than to confeſs theſe, which you know, by the urging of them upon you, are come to our knowledge.

Mr. *Love*. Will you give me leave to expreſs my ſelf as to theſe Things which I am now charged with? I do declare and proteſt, in the Preſence of God and this great Aſſembly, that I never wrote any Letter, either to the King of *Scots*, or to the Queen his Mother, or to the Church or State of *Scotland* in the general, or to any particular Perſon of the *Scotiſh* Nation, ſince the Wars began between *England* and *Scotland*, to this day. I do declare alſo, in the Preſence of the ſame God, I never received any Letters, written to me, either from the King of *Scotland*, or Queen his Mother, or from the Church or State of *Scotland* in general, or from any particular Perſon of the *Scotiſh* Nation, ſince the Wars began between the two Nations, to this day. I declare and proteſt likewiſe, in the Preſence of the ſame God, I never collected, or gave, or lent one Penny of money either to ſend into *Scotland*, or into any Foreign Part, to the King, or Queen his Mother, or to the Church or State of *Scotland* in general, or to any particular Perſon of the *Scotiſh* Nation, ſince the Wars began to this very day. And as to theſe Particulars, I have ſaid it often, I am as innocent and as harmleſs as the leaſt Child: And if you will take the aggravating of theſe Circumſtances againſt me, and will proceed upon Aggravations of the Crimes againſt me,

me, I hope God will help me with more Peace of Conſcience to undergo the Cenſure, than you ſhall have to inflict it. And as for that Gentleman, that made that great Relation to you of the Treaty of *Jerſey*; for my part, I am as great a Stranger to all thoſe Tranſactions as any here: I never ſaw the Face of *Titus*; nor did I ever ſend to him, or receive any thing from him.

Attorn. Gen. My Lord, we ſhall call the Witneſſes.

[Captain *Potter* is called into the Court.]

Mr. *Love.* I except and proteſt againſt this Witneſs; for he hath been already examined in private, and hath made his Confeſſion there; and that is equivalent to a Conviction: And I hope the Court, in Juſtice, will not admit of this Man for a Witneſs.

Ld Preſident. You ſhall have Juſtice as well as ever any Jeſuit had.

Attorn. Gen. You ſee now what Mr. *Love* drives at, and you will find his Jeſuitical Evaſions. And, my Lord, let him be aſked, whether ever this Man was before this Court, or any Committee of this Court; and I think in Juſtice you ought to examine Witneſſes before-hand. But it is clear and evident that this Man hath been a Party with him. I do humbly conceive it is ſo clear and evident, that rather I ſhould except againſt the Witneſs, as an incompetent Witneſs, than Mr. *Love*, becauſe he hath been a Party with him: But I deſire he may be a competent Witneſs, and one in whom there is more Ingenuity than there is in Mr. *Love*.

Mr. *Love.* Sir, before he ſwears, I beſeech you aſk him this Queſtion, Whether he hath not been threatened with Death, if he would not witneſs againſt me?

Ld Preſident. You cannot over-rule us with your Beſeechings and Beſeechings; it will not do it: Your Over-importunity ſhall not prevail with us.

Mr. *Love.* Let God prevail with you: Though he may be *Legalis Teſtis* before Conviction, yet he cannot be ſo after Conviction.

The Clerk. *The Evidence you ſhall give between the Keepers of the Liberties of* England *and the Priſoner at the Bar, ſhall be the Truth, the whole Truth, and nothing but the Truth. So help you God.*

[He is ſworn.]

Ld Preſident. Now look upon the God of Truth, and ſpeak the Truth.

Captain *Potter.* I ſhall ſpeak the Truth.

Attorn. Gen. That Gentleman was pleaſed to truſt others, as I ſaid, even reconciled Enemies, and fell from his Friends. I do grant that this Gentleman hath confeſſed: And if every honeſt Man confeſs his fault, that is no Offence; for an honeſt Man queſtioned for a Fact, to confeſs the Truth thereof: I have not heard that that is no good Law. And I do ſay, that before ever this Man came to be examined, we did know it all; and perchance from thoſe that this Gentleman thought fitter to truſt than us. But we did ſo know it before, that every Circumſtance was opened by us; and we did convince this Gentleman and others, tho' not Mr. *Love*. But Mr. *Love* ſaith he muſt not accuſe himſelf, he muſt not anſwer; but this Gentleman did more ingenuouſly. I do affirm that he was queſtioned to every Particular, before he anſwered: And we do know that the State hath long Hands and Ears. Now, my Lord, if you pleaſe, aſk Mr. *Potter* what he knows of this Buſineſs, of ſending to and receiving from *Scotland*.

Ld Preſident. You are upon your Oath, and in the Preſence of God, than whom there is no higher upon the Earth, that is in the ſeat of Juſtice, and without relation (as Mr. *Love* ſaith) to the Parties: Therefore tell the Truth of your Knowledge in the Tranſaction of this treacherous Treaſon, that hath been now above two Years in the Paſſages, between the Preſbyterian Party.

Attorn. Gen. No, my Lord, we will not own that upon them: There are ſome that do ſtyle themſelves ſo, the Preſbyterian Party, that are conſcientious Perſons, and pious and godly Men; and I ſhould do them wrong, ſhould I lay it upon them: But that which I do, is againſt thoſe that do undertake to ſtyle themſelves the Heads of them.

Ld Preſident. Begin then with that which concerns Mr. *Drake*'s Agency.

Capt. *Potter.* I have taken an Oath to ſpeak the whole Truth in this Buſineſs; but that is the Truth I know. I deſire I may not be preſſed to Things that I have only heard.

Attorn. Gen. You muſt, and from whom you heard them.

Capt. *Potter.* I was examined ſeveral Times, and had a wide Latitude there; and then I was to ſpeak to every Truth as I thought and heard: But now I have taken an Oath to ſpeak the Truth between the State and this Gentleman. And I beſeech you that I may be held cloſe to thoſe things, and I will give you the fulleſt and faireſt Account I can. What I ſaid before, was in order to the Diſcovery of the Thing, much of which I had by hear-ſay from others; and in that I may miſtake in Perſons, Places, and Times. What I have done myſelf, and what I know this Gentleman hath done, that may be put to me fully.

Mr. *Love.* The Witneſs muſt ſo ſpeak, *That we have ſeen and heard, that do we teſtify.*

Attorn. Gen. Your Doctrine will not paſs here.

Mr. *Love.* It is Scripture, Sir; and it behoves me to ſpeak, for I am upon my Life.

Attorn. Gen. Mr. *Potter*, ſpeak what you know, and from whom; and I deſire there may be no Gloſſes put there by thoſe who, I am ſure, cannot do it. I aſk you firſt of the Proceedings, and ſending to *Scotland*, and back again to *England*; and what you know of it, and from whom.

Capt. *Potter.* My Lord, the Committee that examined me knows I was not privy to the firſt Tranſaction: I did ſay indeed ſomething of it by hear-ſay; and I did likewiſe ſay that Mr. *Drake* told it me. But I may err in that Particular; poſſibly Mr. *Drake* did not tell me ſo; for, as I apprehend, I ſaid I did think it did put a neceſſity upon the King to agree with the *Scots*; and then having ſeen ſome Papers, and conferred with that Relation others have made, I collected the Truth of them, as far as I did know. But now I am upon my Oath; let me therefore come to the Matter: I ſpake then many things as I heard, which I cannot affirm upon my Oath.

Ld Preſident. We muſt judge of what you have heard.

Capt. *Potter.* My Lord, I cannot be certain of that.

Attorn. Gen. That is receded from. But what do you know of *Maſon*'s coming over here?

Capt. *Potter.* I know nothing of *Maſon*: I ſaw him but once; and at that time there paſt nothing between us of publick Concernment, as I remember.

Attorn. Gen. What was the Anſwer that was returned to that which *Maſon* did bring?

Capt. *Potter.* That I can ſpeak nothing to of my own Knowledge: I heard he was come hither; and was here to ſee the Tempers of Men, and to ſee how Things were like to go.

Attorn. Gen. My Lord, aſk him from whom he came.

Capt. *Potter.* It was ſaid he came from my Lord *Piercy*. But theſe Things are ſo remote from me, that I can ſay nothing to them of my own Knowledge.

Attorn. Gen. My Lord, let him ſpeak what he knows about reconciling the Preſbyterian Parties.

Capt. *Potter.* I think others can ſpeak more cloſe to that; I can ſay nothing but by hear-ſay: I heard that *Maſon* did endeavour here to find how the Affections of the People ſtood; and whether there was a Neceſſity that the King ſhould comply with the *Scots*, or with the Cavaliering Party; and that he found a Neceſſity of complying with the *Scots*.

Ld Preſident. What Aſſiſtance ſhould he have from hence?

Capt. *Potter.* I know no more of *Maſon* than this.

Attorn. Gen. My Lord, aſk him if there were not ſome Letters returned by *Maſon*, in anſwer to what he brought?

Capt. *Potter.* Not that I know of.

Ld Preſident. Did you hear of it?

Capt. *Potter.* I think I did hear of it: But I cannot tell by whom; I think by *William Drake*.

Attorn. Gen. My Lord, aſk him whether he knows of any Petition ſent to the King of *Scots*.

Capt. *Potter.* I do not know of any; but have heard ſo.

Ld Preſident. By whom did you hear ſo?

Capt. *Potter.* By *William Drake*.

Ld Preſident. Who did *Drake* ſay did carry the Petition?

Capt. *Potter.* I cannot tell.

Attorn. Gen. Do you know of any Anſwer returned from *Piercy* and *Jermin*?

Capt. *Potter.* I know nothing at all of theſe things.

Ld Preſident. Were not you invited to the Meeting?

Capt. *Potter.* Yes, I was.

Attorn. Gen. What did he tell you?

Capt. *Potter.* Nothing at all: We had nothing but common Diſcourſe there.

Attorn. Gen. Who was there?

Capt. *Potter.* There was *William Drake*, Major *Alford*; and I think *Maſon* and *Titus* were there.

Ld Preſident. Do you remember any more?

Capt. *Potter.* I do not remember; nor can I certainly ſay they were there.

Ld Preſident. Were not you preſſed or moved to go to *Jerſey*?

Capt. *Potter.* Not that I know of.

Ld Preſident. Did not *Titus* offer to go?

Capt. *Potter.* I cannot well tell: But at that time, or ſome other, he either was ſpoken to go or offered to go.

Ld Preſident. How long ago?

Capt. *Potter.* My Lord, I cannot ſpeak this of my own knowledge; but I have heard ſay, I think, a month after the time.

Ld Preſident. Had he any money to bear his Charges?

Capt. *Potter.* I know of none.

Attorn. Gen. Well, what Meetings afterwards was there in Mr. *Love*'s Study?

Capt. *Potter.* I have been at Mr. *Love*'s ſeveral Times.

Attorn. Gen. My Lord, aſk him whether he was not preſent in Mr. *Love*'s Study, when a Letter was there read from *Titus*; and who was preſent there: and what were the Debates upon it; and what was the Contents of the Letter; and whether it was not for ſome to come to *Calais* to him.

Capt. *Potter.* The Letter I well remember: I cannot ſay it was Mr. *Love's* Study; nor can I ſay it was in his Houſe: I do not know Mr. *Love* was preſent. The Letter, I have ſeen it, or heard of it: It did deſire ſome to come to *Calais* about the Treaty: And I remember well that Major *Alford* told me he did go to him.

Ld Preſident. What was the Contents of the Letter?

Capt. *Potter.* I cannot well remember that I have ſeen it: But I have either ſeen it or heard of it; I cannot tell which.

Ld Preſident. You muſt be true to the State, and ſpeak the Truth.

Capt. *Potter.* My Lord, I would be true to the State, and to the Gentleman at the Bar too. And, my Lord, I can ſay no more to it: I either ſaw it, or heard of it, I cannot tell which. I am upon my Oath, my Lord: The Letter did deſire ſome body to come to *Calais* to him.

Attorn. Gen. Was not this Meeting in Mr. *Love*'s Study?

Capt. *Potter.* I cannot ſay it was in his Houſe: I rather think it was not.

Ld Preſident. Was he preſent?

Capt. *Potter.* I cannot ſay he was preſent; I think he was not preſent: I think Mr. *Alford* was ſent to the Tavern.

[The Papers of Captain *Potter*'s Examinations were here produced by the Attorney-General, and by the Clerk read to him.]

Attorn. Gen. My Lord, theſe were his Examinations.

Capt. *Potter.* I intreat this may be remember'd (which I premiſed at firſt) I had a Latitude then, that I have not now: I am now upon my Oath, and deſire to be true to my own Conſcience, and to the State, and to this Gentleman. I have made (it is true) ſuch a Confeſſion as this is; and I believe the greateſt part of it to be true according to the Latitude I ſpake it in: But now I am upon my Oath, and now I am to ſpeak knowingly. The Subſtance of the thing is true; I believe that he was ſent, and ſent upon ſuch Things. So much I do verily believe to be true, upon my Oath; but of the Places I cannot ſpeak.

Attorn. Gen. *Alford* did go to *Calais*, and return: And how many Days was it between his going and returning? And where did he give an Account of what he did receive from *Titus* at *Calais*?

Capt. *Potter*. It is a hard Matter for me to ſpeak to the Time: I think about a Week. And for the Relation he made when he came back, as I take it, I met him at the *King's-Head* in *Walbroke* upon his Landing; whether he made the Relation to me there, or afterwards at Mr. *Love*'s; whether I heard of the Meeting, or whether I was at the Meeting, I cannot ſay. I am ſure he himſelf made me the Relation; but whether there, or any other where, I cannot make out.

Attorn. Gen. Upon your Oath, did not Major *Alford* make return of the Anſwer in Maſter *Love*'s Study?

Capt. *Potter*. I cannot ſay it; but I think it was there.

Attorn. Gen. Was Maſter *Love* preſent?

Capt. *Potter*. I think he was preſent; and I think it was in his Houſe: I am ſure Major *Alford* made me a particular Relation between him and I.

Attorn. Gen. Was *Sterks*, the *Scotch* Agent there, or no?

Capt. *Potter*. I cannot ſay he was.

Ld. Preſident. Was it read in Maſter *Love*'s Study?

Capt. *Potter*. I cannot ſay I was there.

[His Examination was again read to him.]

Attorn. Gen. What was the Subſtance of the King's Letter?

Capt. *Potter*. It is ſo much out of my Memory, that I ſcarce remember there was a Letter; it is ſo much out of my Mind.

[More of his Examination was read to him.]

Ld. Preſident. What do you remember of this now? Is this true?

Capt. *Potter*. I remember I have heard as much; and I believe it is true.

Ld. Preſident. Have you not heard the Letter read?

Capt. *Potter*. I do not know there was a Letter ſent; nor do I know there was a Letter read. I deſire to ſpeak the Truth: I had a Latitude then, that I have not now; I had then ſuch an Information ſhewed me, and I ſpake to it ſo far as I thought it was true. Theſe Papers you ſhew me, as my Examination, were not of my framing.

The Clerk. Look upon them: Is not this your Hand?

Capt. *Potter*. I know it is my Hand.

Attorn. Gen. My Lord, I did go to the *Tower* to him, and was with him, and did examine him. My Lord, here be thoſe that will prove it, that himſelf did confeſs, and ſaid it was true: And he took time himſelf to inform himſelf, and had (as he ſaid) other Mens Examinations and Informations by; and he did add and amend, and gave it under his Hand. This is the Truth, after ſeveral Examinations. And he had Papers by him, and did correct them himſelf, and brought them under his own Hand written by himſelf, theſe very Things. And, my Lord, aſk him whether he did not write theſe Things firſt with his own Hand, and bring them to the Committee of Examinations.

Ld. Preſident. Whether did you not bring in your own Examinations, and what you could inform, written by your own Hand?

Capt. *Potter*. My Lord, that is my Hand; and what is there I muſt own as mine. But I hope you will let me diſtinguiſh between what I delivered then as I heard it and thought, and what I deliver poſitively. I do ſay it is true now, as I have heard.

Ld. Preſident. Why did you not ſay of Hearſay then, as well as now?

Attorn. Gen. Upon the Oath you have taken, whether do you not know this of your own Knowledge?

Capt. *Potter*. Upon the Oath I have taken (and I deſire to ſpeak it in God's Preſence) I do not remember that I ſaw the Letter from the King, or heard the Letter read, or the Copy; nor can I ſay *Alford* told me ſo much, though I think he did, yet I do not know he did.

Mr. *Love*. I deſire you would take notice whether this be fair, that Mr. Attorney ſhould help the Witneſs, by putting things into his Mouth?

Attorn. Gen. My Lord, I can help the Witneſs by aſking him Queſtions.

Capt. *Potter*. My Lord, no Man ſhall ſo far tamper with me, as to make me ſay an Untruth.

Attorn. Gen. My Lord, pray aſk him whether he did not write theſe Papers, moſt of them, with his own Hand.

Capt. *Potter*. True; but to open to the Committee the ground of this Buſineſs: But I did not expect to ſwear to every one of theſe Particulars.

Attorn. Gen. My Lord, aſk him whether after this Return was made there was not a Meeting, and Inſtructions made about the Commiſſion to be ſent to *Breda*.

Capt. *Potter*. My Lord, to that, I have heard ſo much; but I cannot ſpeak it poſitively. I ſaw no Commiſſion, nor Inſtructions: I heard there was both. I do not know by whom I have heard it; I think by *William Drake*.

Ld. Preſident. Were you not at Mr. *Love*'s Houſe when they were drawn up, and Mr. *Love* corrected them?

Capt. *Potter*. I never ſaw the Inſtructions.

Mr. *Love*. Nor I neither.

Ld. Preſident. Did you not hear ſo?

Capt. *Potter*. I did.

Ld. Preſident. To whom to be directed?

Capt. *Potter*. To Captain *Titus*.

Ld. Preſident. And to who elſe?

Capt. *Potter*. The Commiſſions and Inſtructions were to be directed to my Lord *Willoughby* of *Parham*, Colonel *Graves*, Major-General *Maſſey*, Captain *Titus*, and Alderman *Bunce*.

Attorn. Gen. My Lord, aſk him whether he had not heard Mr. *Love* tell him ſo.

Capt. *Potter*. Never in my Life.

Ld. Preſident. Were you not then preſent at his Houſe?

Capt. *Potter*. I know not that I was; nor can I remember.

[His Examination was again read.]

Attorn. Gen. Whether were you not at Mr. *Love*'s Houſe? And was there not a Letter agreed upon to *Maſſey*, and *Bailey*, and *Titus*?

Capt. *Potter*. I have been ſeveral Times at Mr. *Love*'s Houſe.

Ld Preſident. Whether were you not at Mr. *Love*'s Houſe with theſe Correſpondents?

Capt. *Potter*. I have been ſeveral Times at his Houſe with them; and I have been oftner there upon other Occaſions.

Ld Preſident. Name them.

Capt. *Potter*. I mean with Mr. *Love*, and Mr. *Jackſon*, and Mr. *Robinſon*, and Major *Alford*, and Mr. *Drake*, and Mr. *Gibbons*.

Ld Preſident. What was then agreed upon about Letters when you were at Mr. *Love*'s Houſe?

Capt. *Potter*. I have a very bad Memory, I cannot ſpeak to Time, and Places, and Perſons; ſuch Letters I have heard of were written, I profeſs I can ſpeak no more knowingly. I never had a hand in any one Letter, but ſuch Letters I have heard of.

Ld Preſident. Upon what Account did you meet at Mr. *Love*'s Houſe?

Capt. *Potter*. I met there ſometimes upon a friendly Account, ſometimes upon a chriſtian Account, and ſometimes to hear News, and ſometimes to tell News.

Ld Preſident. Where did you meet with theſe Perſons, *William Drake*, and theſe ſo often mentioned?

Capt. *Potter*. My Lord, there was a Correſpondency in point of News.

Ld Preſident. Between whom?

Capt. *Potter*. Between Captain *Titus* there, and *William Drake* here; and he would tell us many times News there.

Ld Preſident. Do you know *Titus* was employed as an Agent hence?

Capt. *Potter*. I think he was.

Ld Preſident. Had he Money collected?

Capt. *Potter*. I do not know of one Penny I lent him, and I never contributed to him.

Attorn. Gen. My Lord, aſk him whether himſelf did not, upon an Occaſion, contribute ten Pounds, and bring it into Mr. *Love*'s Parlour?

Capt. *Potter*. I confeſs that.

Attorn. Gen. For a Table-book that was written in Sack, do you know of any ſuch thing?

Capt. *Potter*. I do, my Lord; I went to *William Drake* in his Retirement, and he was writing out of his Papers ſome Letters in a Table-book, which he told me was in Sack, as I take it.

Ld Preſident. Why did he write them in Sack?

Capt. *Potter*. I take it, becauſe it ſhould not be diſcovered.

Ld Preſident. Do you not know to whom the Letters written in Sack were ſent?

Capt. *Potter*. I know not; but he told me to *Bailey* and *Titus*.

Ld Preſident. Where was *Bailey* and *Titus* then?

Capt. *Potter*. I know not where *Titus* was, but I think *Bailey* was in *Scotland*.

Ld Preſident. After *Drake* was gone, where were your Meetings uſually?

Capt. *Potter*. Many times at Mr. *Love*'s Houſe.

Ld Preſident. When you did meet there, what did you meet upon? Was it not to receive Meſſages from *Titus*, and *Maſſey*, and *Bunce*, and *Bailey*, and to return Anſwers?

Capt. *Potter*. We had ſometimes Letters read there, but from whom they came, or to whom, I believe few can tell, I cannot tell; ſomething of News we have heard, of Affairs; that was the Occaſion of my coming ſometimes.

Attorn. Gen. Did Mr. *Love* never tell you the Occaſions of thoſe Meetings, and preſs you to lend Money to furniſh *Maſſey* and *Titus*?

Capt. *Potter*. I can ſay nothing to that.

Attorn. Gen. What ſay you to the private Faſts?

Capt. *Potter*. There were private Faſts.

Attorn. Gen. What! for a Bleſſing upon the Treaty at *Breda*?

Capt. *Potter*. There were Faſts kept, but I never underſtood they were for any other End, but for the Sins of, and Judgments upon the Nations; and for the moſt part there have been hundreds of Men and Women there.

Attorn. Gen. Did Mr. *Love* often officiate there?

Capt. *Potter*. He hath preached and prayed.

Ld Preſident. Did any pray for a Bleſſing upon the Treaty?

Capt. *Potter*. I cannot ſay ſo.

Attorn. Gen. What ſay you to thoſe Letters that came hither after the Fight at *Dunbar*?

Capt. *Potter*. My Lord, after the Fight at *Dunbar*, there came Letters from *Bailey*, and *Titus*, and *Maſſey*.

Ld Preſident. And where were theſe publiſhed?

Capt. *Potter*. My Lord, I can ſay no more; I have heard of theſe Letters too.

Ld Preſident. Were not you preſent at Mr. *Love*'s Houſe when they were read, or made known there?

Capt. *Potter*. Poſſibly I was; I cannot ſay I heard the Letters read there. I did hear Letters by a private Hand occaſionally afterwards.

Attorn. Gen. By the Oath you have taken, were you not preſent at Mr. *Love*'s Houſe, when thoſe aforeſaid Letters from *Titus*, and *Bailey*, and *Maſſey*, were publiſhed and read?

Capt. *Potter*. My Lord, I cannot ſay I was there, and I dare not ſay I was not; it is a Year ago: I believe I was there ſeveral Times when ſeveral Letters were read, and it may be when thoſe were read.

Ld Preſident. Whether was there not five Pounds given to a Meſſenger that brought them?

Capt. *Potter*. I have heard there was, but I do not know it.

Ld Preſident. Did you contribute any thing towards it?

Capt. *Potter*. I think I did contribute ten Shillings.

Ld Preſident. Who contributed beſides your ſelf?

Capt. *Potter*. I know not.

Attorn. Gen. Was there not at Mr. *Love*'s a Promiſe of Arms or Letters?

Capt. *Potter*. I cannot ſay ſo.

Attorn. Gen. What can you ſay?

Capt. *Potter*. I have heard there was.

Attorn. Gen. By whom have you heard it?

Capt. *Potter*. I cannot ſay by whom, or who told me ſo, either Mr. *Alford*, or *Adams* or *Far*, or ſome of thoſe Men that uſed to meet there; for it was common, when I was not there, for ſome or other to meet with me.

Attorn. Gen. Did Mr. *Love* contribute to the Meſſenger?

Capt. *Potter*. I cannot ſay he did.

Attorn. Gen. My Lord, I do not aſk him one Queſtion, but what himſelf hath confeſs'd.

Capt.

Capt. *Potter*. I do remember such Letters I have heard did come, but never saw those Letters; I do likewise remember I heard there were five Pounds gathered for the Messenger, and I do believe I contributed ten Shillings towards it.

Attorn. Gen. Who else gave beside your self, and who received it?

Capt. *Potter*. I profess I know not.

Attorn. Gen. Whether was there not a Declaration to the Church of *Scotland* then published?

Capt. *Potter*. The Declaration, I know nothing of it; you remembred me of it at the Committee, when I was first examined, but I knew nothing of it.

Attorn. Gen. My Lord, ask him whether the State and Church did not write for Arms and Ammunition at that time after the Fight.

Capt. *Potter*. My Lord, I have heard so much, but cannot speak positively or particularly to it; I have heard of such Letters, but cannot tell by whom; I saw them not.

Attorn. Gen. To whom were they directed?

Capt. *Potter*. I never heard who wrote them, nor to whom they were directed.

Attorn. Gen. Was there not one Letter with *L.* upon it?

Capt. *Potter*. My Lord, about the Letter *L.* I did receive those Letters my self, there was an *L.* written upon them: My Lord, these Letters came from *Bamfield* out of *Scotland*. There was in these Letters a large Narrative of the Affairs of *Scotland*, from *Dunbar*-Fight to the time of the Date of them, which I think was about *Christmas*: This is a thing I know better than (I am afraid I give offence by saying, I think, and I heard, and that I cannot speak positively; but of this I can speak positively) *Bamfield* gave an Account therein of a Narrative of two Sheets of Paper, and I and another or two opened them; and I carried these Letters to Mr. *Love*'s; there was one or two more with me, Mr. *Jaquel*, and I think Mr. *Drake*, I cannot well tell. There was a Narrative of the *Scotch* Affairs and a Letter from nameless Persons, which we suppose to be from Mr. *Bailey* and from my Lords of *Argyle*, and *Lowdon*, and *Lothian*, and others, whose Names I do not remember. These Letters wrote for ten thousand Pounds for buying of Arms, and hiring of Shipping. These Letters we disliked, and we dissented from them, and agreed to give a negative Answer; but we thought fit, for our own Safety, to raise some Money for the Messenger and *Bamfield*, to which I contributed ten Pounds. I carried all these Letters to Mr. *Love*'s; one or two were opened, I think we opened them; the Narrative and my Lord of *Argyle*'s Letter I opened, before I understood what they were.

Attorn. Gen. Why did you carry them to Mr. *Love*'s?

Capt. *Potter*. There was a great deal of News in them: there was a Letter *L.* and I did in my Examination say, I conceived it was to Mr. *Love*; but now upon my Oath, I do not remember very well, and I do not think it was to Mr. *Love*. I do confess I carried these Letters to Mr. *Love*'s, I and Mr. *Jaquel*; these Letters were opened, but whether Mr. *Love* opened them, or I, or the other, I cannot tell.

Attorn. Gen. With whom did you leave them?

Capt. *Potter*. I brought them away, all of them.

Attorn. Gen. Were they not read?

Capt. *Potter*. They were all read.

Attorn. Gen. He confesseth further, he paid ten Pounds: To whom were the Letters directed?

Capt. *Potter*. The Letters had no Direction at all upon them, I believe.

Attorn. Gen. My Lord, ask him, whether there was not a Sum of four or five hundred Pounds agreed to be raised.

Capt. *Potter*. The Advice that was given to that, was, That we should do nothing in it, and we did nothing in it more than I tell you; I carried those Letters to them, and had Discourse of them, and resolved to do nothing in them.

Attorn. Gen. Why did you carry them to Mr. *Love*'s?

Capt. *Potter*. I went for Advice what I should do with them.

Attorn. Gen. My Lord, pray ask him concerning the four or five hundred Pounds, and for what; and whether this Discourse was at Mr. *Love*'s House. Whether there was not a Proposition for raising four or five hundred Pounds, and for whom this was to be raised, and where to be raised, and by what Means.

Capt. *Potter*. I heard there was, I do not know the Place where; to this I contributed ten Pounds, I brought it one Evening to Mr. *Love*'s House, and there I left it.

Attorn. Gen. Where was this Money agreed to be raised?

Capt. *Potter*. I cannot speak to that.

Attorn. Gen. Who took the Subscriptions?

Capt. *Potter*. I cannot speak to that neither.

Attorn. Gen. Did Mr. *Love* contribute?

Capt. *Potter*. I cannot say he did.

Attorn. Gen. Was it in his House?

Capt. *Potter*. I do not know that I subscribed at all, I do not think there were any Subscriptions; I am sure I never subscribed my Name.

Attorn. Gen. When you came into Mr. *Love*'s Parlour, and left the ten Pounds, did you not give him a twitch by the Hand?

Capt. *Potter*. I cannot say so. [His Examination was again read.]

Ld President. Is this true?

Capt. *Potter*. The Substance of it is true.

Ld President. Of your own knowledge?

Capt. *Potter*. Of my own knowledge that I left so much Money.

[The Clerk reads more of his Examination.]

Capt. *Potter*. This is a Section I never worded, or phrased my self; I have heard as much as this comes to, but cannot speak it knowingly.

Attorn. Gen. Did you not write this yourself?

Capt. *Potter*. I believe not, I cannot positively say that Mr. *Love* either drew up the Letter, or received the Letter.

Attorn. Gen. You say he received the Letter from your own Hands.

Capt. *Potter*. But not the Letter from *Titus* and *Bailey*.

Attorn. Gen. Do you know of a way of Correspondency laid at *Kendal*, or no?

Capt. *Potter*. I heard there was such a Correspondency.

Attorn. Gen. By whom?

Capt. *Potter*. I cannot say by whom.

Attorn. Gen. Do you know that *Groves* was sent to look for Letters there?

Capt. *Potter*. Yes.

Ld President. Did Mr. *Love* know of it?

Capt. *Potter*. I cannot say he did.

Attorn. Gen. What had *Groves* for his pains for going?

Capt. *Potter*. Ten Pounds.

Attorn. Gen. From whom?

Capt. *Potter*. I paid it.

Attorn. Gen. Did you receive any of it again?

Capt. *Potter*. I did receive some of it, I received two 10*s*. by several Persons.

Attorn. Gen. From whom?

Capt. *Potter*. From *Gibbons*, and *Alford*, and *Far*.

Attorn. Gen. Not from Mr. *Love*?

Capt. *Potter*. I do not know I ever had a Farthing from him in my Life.

Attorn. Gen. My Lord, ask him whether there were not Letters returned to *Bamfield* again, and by whom?

Capt. *Potter*. My Lord, I did receive a Letter that I suppose was to *Bamfield*.

Ld President. From whom did you receive it?

Capt. *Potter*. It was left in my Shop.

Ld President. By whom?

Capt. *Potter*. I cannot say by whom.

Ld President. Whom do you conceive it came from?

Capt. *Potter*. I think from Mr. *Love* or Dr. *Drake*.

Attorn. Gen. Do you conceive so? My Lord, ask him whether Mr. *Love* or Dr. *Drake* was not appointed to draw the Letter.

Capt. *Potter*. When we were together, there was a negative Answer resolved upon; and this Answer, to the best of my Remembrance, was agreed to be drawn up by Mr. *Love* and Dr. *Drake*: but I received this Letter.

Attorn. Gen. And who received the thirty Pounds?

Capt. *Potter*. I cannot tell.

Attorn. Gen. But you sent the Letter?

Capt. *Potter*. I did.

Attorn. Gen. Ask him whether he did not send for Mr. *Love*, and what Discourse pass'd between them, since he was in Prison.

Capt. *Potter*. I did send for Mr. *Love*, and he did come to me; and I desired his Counsel, as a Minister, and I told him upon what score I was questioned; then I was questioned upon Mr. *Cook* only, and he gave me Encouragement only as a Friend and Minister of the Gospel ought to do.

Attorn. Gen. What was that?

Capt. *Potter*. He wish'd me to make a christian Use of my Afflictions, and gave me some other Instructions; we had an Hour's Discourse, and it was all to this purpose: He wish'd me to make a christian Use of my Restraint, and to labour to get christian Wisdom and Fortitude.

Ld President. What did he say more to you?

Capt. *Potter*. My Lord, no more pass'd between us; and I gave him an Account of what Questions I was examined upon in *Cook*'s Business.

Ld President. Did you give him an Account?

Capt. *Potter*. I have said so, and he did advise me to Prudence, and Fortitude, and Courage.

Attorn. Gen. Did he never advise you to be courageous, and that unless you discover'd one another, you were safe enough?

Capt. *Potter*. My Lord, my Keeper was with me, and we had no such Discourse.

Attorn. Gen. Did he not wish you to be silent?

Capt. *Potter*. Either then or since he did tell me there was a Letter came from Mr. *Drake*, that told him, *Titus*'s Man had taken some Letters from *Titus*; but he could not conceive how it could concern me.

Attorn Gen. But did he discover nothing, and wish you to be prudent for yourself, and them?

Capt. *Potter*. He did not then.

Attorn. Gen. When then?

Capt. *Potter*. I saw him once since; and he told me of *Bamfield*'s Man.

Attorn. Gen. How came it about Mr. *Love* spake with you?

Capt. *Potter*. I did prevail with my Keeper to go with me to Dinner, and to take a Glass of Wine, and then I provided for Mr. *Love*'s coming to me.

Attorn. Gen. What hath Mrs. *Love* said unto you?

Capt. *Potter*. I saw her ever and anon.

Attorn. Gen. What hath she said to you?

Capt. *Potter*. She hath wished me, with Tears, to have a care of her Husband, and not to discover any Thing; I think she hath.

Attorn. Gen. Did not Mr. *Love* say then, That he had been at a Fast, where you were remembred?

Capt. *Potter*. He did so.

Attorn. Gen. My Lord, I confess I was with this Man in the Tower, as I am bound to do by my Place, to examine him; he had made his Examination before I came thither, and I brought it with me. My Lord, I did ask him Questions, he did answer me upon Knowledge; he did confess the Truth, but told them Mr. Attorney-General was pleased to help him to Particulars, and bring them to his Remembrance.

Capt. *Potter*. I profess, if it had been to save my Life, I could not affirm them; but you putting me in mind of it, I did know of it.

Attorn. Gen. At the Committee of Examinations, then he had more Particulars told him, and he did confess he did know them all; and he may give you an Account, whether he did not give an Account under his own Hand? My Lord, I am not abused, but the Council of State and the Parliament are abused; and if this Man should do this Wrong to Mr. *Love*, and inform the Court and Council, and the Man be brought upon his Life, because he hath affirmed it; and that several Times before several Committees; this Man must not escape unpunished, if for no other Fault but this, to accuse a Man before Authority, and when he comes to his Oath, to deny every word of it. Captain *Fisher* will witness, that he did bring all under his own Hand, and upon my Credit, he did speak as fully as we did open, and much more fully: and I answered upon

on hear-ſay, How do you know it? And he ſaid, He did know it, he did remember it, and he put it down poſitively; and that when Mr. *Drake* went away, all the Meetings were at Mr. *Love*'s Houſe, and Mr. *Love* did ſtill declare the Occaſion of the Meetings, and the Letters were opened by him, and the Diſcourſe upon them; and every Word he ſaid upon his own Knowledge.

Capt. *Potter*. I do confeſs again, that before Captain *Fiſher* and Mr. Attorney did prompt me—

Attorn. Gen. Prompt you, Sir!

Capt. *Potter*. Before he did remember me of them, I had forgot them, as if I had never heard them; but it is one thing to remember a thing as I have heard, and as I conceive to be true, and another thing to ſwear to it poſitively: and the Paper allowed me this Latitude; ſome of it I have heard, the reſt I believe, and ſome I know; and upon this account I believe it is all true.

Attorn. Gen. My Lord, 'tis poſſible I might wiſh him to expreſs what he did know himſelf, and what he did know by relation of others, and ſo did ſet it down, and he did it fully and clearly; and after all this, brought it in again, written with his own hand, to the Council of State. My Lord, if you pleaſe, Captain *Fiſher* may go for the Original under his own Hands.

Clerk. The Original cannot be found.

Mr. *Love*. Here is nothing at all that concerns me about the Buſineſs of *Titus* in *Jerſey*, and about the Letter from *Titus*, and the Copy of the Letter from the King; he tells you he doth not know it was in my Houſe; he tells you it was but a Copy, not the Original.

Captain *Potter* withdraws.

[Major *Alford* called into the Court, and takes his Oath.]

Attorn. Gen. My Lord, let him declare what he knows, either by himſelf or others, and of his Employment at *Calais*: make the whole Narrative as much as you can remember.

Major *Alford*. My Lord, I was one Morning wiſh'd to go with *William Drake* to the Swan at *Dowgate*, hearing there was a Gentleman lately come from the Prince, where I ſhould hear all the News from beyond the Seas; when I came there, it was one Captain *Titus*, one whom I had never ſeen before; and he gave a Relation of the good Diſpoſition of the Prince, and how inclinable he was to take the Covenant and to caſt off the Cavaliering Party, and thoſe about him, if there were an Opportunity to make it known, that there was a conſiderable Party in *England* that would ſtick cloſe to the Ends of the Covenant. Upon that, Sir, my ſelf, and ſome others that were there, did think we were bound in Duty, and in relation to the Covenant, to preſs the Ends of the Covenant, for the Prince to take it, and to proſecute the Ends of it. And for that Captain *Titus* ſaid, If we would appoint another Meeting, he would draw up ſomething by way of Atteſtation or Petition to the Prince for that purpoſe. My Lord, we did meet at the *Bear* in *Breadſtreet*, and there he did draw forth ſomething that he had framed to that purpoſe, and he read it; and afterwards (not at that time) it was agreed upon to be ſent over to the Prince. The Subſtance of it was to preſs the Prince to apply himſelf to take the Covenant, and to proſecute the Ends of it, and to caſt off all his Cavaliering Party about him, which had brought ſo much miſchief to his Father, and would do the like to him. This Captain *Titus* drew up, and this, I believe was ſent over, for *Titus* undertook to ſend it over. I did aſk how the Prince ſhould be made to believe, that this coming from an inconſiderable Party, as we were, ſhould come under the notion of the Preſbyterian Party of *England*, for it went under that notion? He ſaid, he ſhould undertake that by the means of my Lord *Piercy*. And the Petition that was agreed upon, he did ſend over, I believe; for I did not carry it to the Poſt-houſe, but he did undertake to do it. Afterwards he went over himſelf, and when he was over, he had information that there was notice of his being here, and of the Buſineſs he was upon; and therefore he writ over to *William Drake*, (as Mr. *Drake* told me) that he did deſire ſome of us that knew of the Buſineſs, ſhould be ſent over to him, to receive that Account from him which he had in the Buſineſs. So Mr. *Drake* did perſuade me to go over to *Calais*; and having ſome Buſineſs of my own, I did go over to *Calais*. I went from my houſe on the Friday Night, and I was back again on the Tueſday following; and he did give me an Account of that Tranſaction: The Subſtance of it was this: It was about his own Troubles he had undergone there by the Cavaliering Party, in managing that Buſineſs. He had likewiſe been impriſoned, and they told him, They would try him as a Spy; and that they urged hard againſt him, and that he was in that Condition till my Lord *Liberton*, the *Scotch* Commiſſioner, came over; and by this means he had Acceſs to, and Favour with the Prince: And that was the Subſtance of all. He ſaid, the King was averſe to the Covenant, not of himſelf, but by reaſon of thoſe Counſels that were about him. And this was the Subſtance of that Account he gave me of his Tranſaction there at *Jerſey*, in reference to the Buſineſs he went upon: And this he gave me in Writing, which I brought over to deliver to Mr. *Drake*, for it was directed to him, which I did deliver. Afterwards Maſter *Drake* carried them to Maſter *Love*'s Houſe, where they were read. And that is all as to that Buſineſs.

Then afterwards there was a Commiſſion, they called it *a Commiſſion*, it was agreed upon among us, to be ſent over to my Lord *Willoughby* of *Parham* and *Maſſey*, and I think *Graves* and *Titus*, that they ſhould agitate and act for us at *Breda*, and to adviſe with the *Scotch* Commiſſioners that were there, in behalf of the Preſbyterian Party here in *England*; and that is all in relation to that. Afterwards Mr. *Drake* read to me the Copy of a Letter in Characters, which he had written himſelf in his own Back-ſhop, which he told me ſhould be ſent to the Queen, which was to perſuade her to perſuade the King, as he came that way, to cloſe with the *Scots*; for that was the likelieſt way to make good his own Intereſt; but that was at Mr. *Drake*'s Houſe only between him and I. Afterwards Mr. *Drake* told me he had diſburſed Money about receiving of Letters, and receiving of News, and did wiſh me that I would let him have Ten Pounds, and ſaid he would ſpeak to ſome others of his Acquaintance to do the like; and if he could get up a conſiderable Sum, I ſhould have Part back again; for he ſaid the Charge was too great for him to undertake: and I do think he had Ten Pounds of me for that. After *Dunbar*-Fight, there was I and ſome others at Mr. *Love*'s in his great lower Room; where was a Letter read, that was ſaid to be from Major-General *Maſſey*, that gave an Account of the Buſineſs of *Dunbar*; and alſo did write for Arms, I know not how many Thouſands; and to that purpoſe, that they might be provided by the way of *Holland*. But upon that, all that were there did ſay——I heard no Man ſpeak of providing Arms or any ſuch thing. He writ in his Letter, that for his own Neceſſities, and Captain *Titus* that was there, that a Motion might be made for providing ſome Money to ſend over for their Supply: and it was then ſaid, We were ſo inconſiderable, and ſo few, that the Sum ſpoken of could not be done; and therefore it was moved, that every one ſhould do by himſelf and Friends what he could: This was the Subſtance of that.

Attorn. Gen. I believe, my Lord, he hath dealt ingenuouſly with you: This in the general: I pray you aſk him, what he knows concerning any Letters that ſhould have been ſent at the beginning of the Change of this Government, to *Scotland* from any Part of *England*?

Major *Alford*. For that I know nothing, but heard Mr. *Drake* ſay, That he had Correſpondency with ſome in *Scotland*; and I have heard uſe one Mr. *Bailey*'s Name; and he had a Cypher which they writ by.

Attorn. Gen. For the *Swan* at *Dowgate*, he gave relation of that; but who was preſent then?

Major *Alford*. Truly, my Lord, it is ſo long ſince, that I cannot poſitively tell; but I am ſure I can remember there was Mr. *Huntington*, and *William Drake*, and Lieutenant-Colonel *Bains*; and I cannot tell, my Lord, I think there was one Mr. *Hall*.

Attorn. Gen. Was Mr. *Gibbons* there or not?

Major *Alford*. Truly, my Lord, I cannot tell whether he was there at that time or no.

Attorn. Gen. My Lord, he ſays *Titus* at that time did give relation of the Prince and his Party: Can you remember what that Relation was? And do you know whether this was not afterward communicated, and to whom?

Major *Alford*. I have given you the Subſtance of it; but for communicating of it, I knew it from none but only from thoſe there.

Attorn. Gen. *Titus* took time to draw it up?

Major *Alford*. He did ſo; and at the next Meeting at *Breadſtreet*, there were the ſame Men again; and I think at the ſame time there was Col. *Barton*.

Attorn. Gen. Was there no mention then, (when it was propounded to you to be a conſiderable Party) was it not ſaid the Miniſters were to be acquainted with it?

Major *Alford*. It was aſked *Titus*, how the King ſhould be poſſeſſed that this came from the Preſbyterian Party in *England*, becauſe it was agreed upon that there ſhould be no Names uſed to it? He ſaid there needed none, but only the Engagements of the Miniſters in it.

Attorn. Gen. What Miniſters?

Major *Alford*. Truly he did not ſpeak a word of any Man that I know of.

Attorn. Gen. Was it not then propounded, that *Titus* ſhould be ſent to the *Scotch* King before Commiſſioners came to him, to have a Correſpondency ſettled between him and ſome others here?

Major *Alford*. I cannot ſay at that time, but afterwards. Whether at that time or any other, I cannot tell; but one time *Titus* ſaid, he had learned from my Lord *Piercy*, which had haſtened him over, that this Buſineſs was of that Concernment, that they did undertake it ſhould be there before the *Scotch* Commiſſioners did come. And thereupon *Titus* (as *William Drake* told me, for this was not at the Meeting) was perſuaded to undertake to go about that Buſineſs.

Attorn. Gen. Whether was there not ſome Directions given for a Letter to be written to the Queen, to prepare the Articles with the *Scots*?

Major *Alford*. I cannot ſay any thing but what *William Drake* told me privately between him and I, as to that purpoſe, a Letter to the Queen.

Attorn. Gen. What was that?

Major *Alford*. I did tell your Lordſhip.

Attorn. Gen. My Lord, aſk him whether he was not at Supper with *Titus*.

Major *Alford*, No, my Lord, I was not there when he offered himſelf to go, as I know of.

Attorn. Gen. What Money had *Titus* to bear his Charges?

Major *Alford*. Thirty Pounds.

Attorney Gen. From whom?

Major *Alford*. From *William Drake* ſingly.

Ld. Preſident. Did not *Drake* gather it up again?

Major *Alford*. My Lord, I cannot tell; I know nothing of any Man, but what I did my ſelf.

Attorn. Gen. We are now ſpeaking of the Meeting at Mr. *Love*'s Houſe, and of *Titus*'s Letter being read, and he ſent. Let him give a particular Relation of that again. I make bold to aſk him Queſtions to help his Memory.

Major *Alford*. The Letter that was read of *Titus*, was not at Mr. *Love*'s Houſe, as I know of, but Mr. *Drake*'s (for all things came to him, and we knew nothing but only from him, for the Correſpondency was ſettled between *William Drake* and Captain *Titus*) nor at any publick Meeting that I know of, but what *Drake* told me.

Ld Preſident. But you were at Mr. *Love*'s Houſe, you ſaid but now.

Major *Alford*. I was, but not upon this account, it was after I had been over; for I do not know that ever I was at Mr. *Love*'s Houſe, or ever ſpake with him, till I went over: if I have, I have forgot that ever I ſpake in my Life to Mr. *Love* about it, till after I came from *Calais*; and then I did bring over a Relation, and gave an Account of it concerning *Titus*'s Tranſactions.

Ld Preſident. That Account you gave at Mr. *Love*'s Houſe.

Major *Alford*. No, my Lord, I gave it to *William Drake*, for it was directed to him; and it was three or four Days after that we met at Mr. *Love*'s Houſe, where Mr. *Drake* read the thing.

Ld Preſident. At what time was it?

Major *Alford*. At the time when the *Scotch* King was at *Jerſey*.

Attorn. Gen. Whether did you bring from *Titus* a Copy of a Letter from the King?

Major *Alford*. That I forgot; but *Titus* did ſhew me a Letter, at leaſtwiſe he ſaid ſo, that he had it from the King, that he ſent to this Preſbyterian Party. And, my Lord, he did copy out the Letter, and the Copy he gave me, which I did bring over.

Ld Preſident. To whom did you deliver it?

Major *Alford*. I delivered it to *William Drake*, I gave it Mr. *Drake* himſelf, and I think at his own Houſe; I think it was the ſame, and that it was read at Mr. *Love*'s Houſe. The Subſtance of it was this, as he told me, That he took in good

good part the Petition or Application that was made to him; and if ever God did reſtore him, and that he was in a Condition, then he ſhould think of it.

Ld. Preſident. What did he ſpeak of a Non-compliance with the preſent Government, and by whom?

Major *Alford.* I do not remember a Word of that.

Attorn. Gen. What ſaid he concerning the *Scots*, and what he would do for the Miniſters, if God reſtored him?

Major *Alford.* I cannot tell any ſuch Paſſage, nor do I remember the Particulars of it.

Ld. Preſident. The Letter was then read, you ſay?

Major *Alford.* I ſuppoſe it was the ſame that I gave to Mr. *Drake*, but I cannot ſay it was the ſame, becauſe it was not in my Cuſtody.

Attorn. Gen. Did not you propoſe to ſend Fifty Pounds to *Titus?*

Major *Alford.* For that, I heard ſay that there was Fifty Pounds ſent to him; but whether it were or no, I know nothing of it, nor did contribute to it, nor knew nothing of it.

Attorn. Gen. Did not you make a Narrative yourſelf of what you received by word of mouth from *Titus?*

Major *Alford.* It is very like I did ſpeak of it to this Purpoſe I tell you of, I do not know particularly what I ſaid.

Attorn. Gen. Did you not receive an Account from *Titus* of his Tranſaction at *Jerſey?*

Major *Alford.* I did.

Attorn. Gen. Did you not give an Account of that you received from him?

Major *Alford.* He gave it me in writing, and I delivered it to Mr. *Drake.*

Attorn. Gen. But when you met at Mr. *Love*'s Houſe afterwards, did you not make ſome Narrative of what you received from him by word of mouth?

Major *Alford.* I had it not by word of mouth, but only by the Delivery of Papers to me, which he could not bring over with Safety.

Ld. Preſident. Were thoſe Papers read at that Meeting?

Major *Alford.* I tell you, my Lord, I delivered them to Mr. *Drake*, and *Drake* did read ſome Papers, and I believe they were the ſame; but I cannot ſay they were the ſame, for they were out of my Cuſtody.

Attorn. Gen. Who then were there preſent?

Major *Alford.* There was Mr. *Love*, Dr. *Drake*, Mr. *Caſe*, Major *Adams*, Mr. *Gibbons*, and Captain *Far.* Truly I cannot particularly tell.

Attorn. Gen. This was given him at Mr. *Love*'s Houſe, and Mr. *Love* preſent. My Lord, I pray you aſk him whether *Titus*'s Meſſage was not well approved of, and the Letter of Thanks to be returned, and the Hundred Pounds in Money.

Major *Alford.* I do not remember any of theſe Things you ſpeak of now.

Attorn. Gen. What do you remember was ſaid concerning him there?

Major *Alford.* I do not know what was ſaid; I do not know what any Man could ſay to them which were Papers from him: I do not remember any Particulars, it is ſo long ago; I believe now it is two Years ago.

Attorn. Gen. Do you not remember that this was one Paſſage in the King's Letter, that the King wiſh'd them to ſend Commiſſioners to *Breda?*

Major *Alford.* I do not remember that.

Attorn. Gen. But was there not a Commiſſion at Mr. *Love*'s Houſe agreed upon to be ſent?

Major *Alford.* That there was.

Attorn. Gen. What was to be the Effect of that Commiſſion?

Major *Alford.* It was to adviſe thoſe Men to join with the *Scotch* Commiſſioners, to take Advice with them, and to accept the Preſbyterian Party with the King, in relation to the firſt Petition that was ſent.

Attorn. Gen. Was Maſter *Love* there?

Major *Alford.* Mr. *Love* was there: but I do not know what Mr. *Love* or any Man did direct in it.

Attorn. Gen. Who did correct thoſe Inſtructions?

Major *Alford.* I cannot tell.

Attorn. Gen. Who was agreed to prepare the Commiſſion?

Major *Alford.* I do not know, for I believe it was prepared when it came there; I heard that which we call a Commiſſion read there, but who prepared it, or acted in it, I do not know.

Attorn. Gen. Did *Gibbons* bring it?

Major *Alford.* Who brought it, I cannot tell.

Attorn. Gen. Who were the Commiſſioners?

Major *Alford.* As I remember, my Lord *Willoughby* of *Parham*, and *Maſſey*, and Alderman *Bunce*; and whether *Titus* and *Graves*, I cannot tell.

Attorn. Gen. Was this in Mr. *Love*'s Study, or in another Place?

Major *Alford.* It was in Mr. *Love*'s Study.

Attorn. Gen. Was the rough Draught corrected by any Body or no?

Major *Alford.* I cannot tell whether it was or no, nor can I remember any more Particulars of it than what I have given you.

Attorn. Gen. What do you know concerning any Inſtructions to give Power to the Commiſſioners what to do?

Major *Alford.* At the ſame time there was agreed upon ſome Inſtructions for them to walk by, which was the Subſtance of the Petition which had been formerly ſent; that is, it preſt the King to take the Covenant, and to proſecute the Ends of the Covenant.

Attorn. Gen. Who carried the Commiſſion and Inſtructions?

Major *Alford.* One *Maſon.*

Attorn. Gen. Who was that *Maſon?*

Major *Alford.* I did not know him, but I have heard ſay he did belong to my Lord *Piercy.*

Attorn. Gen. Was there not at that time ſome Letters propounded to be written to the Queen, and *Jermin*, and to what Purpoſe?

Major *Alford.* I cannot tell that any of theſe Things were propounded there, but Mr. *Drake* had told me, and read to me in Characters ſome that he had writ thither.

Attorn. Gen. And was it ſent?

Major *Alford.* I cannot tell, for it was privately between him and I.

Attorn. Gen. When this Commiſſion was thus brought into Mr. *Love*'s Study, was there not a Queſtion propounded, What Warrant have we to ſend Commiſſioners, and by what Authority, and what was the Reſolution upon it?

Major *Alford.* Well, it may be, but I do not remember it.

Attorn. Gen. Do you remember who went with *Maſon*, when he carry'd away this?

Major *Alford.* None went with him but I, and Mr. *Gibbons* did carry the Papers two or three Days after that we had them from Mr. *Drake*; which was this Commiſſion we ſpeak of, to *Graveſend*, to *Maſon*; for he was at *Graveſend* before, and there delivered it to him.

Attorn. Gen. What was the Effect of theſe Inſtructions?

Major *Alford.* The Subſtance of them was, according to the firſt Commiſſion, to preſs them to uſe all their Endeavour to adviſe, and take Advice with the *Scotch* Commiſſioners how to preſs the King to take the Covenant, and to join with the honeſt Party, the Church-Party in *Scotland*; that was the Subſtance of it.

Attorn. Gen. Did he not write to you to ſend Money to the King?

Major *Alford.* I heard Mr. *Drake* once ſay, there was a Letter from my Lord *Piercy* to that Purpoſe, but Captain *Titus* himſelf wrote againſt it.

Attorn. Gen. What Courſe or Way was propounded to raiſe Money?

Major *Alford.* I know of nothing propounded that way: it was not agreed for me at that Meeting to go down, but Mr. *Drake* ſuddenly went down, and Mr. *Drake* alone ſpake to me.

Attorn. Gen. But he told you it was the firſt Advice of ſome others?

Major *Alford.* Truly, I do not remember that he did tell me ſo: there was a Commiſſion and Inſtructions read at Mr. *Love*'s, but whether agreed upon there or no, I know not.

Attorn. Gen. What know you ſince *Dunbar* Fight?

Major *Alford.* For that, we met at Mr. *Love*'s Houſe, in his lower Room, and there was a Letter that was ſaid came from *Maſſey*, wherein he gave an Account of that Buſineſs, how many Men were loſt; and that he did write for Arms to be ſent, and in his Letter did propoſe a way, as I remember, to be done by the way of *Holland:* I cannot tell the particular Number of Arms he writ for, but for Arms: and alſo did ſpeak ſomething in it concerning his own and *Titus*'s Neceſſity, they being there Strangers.

Attorn. Gen. There was a Propoſition made, of raiſing ſome Money for Supply of their Neceſſities?

Major *Alford.* It was not to purchaſe Money, or Arms, and any ſuch Thing, but only a Propoſition made for ſupplying thoſe Gentlemen's Perſonal Neceſſities.

Attorn. Gen. And how was that to be done?

Major *Alford.* It was to be done among ourſelves, to raiſe ſome Money; there was Five Hundred Pounds ſpoken of, but it was impoſſible for us to do that, for us that were inconſiderable Men, being Men of mean Eſtates and Fortunes, and ſo it was brought down to a leſs Sum.

Attorn. Gen. What was that Sum?

Major *Alford.* Either Two or Three Hundred Pounds, I cannot tell which.

Attorn. Gen. How was that to be raiſed?

Major *Alford.* It was to be raiſed among ourſelves.

Attorn. Gen. And did you ſubſcribe then preſently?

Major *Alford.* No, I did not.

Attorn. Gen. Who did?

Major *Alford.* I cannot tell that any did; for I then ſaid, that I did not know that either myſelf, or any there, was engaged by Promiſe to do any thing for any, only for Captain *Titus*; for he alone was there upon our Intereſt, and therefore I ſaid, for that I would contribute Ten Pounds.

Attorn. Gen. How much did Mr. *Love* contribute?

Major *Alford.* I do not know of any particular Sum.

Attorn. Gen. Did Mr. *Love* preſs you to contribute, or move any to do it?

Major *Alford.* Truly Mr. *Love* did move to Contribution of Money, for the Purpoſe we ſpeak of, for the Supply of *Titus.*

Attorn. Gen. When was *Titus* there?

Major *Alford.* I cannot tell.

Ld. Preſident. Did Mr. *Love* move it?

Major *Alford.* Yes, my Lord.

Mr. *Love.* Was I the firſt that did move it?

Major *Alford.* Truly I cannot tell that.

Attorn. Gen. Was it at that Time that the Letters were read?

Major *Alford.* It was at that Time.

Ld. Preſident. And was Mr. *Love* there then?

Major *Alford.* Yes, it was at that Time.

Attorn. Gen. Do you remember of any Declaration of the Kirk and State read at that Time?

Major *Alford.* No indeed, I do not.

Ld. Preſident. You did ſay, that the Letter did mention for Arms?

Major *Alford.* But we did all, every one of us diſavow that, but only the Supply of their particular Occaſions.

Attorn. Gen. Was there no Motion then made for a Letter to be written to the Church of *Scotland*, to preſs them to Union and Moderation?

Major *Alford.* Not that I know of.

Attorn. Gen. Was there not a Motion of ſending Fifty Pounds to Colonel *Graves?* And what ſucceeded upon it?

Major *Alford.* I do not know of any Particular, but only of the Sum to be raiſed in reſpect of *Titus.*

Attorn. Gen. How ſhould your Three Hundred Pounds be diſpoſed of?

Major *Alford.* That I cannot tell.

Attorn. Gen. For whom was it to be raiſed?

Major *Alford.* I told the Court that it was propoſed for *Maſſey*, and for *Titus.*

Attorn. Gen. Did you pay your Money?

Major *Alford.* No, I did not pay it; for I went out of Town preſently: I did promiſe Ten Pounds, and Ten Pounds I paid; but I cannot tell to whom I paid it, I believe it was paid by my Man.

Attorn. Gen. Did he bring it to you upon Account as paid?

Major *Alford.* I believe he did.

Attorn. Gen. What do you know more?

Major *Alford.* Truly, nothing more.

Attorn. Gen. What do you know of any Correſpondency ſettled at *Kendal?*

Major *Alford.* Nothing at all.

Attorn. Gen. This was ſince *Dunbar* Fight. Do you know of any Letters that came from the Kirk, or *Lowdon*, or *Argyle*, or any of thoſe?

Major *Alford.* No, I know nothing of that.

Mr. *Love.* You confeſs you went to *Calais*, and brought the Copy of a Letter from *Titus*: Did I ſend you to *Titus?*

Major *Alford.* No, I do not ſay you did.

Mr. *Love.* It is alledged by this Gentleman, that it was ſent out of my Houſe: Did I write any Letter by you when you went into *Holland?* And upon your coming home, you ſay the Copy of a Letter was read at my Houſe: Will you ſwear I was in the Room at the Time when the Letter was read? I was in my Houſe, but did not I go often out and in? Sir, I do ſpeak this, becauſe ſome at the Committee ſaid I went in and out often? Do you ſwear that I heard the Letter read in my Houſe?

Major *Alford.* Mr. *Love*, It was read in your Study; but that you were there when the Letter was read, I cannot tell.

Mr. *Love.* He ſays he cannot tell that I heard the Letter read.

Major *Alford.* I cannot tell whether you might go out.

Mr. *Love.* How long ago was this Letter?

Major *Alford.* I think it was at that Time the King was at *Jerſey*; I cannot remember the Month, I think about two Years ago.

Mr. *Love.* Was the Letter ſent to me, or was it received by me?

Major *Alford.* I did not ſay it was. I gave the Paper I brought over from *Titus* to *William Drake*; and ſome two or three Days after, when we did meet at your Houſe, Mr. *Drake* read thoſe Papers; for he told me they were the ſame, but I cannot tell they were the ſame.

Mr. *Love.* I deſire he may be aſked, Whether I did give my Conſent to the ſending the pretended Commiſſion he ſpeaks of?

Major *Alford.* Truly, there was not any Man's particular Aſſent aſked that I know of.

Ld. Preſ. Was it not agreed in the general, that it ſhould be ſent over?

Mr. *Love.* I pray aſk him this Queſtion, Did not I diſſent from ſending the Commiſſion?

Major *Alford.* I do not remember it.

Mr. *Love.* For the Buſineſs of Money, he ſaith, there was Two or Three Hundred Pounds raiſed: Do you affirm I raiſed a Penny?

Major *Alford.* I did not ſay it was raiſed, but I ſay it was there propounded to be raiſed.

Ld. Preſident. This he did ſay, there was a Propoſal for the doing of it, and you did perſuade the doing of it; and he left Ten Pounds with his Man afterwards.

Mr. *Love.* Aſk him whether there was not a Letter at that Time read, that *Maſſey* was withdrawn at that Time in Diſcontent from the Court?

Major *Alford.* I do not remember that Particular.

Mr. *Love.* Aſk him whether the Money was ſent to buy Arms, or raiſe Forces, or only to ſupply his Wants, he not having a Livelihood?

Major *Alford.* It was not for Arms, but it was for *Maſſey* and *Titus*, to ſupply their Neceſſities.

Mr. *Love.* But he proves not that I lent any.

Major *Alford.* I do not ſay you did.

Attorn. Gen. Obſerve, Sir, there was a Letter for Arms at Mr. *Love*'s Houſe read there, and Mr. *Love* did propound Three Hundred Pounds to be raiſed, and preſſed the doing of it accordingly. Major *Alford* did likewiſe lend Ten Pounds; you may believe there hath been tampering with this Witneſs too. My Lord, aſk Major *Alford*, whether there was not a Letter brought to him by his Siſter?

Major *Alford.* My Lord, after I had Liberty for my Wife to come to me, ſhe did give me a Paper, which I knew was my Siſter's Hand; if I ſaw the Thing, I could tell, but it did miſcarry.

Capt. *Fiſher.* My Lord, the Meſſenger is here in the Court that did take the Letter, of which this is the true Copy Word for Word.

[Major *Alford* withdraws, and Major *Huntington* is called into the Court, and is ſworn.]

Ld. Preſident. What do you know about Mr. *Love*'s Houſe, about the Commiſſion, and Captain *Titus?*

Major *Huntington.* My Lord, I can ſay, that about *March*, 1648, I met with Major *Alford*, and he told me, that *Titus* was in Town, and aſked me if I knew him, and I told him Ay; and aſked him where he was? He ſaid he was newly come from beyond Sea, from the Fry, there being Alderman *Bunce*. I aſked him where he was; he ſaid little to me; but he ſaid he was to meet him the next Day at the *Swan* at *Dowgate*; that there was to be ſome Citizens in order to meet thoſe Gentlemen beyond the Seas, to ſpeak with him there. I did meet, and the Citizens there were Col. *Barton*, Col. *Vaughan*, Captain *Maſſey*, Lieut. Col. *Bains*, and I think *Hollis* his Man, I am not certain of; but Captain *Far* was there. The Buſineſs at that Time, was only Commendations from their Friends there; and to tell them that he was commended to their Acquaintance. And afterwards, he grew into very high Praiſes of the Prince, and that he had the Knowledge of it from a *Scotch* Lord, I know not his Name. After this, he told them the Prince was running very unhandſome Courſes, and they had very great Hopes his own Inclinations did not lead him to it, but it was the malignant Party about him, that had a Prevalency over him there, as over his Father here; but he did rather incline to join with the *Iriſh* Rebels, and did believe he would incline that Way, unleſs he could get ſomething from hence, to divert him from it: Whereupon he did hope they would all ſet themſelves that Way, and that he would get Letters from Perſons of Honour (whom I know not) that ſhould perſuade him into a good Belief of the *Scots*, and to take the Covenant. After this, there was a Meeting again, I think fourteen Days after, at the *White-Hart* in *Bread-ſtreet*, and there I met too. In the Time that I was there, I did underſtand there had been a Meeting or two before, in order to the Buſineſs; and Captain *Titus* did declare, he had now again Letters from Perſons of Honour, to ſend to my Lord *Piercy*, and did hope they would ſet ſomething a-foot amongſt themſelves of the like Conſequence: For *Maſſey*, *Bunce*, and *Graves*, could ſee no Way under the Heavens but for the King to take the Covenant, and join with the *Scots*, and to engage the covenanting Party here. And to that Purpoſe, he draws forth a Paper that did purport, that they were bound in Honour and Juſtice, and Conſcience, and I think Loyalty, to maintain him in his juſt Rights, if he would go and join with the covenanting Party in *Scotland*; and that he had no other Way under God but that: Which if he did, they took themſelves bound in Conſcience to help him to his juſt Rights. Upon this, Lieut. Col. *Bains* makes Objection to it, and ſaid, It was a malignant Buſineſs, and did fear there was no good Deſign in the Thing; and thereupon they did break up. I cannot tell whether it was ſent or no, for they were afraid he would betray the Buſineſs.

After that, I was told by Major *Alford*, that *Bains* told them he was very ſorry he ſhould meddle in that Buſineſs, and that they would never proſper that had any thing to do with him, for that the Sins of him and his Father were ſo great: Whereupon they were very wary, and afraid he would diſcover the Buſineſs. And he, I think, knew no further. After this, I did underſtand this Letter was ſent to the Prince, and I was told ſo by Major *Alford*, that it was ſent in the Name of the ſecluded Members, and Miniſters, and Citizens, and Soldiery, and Noblemen; I remember it fetched a great Compaſs. Whereupon when the Prince ſaw this Letter, and had it from my Lord *Piercy*, he ſtormed at it, and ſaid, Who are theſe Noblemen, and the reſt? What can they do for me? Can they raiſe me Ten Thouſand Men? Whereupon there was nothing done; but *Titus* retired himſelf to his Mother's Houſe, and there lived about three Quarters of a Year, and came to Town after, and did ſolicit his own Buſineſs. A little after this, I heard (upon the Buſineſs of the *Scots*) that there was another Letter ſent, that did begin the thing again; and now the Prince had conſidered of the thing, and ſent over the Letter, and I heard that it was to the Miniſters of *London*. I did not ſee the Letter, but *Alford* and *Drake* told me it was ſo. After this, *Titus* was ſent away, and that with a Sum of Money, as I heard; who lent the Money, I cannot tell, and what Sum I know not: But preſently after this, I coming to Town out of the Weſt in *March*, 1649, in the Beginning of *March*, the Day of my coming to *London*, after I had been here one or two Days at moſt, I met with *Hollis*'s Man in *Fleet-ſtreet*; I do not know his Name; he met me, and I aſked him what News? He told me, he wondered that I was a Stranger, and aſked him what News? Saith he, If you come to Mr. *Love*'s Houſe, you ſhall hear News. What is your Buſineſs there, ſaid I? He ſaid, it was to pray together, and to hear the News. I went about Nine of the Clock, and Prayer was over, and the News a great Part was over: But after I did come there, that I did hear was this: *William Drake* pulled a Paper out of his Pocket, that I underſtood he had put into his Pocket, or withdrawn, becauſe of a Stranger, and afterwards he took it out again. The Subſtance of the Paper was to this Purpoſe, as I remember; it was in Characters, and pulled out of his Pocket, and by him read: 'In the Name of the Commiſſioners commiſſionating the Lord 'Willoughby of *Parham*, Major-General *Maſſey*, Colonel *Graves*, Cap-'tain *Titus*, and Alderman *Bunce*, in order to the Treaty, in the Behalf 'of the well-affected Party in *England*; and theſe to join with the *Scotch* 'Commiſſioners, according to ſuch Inſtructions that ſhould be therewith 'incloſed.' And ſomebody aſked him, What Power have we to give ſuch a Commiſſion? It was anſwered again by *William Drake*, That we have the King's Command for it, and we have likewiſe the Authority of ſome prudent Parliament-men, whom we look upon (ſaith he) beyond the Power of them that now ſit. Whereupon Mr. *Love* replies, Come, come, let it go; and after that I knew nothing.

Attorn. Gen. Repeat that again.

Huntington. When the Queſtion was aſked, What Power have we to ſend or give Commiſſion? ſaith *Drake*, We have the Command of the King to do it; beſides, we have the Authority of ſecluded Members. Whereupon Mr. *Love* replied, Come, come, let it go.

Mr. *Love.* Pray aſk him this one Queſtion, Were there no Speeches between *William Drake*'s Words, and thoſe Words he pretends were mine?

Huntington. I remember none.

[*Huntington* withdraws. Lieut. Col. *Bains* is called into the Court, and is ſworn.]

Ld. Preſident. Speak what you know of this Buſineſs.

Bains. My Lord, concerning any thing that came from *Scotland*, I never knew any thing, nor did I ever hear any thing. For *Dowgate*, I was at two Meetings at *Dowgate*: At the firſt Meeting there was a Perſon that I did not know, which at the ſecond Meeing I was told was Captain *Titus*; and he at that Meeting (where there was nine, or ten, or more, or thereabouts) he did propoſe ſomething to be done, in order to the reſtoring or preſerving the Preſbyterian Intereſt, by way of Application to the King, as he called him, and did adviſe it to be by way of Petition, and That he conceived to be the only way to preſerve the Preſbyterian Intereſt in *England*; and that way would be the way to aſſure him he had a conſiderable Party in *England*. And he did uſe many Arguments, as a Duty lying upon us by our Covenant, to apply ourſelves to him, and he offered to draw up a Draught of a Petition againſt the next Meeting to that Purpoſe: And he ſaid, it was neceſſary ſomething ſhould be done by ſome Parliament-Men, and ſome Miniſters, and ſome Citizens, that were leading Men, Men that thereby he might be aſſured that he had a Party, and that conſiderable. At the next Meeting, which was ſuddenly after, he did produce a Paper, which, as I remember, was in Short-hand; a Petition which was to the Purpoſe I have hinted. There were ſeveral Debates, whether it ſhould be ſigned or not ſigned, and myſelf and two more diſliked it; and before he read the Paper, he began to commend the Good-nature of the King, what good Affections he had; and likewiſe did ſay, there was a Neceſſity ſomething ſhould be done to the Queen, and *Jermin*, and *Piercy*; who, he ſaid, were our Friends, that they ſhould ſtir him up to comply with the *Scotch* Commiſſioners. And upon this, there was myſelf, and two more there preſent (I hope it ſat upon them as upon myſelf), diſliked the Buſineſs; and from that time, for my own Part, I never heard any thing. The Heads of the Petition I cannot ſuddenly remember. This Paper carries the Sum and Subſtance of the Buſineſs.

[The Clerk ſhews him a Paper, which he had formerly given in.]

Bains. This Paper, if it be not interlined ſince, it was of my own dictating, and writ with my own Hand. [He looks upon the Paper.] I ſee no Alteration made at all.

Ld. Preſident. And this you deliver upon Oath?

Bains. Yes, upon my Oath, to the beſt of my Remembrance. And as to the Priſoner, I can ſay nothing.

[*Bains* withdraws. Major *Adams* is called into the Court, and ſworn.]

Ld. Preſident. Declare your Knowledge in this Buſineſs.

Adams.

Adams. Touching Alderman *Bunce* and *Maſon*, I know ſomething by Relation touching the Correſpondency with them.

Ld. Preſident. Tell the Manner of it.

Adams. I conceive it was carried on by Mr. *Drake*, that is now abſent; and in *Scotland*, by one *Bailey*.

Attorn. Gen. What do you know of *Maſon*, and of Letters ſent by him?

Adams. *Maſon* I do know, and I do know he did receive Letters.

Ld. Preſident. From whom?

Adams. He ſaid, from my Lord *Piercy*.

Attorn. Gen. To whom were thoſe Letters communicated here?

Adams. They were communicated to Mr. *Drake*, and by Mr. *Drake* to myſelf, and Mr. *Alford*, and Capt. *Potter*, and Capt. *Far*.

Attorn. Gen. Was Mr. *Love* privy to it?

Adams. I cannot ſay that, my Lord.

Attorn. Gen. Were there not Letters ſent to *Scotland* to them, and back again hither, about ſending moderate Propoſitions to the King?

Adams. There was ſuch Letters.

Ld. Preſident. Who writ them?

Adams. That I cannot tell.

Ld. Preſident. Had Mr. *Love* a Hand in them?

Adams. I cannot ſay he had: I cannot prove a Negative, I cannot ſay he had not.

Attorn. Gen. What know you of the Petition ſent to the King?

Adams. I know nothing of it, only I was told of it.

Ld. Preſident. Who told you of it?

Adams. I cannot, my Lord, fix it upon any particular Man, but I believe I was told of it by *Alford*, or *Far*, or *Bains:* For I was not there at that time.

Ld. Pref. What do you know about the Meeting at the *Swan* at *Dowgate?*

Adams. My Lord, I was not there.

Attorn. Gen. Then, my Lord, he may tell you what he doth know.

Adams. My Lord, upon our meeting in ſome Place or other, I cannot tell where, I cannot tell the Time, nor the Place, but either at the *Swan* in *Fiſh-ſtreet*, or at the *Swan* at *Dowgate*, or in *Cateaton-ſtreet:* In one of theſe three Places, I cannot punctually remember.

Attorn. Gen. Who was at that Meeting?

Adams. Mr. *William Drake*, Captain *Titus*, Major *Alford*, Captain *Far*, Captain *Potter*, and myſelf; and I do not know how many more, or whether any more or no.

Ld. Preſident. What paſſed there?

Adams. It was there agreed, that Captain *Titus* ſhould go over to *Jerſey*.

Attorn. Gen. What was he employed about?

Adams. The End of his going was, to endeavour to work an Agreement between the King and *Scots*, according to the Covenant; that was the End that was propounded. And in order to his going, we did agree to furniſh him with Money for the preſent, and made ſome Kind of Promiſe to maintain him while he was out.

Attorn. Gen. What Money was he furniſhed with?

Adams. I cannot be punctual in that, but about a Hundred Pounds.

Attorn. Gen. Who ſhould pay it?

Adams. I paid Twenty Pounds of it, but I cannot tell who paid the reſt.

Attorn. Gen. To whom did you pay it?

Adams. To Mr. *Drake.*

Attorn. Gen. My Lord, aſk him, Whether when this was ſent to *Jerſey*, was there not a Return made?

Ld. Preſident. Well, go on: There was your Twenty Pounds gone?

Adams. This is the Subſtance of what I can ſay of his going.

Attorn. Gen. Was this Twenty Pounds that you laid out of your own, or did you collect it of ſome of the reſt, or did you gather any of it again?

Adams. I cannot ſay that I did.

Ld. Preſident. Did you not?

Adams. My Lord, I tell you the Truth, I do not know whether I did or no; for I remember it was determined that we ſhould gather it at that Meeting.

Attorn. Gen. Did not Mr. *Love* know of the Collection?

Adams. I cannot ſay he did; it may be he might, but I dare not ſay upon my Oath that he knew of it.

Attorn. Gen. Aſk him what Return *Titus* made, what Anſwer, and what Account he gave?

Adams. Major *Alford* went to *Calais* to meet *Titus*, and *Titus* did ſend Word, that the Council of State heard of his being there, and thereupon deſired that ſomebody might be ſent over to him; for he had ſomething to communicate, which he could not well do by writing, and thereupon Mr. *Alford* was ſent.

Attorn. Gen. My Lord, aſk him where the Letter was read?

Adams. The Letter that *Titus* ſent, was read by Mr. *William Drake.*

Attorn Gen. Where?

Adams. At his Houſe, as I think, for I cannot certainly remember. I did not ſay upon my Examination, that it was read any where.

Attorn. Gen. Whether were not you moved to go?

Adams. There was ſome Motion to that End, I think in Mr. *Love*'s Chamber.

Ld. Preſident. Who moved it, and where?

Adams. Who moved it, I cannot tell; it was moved, I think, in Mr. *Love*'s Chamber.

Attorn. Gen. Was Mr. *Love* there?

Adams. He was there.

Attorn. Gen. Did Mr. *Love* move it?

Adams. I cannot ſay he did.

Ld. Preſident. He will not ſay it.

Adams. I cannot ſay it upon my Oath.

Attorn. Gen. My Lord, ſo much he ſaith, That it was moved in Mr. *Love*'s Chamber: Then he may give you an Account of Mr. *Alford*'s Return, and where the Account was given.

Adams. The Return of Mr. *Alford's* Account was given at Mr. *Love*'s Houſe.

Ld. Preſident. What was it?

Adams. The Return he made in general was by a Narrative, and a Copy of a Letter from the King: There was with the Narrative that which was ſaid to be the Copy of a Letter from the King.

Ld. Preſident. What was the Subſtance of that Letter?

Adams. The Contents of the Letter, as I remember, was; Firſt, He expreſſed a great Deal of Affection to the Miniſtry of *England* in general; and promiſed great Favour when he was in a Condition to do it; and deſired them to continue ſtedfaſt in the Way they were in.

Attorn. Gen. Was this Letter publiſhed at Mr. *Love*'s Study?

Adams. It was read.

Ld. Preſident. Was Mr. *Love* there?

Adams. Truly, to be poſitive that Mr. *Love* was there, I dare not ſay; but Mr. *Love* was there at that Meeting, either at the Beginning or Ending; but whether the Letter was read at Mr. *Love*'s Houſe, I dare not ſwear. The Narrative from *Titus* was a very long one, and very well drawn. I cannot give an Account of it now: The whole of it was after this Manner: To give an Account to us of all the Tranſactions that had happened ſince his going out of *England*, he did give an Account of his Uſage by the Cavalier Party, that was againſt the King's Agreement with the *Scots*, becauſe there was ſome did incline to his Agreement with them, and there was another Party was much againſt it; and he gave a very large Account of that. After that, he went on deſcribing his Diſpoſition and Condition.

Attorn. Gen. This was the Subſtance of the reſt. Was there not ſome Propoſitions for giving of Thanks to *Titus*, for his ſo well managing his Affairs there?

Adams. There was a Motion made by ſomebody.

Ld. Preſident. Who made the Motion?

Adams. I cannot tell.

Attorn. Gen. Was not a Hundred Pounds more to be ſent agreed upon there?

Adams. I think ſo.

Attorn. Gen. There was more Money contributed: Who agreed to lend any?

Adams. Sir, to that Queſtion; I cannot ſay who propounded it: But that there was Money ſent.

Ld. Preſident. Who contributed?

Adams. I did my Share.

Ld. Preſident. How much was that?

Adams. As I remember, Ten Pounds.

Attorn. Gen. To whom did you pay it, and where did you pay it?

[Then they ſhewed him his Examination.]

Ld. Preſident. Come, look upon it, and be well adviſed.

[*Adams* looks upon his Examination.]

Adams. I paid it to Mr. *Drake*, at his Father's Shop in *Cheapſide.*

Attorn. Gen. Next about the Commiſſion and Inſtructions to be ſent, what do you know of that? When this Letter was read from the King, and publiſhed in Mr. *Love*'s Study, whether was there not a Commiſſion agreed upon, to give Inſtructions to treat with the King at *Breda?*

Adams. There was a Motion made at Mr. *Love*'s Houſe, that there ſhould be a Commiſſion and Inſtructions drawn and ſent. The Motion was made at Mr. *Love*'s Houſe; they were there ſpoken of.

Ld. Preſident. By whom? Who did the Dialogue run between? Did Mr. *Love* do it?

Adams. Truly, for my Part, I did not then take ſuch ſpecial Notice, that I dare at this time upon my Oath deliver any thing poſitively againſt any particular Man; but generally all ſpake ſomething, as I remember.

Attorn. Gen. Was there any Debate to mend the Inſtructions?

Adams. Truly, Sir, not as I remember.

Attorn. Gen. Did not Mr. *Gibbons* bring the rough Draught of the Commiſſion?

Adams. Truly, I think he did; as I remember he did. I have ſpoken of the Commiſſion and Inſtructions that were debated then and there; and that many of theſe Perſons, here mentioned, were there: But that ſome of them mentioned might not be there then, is very likely.

Attorn. Gen. Was Mr. *Love* there?

Adams. That he was there ſome Part of this time, I am very confident.

Ld. Preſident. Was it in his Study?

Adams. It was.

Attorn. Gen. Was there a Commiſſion agreed upon to be ſent?

Adams. For the Word *agreed*, I cannot tell what to ſay to it; *agreed* holds forth as if a Vote paſſed.

Ld. Preſident. Was there not a general Conſent?

Adams. Being upon my Oath, I deſire to be cautious; for I muſt be tender in ſpeaking the Truth in this Caſe; and I do not know what to make of the Word *agreed.*

Ld. Preſident. Was it approved of?

Adams. To my Underſtanding, the Thing was thus: That at ſuch Meetings as theſe we were not abſolutely formal, as if we had been eſtabliſhed by a Court of Juſtice to act thus; and that there ſhould be Prefaces, and ſuch Things, or ſuch Methods obſerved, as that any Man undertook to make a Preface either at the Beginning or Concluſion; but it was ſpoken to by many Perſons, and by every Perſon ſpoken to: And in this Senſe it was agreed.

Attorn. Gen. Were there not Inſtructions agreed upon; and all this in Mr. *Love*'s Study?

Adams. It was ſo.

Ld. Preſident. Were they not read there?

Adams. I think they were.

Ld. Preſident. Who read them?

Adams. I cannot tell who read them; but they were read: And I think Mr. *Drake* read them.

Attorn. Gen. What was the Contents of the Commiſſion?

Adams. The Contents or the Subſtance of the Commiſſion was to this Effect: [This he reads out of his Examination.]

'We, the Preſbyterians of *England*, do authorize you the Lord *Willoughby* of *Parham*, *Edward Maſſey*, *Richard Graves*, *Sylas Titus*, and *James Bunce*, to aſſiſt our Brethren the *Scotch* Commiſſioners in their Treaty with the King, according to the Inſtructions annexed.'

I dare not ſwear it in theſe Words: But to this Purpoſe it was. The Subſtance of the Inſtructions were to uſe all the Arguments they could, to move the King to give the *Scotch* Satisfaction, and to take the Covenant: Such Arguments were mentioned as the then Condition of Affairs

Affairs beſt afforded, particularly how Things ſtood in *England* at that Time; which did all of them cry out for an Agreement, and gave them full Power as to all Things; and what ſhould be concluded by them, ſhould be confirmed by theſe here. But I cannot ſay ſo; but what Words were, were to this purpoſe, ſaving this Concluſion, That what was concluded ſhould be confirmed here: I do not remember that.

Attorn. Gen. Was there not ſome Debate by what Warrant they ſhould act in this Commiſſion and Inſtructions?

Adams. There were ſome ſuch Words at the Meeting.

Ld. Preſident. What did Mr. *Love* ſay?

Adams. I cannot remember what Mr. *Love* did ſay; or whether he ſaid any thing or nothing at that Time: But that there were ſuch Words ſaid, I have ſaid; but by whom, I cannot fix it upon any particular Perſon.

Attorn. Gen. Was it not debated by what Warrant they ſhould derive Power to themſelves to ſend this Commiſſion?

Adams. There was ſuch Language; but by whom, I cannot ſay; I think by *William Drake.* It was becauſe the King had writ this Letter, wherein he deſired there ſhould be ſuch Inſtructions. There was ſomething ſpoken of the ſecluded Members; but by whom I do not know. There was a Propoſition, whether the Authority ſhould be taken from the ſecluded Members, or from ſome other.

Attorn. Gen. Did not Mr. *Love* then ſay, Come, let it go on?

Adams. I dare not ſay ſo.

Attorn. Gen. Was it not propounded at the Meeting to write to the Queen, and to *Jermin* and *Piercy*, for them to mediate with the King to agree with the *Scots?*

[*Adams*'s Examination was here again read.]

Adams. My Lord, ſo much of this as I think to be true, I ſhall own.

Attorn. Gen. Was not a Letter writ from *Piercy*, that a conſiderable Sum of Money was fit to be ſent to the King? And what Anſwer was given? Was it not to be done till the King and the *Scots* ſhould agree, and then to raiſe the Money?

Adams. That there was ſuch a Letter writ, I muſt needs acknowledge.

Attorn. Gen. Where was it read? At Mr. *Love*'s Houſe?

Adams. No, certainly: I only ſaw it in *Maſon*'s own Hands; and I remember he ſhewed it me.

Attorn. Gen. Next, aſk him, whether there was not a Letter written about *Auguſt* laſt to ſome here, that *Maſſey* had Back-Friends in *Scotland*, complaining he could not be promoted there?

Adams. I did underſtand there was ſuch a Letter; but by what way I do not know.

Attorn. Gen. Was not the Letter communicated at Mr. *Love*'s Houſe? And were not you preſent when this Letter was read at Mr. *Love*'s Houſe, wherein *Maſſey* complained he had Back-Friends in *Scotland?*

Adams. No, certainly: That Letter was not to my Remembrance read there. I heard of ſuch a Letter, but ſaw it not.

Attorn. Gen. My Lord, aſk him, whether he was not appointed to draw up ſome Letters?

Adams. There were ſome I ſhould have had a hand in drawing.

Attorn. Gen. Who were appointed with you?

Adams. As I remember, Captain *Potter*, Captain *Maſſey*, and Mr. *Gibbons.*

Attorn. Gen. But was there no Meeting upon it? Was Mr. *Love* named?

Adams. Mr. *Love* was not named.

Attorn. Gen. Was there not one *Sterks*, a *Scotch* Agent here, that kept Intelligence from *Scotland?*

Adams. I know there was ſuch a one, we took to be an Agent here.

Ld. Preſident. Did he meet at your Meetings?

Adams. Yes, he did meet ſometimes.

Attorn. Gen. Was he at Mr. *Love*'s Houſe at any time?

Adams. That he was.

Attorn. Gen. When the Act came forth for baniſhing the *Scots*, was there not a Collection for his Charges? And were not you at Mr. *Love*'s Houſe when it was agreed to?

Adams. I was not.

Attorn. Gen. Did you contribute Money?

Adams. I did contribute ten or twelve Shillings; I cannot tell which.

Attorn. Gen. What Diſcourſe upon *Dunbar* Fight was there from this Perſon that is already ſpoken of?

Adams. This is the Thing: if you pleaſe to help my Memory; for there are ſo many Particulars in this Correſpondency, that I cannot tell whereabouts it is I am to ſpeak to; I am very uncertain whereabouts it is I am to ſpeak to.

Ld. Preſident. Speak the Certainty as it was in your Breaſt.

Adams. My Lord, if it be doubtful to me, how can I be certain, and charge it upon my Memory?

Ld. Preſident. Speak the Truth.

Adams. I will ſpeak the Truth.

Ld. Preſident. Do ſo then.

[Here again *Adams* looks upon his Examination.]

Adams. There is ſome of it I did ſet down, that I dare not own upon my Oath: I then did deliver it ſo, when I ſet it down.

Attorn. Gen. Did Mr. *Love* know that this *Scotchman* was the *Scotch* Agent? Did you not take notice that Mr. *Love* took notice of him?

Adams. I do think he did; as far as I underſtand, he did.

Attorn. Gen. Did not Mr. *Love* generally tell you the Cauſe of the Meetings?

Adams. No, Sir.

Attorn. Gen. Did you not hear Mr. *Love* ſay, that this *Sterks* was the *Scotch* Agent?

Adams. I never heard Mr. *Love* ſay ſo; but I knew this, that by our uſual Meetings Mr. *Love* did underſtand him, as I did, to be the *Scotch* Agent.

Attorn. Gen. How often did you meet at Mr. *Love*'s Houſe?

Adams. I cannot tell: It may be ſeven, or eight, or ten Times: An uncertain Time.

Attorn. Gen. He was at Mr. *Love*'s Study?

Adams. Whether ſo many Times, I know not.

Attorn. Gen. My Lord, aſk him, whether it was not at Mr. *Love*'s Study, when Money was propounded to be raiſed for *Maſſey* and *Titus?*

Ld. Preſident. Was that in Mr. *Love*'s Study?

Adams. I cannot tell whether it was in his Study, or in the Lower Room: I am apt to believe it was in the Lower Room.

Attorn. Gen. Was Mr. *Love* there?

Adams. Certainly he was there.

Ld. Preſident. What was the Contents of the Letter?

Adams. The Contents of the Letter I cannot remember.

Attorn. Gen. Whether did it not declare the Poverty of his Condition? And was it not after *Dunbar* Fight?

Adams. Yes, it was.

Attorn. Gen. Was this Letter from *Maſſey* read at Maſter *Love*'s Houſe? Was this for Money?

Adams. It was.

Ld. Preſident. Was it agreed for Money to be raiſed?

Adams. If you take the Word *Agreed* as I formerly propounded, it was ſo.

Attorn. Gen. How was the Money to be raiſed, and in what manner?

Adams. It was by thoſe that were privy to the Contribution.

Attorn. Gen. Was not Mr. *Love* there? And did not he write down the Sums that were to be contributed?

Adams. This I muſt needs ſay, That Maſter *Love* had Papers in his Hand, and he did write ſomething; but I did not ſee what he did write: And every Man did write that was there.

Attorn. Gen. Did not you conceive ſo, That Maſter *Love* ſummed up every Man's Sum? Did he put the Letter of their Names before them, when he writ the Sums?

Adams. I cannot ſay that.

Attorn. Gen. Was not there a Letter penned by Maſter *Love* and Doctor *Drake?*

Adams. To that Queſtion, I muſt ſay there was a Letter; but I cannot deliver it upon my Oath that it was penn'd by Maſter *Love* or Doctor *Drake:* But it was taken to be ſo; and I thought it was ſo.

Attorn. Gen. To whom was that Letter directed?

Adams. I cannot tell to whom.

Attorn. Gen. To whom was it declared to be directed? To whom was it declared to be written?

Adams. To the General Aſſembly and Kirk of *Scotland.*

Ld. Preſident. Was this at Mr. *Love*'s Houſe too?

Adams. It was ſo.

Attorn. Gen. Was Mr. *Love* preſent, and did approve of it?

Adams. Mr. *Love* was preſent at ſome time of this Meeting. The Reaſon why I thought it to be of Maſter *Love*'s or Doctor *Drake*'s drawing, was nothing but merely the Language of it, it being in order to promote the Ends of the Covenant; and all the whole Language was couched to that Purpoſe; and taking notice of the want of Reſpect to *Maſſey* and the *Engliſh*, and of their being beaten.

Attorn. Gen. My Lord, this is very high: For he tells you this Letter was approved of, and directed to be ſent; and this was after *Dunbar* Fight, after we were engaged in Blood.

[Here *Adams* read out of his Examination, as followeth:]

Adams. There was alſo a large Letter, in the nature of a Declaration, penn'd by Maſter *Love* and Dr. *Drake*, and approved of by moſt of the Preſbyterian Party, Miniſters, and others, and directed to the General Aſſembly and Kirk of *Scotland*, ſubſcribed by none: Which contained the Subſtance of what was declared by *Titus* and *Maſſey*; but durſt not promiſe any great Sums of Money till they appeared more conſiderable, and grew nearer Action. The Buſineſs required higher Spirits than was for the preſent; and the Buſineſs required a conſiderable Sum: But to leave no Means unattempted when the Buſineſs was feaſible. [So far he reads.]

Attorn. Gen. Major *Adams* is now upon his Oath to tell you.

Adams. My Lord, as well as I remember, it did put forth much after this ſort: But I cannot ſwear it *in* theſe Words; but that is the ſubſtance of it.

Attorn. Gen. Was not this agreed and declared at Mr. *Love*'s Houſe, that ſuch a Letter ſhould be written to the Honourable Committee, and to the Kirk?

Adams. I anſwer that, after the ſame manner as all other Things are agreed at ſuch Meetings as this is: But I have no ground, and do not know why I ſhould ſay Maſter *Love* and Dr. *Drake* penn'd it.

Attorn. Gen. Aſk him for the Subſtance of the Letter; whether it were not as he hath told you; and whether he did not ſay they could not promiſe a conſiderable Sum of Money.

Adams. Certainly, either in that Letter, or ſome other, there was ſome ſuch Expreſſions.

Ld. Preſident. Well, it was about that Time, and in that Letter, or in ſome other Letter, and at Mr. *Love*'s Houſe.

Attorn. Gen. My Lord, aſk him if there was not an Agent come from *Scotland*, and a way laid at *Kendal* for a Correſpondency between theſe Gentlemen here and ſome of *Scotland*; and whether one *Groves* was not ſent thither.

Adams. That was ſomething obſcure: That there was ſuch a Thing, I do verily believe, becauſe it went amongſt us for a Truth; but how to make it out for a Truth, upon my Oath I cannot tell.

Ld. Preſident. Did Mr. *Love* know of it?

Adams. I do not know.

Attorn. Gen. Aſk him what he knows concerning Colonel *Bamfield*'s Man coming hither.

Adams. Concerning that, I know nothing: But I confeſs I had ſome *Item* that at that time there was ſomething found. And this is all I can ſay to that; I cannot gueſs the Time.

Attorn. Gen. Was it after the Fight at *Dunbar?*

Adams. Yes, that it was.

Attorn. Gen. Were there Meetings at Mr. *Love*'s Houſe?

Adams. I cannot ſay all: But all that I know of were.

Attorn. Gen. Aſk whether upon the large Letter *Maſſey* did not write that Things were well ſettled in *Scotland.*

Adams. Many of theſe Things were underſtood ſo, and taken for granted amongſt us; but I can ſay no otherwiſe: I thought it to be ſo; but I know not.

Attorn. Gen. Were you not preſent at Mr. *Love*'s Houſe, when theſe Letters were read, that they were in a hopeful Condition?

Adams. I cannot ſay ſo.

Ld.

Ld. Preſident. What can you ſay?

Adams. As before, That it went for a Truth amongſt us: And that is as much as I can ſay to it.

Attorn. Gen. Was there not a large Letter inviting your Friends to Union?

Adams. I underſtand the other Letter to be this you propound to me now.

Attorn. Gen. Now we ſpeak of a Letter from Alderman *Bunce*, and others.

Adams. I cannot ſpeak particularly to that; for I did not ſee them; but they were told me by one or other of thoſe that were of the Correſpondency: And this is all I can ſay.

Ld. Preſident. What is the Truth? Do you conceive it is ſo?

Attorn. Gen. My Lord, we ſhall not trouble him with that. My Lord, aſk him one Queſtion more: What did Mr. *Love* tell you, that if the Preſbyterians got the upper hand again?

Adams. Thoſe words, I think, did but amount to this, That if the Preſbyterians were in Arms again, by the Bleſſing of God, the Cavaliering Party might be prevented from getting the day.

Ld. Preſident. Who do you mean by the Correſpondents?

Adams. By Correſpondents I mean *Alford*, *Potter*, *Far*, &c.

Ld. Preſident. Was not Mr. *Love* one of them?

Adams. I took him to be ſo, my Lord.

Mr. *Love.* My Lord, I pray aſk him, whether any of theſe pretended or ſuppoſed Letters were ever received by me, any one of them, or that I writ one of them, or mended one of them.

Adams. I cannot ſay that ever I ſaw him do any ſuch Thing; nor did I ever ſee him write any.

Ld. Preſident. But you ſaw the Letters there?

Adams. That I have ſaid.

Mr. *Love.* Aſk him whether I gave my Conſent to the ſending away of this he calls a Commiſſion and Inſtructions, about the time of the Treaty at *Breda*.

Adams. No, I will not ſwear that; and upon my Oath I cannot.

Ld. Preſident. Will you not? I will preſs you to nothing. You ſaid even now, you did not know he did ſend them away; but you did ſay he was privy to them, and to the Debates of them. Did he declare any Diſſent?

Adams. I cannot ſay that.

Mr. *Love.* Will you aſk him this Queſtion? Whether he read the Letters that he pretends were ſent into *England* or *Scotland*, or whether he heard them read?

Ld. Preſident. That he ſwears.

Adams. I did not ſwear that theſe were the Contents of them exactly: I was there when theſe Letters were read.

Mr. *Love.* He only heard them read.

Ld. Preſident. If there were half a Score that had Correſpondency, and received Letters, and come together, and one of the moſt confiding Men read them; will any Man ſay that he will not believe theſe were right read? Such a Hear-ſay as this, is ſuch a Hear-ſay as you may take Notice of.

Mr. *Love.* But let him prove how it was a Correſpondency on my part.

Adams. I did not ſay that Mr. *Love* was one of the Correſpondents; I deny that I ſaid ſo: I ſaid I conceived him to be ſo; but that is not that he was ſo.

Ld. Preſident. They did debate together, and met together, and received Inſtructions; and therefore he may very aptly conceive he was a Correſpondent.

Mr. *Love.* Doth he ſwear that I aſſented?

Adams. I did not ſwear ſo.

Mr. *Love.* He ſaith Money was ſent to *Titus*; pray aſk him whether by Agents I employed.

Adams. I cannot ſay ſo.

Mr. *Love.* Here is no Proof at all that ever I received Letter, or writ or ſent any Letter. Pray aſk him if I knew before they came to my Houſe, that they would bring ſuch Letters with them. Do you ſwear that I was preſent in the Room at the Time that the Letters after the Defeat at *Dunbar* were ſent, wherein there was, as you ſay, a Promiſe of Aſſiſtance?

Adams. You were there ſome part of the while.

Mr. *Love.* Aſk him whether he was not threaten'd with Death in caſe he would not, and promiſed Favour in caſe he would, bring in Evidence againſt me.

Adams. I cannot ſay I was threaten'd with Death to that end.

Mr. *Love.* I ſhall bring a Witneſs that ſhall prove from his own Mouth, that he hath confeſs'd, If he did not bring in Evidence againſt me, he ſhould be hanged.

Adams. It is true, *Percival* did come to me, and I did ſay to him, That upon Examination, I did ſay, if I were not ingenuous, I was threaten'd to be hanged.

Attorn. Gen. When a Man is a Traitor, and doth confeſs he deſerves Mercy.

Mr. *Love.* Aſk him whether he hath not received Money to give in this Information againſt me.

Adams. I have not.

Mr. *Love.* Did not ſome Meſſenger come to you, ſome Months ago, from ſome Members of the Council of State, and told you you were poor, and ſhould be ruined if you did not confeſs it? He had three Meſſengers ſent unto him from the Council of State, or ſome of them, that told him, If he would not confeſs, he ſhould be ruined.

Attorn. Gen. Did you receive Money, or were there Promiſes made to you, to teſtify againſt Mr. *Love?*

Adams. Upon my Oath I did not.

Mr. *Love.* Hath he never come to Mr. *Scot*'s Chamber? Did he not come a Month before I was committed, being brought there by Major *Cobbet?* And whether he hath not received Money from Major *Cobbet?* I deſire that Major *Cobbet* may be called upon his Oath, to know whether he hath not given him Money to bring in Information againſt me: For he hath taken notice of all Faſts, and of all Things done, and hath brought all to Mr. *Scot.* I know, by Information, that this *Adams* is a hired Witneſs. Sir, this Man is a *Tobiah* and a *Sanballat:* Some Men have hired this Man againſt me. I deſire Major *Cobbet* may be called.

Ld. Preſident. He did, and might do it: But did he it to teſtify againſt Mr. *Love?* I hope a State, that watches the Nation, may watch for the Safety of a Nation.

[Mr. *Cobbet*, a Major of the Army, is called into the Court, and is ſworn.]

Mr. *Love.* Pray aſk him whether he hath not at any time, within this three Months, given any Money to Major *Adams*, to acquaint Mr. *Scot*, or the Council of State, with this Deſign, as 'tis called.

Major *Cobbet.* My Lord, I muſt and do deny that which this Gentleman doth aver: And truly I wonder at his Boldneſs, in the Preſence of this Honourable Court. I do know Major *Adams*, and have known him a long while; and commiſerating him, as being a Priſoner, I lent him Ten Pounds; but for no Conſideration that he ſhould betray Mr. *Love*, or any Man. I paid the Money to his Wife.

Mr. *Love.* He paid it, he ſaith; how then did he lend it? And he paid it to his Wife: That was to cover the Bribery. But did not you diſcover to this Man, if he would reveal it to Mr. *Scot*, what Recompence he ſhould have of him? Did not you, walking in the Fields with him, deſire him to reveal what he knew; and promiſed him if he did, he ſhould be a Man preferred?

Major *Cobbet.* I have been acquainted with Major *Adams* this four or five Years, and met with him in the behalf of the Preſbyters, underſtanding there was ſomething was driven on dangerous to the Commonwealth; and I thought I was bound in Duty to requite them, if it were poſſible, for their Pains of Diſcovery. And I laboured with him that he would deal ſo honeſtly with himſelf and the Commonwealth, as to let the Commonwealth know what he did know of this Deſign. Accordingly he gave me ſome notice; and I ſaid to him, Major *Adams*, if I find you ingenuous, if there be any thing that I can do for you, I ſhall be ready to ſerve you by Night and by Day.

Mr. *Love.* It appears then that the Ten Pounds was not lent to Major *Adams*, but was paid him for his Diſcovery: So that 'tis clear he is a hired Witneſs. And have you not brought him to Mr. *Scot*'s Chamber with Promiſes of Preferment?

[No Anſwer to that Queſtion.]

[The Lieutenant of the *Tower* is commanded to withdraw his Priſoner; and the Court adjourns till To-morrow.]

The Second Day's Proceedings, July *the* 21*ſt*, 1651.

THE Court being ſat, Colonel *Weſt*, Lieutenant of the *Tower*, was commanded to bring forth his Priſoner; and Mr. *Love* was brought to the Bar.

Maſter *Jaquel* was called into the Court, and the Clerk tendered him his Oath; and Mr. *Jaquel* ſpake to the Court to this purpoſe:

That there were many Oaths abroad, and he could not tell what to ſay to them; and he deſired to be excuſed. The Lord Preſident told him, that he could not be excuſed. Mr. *Jaquel* ſaid he was a Priſoner, accuſed of the ſame Offences that Mr. *Love* was accuſed of; and that he conceived he was not a competent Witneſs againſt him. The Court again preſs'd him to take his Oath. Mr. *Jaquel* ſaid that he durſt not in Conſcience ſwear againſt Mr. *Love*; and therefore deſired it might not be preſs'd upon him. The Court ſtill perſiſted in it, that he muſt take his Oath, and witneſs what he knew. He anſwered, he would ſpeak the Truth of what he knew, as well as if he was under an Oath. The Court told him that that could not be; for if he did not ſwear, what he ſhould ſay could not be received as any thing in Matter of Evidence. Mr. *Jaquel* ſtill perſiſted in his Refuſal. When the Court ſaw he could not be otherwiſe prevailed with, they fined him Five Hundred Pounds for refuſing to ſwear. And Mr. *Jaquel*, after he was withdrawn out of the Court, was called in again, and preſs'd to take his Oath; and was told that the Court had fined him Five Hundred Pounds for refuſing to ſwear; and again aſked him whether he would ſwear. Mr. *Jaquel* then, when the Oath was read to him, did not ſwear in that manner as the other Witneſſes did, but only put his Hand to his Buttons. And when Mr. *Love* aſked him whether he was under an Oath, he anſwered that he was as good as under an Oath. But the Court not being ſatisfied with that Anſwer, preſs'd him further; and then he did ſay he was ſworn, and was under Oath.

Ld. Preſident Declare now what you know of this Buſineſs.

Mr. *Jaquel.* My Lord, for the Paper I was examined about, as for knowing *Titus*, I never ſaw him in my Life but one Quarter of an Hour in a private Houſe, and I knew Nothing of his Buſineſs any where. For the other, *Alford* coming over with Letters, I was at Mr. *Love*'s Houſe, and when I was there, there were ſeveral Men there.

Attorn. Gen. In what Part of Mr. *Love*'s Houſe?

Jaquel. I conceive in his Chamber; for I went up to ſeveral that were there, whoſe Names I can poſitively ſay, for two or three of them, though I cannot remember the other abſolutely, though I conceive moſt I have named in my Examination were there; Capt. *Potter* was there, and Doctor *Drake* and Major *Alford*, and Mr. *Love* was there ſometimes, though divers times he went out, ſome coming to ſpeak with him.

Attorn. Gen. Was there not a Copy of a Letter, ſaid to be ſent from the King, read there?

Jaquel. I remember no ſuch Thing.

Attorn. Gen. Was there not a Narrative?

Jaquel. Yes, from *Titus*, wherein he declared the King's Inclinations to make Peace with the *Scots*, but that his wicked Council about him did hinder it.

Attorn. Gen. Was not this of what *Titus* had related from *Jerſey*, the Narrative of what had paſs'd between him and the King there?

Jaquel. I think it was.

Attorn. Gen. Was not Major *Alford* ſent to receive an Account from him at *Calais?*

Jaquel. William Drake did tell me ſo afterwards.

Attorn. Gen. Did Major *Alford* deliver no Account there?

Jaquel. I think it was Major *Alford* read the Narrative.

Attorn. Gen. Did he make no Relation by Word of Mouth?

Jaquel. Truly I cannot remember.

Attorn. Gen. You cannot remember it was read?

Jaquel. Yes, I am ſure it was read, and at Mr. *Love*'s Houſe.

Attorn. Gen. And he was preſent ſometimes?

Jaquel. Yes, ſometimes.

Attorn. Gen. What Money was there agreed upon to be provided for *Titus?*

Jaquel. I know of none: it was moved by Captain *Potter*, that there might be forty Pounds, but I know of none; nor was it agreed by Mr. *Love*, Mr. *Drake*, or myſelf, that we ſhould lay down any at all.

Attorn. Gen. Did you not meet with *William Drake*, and deſire to go along with him to ſee *Titus?*

Jaquel. I did ſo, but I think *Drake* deſired it: I met him in *Newgate-Market*, and, ſaith he, I am going to ſee *Titus*, go along with me. I ſaid I never ſaw him, nor did I know him: Says he, You ſhall not ſtay at all. Whereupon he went and found him in a Cheeſemonger's Houſe in *Newgate-Market*.

Attorn. Gen. What Diſcourſe had you?

Jaquel. He ſaid he was newly come out of *Holland*, and he had been with the King, and he was a Man of excellent Parts for his Years; and that he was inclinable to what was good, but that he had ſuch deſperate evil Council about him; and that he did much pity him, and that his Clergy eſpecially was wicked: and he propounded nothing to us, nor did I ever ſee his Face afterwards; and this is about two years and a half ago. And for any other Meetings at the *Swan-Tavern*, or for any Agents, I never met him, or ſaw him.

Attorn. Gen. Do you not remember at any Meeting, that there was Money propounded for Captain *Titus*, or for *Alford*'s being ſent over to *Calais?* Speak what you know of that, and by whom it was told you.

Jaquel. Major *Alford* himſelf told me he was to meet his Son, and he went over upon that Score; but after he was gone, *William Drake* told me he was gone to ſee or meet Captain *Titus*, I am not certain of the Words: and when he did come again, which was the next time I heard of him, then *William Drake* comes to me, and deſired me to go along with him, for I think he went up and down to every Man.

Attorn. Gen. You think then that *William Drake* was the prime Man?

Jaquel. Yes, he was the Actor and Agent that moved all.

Attorn. Gen. When *Alford* returned, he deſired you to go with him?

Jaquel. To Mr. *Love*'s Houſe.

Attorn. Gen. What was done at Mr. *Love*'s Houſe?

Jaquel. There were ſome Papers read, which *Alford*, as I take it, read, or *William Drake*, I am not certain which; but read it was of a relation, that *Titus* came out of *Jerſey*, and had ſeen the King there, and the *Scotch* Commiſſioners; and that the King had a great Inclination to agree with the *Scotch* Commiſſioners, and that he was a Man of excellent Inclinations and Parts, and had a great Deſire to agree; but his Council, and wicked Crew about him, would not let him: and he ſaid, as I remember, That the King was a kind of a Priſoner with them there, and ſaid, his Council did hinder him, or elſe, if he were from them, he would agree with the *Scotch* Commiſſioners.

Attorn. Gen. You ſay this Paper was read, this Narrative was read in Mr. *Love*'s Houſe; was not Mr. *Love* preſent?

Jaquel. I am not able to ſay he was: when I came in, I remember he was not in the Room, and he was there two or three times while I was there, but he was ſeveral times called out.

Attorn. Gen. Do not you know there was an Agreement of a Letter written back to *Titus?*

Jaquel. I can remember no ſuch thing, but I think *William Drake* told me ſo, as I remember, but that was two Years ago, I do verily believe by what I conceived, was of his writing.

Ld. Preſident. I could wiſh that Mens Conſciences could not be ſcrupled to believe ſo much of a Miniſter, more than of a Magiſtrate: I hold it pernicious Doctrine for any Man to think he is bound more to obey the Miniſter than the Magiſtrate: I aſk you then before the Magiſtrate here, who was preſent at that Meeting?

Jaquel. William Drake, I am ſure, and Major *Alford* was there, and Captain *Potter*, and ſeveral others, as I remember, Maſter *Jenkins*.

Attorn. Gen. This was in Mr. *Love*'s Houſe, was it not in his Study?

Jaquel. I cannot tell that. I ſay as I conceive, that Maſter *Jenkins* and Maſter *Caſe* were there, but poſitively I cannot ſay it; and Mr. *Jackſon* and Mr. *Nalton*, I think.

Attorn. Gen. What ſay you of Mr. *Watſon?*

Jaquel. I think he was there.

Attorn. Gen. What ſay you of Mr. *Herring?*

Jaquel. I think he was.

Attorn. Gen. What ſay you of Mr. *Cauton?*

Jaquel. In truth I cannot tell.

Attorn. Gen. What ſay you of Mr. *Robinſon?*

Jaquel. I think he was.

Attorn. Gen. What ſay you of Mr. *Drake?*

Jaquel. Yes.

Attorn. Gen. Was Colonel *Vaughan* there?

Jaquel. Yes, I conceive he was there.

Attorn. Gen. Was Mr. *Jackſon* there?

Jaquel. Yes.

Attorn. Gen. Were Captain *Far* and Captain *Potter* there?

Jaquel. I believe ſo.

Attorn. Gen. Was Mr. *Gibbons* there?

Jaquel. I cannot tell.

Attorn. Gen. What ſay you of Mr. *Sterks?*

Jaquel. No, Sir, I do not know it.

Attorn. Gen. Did you not know him to be the *Scotch* Agent? Was he not taken among you to be an Agent from *Scotland?*

Jaquel. Yes, he was a *Scotchman*.

Attorn. Gen. And for Contribution of Money, what Money did you pay, and to whom?

Jaquel. Two five Pounds to Mr. *Drake*.

Attorn. Gen. For what Uſe?

Jaquel. For charitable Uſes.

Attorn. Gen. Then he aſked it of you ſo, or for that purpoſe; but afterwards, what did you learn it was employed about?

Jaquel. Sir, he did not tell me how he did employ this Money; but afterwards I heard him ſay, that he had ſent *Titus* Money.

Attorn. Gen. What did you contribute to *Sterk*'s going into *Scotland?*

Jaquel. Ten Shillings.

Attorn. Gen. And who elſe did contribute, that was there? And how much was the Sum that was collected?

Jaquel. I cannot tell.

Attorn. Gen. How much do you gueſs, or have heard?

Jaquel. Four or five Pounds, I think.

Attorn. Gen. Aſk him, who gave the *Scotchmen* Money?

Jaquel. Truly I did give ſeveral *Scotchmen* Money, both to poor Miniſters, and others that were baniſhed by the Act, becauſe I knew they were very poor, and knew not how to get away; and I did it out of Charity towards them.

Ld. Preſident. Becauſe the State had an ill Opinion of them, therefore you had a good Opinion of them.

Jaquel. There was one Miniſter that had twelve Children that was baniſhed.

Attorn. Gen. Were you at any Meetings at Mr. *Love*'s after *Dunbar* Fight?

Jaquel. No, not I.

Attorn. Gen. At what Faſts were you at? And who officiated at thoſe Faſts?

Jaquel. I was at Major *Adams*'s and Colonel *Barton*'s.

Attorn. Gen. Who did exerciſe at thoſe Faſts? Was Mr. *Love*, Mr. *Jenkins*, Mr. *Caſe*, any of them?

Jaquel. I believe they were, I conceive ſo, I profeſs I cannot remember; I believe Mr. *Jenkins* was there.

Attorn. Gen. Was not Mr. *Love* one of them?

Jaquel. Yes, he was.

Attorn. Gen. What was the Occaſion of thoſe Faſts?

Jaquel. I know no particular Occaſion, but for the Good of the two Nations.

Attorn. Gen. How do you know they were for the Good of the two Nations? Was it not for an Agreement between the King and the *Scots?*

Jaquel. I confeſs it was for the Good of both Nations, as both Nations are the Church of God, and do both profeſs themſelves Proteſtants, and of one Religion; and I conceived it was my Duty to pray for the Good of them both.

Attorn. Gen. But was there not ſome Expreſſions for a Bleſſing upon the Treaty at *Breda?*

Jaquel. I cannot remember ſuch Expreſſions; for in ſuch Duties I deſire to have my Heart lifted up unto God: And, my Lord, it is a great while ago.

Ld. Preſident. Will you ſay your Heart is lifted up unto God, when your Underſtanding is in your Heels?

Jaquel. My Lord, I do not remember one Paſſage in Prayer a Week after.

Attorn. Gen. That is in ordinary Meetings, but this is for both Nations: but by what did you know that this was for the Good of both Nations, and why was it pretended to be for the Good of both? And, my Lord, why they ſhould not meet before, but juſt at that time, and at a private Faſt?

Jaquel. I think, that ſince the Nations of *England* and *Scotland* were at odds, I have been at twenty Faſts.

Attorn. Gen. My Lord, aſk him, Whether he were not late with *Potter*, and did not meet with him about Letters from *Bamfield*, and whither they went to read them?

Jaquel. This was about *February* or *March* laſt, he told me he received Letters, and deſired me to go along with him to Mr. *Love*'s, and after Dr. *Drake* came in, and then theſe Letters were read; and I profeſs I know not from whence they came, nor the Man; and ſo did Mr. *Love* declare, That he never ſaw, nor knew, nor heard of *Bamfield* before.

Attorn. Gen. Did he not make Mention of Parties in *Scotland*, That one Party was for the King, and another for the King and Kirk, and a third neither for King nor Kirk?

Jaquel. Yes.

Attorn. Gen. But who were thoſe he named, that were Men for the King?

Jaquel. I think *Hamilton*, and his Party.

Attorn. Gen. And who for the King and Kirk?

Jaquel. Argyle and *Leſley*.

Attorn. Gen. And who neither for King nor Kirk?

Jaquel. Straughan and *Car*.

Attorn. Gen. What did he tell you of the young King's eſcaping?

Jaquel. Something there was in that, but he was fetch'd back again.

Attorn. Gen. What ſaid he of *Argyle?*

Jaquel. Nothing at all, as I remember.

Attorn. Gen. Was there not an Expreſſion, That they were now agreed to receive in the whole Nation, unleſs it were thoſe that were notoriouſly ſcandalous and excommunicated?

Jaquel. I believe there was.

Attorn. Gen. Did it not mention five thouſand Pounds for providing of Shipping?

Jaquel. Yes, in the Narrative or Letter, whether there related at that time, I know not.

Attorn. Gen. And what mention was there made, who were fit to command in *England*, if that Party ſhould come from thence into *England?*

Jaquel. I conceive there were three Noblemen.

Attorn. Gen. Name them.

Jaquel. My Lord of *Suffolk*, my Lord of *Warwick*, and my Lord of *Mancheſter*, or either of them.

Attorn. Gen. That was propounded by *Bamfield*, but I hope thoſe Lords were more noble than to do any ſuch thing. Was there not another Letter that came with that of *Bamfield*'s, ſent by my Lord *Argyle*, and it was only, That there ſhould be an Approbation of him? And was this Letter likewiſe read at the ſame Time, and at the ſame Place?

Jaquel. Yes, my Lord.

Attorn. Gen. What was then propounded for Money to be raiſed for *Bamfield?*

Jaquel. Truly, Captain *Potter* did make mention for forty Pounds to be raiſed, ten Pounds for Colonel *Bamfield*'s Man, and thirty Pounds for *Bamfield* himſelf: but that Buſineſs at the reading was wholly declined, and abſolutely refuſed by all, to act any thing in that relation in which it was ſent over. Whereupon Captain *Potter* did move, That if nothing were done in that, whether it were not convenient to ſend the Meſſenger ſomething to bear his Charges: ſays he, If you will pay the Meſſenger ten Pounds, and ſend *Bamfield* thirty Pounds, I will give the Meſſenger the ten Pounds. But there was no Agreement, nor Concluſion I know of, no Bill of Exchange was ſent, but Captain *Potter* ſaid he would lay down ten Pounds.

Attorn. Gen. But no body ſpake againſt Captain *Potter*'s laying down of ten Pounds; and it was propounded to you to lend ten Pounds, and you ſaid, you would conſider of it: But did *Potter* lend it?

Jaquel. I cannot tell that, my Lord, he ſaid he would do it.

Attorn.

Attorn. Gen. My Lord, let now Maſter *Jaquel* tell you what was the Cauſe why they did refuſe to do any thing in the Letter about five thouſand Pounds; what was the Cauſe upon the Debate between you at Mr. *Love*'s Houſe, why you did refuſe to do any thing about the five thouſand Pounds?

Jaquel. The Debate was ſoon over, for we abſolutely refuſed it, we would not meddle in it, not liking the buſineſs; it was a Trouble, I am confident, to them that heard it read.

Attorn. Gen. You do not remember that ever any body did acquaint the Magiſtrate with the Deſign in working from *Scotland*?

Jaquel. No, not I.

Attorn. Gen. Did not ſome ſay, that *Bamfield* was a Malignant?

Jaquel. I cannot tell, but I never heard of him before.

Attorn. Gen. Were you not told he was a Cavalier, and of the King's ſide, and that that was the true Reaſon why they would not truſt him?

Jaquel. I do not remember any ſuch thing.

Attorn. Gen. Did Mr. *Love* agree for ten Pounds for *Bamfield*'s Man, and thirty Pounds for *Bamfield*?

Jaquel. No, I cannot ſay ſo.

Attorn. Gen. Did not Major *Alford* tell you, upon his Return from *Calais*, That he was ſent thither to take an Account from thence?

Jaquel. He did not, but *William Drake* did tell me that he was gone to *Calais* to ſpeak with Captain *Titus*.

Attorn. Gen. And to take an Account of the Tranſaction of *Jerſey*?

Jaquel. Truly, Sir, I cannot ſay that; but *William Drake* told me he was gone thither to ſpeak with *Titus*: and this is above two Years ago that *William Drake* told me ſo.

Attorn. Gen. To what end?

Jaquel. To tell and hear News.

Attorn. Gen. What did he do more?

Jaquel. I profeſs in the Preſence of God, I cannot tell, Sir, I beſeech you; for in the Paper, I told you before, there were ſome Circumſtances, and ſomething that I cannot ſay; but it was to this purpoſe, To ſpeak with *Titus*, to hear the News from *Jerſey*; but I cannot ſay certainly that Word.

Attorn. Gen. We do not preſs you to the Word, but to the Effect of it: My Lord, I think Mr. *Jaquel* hath given an account already, that this Relation was at Mr. *Love*'s Houſe. Mr. *Jaquel*, let me bring one thing to your Remembrance, if it be true: At your Meeting at Mr. *Love*'s Houſe upon this buſineſs of *Bamfield*'s Narrative, you ſay, thirty Pounds was moved to be ſent to *Bamfield*, and ten Pounds to his Man.

Jaquel. Yes, by Captain *Potter*.

Attorn. Gen. And when it was then ſaid, it was thought fit by Mr. *Love*, Mr. *Drake*, and Captain *Potter*, that it ſhould be ſo done; whether did you not all agree it ſhould be ſo done?

Jaquel. No, there was no Agreement, but it was thought convenient, or to that purpoſe.

Attorn. Gen. It was thought convenient by all the Company preſent?

Jaquel. Truly, Sir, there was not much regard taken in that buſineſs, nor was there much done; for we did not ſtay long, but there were ſuch Words.

Attorn. Gen. But by all preſent?

Jaquel. Yes, there were ſuch Words.

Attorn. Gen. Whether were not ſome Friends at Dinner at *Dowgate*, and was not *Maſon* there?

Jaquel. My Lord, there was a Gentleman there, I cannot ſay who he was, nor did I ſee him before or ſince.

Attorn. Gen. Who did they tell you he was? Did they not tell you *Maſon*?

Jaquel. I profeſs I cannot remember that, nor can I tell, but I conceive it was ſo.

Attorn. Gen. In your Examination you ſay it was *Maſon*?

Jaquel. I ſaid, I conceived ſo.

Attorn. Gen. Why did you believe ſo?

Jaquel. I cannot tell, but as I remember, *William Drake* told me ſo.

Attorn. Gen. Whether when *Bamfield*'s Letter came, and the Letters from my Lord of *Argyle*, *Lowdon*, and others came, was there not a Letter from *Bailey*?

Jaquel. I do not remember, my Lord.

Attorn. Gen. Nor from the General Aſſembly?

Jaquel. I do not remember any ſuch thing.

Attorn. Gen. Bethink yourſelf, you are upon your Oath, whether he that brought the Letters from *Bamfield*, did not bring Letters from *Bailey*, and from the General Aſſembly?

Jaquel. I cannot remember there was any ſuch thing ſpoken of there.

Attorn. Gen. Was there no Expreſſion of Letters of Thanks for the good Affection of the Preſbyterian Party here, and Encouragement to perſevere?

Jaquel. I do not remember any ſuch thing.

Attorn. Gen. Were there no Promiſes, that when they by their Endeavours ſhould get a free Parliament in *England*, that they would reimburſe all that was laid out?

Jaquel. I do remember no ſuch thing.

Mr. *Love.* I would aſk him ſome Queſtions; and the firſt is, Whether he hath ſpoken this as a mere Relation, or whether he owns all this he hath ſpoken, as under an Oath?

Attorn. Gen. We are paſt that, my Lord, he did ſay, he was under an Oath.

Mr. *Love.* If he ſay ſo, I am concluded.

[Mr. *Jaquel* made no Anſwer to this.]

Ld. Preſident. You have aſked two Queſtions; in a few Words: For the firſt, Whether he ſpake it under an Oath? You know that time was ſpent to declare it before he began: if you aſk of his own knowledge, you miſtook it; for he ſaith ſomething he hath by Relation, and ſome that he knows. This he hath taken notice of, what ſhould we further examine over the ſame thing; for he ſaith ſome of his own Knowledge, ſome by Relation from particular Parties, and ſome from Parties he calls not now to mind; and it was declared by the Court, that he was a Witneſs, and the Court accepted him.

Mr. *Love.* I deſire your Lordſhip to aſk him this Queſtion, Whether the ſuppoſed Narrative that he ſpeaks of, that *Alford* ſaid he brought over, and read at my Houſe, was read at my Houſe; or only by *Alford*, and ſo brought over as News?

Jaquel. In Truth, my Lord, I cannot tell that.

Mr. *Love.* He ſpeaks of *Sterks* a *Scotchman*; I deſire your Lordſhip to know whether he knows, or can affirm by the Oath you ſay he hath taken, that he was a *Scotch* Agent.

[No Anſwer to that Queſtion.]

Mr. *Love.* Sir, aſk him this Queſtion; he mentions a Faſt at Major *Adams*'s, or Col. *Barton*'s, and that for the Good of both Nations, becauſe he thought they were the Church of God: whether there was any Intimation in that Meeting, that it was under this Notion, for the Good of both Nations; whether that Meeting was for the *Scotch* Nation to invade the *Engliſh* Nation?

[No Anſwer to that Queſtion.]

Mr. *Love.* He ſaid (if I have taken him rightly, and if not, I deſire your Notaries to inform me better), that Mr. *Love* did not agree to ſuch a Sum as Forty Pounds, and afterwards he ſaid, that all there ſaid it was convenient: Now I would aſk how theſe two can agree together?

Ld. Preſident. You are right; for the thing of Agreement he diſclaimed totally.

Mr. *Love.* Then I did not agree to it.

Ld. Preſident. No, nor any elſe.

Mr. *Love.* But afterwards he ſays, that they did conceive it was convenient. Now I pray aſk him, how he knew that I thought it was convenient?

Jaquel. I cannot ſay any thing that Mr. *Love* did ſay it was convenient; but it was not diſſented from nor ſpoken againſt by any, as I remember.

[Mr. *Jaquel* withdraws. Col. *Barton* is called into the Court, and is ſworn.]

Attorn. Gen. My Lord, let Colonel *Barton* tell you what he knows of the Meeting at the *Swan* at *Dowgate*.

Col. *Barton.* My Lord, I was there a little while after the Death of the late King. I was going into *Cannon-Street*, and met with *William Drake*; he deſired me to go with him to the *Swan* at *Dowgate*. I told him I had a little Buſineſs in *Cannon-Street*, and I would be there by and by. I ſtaid about half an hour about my Buſineſs, and went then to the *Swan* at *Dowgate*, and there was to my beſt remembrance (for poſitively I cannot ſay) *William Drake*, and one a Stranger, Major *Huntington*, and Lieut. Col. *Bains*; and there was one Capt. *Titus*, as was ſaid, and Major *Alford*, and I do not remember who elſe were there. My Lord, at that time truly I was under a Defect in my Hearing, and ſince that I have loſt an Ear, through a huge Heat, and Cold taken. But, my Lord, I not coming but to the middle of the Diſcourſe they had, and not perfectly hearing, could not well judge of their Diſcourſe: But afterwards I aſked *William Drake*, what the Intent of the Meeting was? He told me, that their Intentions were to make ſome Addreſſes or Applications (ſome ſuch Word it was) unto the Prince, to take him off from his malignant or evil Council about him, and to put him upon ſuch as would be honeſter and better Counſellors. And this is the Subſtance of what I then underſtood from *William Drake*. My Lord, I think two or three days afterwards, I know not which, there was a Meeting again at the *White-Hart* in *Baſing-lane*-end, at the corner of *Bread-Street*. There were, I think, moſt of them that I have named at the firſt Meeting: I am ſure *William Drake* was there, and Captain *Titus*, and Lieut. Col. *Bains*, and Major *Huntington*; I cannot tell whether Mr. *Alford* was there or no, but theſe I am ſure were there. I did not come to the beginning of that Meeting neither, the Paper had been read before I came in, to my beſt remembrance: but I aſked *William Drake* what was the meaning of that Meeting? He told me, it was to the ſame effect that they ſpake of before; and they had Thoughts to ſend ſomebody over to the Prince, to perſuade him from that Condition. A while after I met with Lieut. Col. *Bains*, and truly I did aſk him more fully of the Circumſtances of that Meeting: he told me ſomething, that they intended to make uſe of my Lord *Piercy* and *Jermin*, and thoſe about the Prince, which he diſliked. Truly, my Lord, it troubled me extremely, to think that they ſhould make uſe of ſuch ill Inſtruments to perſuade the King, and I ſaid, I thought it was not well. And the next time I ſaid to *William Drake*, You have not done well, for it is not a Chriſtian Way we take, to make uſe of ſuch Men as theſe to perſuade with the King; for do you think that my Lord *Piercy* and *Jermin*, and thoſe Men, will ever perſuade the King to leave themſelves, and their own Counſels? So he put me off, and from that time he was a little more ſhy of me. Afterwards he did ſecretly and cunningly get from me Ten Pounds, and came under a pretence to ſupply a Friend in neceſſity; and I ſaid to him, You have Money of your own. Says he, I have not ſo much as I muſt need ſupply him with; and he could not do it of himſelf, for fear it ſhould be miſs'd. My Lord, I aſked him what Friend it was. Nay, faith he, you cannot know that, and you cannot have it till he is in a Condition. To tell you truly, he had been a good Cuſtomer to me, both for himſelf and Friends, and I was loth to deny him it, ſuppoſing I ſhould have it again. I afterwards did not, to my knowledge, meddle or make at any Meeting; I was never at any of thoſe Meetings after the Buſineſs at *Baſing-lane*, becauſe I diſliked them; but afterwards I did ſuppoſe that this Ten Pounds was for Captain *Titus*; for I did put it to him, and ſaid, I am afraid you did furniſh *Titus* with that Ten Pounds. What then, ſaid he? Then I ſhall require it again of you. So he put me off, and run out of the Land. My Lord, for any other Meetings, Tranſactions, or Knowledge of any other thing from the time of the Meeting in *Baſing-lane*, I know none. For the Priſoner at the Bar truly I do not remember, and I am confident I was never at his Houſe in my Life, nor changed one Word with him.

Attorn. Gen. Did you meet with *Titus* in *Fleet-ſtreet*?

Barton. I did, my Lord, and I aſked him whether the King that was dead (for I knew he was much about the King, becauſe I had heard it)—and I aſked him, I ſay, whether the King was a Man of thoſe Parts he was reported to be. *Titus* told me, not only of his Parts, but Virtues. Truly I ſuſpected then, that *Titus* was not the Man he ſeem'd to be, and I feared he was a Cavalier in his Heart; and truly that did occaſion me, with the diſlike of others, to leave their Company.

Attorn. Gen. There were ſometimes private Faſts at your Houſe; what was the Occaſion of them, and who ſpoke to you for them?

Barton. My Lord, I do not remember the Party that ſpake to me. I am not certain whether it were Maſter *Vicars*, but cannot poſitively ſay it, or

or whether it were by Sir *Matthew Brand*, or by whom they deſired to meet; they met in a Room at my Houſe, to humble themſelves before the Lord: and I cannot ſay any Thing of the Faſt, becauſe I had Cuſtomers, and I did think I was bound to ſerve my Calling; and I was not there above Half an Hour, and it was up and down, off and on. There were divers Miniſters, who did exerciſe at that Time.

Attorn. Gen. Who did exerciſe at that Time?

Barton. I was not there much of the Time, but I think Mr. *Jenkins*, and to my beſt Remembrance Mr. *Love* was there; there was Mr. *Tate* the Parliament-Man, to my beſt Remembrance: I think Mr. *Jaquel* was there, and there was Sir *Matthew Brand*.

Attorn. Gen. What other Miniſters were there?

Barton. I think Mr. *Caſe*, and to my beſt Remembrance Mr. *Robinſon*; but I am not certain.

Attorn. Gen. What was the Occaſion of your Faſts, and at your Houſe?

Barton. I knew no Occaſion, becauſe I was not there; but I have heard a Servant of my Houſe, who was there, give this Relation. Mr. *Jenkins* began in this manner; *O Lord, thou knoweſt we are not met to put up Complaints againſt any, but to humble ourſelves before Thee, and to pray that the Sins of the Land may be pardoned.* But I do not remember there was any Word, but for the pardoning the Sins of the Nation.

Attorn. Gen. Was there no Sins named in particular?

Barton. My Lord, I do not remember.

Attorn. Gen. My Lord, aſk him whether any body hath been with him, to call for any Money for any Parties beyond Sea; for *Maſſey*, or any others.

Barton. I ſhall give you a true Narrative of that. I underſtood, my Lord, that after the Priſoners that were taken at *Dunbar* were come down the River, there were divers Citizens, both Men and Women, that came to ſee them, and made a Relation of their Miſery to be ſuch, as I have not heard; and there was one among the reſt, that ſaid there was a Piece of Meat reached down among the Priſoners, and two or three catching at it, it fell down among the Dung, and they took it up, and eat it. There were divers did move for a Contribution to them, and it was a pretty while before I did contribute any Thing: there was Capt. *Far* with me, and deſired me to give him ſome Money, and he did not propoſe the Uſe; but to my beſt Remembrance, it was either for charitable Uſes, or for ſome in Miſery. Now I was loth to aſk him for what charitable Uſe, becauſe I did not deſire to be known to give ſuch a Sum of Money to the *Scotch* Priſoners. I had a little Money which I had devoted to charitable Uſes in my own Purpoſe: When the Parliament granted my Petition for re-imburſing the Money I lent, I did promiſe Fifty Pounds to charitable Uſes; and this, I confeſs, I did intend for the *Scotch* Priſoners, but was loth to aſk him, becauſe I would not be thought charitable to your Enemies; but did it not under that relation.

Attorn. Gen. Mr. *Jaquel*, you know *William Drake* and Mr. *Love* very well, do you not know that Mr. *Drake* and Mr. *Love* were very familiarly acquainted?

Jaquel. I muſt needs ſay, Mr. *Drake* would be acquainted with all the Miniſters in *London*; and I cannot ſay, he was more acquainted with Mr. *Love* than any other Miniſter.

[Captain *Far* is called into Court, and is ſworn.]

Attorn. Gen. My Lord, let him acquaint you with what paſſed at the *White Hart* in *Bread-ſtreet*.

Capt. *Far*. I deſire the Benefit of my Papers.

Attorn. Gen. At whoſe Requeſt did you come to the *White-Hart* in *Bread-ſtreet*, and when was it?

Far. By *William Drake*.

Attorn. Gen. Was that the firſt Time you were acquainted with any Thing of this Nature, for carrying on and proſecuting of an Order, to the Furtherance of an Agreement between the *Scots* and the King? What do you know of that, at what Time was the Meeting?

Far. It was about two Years ſince.

Attorn. Gen. What was the Diſcourſe at that Meeting?

Far. It was the Drawing-up of ſome Heads of a Letter, which might be ſent to *Scotland*.

Attorn. Gen. What was the Effect of it?

Far. It was to this Effect, to the beſt of my Memory; for it is ſo long ſince—

[Here Captain *Far* was at a ſtand, whether through Infirmity of Speech (for he ſeemed to be ſlow of Speech) or otherwiſe, I cannot ſay; and he, or the Attorney-General for him, made great Uſe of the Papers of his Examination.]

Attorn. Gen. To deſire them, the better to bring them to an Agreement, that there might be moderate Propoſitions.

Far. It was to moderate their Deſires in the Agreement between the King and the *Scots*.

Attorn. Gen. What to do?

Far. That they might abate of their Demands.

Attorn. Gen. Of their former Demands, that they might be the more like to agree; was it not ſo?

Far. Yes, my Lord.

Attorn. Gen. Was it not propounded likewiſe, that ſome ſhould be ſent to the King, to perſuade him to give Satisfaction to the *Scots*?

Far. It was propounded by *Titus*, but not approved of.

Attorn. Gen. But did you not agree to ſend to the *Scots* that you did agree to, and were there not Heads which *Titus*, or *Drake*, did undertake to write, and afterwards were drawn up?

Far. I ſaw no Letters.

Attorn. Gen. But did not *Drake* tell you he had ſent them to Maſter *Bailey* in *Scotland*?

[Captain *Far* being at a ſtand, the Attorney-General aſketh him again:]

Attorn. Gen. Did not *William Drake* tell you, a Letter was ſent accordingly into *Scotland*?

Far. Yes, he did tell me he had ſent Letters.

Attorn. Gen. My Lord, let him give your Lordſhip an Account before the Treaty at *Jerſey*, where *Drake* met with him, and what he propounded to him, whether to ſend to *Jerſey*, and what Perſons, and upon what Meſſage?

Far. Mr. *Drake* did ſay, that Captain *Titus* did ſay, It was requiſite for one to be at the Treaty at *Jerſey*; and I had it from *Drake*, that *Titus* did undertake to go himſelf thither.

Attorn. Gen. What was his Employment to be there, and what Money was to be raiſed for him? Did he tell you he wanted Money?

Far. After Mr. *Drake* deſired I would help him to Ten Pounds, and *Titus* was in want of Money to relieve his Neceſſities: and upon this Requeſt I did leave Ten Pounds in Mr. *Drake*'s Warehouſe.

Attorn. Gen. Was *Drake* preſent?

Far. I think he was. I was promiſed it again, but never received it.

Attorn. Gen. My Lord, let him inform, after this Negotiation of *Titus* was ended at *Jerſey*, whether there was not a Letter written by *Titus*, and whether this was not read in the Preſence of Mr. *Love*, and ſome others, and whether at Mr. *Love*'s or no?

Ld. Preſident. Upon the Ending of the Treaty at *Jerſey* and *Breda*, were you not preſent at Mr. *Love*'s Houſe, when it was ſignified from *Titus*, that it was not convenient for him to come into *England*, becauſe he thought he was diſcovered to the Council of State, and deſired Somebody to be ſent to *Calais*, to take an Account there of his Negotiation?

Far. Yes, my Lord, I was there.

Attorn. Gen. Where, at Mr. *Love*'s Houſe?

Far. Yes.

Attorn. Gen. In what Part of his Houſe, whether in his Chamber or Study?

Far. In his Study, as I remember.

Attorn. Gen. Was the Letter read there, and who read it?

Far. *William Drake* read it.

Attorn. Gen. What was the Subſtance of the Letter, as you remember?

Far. It was for ſending one over to *Calais*.

Attorn. Gen. Was Mr. *Love* preſent when this Letter was read?

Far. Yes, ſure, he was preſent.

Attorn. Gen. Was it agreed that one ſhould be ſent to *Calais*, to take an Account of it?

Far. It was deſired, and I was propounded to go.

Attorn. Gen. Who named you to go?

Far. Mr. *Drake*.

Attorn. Gen. What was the Occaſion that Major *Alford* did go?

Far. It was his Son's being there, that was gone from him.

Attorn. Gen. But then it was agreed that *Alford* ſhould go? When *Alford* did return from *Calais* again, and there was an Account given of his Employment, where was this Account given? And where were thoſe Papers read, that did give the Account?

Far. It was given at Mr. *Love*'s; but I cannot ſay he was preſent at that, for he was abſent ſometimes; I cannot be poſitive to ſay he was preſent: I do conceive he was preſent, but cannot poſitively ſay it.

Attorn. Gen. What was the Subſtance of the Account given by *Alford* or *Drake*, or who read it?

Far. It was a Narrative that he had been at *Calais*, and what Entertainment he had.

Attorn. Gen. Was there a Copy of a Letter brought thither, written from the King to the Preſbyterian Party?

Far. I cannot ſay he brought it.

Attorn. Gen. What was the Subſtance of the Letter?

Far. To ſend Commiſſioners to the Treaty at *Breda*.

Attorn. Gen. What elſe was in the Letter? Did not the King of *Scots* declare in the Letter, that he would give Satisfaction to the *Scots*, and in order thereunto he deſired Commiſſioners?

Far. It is ſo long ſince, that I cannot remember it.

Attorn. Gen. I aſk you, whether it were not to this Effect, to declare that he was willing to give Satisfaction to the *Scots*, and to that End deſired the Preſbyterian Party to ſend Commiſſioners to *Breda*?

Mr. *Love.* This is groſs Darkneſs, for you to dictate Words to him, and then to ſay, Was it not thus, or to this Effect? and ſo to put into the Mouths of the Witneſſes what you would have them ſay.

Attorn. Gen. When you go in Darkneſs, it is groſs Treaſon.

Mr. *Love.* Eight Witneſſes have not proved that I either writ Letter, or received Letter, or lent Money.

Attorn. Gen. What was the Effect of the Letter?

Far. It is ſo long ſince, that I cannot ſpeak particularly; but it was to ſend Commiſſioners.

Attor. Gen. The Copy of the Letter that came from the King by Major *Alford*?

Far. I do not ſay ſo, Sir.

Ld. Preſident. Such a Letter as they conceived to be brought from him, as they read.

Attorn. Gen. What was that?

Far. That he had been with *Titus*, and did bring the Narrative from him, or to that Effect.

Attorn. Gen. Was it not to be communicated?

Far. Yes, it was ſo.

Ld. Preſident. What was the Narrative read from *Titus*? Who were preſent at this Meeting?

Far. There were ſeveral there, but I cannot poſitively remember any.

Attorn. Gen. Was Mr. *Love* there?

Far. I cannot ſay he was.

Ld. Preſident. Was Dr. *Drake* there?

Far. I cannot ſay poſitively, that he hath been at any Meetings.

Ld. Preſident. When you were at this Meeting, and Major *Alford* returned this at Mr. *Love*'s Houſe, was Dr. *Drake* there?

Far. I cannot ſay it.

Ld. Preſident. Was Mr. *Jenkins* there?

Far. I cannot ſay it.

Ld. Preſident. How many were there?

Far. About Ten or Twelve.

Attorn. Gen. Aſk him whether this Meeting, when this Letter came from the King, adviſing to ſend Commiſſioners to treat with the King at *Breda*; whether was there not a Commiſſion named, and Perſons named to treat?

Far. *William Drake* read Papers, but it was not agreed upon by the Company, becauſe private Perſons could not give Commiſſions.

Ld. Preſident. Was it not debated at that Meeting for a Commiſſion to be ſent accordingly?

Far. *William Drake* read Papers there, that was in the Nature of a Commiſſion; but it was not agreed upon by the Company, becauſe private Perſons could not do ſuch a Thing.

Ld. Preſident. Was it not in order to the Treaty?

Far.

Far. It was to adviſe with them about the Treaty.

Attorn. Gen. Was it not read in the preſence of the Company?

Far. The Commiſſions and Inſtructions were read in the preſence of the Company, but they were not agreed upon.

Attorn. Gen. Was it not in the name of the Preſbyterian Party in *England?*

Far. As I do remember, the Commiſſion was in the name of the Preſbyterian Party, for I did but only hear it read.

Mr. *Love.* Let him ſpeak *viva voce.*

Far. To the beſt of my Remembrance, it was for the Preſbyterian Party, but poſitively I cannot ſay ſo: My Lord, 'tis two Years ſince, and as near as I can remember, it was ſo.

Ld. Preſident. The Commiſſion, you ſay, was not agreed to, but the Letter and Inſtructions were?

Far. William Drake did undertake to draw them up.

Ld. Preſident. Were they drawn up and ſent?

Far. I am not able to ſay they were.

Ld. Preſident. Who were to be the Commiſſioners?

Far. My Lord *Willoughby* of *Parham*, Alderman *Bunce*, Major-General *Maſſey*, Colonel *Graves*, and Captain *Titus*.

Attorn. Gen. What were they to do?

Far. To adviſe, but not to treat in the behalf of the Preſbyterian Party.

Ld. Preſident. Not in the behalf of the Preſbyterian Party?

Far. No.

Attorn. Gen. Was there not an Agreement of Letters to be ſent to the Queen, and no Propoſals that way?

Far. No, my Lord.

Ld. Preſident. What was the Subſtance of that Letter read?

Far. It was, as I remember, to have the Queen perſuade the King to give Satisfaction to the *Scots* in their juſt Demands.

Attorn. Gen. Was it not moved then to be debated what Power they had to ſend a Commiſſion, and by what Authority they ſhould do it, and by whom was it ſpoken?

Far. It was demanded, what Authority had private Men to ſend Commiſſioners?

Attorn. Gen. Did not you go afterwards with ſome over into *Southwark?*

Far. Yes.

Attorn. Gen. Where did you go?

Far. I went with Major *Alford*, and with Alderman *Bunce* his Son, and I went to *Graveſend.*

Attorn. Gen. What other Company was there?

Far. Nobody elſe; nor had I gone, but at the requeſt of Maſter *Alford.*

Attorn. Gen. Did you know that *Maſon* went?

Far. There was no ſuch Man went along with us.

Attorn. Gen. Did no body tell you that *Maſon* went with the Inſtructions agreed upon?

Far. There was a Gentleman we met with at *Graveſend*, that I conceive to be that *Maſon.*

Attorn. Gen. Did he carry the Inſtructions?

Far. I cannot tell.

Ld. Preſident. Did no body tell you ſo?

Far. Not as I remember, I did not ſee any delivered to him.

Ld. Preſident. Do you believe he carried them, out of theſe Circumſtances you heard?

Far. Yes, I believe he did; I am upon my Oath, and to ſay poſitively, I cannot.

Attorn. Gen. Were there not Letters left at your Houſe, and for whom, and what did you with them?

Far. There was at my Brother's Houſe Letters left, but they were returned.

Attorn. Gen. But for whom were thoſe Letters?

Far. They were directed to *William Drake* by *Titus.*

Attorn. Gen. Were you at Colonel *Barton*'s Houſe at the Faſt?

Far. I was.

Attorn. Gen. Who officiated there? Was Mr. *Love* one of them?

Far. I cannot ſay poſitively, I believe Mr. *Love* did.

Ld. Preſident. Do you believe Mr. *Love* was one of them?

Far. I conceive he was one of them, and Mr. *Robinſon.*

Attorn. Gen. Did he not pray for a Bleſſing upon the Treaty between the King and the *Scots?*

Far. That was done, but I cannot ſay it was by Mr. *Love*; but theſe Words were ſaid there.

Attorn. Gen. Were you at a Meeting at Mr. *Love*'s, after the Fight at *Dunbar*, a remarkable Time to this Nation?

Far. I was there, but came in late.

Attorn. Gen. Were you there, when a Letter was read from *Maſſey?*

Far. I did not hear it read.

Ld. Preſident. What do you know of it?

Far. There was ſuch a Letter came, to aſſiſt the King with Money and Arms; but it was not agreed upon.

Ld. Preſident. Do you ſwear ſuch a Letter came?

Far. I cannot ſwear poſitively.

Ld. Preſident. Did the Gentleman tell you ſo?

Far. He did tell me ſo.

Ld. Preſident. The Letter did write likewiſe for Arms and Ammunition, did it not?

Far. Yes, and for Money.

Ld. Preſident. Did not Mr. *Love* tell you, they could not do it?

Far. I did underſtand it was Mr. *Love.*

Attorn. Gen. Did not Mr. *Love* tell you, they agreed to raiſe a Sum of Money for *Maſſey*, and *Titus*, and *Graves*, or ſome of them?

Far. Yes, he did.

Attorn. Gen. What was the Sum of Money, and for whom was it agreed upon? Did Mr. *Love* tell you ſo?

Far. I ſay, Mr. *Love* did tell me it was agreed upon for the ſending of ſome Money, whether 250 or 300*l.* I cannot ſay poſitively; and it was to relieve *Maſſey* and *Titus* in their Neceſſities.

Attorn. Gen. Did not Mr. *Love* move you to contribute to this? And what did you contribute?

Far. Mr. *Love* aſked me, and I did promiſe Five Pounds, and brought Five Pounds and laid it down upon his Table.

Attorn. Gen. Who was in the Room then?

Far. There were ſeveral.

Ld. Preſident. Do you know none of them?

Attorn. Gen. Mr. *Love* ſaith, he hath neither writ, received, nor ſent; but he doth not ſay, he did not mend Letters.

Far. I brought Five Pounds in a Paper, and laid it upon his Table.

Ld. Preſident. And was he in the Room?

Far. Yes, my Lord, but I cannot ſay any elſe was.

Attorn. Gen. I could tell you who there were more; Mr. *Caſe* was there too: My Lord, aſk him if it were not agreed between them, that it ſhould be ſo brought.

Far. As I did underſtand, it was ſo; it was ſo for my Particular, but I cannot ſay it of others.

Attorn. Gen. Did not Mr. *Love* ſpeak to you to that Purpoſe, to bring it in that way?

Far. I cannot ſay he bid me lay it down.

Ld. Preſident. What was the Manner of Mr. *Love's* requiring of you, or notifying of it to you, and the Manner of your Purſuit of that?

[Here Captain *Far* was at a ſtand, and made no Anſwer.]

Attorn. Gen. I will make it very ſhort: Whether this were not done, that there might be no Diſcovery of it?

Far. It was done to that effect, that there ſhould be no Diſcovery of it: I did it under that Notion.

Ld. Pref. And do you not think Mr. *Love* conceived it under that Notion?

Far. I cannot ſay he did.

Attorn. Gen. Were you not ſpoken to by Captain *Maſſey*, to ſpeak to Colonel *Barton* to lend Money?

Far. I did ſpeak to him.

Ld. Preſident. What was that?

Far. Ten Pounds, as I conceived; for I received it from him in a Paper.

Attorn. Gen. To whom did you deliver it?

Far. To Captain *Maſſey*, *Maſſey*'s Brother, my Lord.

Ld. Preſident. You received it from Colonel *Barton.* Capt. *Maſſey* bid you ſpeak to Col. *Barton* for a Sum of Money; and he gave it to you; and you gave it to Captain *Maſſey.*

Attorn. Gen. Was the Money, as you conceived, returned to *Maſſey* and *Titus?*

Far. I cannot ſay it was.

Ld. Preſident. Do you believe it was deſired to be raiſed to that Purpoſe? And do you think it was done according to that Purpoſe?

Far. I do not know.

Attorn. Gen. Whether do you conceive that this Money you thus brought to Captain *Maſſey*, was not for *Maſſey* and *Titus?*

Far. I do conceive it was.

Attorn. Gen. And was not Mr. *Love* commonly at your Meetings? And whether, after *Drake* went away, the Meetings were not at his Houſe?

Far. I met with Mr. *Love* often at his own Houſe.

Attor. Gen. This Money was taken up under the Notion of a charitable Uſe?

Far. I do conceive it was given them under that Notion.

Mr. *Love.* Sir, he gave you a large Account of the Negotiation with *Titus*; pray aſk him if I were privy to it.

Far. I cannot ſay ſo.

Ld. Preſident. Do you believe it?

Mr. *Love.* You ſay the Copy of the King's Letter (you ſuppoſe) that was brought over by *Alford*, was read at my Houſe; whether did I hear the Letter read in my Houſe?

Far. I cannot ſay you did.

Ld. Preſident. Was not Mr. *Love*, when the Letter was communicated, ſometimes in the Room going and coming?

Far. I cannot ſay when it was read; but I ſay he was there during ſome part of the Communication; but I cannot ſay he was there at the reading of the Letter.

Attorn. Gen. Theſe are good Queſtions, my Lord.

Mr. *Love.* The Court will judge of that.

Ld. Pref. But do you not conceive that he underſtood the Contents of it?

Far. I do conceive ſo.

Mr. *Love.* But he doth not ſay it was ſo. He ſaid there was a Narrative read from *Titus*, I deſire your Lordſhip to aſk him, whether I was preſent whilſt the Narrative was read, yea or no.

Far. I cannot ſay any thing to that; I cannot ſwear he was there.

Mr. *Love.* Aſk him whether I did not go often out of the Room.

Far. I did obſerve, that when Mr. *Love* hath been there, he hath been often called away, and hath been abſent; and therefore I cannot ſay ſuch a thing was done when Mr. *Love* was there.

Attorn. Gen. He hath before proved it upon Oath, that he was there ſometimes.

Mr. *Love.* But look before, and he ſaid he could not ſay I was preſent when it was read.

Attorn. Gen. This Narrative, whether was it a Copy written by *Alford*, as News brought over, or the Copy written by *Titus* himſelf?

Far. Alford ſaid it was a Narrative from *Titus.*

Mr. *Love.* Pray, aſk him whether I did ſend *Alford* over, yea, or no; or agreed to the ſending of him over.

Far. I think he did not; but he was ſent by *William Drake.*

Mr. *Love.* My Lord, whether was he not privy to it? He told you *Titus*'s Letter was writ before *Alford* went.

Far. But it was not agreed upon.

Attorn. Gen. Titus's Letter, that he writ, that ſome might come to him, to receive an Account of him, was read at Maſter *Love*'s Houſe.

Mr. *Love.* I move this Queſtion, becauſe *Alford*, who was the Man ſent, confeſſed that *William Drake* ſent him. He pretended there was a Commiſſion read in my Houſe; I deſire to know when, or at what Time; whether before the 29th of *March*, 1650?

Far. I am not able to ſpeak to the Time; it is about two Year ſince, or ſomething under

Mr. *Love.* I deſire, Sir, to aſk him this Queſtion, Whether the rude Draught, written by *William Drake*, or the original Copy was ſent away?

Far. There was only a rude Draught that *Drake* read; and then afterwards *Drake* was to draw it up.

Mr. *Love.* Aſk him whether I gave my Conſent to the ſending away of this Commiſſion.

Far. I cannot ſay Mr. *Love* was there when it was ſent away.

Attorn. Gen. Did Mr. *Love* make any Proteſtation againſt it?

Far. It was agreed by all that the Commiſſion could not be ſent.

Mr. *Love.* Aſk him whether I did not declare in the Company, when there was ſuch Speech of commiſſionating, that it was an high Act of Preſumption for private Perſons to commiſſionate any, and a notorious Falſehood to ſay it was an Act of the Preſbyterians; and whether did not I declare myſelf againſt ſending the Commiſſion?

Far. I did ſay it was agreed upon by all, that we could not ſend the Commiſſion.

Mr. *Love.* I can prove, if I may have the Witneſſes indemnified, that I declared againſt any Commiſſion.

Ld. Preſident. Mr. *Love* hath declared then he knew of the Commiſſion.

Mr. *Love.* I acknowledge the diſavowing of any Commiſſion; I gave my Reaſons for it.

Attorn. Gen. My Lord, I hope you will remember what the Priſoner ſays.

Mr. *Love.* I do not own any thing about concurring with any Commiſſion, but only diſavowing of it. After *Dunbar* Fight, he ſaith, he came late; and he cannot tell whether the Letter was read at my Houſe; only he ſays I told him ſo: And whether was that the Letter, or a Copy of it?

Far. I cannot ſay that.

Mr. *Love.* The moſt that I have done, is but to receive News; and I hope I ſhall not die for that. Was this Letter of *Maſſey* written to me?

Far. I have ſaid already I cannot ſay ſo.

Mr. *Love.* I would be glad to be freed in Court.

Ld. Preſident. You are a very free Man indeed.

Mr. *Love.* He ſpeaks of a Sum of two Hundred and Fifty Pounds, or three Hundred Pounds, ſent to *Maſſey* and *Titus*; pray aſk him whether I did agree that it ſhould be ſent.

Ld. Preſident. Did he diſagree?

Far. I ſaid it was agreed to; but by whom, I cannot ſay.

Attorn. Gen. Did Mr. *Love* at that time diſagree?

Far. I cannot ſay he did.

Mr. *Love.* Did I move Captain *Far*, or ſay, Captain *Far*, will you contribute Five Pounds to *Maſſey* or *Titus*, or any Money?

Far. You aſked me the Queſtion, what I would do.

Mr. *Love.* But for *Maſſey* and *Titus*?

Far. I did conceive it was for *Maſſey* and *Titus*.

Mr. *Love.* He ſays he laid it in my Houſe; and he ſo far juſtifies me, that he cannot ſay I received it; and God is my Witneſs, I never did ſee it in my Life. If another Man agrees to receive Money in my Houſe, I hope the Court will not judge me for it.

Ld. Preſident. It is an eaſy Matter for you to take it, and convert it to another Uſe.

Far. I do conceive that Captain *Maſſey* had the Money.

Mr. *Love.* Now you clear me: Another Man brings the Money, and I do not order him to bring it; and another receives it, and not I.

[Captain *Far* withdraws.]

Attorn. Gen. Now, my Lord, we ſhall conclude in a very ſhort Word, with a Miniſter to a Miniſter.

[Maſter *Jackſon* the Miniſter is called into the Court.]

Mr. *Jackſon.* Sir, I dare not ſwear.

Ld. Preſident. Dare you teſtify the Truth when God calls you to it? For God will appear in no other Viſion than in the Power of Magiſtracy.

Mr. *Jackſon.* I dare not ſpeak againſt this Man's Life.

Ld. Preſident. Dare you ſpeak the Truth before a Magiſtrate?

Mr. *Jackſon.* That that I ſay, is this: That I look upon this Man as a Man very precious in God's Sight; and, my Lord, I fear I ſhould have an Hell in my Conſcience unto my Dying-Day, if I ſhould ſpeak any thing that ſhould be circumſtantially prejudicial to his Life: And in regard of theſe Terrors of the Lord upon me, I dare not ſpeak.

Attorn. Gen. I think all the Jeſuits in all the Colleges have not more deſperate Evaſions or Shifts from the Purpoſe than theſe Men have. My Lord, you now ſee what a deſperate Combination here is, that Men being before Authority, and in the Face of Magiſtracy, in ſuch a Court as this is, ſo eminent in the Preſence of it, and ſo authorized as this is; that Men ſhould dare to dally as they do; and that Miniſters ſhould ſay they dare not ſpeak the Truth: Not when Treaſon is hatched and contrived, they dare not ſpeak the Truth; that this Man ſhould be more precious, though a Traitor, than the Commonwealth, which ſhould be preſerved. I hope we ſhall root theſe Opinions out, or ſome of the Parties that hold them; that I will ſay.

Ld. Preſident. Maſter *Jackſon*, you are one of the Parties in theſe Meetings, you have been at their Meetings; and we require nothing of you but to ſpeak the Truth. St. *Auſtin* will tell you, That to conceal a Truth, or tell a Lie, you had better let the World fall about your Ears. You are required nothing but to ſpeak the Truth; and will you ſay this Truth will be a Torment to your Soul? Are you a Profeſſor of Jeſus Chriſt, a Miniſter of God? The great Errand you are ſent hither about, is to ſpeak the Truth from him. Therefore lay your Hand upon your Heart, and do as becomes you as a Chriſtian, and as a rational Man, and as one that will tell Truth; for by the Truth the World ſtands. We are all no better than ſavage Men, if we have not Judgment to tell Truth one to another.

Attorn. Gen. My Lord, ſuppoſe Mr. *Love* ſhould kill one of theſe Men (that do hear the Debate) in the Preſence of Mr. *Jackſon*, and he ſhould be called to give Evidence, and refuſe it; he may take away any Man's Life. Perſonal Reſpects ſhould be ſet aſide, when we come to Judgment. You ſee, my Lord, the Perſon of this Man, how it is preferred by this Man. That which is the Truth, you are required to ſpeak, and nothing elſe.

Ld. Preſident. Have you any Oath or Promiſe among your Combiners to be ſecret in this Buſineſs?

Mr. *Jackſon.* Never in my Life, my Lord.

Ld. Preſident. Will you take your Oath?

Mr. *Jackſon.* I dare not, my Lord.

Ld. Preſident. What is your Reaſon?

Mr. *Jackſon.* I have told you, my Lord, and I will tell you it again; I am a Man of a troubled Spirit, and I dare not do any thing that ſhould cauſe a Hell in my Conſcience to my Dying-day.

Ld. Preſident. Do you look to die?

Mr. *Jackſon.* Yes, my Lord.

Ld. Preſident. And do you expect to live again?

Mr. *Jackſon.* I truſt in Jeſus Chriſt I ſhall live again.

Attorn. Gen. My Lord, I deſire your Clerk may be commanded to give him his Oath, and he required to take it.

[The Clerk tenders him the Oath.]

Ld. Preſident. Will you take this Oath or not?

Mr. *Jackſon.* No, my Lord.

Ld. Preſident. Then I think you are the Men that were ſpoken of before, Jeſuits and Prieſts: They ſay you are none, but you are their Brethren.

Attorn. Gen. My Lord, theſe go beyond Jeſuits: The Jeſuits will ſwear with a Reſervation, and theſe will not ſwear at all. This Man muſt be proceeded accordingly with; for if this be allowed, I conceive there will be no Juſtice in *England*. And in reſpect of the Quality of his Perſon, Function, and Gravity, by ſo much is it a more pernicious Example, and it aggravates the Thing every Way.

Ld. Preſident. Let it be known here, that it may be diſperſed abroad; and I think there are ſome of moſt Counties of *England*. And this Air is gone forth; this very Plot is ſecretly ſpread with ſome chief Miniſters throughout all *England*.

Attorn. Gen. This Right they have done to many of them, that I believe it will make a more ſevere Inquiſition into theſe Perſons, than otherwiſe there would be: It is not Blood that is looked after, but Confeſſion and Contrition. I am glad that thoſe that are not Clergymen do come in, and the Clergy will not confeſs at all.

[The Court conſults a while.]

Ld. Preſident. Maſter *Jackſon*, for your refuſing to ſwear, the Court fineth you five hundred Pounds, and Impriſonment during the Pleaſure of the Court.

[The Keeper of the *Fleet* is called upon, and commanded to take him in Cuſtody.]

Mr. *Love.* My Lord, I have ſome Motions humbly to make to this Court. The firſt is, to entreat your Lordſhip, and the reſt of the Members of this Court, that if I have let fall any Expreſſions through Inconſiderateneſs, or for Want of Skill in the Law, that have been an Offence either to your Lordſhip, or to any, I beſeech you, if I have ſpoken any derogating Expreſſions, or made any unſeaſonable Motions, that you would impute it to my Ignorance.

Ld. Preſident. None of them ſhall hurt you.

Mr. *Love.* Then I intreat this Favour, That I may have Counſel aſſigned me, and Sollicitors here in Court, and in my Chamber at the *Tower*, and a Copy of my Charge, and convenient Time, as the Nature of the Buſineſs requires, my Charge being long, and I have not read a Word of it, nor the Depoſitions; that I may have, I ſay, Counſel aſſigned me, and convenient time to bring in my Anſwer. And I am confident, thro' the good Hand of God upon me, I ſhall clear myſelf of all the Treaſons charged upon me, and of their Aggravations, through Strains of Wit and Quillets of Law by Inſtruments of State: I am confident I ſhall clear my Innocency, that I ſhall not ſtand a Traitor before you.

Ld. Preſident. They being Inſtruments of State, are Inſtruments of God appointed by the State. For your Time, you have all this Afternoon. Are you not ready?

Mr. *Love.* I was Yeſterday nine Hours locked up in that cloſe Room, and in this Place; and I could not read one Word laſt Night, not out of Trouble of Mind, but through Wearineſs, being kept ſo many Hours in the Court.

Attorn. Gen. My Lord, he hath had a Fortnight's Notice of his Trial to prepare for it. My Lord, we have been two Days; and by the Courſe of Proceedings, if the Gentleman had had his Trial by a Jury, both muſt have been diſpatched in one Day. We are appointed to go on to hear his Defence now, or elſe on *Monday*.

Mr. *Love.* I deſire a convenient Time to bring in my Witneſſes, to make it appear how the Witneſſes againſt me contradict themſelves. I have not yet read the Depoſitions of one Man, and I cannot read the Depoſitions by *Monday*; and To-morrow is a Day that ſome time of it ſhould be ſpent in other Employments.

Ld. Preſident. To do Juſtice, you muſt run out of the Church; and though you were at your Prayers, you muſt forſake Praying and Sabbaths to do Juſtice. Sir, this is of a higher Nature than all your Preaching and Praying.

[The Court conſults a while together.]

Ld. Preſident. The Court all agree to give you till *Wedneſday* Eight o'Clock in the Morning.

Mr. *Love.* I deſire that I may have Counſel here, and in my Chamber.

Ld. Preſident. You have ſhewed nothing theſe two Days that raiſes any Doubt in Matter of Law.

Mr. *Love.* There are ſome things in my Charge, that I doubt this Court cannot take Cognizance of; ſomething in thoſe Acts, and ſomething in reſpect of the Time. It is Matter of Law, whether the Act ſpeaketh of ſending or receiving Letters or Meſſages. And here are eight Witneſſes come in, and never a Man proves that I received Letter, or ſent Letter, or lent any Money. And this I conceive is Matter of Law, whether the Acts reach being preſent only where other Men lay down Money.

Ld. Preſident. You have had Counſel.

Mr. *Love.* My Lord, I have had none.

Attorn. Gen. For Counſel, you are to ſend him none, my Lord: He hath his Liberty; he hath Recourſe for all the People of *England* to come to him.

Mr. *Love.* Counſel have refuſed to come to me; I have their Letters about me.

[Here he reads the Letters of ſome Counſellors, which they ſent to him to the *Tower*, declaring they could not come to him, unleſs they were aſſigned by the Court.]

Attorn. Gen. All that we can ſay to you is, that Counſel may come to you, if they will.

[Maſter *Love* is commanded away; and the Court adjourns till *Wedneſday*.]

The

The Third Day's Proceedings, July *the 25th*, 1651.

THE Court is ſet; and Mr. *Love* is commanded to the Bar.

Attorn. Gen. Mr. *Love*, this is the Day the Court hath given you (according to your Deſire) to make your Defence; and they are ready to hear it.

Ld. Preſident. And I hope thoſe Directions that have been given, have been obſerved, that any Perſons of what Quality ſoever, either Lawyers or others, that came to you, have had in a fair way Acceſs unto you; and that you have been debarred nothing that the Court gave Order for. If there have been any Impediments, we will do our beſt to have them taken away.

Attorn. Gen. My Lord, I have nothing more at preſent againſt him: You have heard that whereof he ſtands accuſed, and the Evidence produced to prove it. And, my Lord, I hope they be ſufficient to convince the Gentleman that there is Proof againſt him for theſe Facts and treaſonable Deſigns whereof he ſtands accuſed. This Day is appointed for his Defence, if he thinks fit to make it. But if God hath otherwiſe wrought upon his Heart, and that he himſelf is convinced that the Charge againſt him is proved to be true; to me it will be the beſt way of his Preſervation. But what way ſoever he thinks fit to take, I ſhall be ready to go along with him in it: And ſo, my Lord, I expect what he ſhall ſay.

Mr. *Love.* My Lord, I ſhall not trouble your Lordſhip and the Court, to bring in at preſent any Witneſſes to teſtify any thing that might invalidate that Teſtimony that ſome have brought in againſt me; I love not to protract Time: But I ſhould betray my own Innocency, ſhould I by my Silence lie under all that Charge and Obloquy which is caſt upon me. And therefore I deem it my Duty, wherein I can, and as far as I am able, to expreſs myſelf before your Lordſhip and the Court. And therefore I humbly crave Leave of your Lordſhip, and this Court, that I may make my Defence for my Life before you.

Although I am denied Counſel to plead for me in this Court, which is ſo juſt and neceſſary a Means for the Preſervation of my Life, yet my Comfort is that of the *Pſalmiſt*, *My Defence is of God, which ſaveth the Upright in Heart, and pleadeth the Cauſe of his Servant againſt him that puffeth at him.*

My Lord, you have granted me that Favour which the *Romans* did to *Paul*, that he might anſwer for himſelf, concerning the Crimes laid againſt him.

In making my Defence, I ſhall humbly crave Leave to proceed in this Method: To ſpeak ſomething, Firſt, concerning the Charge: Secondly, concerning the Witneſſes, and their Teſtimony: Thirdly, ſomething concerning myſelf: And then, Laſtly, ſome Things humbly to propoſe to your Lordſhip and the Court concerning my Charge. Mr. Attorney-General hath exhibited a Charge againſt me, conſiſting of two Parts; of High-Treaſon, and of other High Crimes and Offences. As touching the firſt, comparing the Acts which the State hath made with the Actions which myſelf have done, I know not any perſonal Act of mine (proved againſt me) that renders me guilty, as to Treaſon, by any publick Act of your Lordſhips. And therefore I pleaded the general Iſſue, Not Guilty, as to that.

As to the ſecond, my Counſel having a general Licence to come to me, and ſince having been with me, they have acquainted me, that Preſence with, or Silence at what my Accuſers had done, this renders me culpable by your Acts; and therefore, as to that, I ſhall humbly commit my ſelf to your Juſtice and Mercy.

Concerning, Sir, the Charge laid againſt me, I can ſafely and truly ſay, I am charged with many things which I ought not, being pretended to be done before the Act was publiſhed which conſtitutes this Court. I am charged likewiſe therein with many things that I knew not, and with other things that I did not; and therefore dare not in Conſcience lie under the Obloquy of the whole Charge. I do therefore in general declare and proteſt againſt what is mentioned in the Charge, touching the raiſing of Inſurrections, Seditions, and Rebellions. I may ſay in that regard as *Jeremy* did: I deſire not that woful Day, God he knows.

To the other Particulars, to wit, the Confederation with *Jermin*, *Piercy*, and others, in foreign Parts, to raiſe Forces, I anſwer, I diſlike the very Mention of their Names, or any Concurrence with them in any Practice of ſuch a Nature, who are Perſons whoſe Principles are ſo contrarient to Religion and Liberty.

As touching the other Particulars, to wit, a Correſpondence with the Son of the late King, the Queen, *Jermin*, and *Piercy*, and others mentioned in the Charge; I do declare before you, That I never received Letter from, nor ſent Letter to any of them; nor had I any Correſpondence with them.

There are other Things in the Charge, to which all the Depoſitions of the Witneſſes do not in the leaſt come up: And ſhould I by my Silence render my ſelf obnoxious to the whole, you might judge me to be guilty of that which indeed I am not guilty of.

I obſerve in reading the Charge, that there are many Things in it which the Witneſſes do not in the leaſt ſpeak unto: For, firſt, none of them ſwear that ever I writ Letter to the King, or to the Queen his Mother, or to *Jermin*, *Piercy*, or any other Perſon named in the Charge, or to any Perſon of the *Scotiſh* Nation, ſince the Troubles began.

Again, none of the Witneſſes ſwear that ever I either deſired, or perſuaded, or directed, any Perſon to write any Letter to any Perſons whoſe Names are mentioned in the Charge, or to any Perſon In or of the *Scotiſh* Nation: Nor do any of them ſwear that ever any Letter was written in my Houſe; but that only Letters ſuppoſed to be come from or ſent to the *Scots* were read there; which I do not deny. Again, none of them ſwear that ever I did ſo much as read a Letter in my Houſe, or other where, that was pretended to come from the *Scots*, or pretended to be ſent into *Scotland*. Further, none ſwear that ever I gave my expreſs and particular Aſſent to the ſending away of any Letter. And none ſwear that ever I collected one Penny of Money either for the King, or the *Scots*, or any Perſon in *Scotland*. That which is affirmed by one Teſtimony, to wit, by *Alford*, that I moved for Money, I ſhall anſwer when I come to it. Again, none of the Witneſſes prove that ever I invited any Perſon, or foreign Forces, to invade the Nations of *England* and *Ireland*; which yet is laid expreſly to my Charge, in the Charge read againſt me. None likewiſe prove that ever I plotted, contrived, or endeavoured to raiſe Forces, Tumults, or Inſurrections within this Nation againſt the preſent Government. None ſwear that I was a Correſpondent. Indeed *Adams* in his Teſtimony had theſe Words (which both the Notary and myſelf took), That he took me to be a Correſpondent. But when I had your Lordſhip's and the Court's Leave to put this Queſtion to him, Whether upon Oath he would affirm I was one? his anſwer was, That he could not poſitively ſay I was ſo; but he ſaid, He did conceive I was a Correſpondent; but did not ſay I was ſo. So that, Sir, as to theſe Particulars, there are none of the eight Witneſſes (neither the ſeven that have been ſworn, nor yet Maſter *Jaquel*, whom I do not take to be under an Oath) that do charge any of theſe Particulars upon me.

I have a Word alſo to ſpeak concerning the Witneſſes who are my Accuſers; and I might ſay there is an Incompetency in them, as to their Number. There are many Particulars ſworn againſt me, to which but one Witneſs hath ſworn to one Fact; and this I ſhall humbly offer to your Lordſhip's and the Court's Conſideration. I might alledge alſo an Incompetency as to their Quality: They are not only Perſons accuſed of Treaſon, and ſo are not to be believed, but they have made an open Confeſſion of that which is Treaſon by your Act, and ſo are not *legales Teſtes*: They have done that by an open Confeſſion, which, as I am informed, is equivalent to a Conviction: They have confeſſed ſending of Letters, receiving of Letters, and lending of Money; but they have proved none of theſe Things againſt me. Now they having both given it under their Hands, and alſo publickly declared that they have done theſe Things, I cannot judge them competent Witneſſes againſt me: But this I muſt leave to the Court's Conſideration.

Sir, concerning the Incompetency of their Number, to that wherein two Witneſſes do concur, I am concluded; and wherein they have teſtified any thing true, I would not deny it for all the World; and wherein they agree in their Teſtimony in a Truth, therein I will be candid, and ingenuous to acknowledge it.

My Lord, though the Charge be long, and my Time but ſhort, and the Depoſitions many Sheets of Paper (and truly I could hardly read them over till late laſt night); and yet through the good Hand of God upon me, I ſhall labour to make as plain and clear a Defence as God ſhall enable me.

Sir, in reading over the Charge, I obſerve, that thoſe things which ſeem moſt criminal againſt me, are ſworn to but by ſingle Teſtimony; and I will mention, with your Lordſhip's Leave, a few Particulars.

Firſt, Touching the Letters ſaid to be from *Titus*, the Effect of it being, as was ſaid, to deſire ſome to come over to *Calais*, that he might give them Information touching Affairs at *Jerſey*; none but *Far* ſwears that this Letter was read in my Houſe. The other Witneſſes, ſome ſay, it was read in one Place, and ſome in another: *Alford*, I remember, he ſays he heard it from *William Drake*; and *Adams* ſays, it was read in *William Drake*'s Houſe: But none but *Far* ſwears it was read in my Houſe. There is likewiſe none but *Far* ſwears, that Major *Alford* was deſired in my Houſe to go to *Calais* to *Titus*; neither *Jaquel*, nor *Potter*, nor *Alford*, nor *Adams*, nor any of the reſt lay this to my Charge: It is only *Far* that lays this to my Charge; and he doth it moſt untruly, which I will make out unto you by an undeniable Demonſtration.

He ſays, that at a Meeting at my Houſe, the Company did deſire Major *Alford* to go to *Calais*. Now if your Lordſhip obſerves *Alford*'s Teſtimony, he tells you upon Oath, that he was never in my Houſe till after he came from *Calais*, nor ever ſpake with me in my Life till after he came from *Calais*; therefore could not be deſired in my Houſe to go to *Calais*. So that, Sir, I will not lay it upon the Badneſs of *Far*'s Conſcience, but upon the Badneſs of his Memory. I do not think he is ſuch an Atheiſt, to ſwear falſly deliberately; but being aſked ſo many Queſtions as he was, for he was aſked four-ſcore and eighteen Queſtions by Mr. Attorney, and ſome of the Court, he might eaſily ſay he knew not what.

And I ſaw the Man was confounded, and it was hinted to him what to ſay, by the Help of the Papers, and Examinations taken from him in private, and ſhewed to him in publick: So that, Sir, I ſaw the Man under a Temptation. I was loth to mention this then, though I knew his Teſtimony herein to be falſe, becauſe I would not anticipate my laſt Anſwer.

A third Particular charged upon me by one Witneſs only, is a Copy of a Letter (not the Original, none ſwears that) that *Alford* received from *Titus*; and he told him, it was a Copy of a Letter from the King. Now *Far* he ſwears, that the Subſtance of the Letter was to deſire Commiſſioners to be ſent over to *Breda*, at the Treaty there: Now *Alford*, who pretended to receive this Letter from *Titus*, being aſked the Queſtion, he ſwears that there was no ſuch thing in the Letter that he knew of. Now truly, if any did know the Contents of that Copy of a Letter, it muſt be *Alford*, who brought it over: I beſeech your Lordſhip therefore to conſider it, and though the Charge againſt me be very high, and my Condition very low, and the Oppoſition againſt me very great; yet I hope I am in the Hands of merciful and juſt Men, and that wherein you ſee but ſingle Teſtimonies, that therein you would be very tender in proceeding to a Sentence againſt me upon thoſe Teſtimonies.

Again, in the next Place, I obſerve a ſingle Teſtimony only in another Buſineſs, and that is Major *Alford*. None but he, of all the Witneſſes, did ſwear that it was agreed upon among us, that is, at my Houſe, That a Commiſſion and Inſtructions ſhould be ſent over to the Lord *Willoughby* of *Parham*, *Maſſey*, *Titus*, and Alderman *Bunce*; none, I ſay, but *Alford* ſwore this. *Adams* indeed ſwore, that there was a Motion, that this ſhould be; and *Huntington* ſwore this, that Mr. *Love* ſhould ſay, Come, come, let it go; (to which I ſhall anſwer when I come

come to it). But *Far* ſaid expreſsly, three times in Court, being upon Oath alſo, That all the Company were againſt ſending away the Commiſſion. And *Alford* he only ſwears, That the Commiſſion was agreed upon.

I hope your Lordſhip and the Court will judge which of theſe to believe; and for *Alford*'s affirming that it was agreed upon among us, I am ſure, if he had any Conſcience, he could not ſay that I agreed to it. I will not deny (now Witneſſes have proved it) but that I was preſent. But I did expreſs myſelf againſt the Commiſſion and Inſtructions, as being an Act of high Preſumption, for private Perſons to ſend Commiſſions and Inſtructions; and as being an Act of notorious Falſehood, that it ſhould run in the Name of the Preſbyterian Party, when none did know any thing of it, that I know of, but only thoſe that were then in the Room. And I beſeech your Lordſhip and the Court to conſider, that this is not only a ſingle Teſtimony, but that it is ſaid to be done in the Year 1649, a great while ago, my Lord. And ſo the Buſineſs of *Titus*, if it had been true, was done ſome time before that: ſo that, Sir, it being done before the Act of the 26th of *March* 1650, which conſtitutes this Court, herein I hope it will not be deemed criminal, if I had agreed to and approved of the Commiſſion, which I never did. Another Particular, to which I obſerve there is but a ſingle Teſtimony, which is *Alford* alſo; he ſwore, that at a Meeting at my Houſe, I moved for Contribution of Money to *Titus*; none ſwore this but only he. *Adams* ſwore, I took Pen and Ink in my hand, but he knows not what I writ. Others ſwore, That I was ſometimes preſent at the Meeting; but none but *Alford* ſwore, that I moved at a Meeting for Contribution of Money. Now, Sir, as to that, it is but a ſingle Teſtimony; and if it were true, I do not deem it comes under the Act, becauſe the Act (of which I was ignorant till the day I heard it here in Court) of the 2d of *Auguſt* 1650, that Act doth adjudge this to be Treaſon, to wit, *The ſending, or cauſing to be ſent, Money, Horſes, or Arms into* Scotland. Now, Sir, if it had been true, which this Witneſs depoſeth, That I at a Meeting did move for Money, yet he proves not againſt me, that ever I received or ſent away a Penny; and if I had moved it, that had neither been ſending away of Money into *Scotland*, nor a cauſing of Money to be ſent away; and ſo brings me not, as to Treaſon, under your Act.

Another thing, unto which only a particular Witneſs ſwore, to wit, *Far*, is, That I moved him particularly to contribute Money. He chargeth not this at a Meeting, as *Alford* doth; for he ſays, he came in late, but ſaith that it was a perſonal Motion to him alone: And he doth not ſay, that I moved him for Money for *Maſſey* and *Titus*, but that I only aſked him this Queſtion, *Captain* Far, *what will you do?* And if your Lordſhip conſider it, and that your Notaries have taken right, you ſhall find that to be his Anſwer, which I ſhall anſwer when I come to it. And thereupon he confeſſes he brought five Pounds to my Houſe, but he doth not tell you that I received it; and God is my Witneſs, I never ſaw it, nor received it, nor did I give any Directions about it. But as *Far* was going out of the Court, he named Captain *Maſſey*, the Perſon which he thought received the Money; for which he was rebuked by ſome that were by him, that ſo the greater Odium might lie upon me: as if becauſe the Money being brought to my Houſe, I muſt needs therefore receive it. His Name, as I am informed, that rebuked him for declaring who received it, is Captain *Biſhop:* ſo that they would inſinuate into your Breaſts, who are my Judges (who I hope will be conſcientious), That it was I that received the Money, when the Witneſs meant honeſtly, that another received it. But if I had received it, or moved for it, yet he is but a ſingle Teſtimony to that Particular. Again, in reading the Depoſitions, I take notice that there is only a ſingle Teſtimony to thoſe Words (upon the reading, reading I cannot ſay, for I never read it; upon the hearing ſome Papers read, ſuppoſed to be a Commiſſion) that *Huntington* ſwore, that I ſhould ſay, *Come, come, let it go.* Thoſe were his Words; but the other who were there preſent, two or three of them being aſk'd, whether they heard me ſpeak ſuch words, they all of them denied that they heard any ſuch Words. Now truly this *Huntington* is a Man whoſe Face I never ſaw before that Day, nor ſince, till I ſaw him here in Court: and if I had known that a Buſineſs of any dangerous nature had been come to my Houſe, which I did not, (for I knew no more of it, than any here preſent, before *Drake* took the Papers out of his Pocket, which *Huntington* confeſſes were written in Characters, and read by *Drake*) I ſhould have been accounted a very indiſcreet Man, to ſpeak any ſuch Words in the preſence of a Man whoſe Face I never ſaw before. And for thoſe Words that I ſhould ſay, *Come, come, let it go*; I hope your Lordſhip and the Court will be ſatisfied, that I never ſpake any ſuch Words, as to the Commiſſion and Inſtructions; for then I ſhould have contradicted myſelf in one breath: for at the ſame time I had ſpoke againſt it.

Again, I obſerve in the Depoſitions, none but *Adams* affirms that there was a Letter, *which*, ſays he, *was declared to be directed to the General Aſſembly of* Scotland. He doth not ſwear it was directed to the General Aſſembly, but that it was declared to be ſo, and ſo ſwears by Hear-ſay. None but he, I ſay, affirms upon Oath, That at my Houſe there was a Letter read, which was declared to be directed to the General Aſſembly. And he ſays further, He thought this Letter was penned by Maſter *Love* or Dr. *Drake:* But I beſeech your Lordſhip and the Court to conſider by what reaſon he did conceive this; and I hope your Lordſhip will diſtinguiſh between a poſitive Aſſertion, and a conjectural Suppoſition. For being aſk'd, why he conceived ſo? *I conceive ſo*, ſays he, *becauſe of the Language of it:* as if he that never ſaw any Letter of mine, to know that poor and low Style I write in, ſhould conceive that either I, or that other Gentleman named, ſhould pen that Letter, merely becauſe of the Language of it, it being (he ſaid) in order to promote the Ends of the Covenant. I hope the Court will judge of the Inſufficiency of this Evidence; and were it never ſo clear, yet as to that Particular, it is but one Teſtimony.

Again, none but *Adams* ſware concerning a large Letter, that, for my part, I never knew of, till the day he affirmed it here in Court. A large Letter, he ſays, in the nature of a Declaration, penn'd, as he thought, by Maſter *Love* or Dr. *Drake*, wherein it ſhould be ſaid, That they could not ſend Money till the *Scots* did appear more conſiderable, and grew nearer to Action: Yet he confeſſes he had no ground to ſay Maſter *Love* penn'd it. And indeed he had not. But, Sir, as for this Letter, though I durſt not for a World deny any thing which I know to be true; yet God is my Record, to my Knowledge, I never ſo much as heard any mention of it. And as for theſe Words he ſpeaks of to be in the Letter, I know nothing at all of them; nor did I ever hear them, as I know of, till I heard him affirm them here in Court.

But if it had been ſo, yet he is but a ſingle Teſtimony; and I beſeech your Lordſhip to conſider, that he ſays it was to this effect, or this was the Subſtance of it: Now I hope ſo many grave Judges and Lawyers that ſit upon my Life, and ſo many conſcientious Men, will be tender of a Man's Blood, when a Man ſhall come in with Evidence, and ſhall ſhew neither my Hand, nor the Letter, nor the Original, neither Copy, nor Tranſcript, nor any thing but the vain Rovings of a Man's Memory in things ſpoken or done ſo long ago; and that a Man ſhall come in againſt a Man's Life, and ſhall only ſay, that this was the Sum or Subſtance of it, or it was to this effect. And I being a Divine, I ſhall not ſpeak as to Matter of Law, that this is inſufficient Teſtimony; but as a Scholar, and one that ſtudies the Scriptures, I ſhall obſerve one memorable Inſtance that pleads my Juſtification in this Particular, and they are the Words of Chriſt; Chriſt ſaid, *Deſtroy ye this Temple, and in three Days I will raiſe it up*, John ii. 19. Now the Scripture in *Mark* ſays, *There aroſe certain, and bare falſe Witneſs againſt Chriſt, ſaying, We heard him ſay, I will deſtroy this Temple*, &c. *Mark* xiv. 57, 58.

I beſeech your Lordſhip to conſider, that in this Teſtimony of the falſe Witneſſes againſt Chriſt, there is only the Variation of a Word, and the Addition of a Letter; there is the Addition of a Letter *I*, and the Alteration of the Word *ye* for *will* (there's all); for Chriſt did not ſay, *I will deſtroy*, but, *Deſtroy ye*; and yet the Scripture takes notice of it, that this Addition of a Letter and Alteration of a Word brought his Accuſers under a falſe Teſtimony, though they ſpake according to their Intention; for they did verily believe he ſpake of the Temple: for they ſaid, Forty Years was it in building. So that I beſeech you be tender in Matters of Blood. I know you who are ſkilful in the Law do know, that the Proof of Treaſon muſt be as clear as the Sun, *Probationes oportent eſſe luce clariores.* Now when a Man ſhall come againſt a Man's Life, and cannot ſhew any Letter that ever he wrote, or that ever he did receive, but ſhall only ſwear it was to this effect, or to this purpoſe, or I believe this was the Subſtance of it; I hope you are ſo wiſe and conſcientious, that you will paſs no Judgment upon this conjectural Evidence.

Another Particular, to which only one Witneſs teſtifies, and that is *Adams*; he ſwears that I ſhould ſay, That if the Preſbyterians were in Arms, by the Bleſſing of God, Malignants might be prevented from getting the day. Truly, I do not know what Crime is in theſe words, but as they may be wreſted. But, Sir, I do remember that this *Adams* hath often come to my Houſe; he ſaid ſeven or eight times, he might have ſaid ſeven-and-twenty times; for he hath come ſometimes once or twice a Week to my Houſe, to tempt me (as I now perceive) and hath offered me Money; and would aſk me whether I knew any thing for a publick Uſe that might require Money: And though I never ſuſpected him, yet ſo free am I from maintaining Correſpondency, or from having Intelligence, or contributing of Money to maintain a War, that I never received one Penny of him in my Life, though I have been moved to it by him: But I remember, of late eſpecially, about a quarter of a Year before I was in Priſon, he would come once or twice a Week to my Houſe, and he pretended that he was wrought upon by me, and that I had turned him from his malignant Principles; for he was very violent for *Hamilton*'s Invaſion of *England*, which I was, and to this Day am againſt; and I did labour to poſſeſs him what a miſchievous Deſign that was: and ſo he pretended to be turned to my Principles, and upon this got ſome room in my Affections. But theſe words were not above a fortnight before I was committed to Priſon; and I remember the Occaſion of them was this: I was bewailing the great Alienation and Difference that there was between the Preſbyterian and Independent Party (though I do not love names of Diſtinction); and indeed thus I ſaid, that if the godly Party, that were now diſunited and disjoined, both of the Diſſenting and Preſbyterian Way, were in Arms, there were no Hopes that ever the Malignants ſhould get the Day. And God is my Record, I ſpake nothing to him but to this Purpoſe. And thus, through the good Hand of God upon me, I have ſpoken to what I obſerve in reading the Depoſitions, wherein I find but ſingle Teſtimonies againſt me.

I ſhall now crave Leave (which is the main of my Work) to run over the Depoſitions as briefly as I can; for I ſhall not trouble you with large Speeches: but being the Depoſitions were large, and the Witneſſes many, your Lordſhip and the Court (I hope) will bear with me with the more Patience, if I ſpeak more largely in it. It is my Duty to ſpeak for myſelf, and it is for my Life.

The firſt Witneſs that appear'd in Court againſt me, was *Henry Potter*. As to his Teſtimony, there are many Particulars which he was aſk'd about me, to which he ſpake but conjecturally; *as he thought*, and *as he believed*, and *as he conceived*. And when Papers by Mr. Attorney-General of his Examination were tendered to him, he anſwered, That *then he had a Latitude to ſpeak more than he durſt affirm upon Oath.* And upon this I ſhall humbly crave leave that I may make this Motion to you, That you would not, in paſſing Judgment upon me, hearken to any private Examinations, which are extrajudicial, to be brought in Court againſt me; for moſt of the Witneſſes had their private Examinations ſhewed them in Court, and were read to them, and they did not ſpeak in their Relations of what they knew, but what they conceived; and when they could not tell what to ſay, then their Examinations were produced to direct them: and I hope your Lordſhip and the Court will take notice of this. And herein I cannot but acknowledge the Juſtice of this Court in this Particular, That you would not receive private

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Examinations till they came Face to Face, that I might anſwer to the Crimes laid againſt me.

But as to his Teſtimony, I ſhall not run over Things that touch me not, I muſt not flatter my ſelf to paſs over Things that concern me: For I know it will be looked upon with more prying Eyes than mine are. There are only two Things in his Teſtimony that concern me: He ſpeaks not of any Meetings at my Houſe that he knows of; he ſpeaks not of any Money that ever I lent him or gave him, though there was a narrow and exact Examination of him in thoſe Particulars. But two Things concern me in his Depoſition; the one is, That he received a Letter with a great *L.* upon it, from one Colonel *Bamfield*, which was a Narrative of the Affairs of *Scotland*; which Letter, with two more incloſed, from my Lord of *Argyle*, *Lowdon*, and *Lothian*, he ſaid, he brought them to Mr. *Love*'s: and herein I might take Notice, that he forgot himſelf a little, for he might have ſaid, that he brought them firſt to Mr. *Jaquel*'s; for *Jaquel* did affirm in Court, that *Potter* brought the Letters to him, and ſpake to him to come to me. The Subſtance of the Letters from the Earl of *Argyle* and the reſt, he ſays, were to move for Ten Thouſand Pounds; and (as I remember) *Jaquel* ſays, for Five Thouſand Pounds: But *Potter* himſelf acquits me in this Matter; for he doth not ſwear the Letter was to me, nor could he ſwear it juſtly; nay, he ſwears he did not think it was to me. And as for this *Bamfield*, he is a Man whoſe Face I never ſaw to this Day: and he ſwears, (and indeed he had been injurious if he had not told you thus) that when he came into Mr. *Love*'s Houſe, he ſaid, *Mr.* Love, *I have News to ſhew you.* And unleſs Things be aggravated againſt me, by the Inſinuations of Men, and by rigid Inferences and Collections, this will be the worſt charged upon me, That there were ſeveral Meetings at my Houſe, and ſeveral Letters read there, which I do not deny. But, Sir, he confeſſes that he ſaid [*Mr.* Love, *I have News to ſhew you*]; and that he opened ſome of the Letters, and that ſome were not opened when he brought them: But neither he nor *Jaquel* ſwears, that I opened them; and he tells you, That he carried away the Letters with him. And he ſwears further, That both my ſelf, and all that were there preſent, did manifeſt an utter Diſlike and Deteſtation of thoſe Letters. But herein I know what will be laid to my Charge; it will be ſaid, Why did not Mr. *Love* reveal them? Truly, in this I do ingenuouſly ſay, That I did conceive by reading of the Act that conſtitutes this Court, That thoſe only were bound to reveal, that did receive them; and not that I was bound to reveal that which another Man received. But herein I am better informed by my Counſel, and they tell me, That Preſence with, or Silence at what others do, makes it a criminal Fact in me, if the Matter of the Letter be criminal and treaſonable by your Acts; and therefore in this, that I did not diſcover them, I ſhall humbly beg your Favour.

This Paſſage of C. Potter's [Mr. *Love*, I have News to ſhew you] *was through ſome Miſtake left out of his Depoſitions.*

The next Thing in *Potter*'s Teſtimony that toucheth me, is, he ſwears that he heard of a Propoſition for raiſing of 400 *l.* for *Titus* and *Maſſey*; but he varies from the others: *Alford* ſaid, 2 or 300 *l.* and *Far* ſaid 250 or 300 *l.* and *Potter* ſaith, 400 *l.* But he ſaith he was not preſent, when the Propoſition was made, and therefore he cannot ſpeak as to that. But yet, ſaith he, *I brought Ten Pounds to Mr.* Love's *Houſe, and there left it* (five or ſix Perſons more being in the Room). Mr. Attorney-General was pleaſed to aſk him, Whether he did not give me a Twitch by the Hand or Cloke, when he brought it? *Potter*, I remember, denies that he did ſo; and I do not remember that ever he did it, nor do I remember that ever he laid a Penny of Money down in my Houſe: And I tell it you in the Preſence of God, I never ſaw it, nor received it to this very Day. But, Sir, if he had given me a Twitch, which is intended as an Aggravation againſt me, I hope a Judicatory will not proceed upon ſo ſilent a Thing as that is: Though *Solomon* ſays, *There is a Teaching with the Fingers*, Prov. vi. 13. yet that is ſo ſilent a Thing, that a Court of Judicatory cannot take Notice of it, unleſs it be manifeſt and apparent by ſome Act. And therefore ſeeing he doth not affirm that I ſaw the Money laid down, or that I received the Money, or directed or ordered him to come to my Houſe with any Money, I hope you will not lay that to my Charge. And thus I have done as to that Particular.

There is only one Thing more in Order to the Letters he was examined about. He was aſk'd what Anſwer was returned to thoſe Letters that he received from *Bamfield*, and the Earl of *Argyle* and the reſt, that he ſhewed Mr. *Love?* To that he gave this Account, That a Letter was left at his Shop, which he thought, he ſaid, came from Mr. *Love*, or Doctor *Drake*. Now, Sir, for my Part, I declare in the Preſence of God, That I never in all my Life, either wrote or ſent, or left a Letter at his Shop: And although I am not to plead another Man's Cauſe, yet I believe that godly Miniſter he mentions will clear himſelf alſo; but I muſt only ſpeak to my own Defence. For my Part, I never in my Life ſent a Letter to his Shop, written to thoſe Perſons: And he only ſwears, that he thought the Letter left in his Shop came from me or Doctor *Drake:* But how could he know from whom it came, or what was the Matter of it? And if it had come from either of us, which he did not affirm, yet he doth not ſay he opened the Letter, and ſo could not tell the Contents of it, that it was an Anſwer to the ſuppoſed Letter he ſhewed me. I have only one Thing to obſerve in his whole Teſtimony, and that is, That he confeſſes, until he had a Sight of other Men's Examinations in private, to wit, of *Alford*'s and *Adams*'s, the Things did not come to his Remembrance, or Words to that Effect he hath in his Depoſitions; and that there were ſome Things to which he could not ſpeak exactly, till he firſt ſaw ſome Informations; and that Mr. Attorney-General did ſhew him ſome Informations, and that did bring Things to his Remembrance; and that before Capt. *Fiſher* and Mr. Attorney did prompt him, and remember him, he had forgot. So that, Sir, I beſeech you conſider, whether this be a clear and a good Teſtimony in Law, That when a Man hath forgot a Thing done ſo long ago, he ſhall through the Examinations of others have his Memory rubb'd up, and then ſhall come here in a publick Court to teſtify this againſt a Man's Life.

The next Witneſs is Major *Alford*: he gives you a large Relation about ſending *Titus* to *Jerſey*, and of 100 *l.* given him for his Journey, and of Letters to the Queen, and *Jermin* and *Piercy*. My Lord, I am as ignorant of all theſe Things as the Child unborn, and did never know that *Titus* was gone or ſent to *Jerſey*, by any Perſon, till a long Time after I heard he was there, and till I heard of his Name in the *Diurnals*, that he was an Agent for ſome Preſbyterians; till then, God is my Record, I knew nothing of that: And I need not ſpeak to this; but becauſe this was Part of my Charge, and brought into the Court, many may imagine, as if I were guilty upon the whole Matter. But that which concerns me, is this: He affirms that the Commiſſion and Inſtructions were agreed upon at my Houſe, to ſend to ſome Perſons, to wit, my Lord *Willoughby* of *Parham*, *Maſſey*, *Titus*, and Alderman *Bunce*, to treat at *Breda*; and this to be in the Behalf of the Preſbyterian Party.

Now, Sir, I ſhall humbly crave Leave to offer, wherein this Teſtimony is not only diſagreeing with the Teſtimony of others of the Witneſſes, but even to his own Teſtimony alſo. For here he ſays, it was agreed upon at Maſter *Love*'s Houſe; and in three Leaves after he ſays, It is true, there was a Commiſſion and Inſtructions read at Mr. *Love*'s Houſe; but whether they were agreed upon there or no, ſaith he, I know not. I do not ſay he hath a bad Conſcience, but ſure I am he hath a bad Memory. He diſagrees with the Witneſſes alſo; for *Far* did expreſly affirm upon Oath, That all the Company was againſt ſending them away; and therefore for *Alford* to ſay it was agreed upon among us, in that I am ſure he doth not ſpeak truly. Another Thing which *Alford* lays to my Charge, is about a Letter, which after *Dunbar*-Fight ſhould come from *Maſſey*, wherein he ſhould write for Money, and for Arms, by the Way of *Holland*; and he ſwears this Letter was read in my Houſe, and ſays, That upon the Reading of it, I did move for the Contribution of Money to be raiſed for the Supply of *Titus*. Now before I anſwer to that, though I am not in a Condition to retort, yet I ſhall humbly crave Leave, without Offence to Mr. Attorney-General, to intreat the Court to take Notice of this one Thing: Maſter Attorney-General, when the Witneſs had ſpake theſe Words, did pray your Lordſhip and the Court to obſerve, that *Maſſey* wrote for Arms, and Mr. *Love* moved for Money; as if he would inſinuate to the Court, That he writing for Arms, and I moving for Money, that my moving for Money was to buy Arms. Now *Alford* upon Oath did declare, That every Man there was againſt Arms, and he only ſaid, That the Motion for Money was to ſupply the perſonal Neceſſities of *Maſſey* and *Titus*, who were in Want. So that I intreat you to conſider it, that that Inſinuation of Mr. Attorney-General might not be aggravated againſt me, and that a bad Inference might not be drawn from it; as if he writing for Arms, and I moving for Money, that that Money ſhould be to buy Arms; which is contrary to Major *Alford*'s Oath. Again, another Inſinuation of Mr. Attorney-General is this: He prayed your Lordſhip and the Court to conſider, That I moved for 300 *l.* Now this is contrary to *Alford*'s Oath; for *Alford* hath theſe words, *Mr.* Love *did move for the Contribution of Money, but there was no Sum ſpoken of.* Now when he ſhall affirm that there was only a Motion for Money, but no Sum ſpoken of, ſhall this be laid to my Charge, as if I moved for 300 *l.?* Therefore I intreat you, that thoſe Inſinuations and Aggravations of Mr. Attorney-General may not be laid upon me; and that ye would take no Notice of any private Examinations, nor yet of any Aggravations of thoſe who are Inſtruments of State, but upon the plain Depoſition of the Witneſſes; and according to their Teſtimony and your Conſciences I muſt ſtand or fall. *Alford* ſaid further, That after he came from *Titus*, he gave an Account of a Narrative, and of a Copy of a Letter from the King of *Scots*. What he might bring I know not; and if he did, I never deſired him, either to go to *Calais*, or to come to my Houſe: For I never ſpake with him, as I remember, till after he came from *Calais*; nor till the Time, he ſays, the Letter and Narrative was read in my Houſe. Now, Sir, he only ſays it was a Copy of a Letter (not the Orinigal): *That* Titus (ſaith he) *did ſhew me a Copy of a Letter, at leaſtwiſe, which he ſaid was from the King to the Preſbyterian Party.* So that this which is the Foundation of the reſt of the Teſtimony, is only this, That the Copy of the Letter was read at my Houſe, and that it was a Copy of the King's Letter. This he affirms only upon Hear-ſay; for he ſays, *Titus* told him ſo: But who can ſwear, either that *Titus* had the original Letter, or that this was a true Copy? Nay, might it not be a fictitious Thing, either of *Titus* or of this Man, as may well be ſuſpected? So that they that receive Letters, if that be Treaſon, and thoſe that write Letters, and ſend Money, if they be Traitors; yet they have proved none of theſe againſt me, and yet I only am arraigned, and they in hope of Favour.

Again, I deſire the Court to take Notice, though Captain *Far* ſays there was this Clauſe in the Copy of the Letter from the King, *to ſend Commiſſioners to* Breda; (and yet he overthrew his Oath afterwards; for he ſays, It is ſo long ago, that I cannot remember it: but I ſhall ſpeak to that when I come to it) yet *Alford*, that brought this Letter, affirms, That he did not know it was to deſire Commiſſioners to be ſent; and if it had been ſo, I ſhould never have done it, and never did it. At that Time I was in my Study, I do not deny it; but when *Drake* read the Commiſſion, I did declare my Diſlike of it, and Deteſtation againſt it; and ſo did (as *Far* affirmed) either moſt or all the Company: And if any ſuch Thing were ſent, God is my Record, I did neither know of the Writing of it, (other than in Characters) nor of the Contriving of it, nor yet of the Sending of it away, till I heard *Alford* confeſs in the Court, that he carried this Commiſſion to *Graveſend* to one *Maſon*, a Man whoſe Name I never heard of before I was in Trouble. And if I had written and conſented to it, yet it was in the Year 1649, as Major *Huntington* ſwore, and therefore was before the Time that your Act could take hold of me, if I had concurred to it, which I never did. Again, he inſiſted upon it, That I moved for a Contribution. Now herein I beſeech your Lordſhip, that I may offer theſe two Things:

Firſt, This is but the ſingle Teſtimony of one Man, and by the Law of God, and of the Land, a Man muſt not die, but under the Teſtimony of

Two or Three Witneſſes: in the old Teſtament, *Deut.* ix. and xv. *One Witneſs ſhall not riſe up againſt a Man for any Iniquity, or for any Sin in any Sin that he ſinneth. At the Mouth of Two Witneſſes, or at the Mouth of Three Witneſſes, ſhall the Matter be eſtabliſhed.* And leſt this might be thought to be a Judicial Law pertaining only to the Jewiſh State, it is therefore quoted four Times in the New Teſtament; by Chriſt, in *Matth.* xviii. by *Paul*, in 2 *Cor.* xiii. and in two other Places, as noting it to be a Law of moral Equity, That no Man's Life ſhould be taken away but by expreſs and clear Teſtimony of two ſufficient Witneſſes. Now in this that may ſeem moſt to pinch upon me, that I ſhould move for Money, there is but one Witneſs; and it is, as I am informed, contrary to the Laws of the Land, and the Statute of the 1ſt of *Edward* the Sixth, which provideth, That no Man ſhall be indicted, arraigned, and convicted for Treaſon, but by two lawful and ſufficient Witneſſes: and therefore I beſeech your Lordſhip and the Court, that you would be tender in thoſe Things, wherein you find but one Witneſs ſpeaking.

The other Thing that I ſhall ſay to this Point, about moving for Money, is, That I humbly conceive the Act doth forbid relieving Perſons in Arms; but now no Perſon can be relieved by a bare Motion: It is not the Motion, but the having the Money moved for, before the Perſon in Arms can be ſaid to be relieved; and if it were true, yet it is not proved, That thoſe Perſons were then in Arms. The other Act of the Second of *Auguſt*, I conceive, gives me Relief, if I had moved for Money; for it judges thoſe only to be guilty of Treaſon, that ſhall either ſend, or cauſe to be ſent, Money, Horſe, Arms and Ammunition into *Scotland*. Now, Sir, if I had in a Meeting moved for Money, yet he tells you not how much I moved for; for aught he knows it might be but for Six-pence, for he cannot ſwear to it: and I hope, when the Sum is not ſpoken of you will be very tender. Yet this comes not under your Act, either to be a ſending of Money into *Scotland*, or a cauſing of it to be ſent, which is not the leaſt faſtened upon me. When I aſk'd him (though he ſwore I moved for Money) whether I contributed any Money my ſelf? to that he anſwered, he could not ſay I did, nor could any of the Eight Witneſſes that came againſt me. And thus I have done as to his Teſtimony.

The third Witneſs is Major *Huntington*; and he affirms, That in the Year 1649, one aſk'd him to go to my Houſe, and told him there were ſome there at Prayer, and that he might there hear ſome News; and that he ſpake upon Hear-ſay: But then he ſpake upon Oath, *And when I came there, Prayer was done.* Now for a Man to be ſo poſitive in the firſt Entrance of his Teſtimony, as to ſay Prayer was done, when he could not know that there was any Prayer there at all: (for when he came, it ſeems there was no Prayer; and how then could he know there was any Prayer there at that Time?) This at the very firſt Entrance of his Evidence, I ſuppoſe, might be a juſt Ground to ſuſpect his whole Teſtimony. But as for the Man, I knew him not, I never ſaw him, as I ſaid, before that Time, nor ſince, till I ſaw him here in Court. This Man affirms, That *William Drake* read in Characters, that which he called a Commiſſion, and ſaid, That he had a Command from the King to ſend this Commiſſion away; which, God is my Record, I never heard, nor ever knew of it: and *Alford* that brought over the Letter, in which *Far* ſwore thoſe Words were, he himſelf denies it. But that which concerns me in *Huntington*'s Teſtimony, is this: He affirms, That when the Commiſſion was read by *Drake*, I ſhould ſay, *Come, come, let it go.* Now, Sir, I aſk'd him this Queſtion, Let it go, what doth that refer to? Says *Huntington*, Let the Papers go. Now truly I am not ſo bad a Grammarian as to ſpeak of Papers, *let it go*, and not to ſay, *let them go.* And if I had ſpoke of Papers, as he ſays I did, I muſt either be guilty of Nonſenſe, or elſe he of Falſhood; I believe he of both. But as for thoſe Words, *Come, come, let it go*; he doth not affirm that I ſaid, Come, let it go away, but let it go; and that may be a Word of Diſlike: And if I did ſay ſo, yet it was not of the Commiſſion, God is my Record; for he came not till Nine of the Clock at Night, as himſelf ſays: And before he came, I had declared my ſelf againſt ſending away the Commiſſion and Inſtructions, as being an Act of too high a Nature for private Men, and of notorious Falſhood, to ſay it was in the Name of the Preſbyterian Party, when it was not. And the other Men that were here in Court upon Oath, and that were then preſent, as *Adams* and *Alford*, did confeſs upon Examination, That they heard no ſuch Words from me.

The next Teſtimony is Maſter *Adams*; and he relates a Story of a Correſpondency between *William Drake* and one *Maſon*; and being aſk'd, Was Maſter *Love* privy to this Correſpondency? he did ſo far clear me, that he could not ſay it, nor was I privy to it. Being aſk'd again, Was Maſter *Love* privy to theſe Letters of ſending moderate Propoſitions to the King? That he likewiſe clears me in, he cannot ſay it: And I can ſay, that I am ſo far from Moderation in their Senſe, that Moderation in their Senſe I deem downright Malignity; which I was and ſtill am utterly againſt. He was aſk'd likewiſe, Did Maſter *Love* know of collecting a Hundred Pounds for *Titus?* To that he anſwered, That he durſt not upon Oath ſay that Mr. *Love* was privy to this Collection; and he doth not ſay, that it was agreed in my Houſe to ſend away the Commiſſion, but ſays, it was moved in my Houſe: For he ſays, *I cannot ſay it was agreed upon, for there was no Vote paſs'd.* Theſe were his Words; and he contradicts *Alford* and *Far* in three Places of his Teſtimony. He overthrows *Alford*'s Depoſition. He affirms that the Copy of the Letter from the King was to ſhew what great Affection he bare to the Miniſtry of *England*; and promiſed great Favour when he was in a Condition to do it, and deſired them to ſtand ſtedfaſt in the Way they were in. And he ſaith he dare not ſwear that this Letter was read in my Houſe; but he thinks it was. Now, as to this Letter likewiſe, I deſire the ſame Favour from you, that when the Letter doth not appear, neither the Original, nor the individual Copy, that you would be tender of paſſing any Judgment upon me upon the vain Rovings of a Man's Memory; and of a Man's Memory too, that is engaged to proſecute my Life to ſave his own, as moſt of the Witneſſes are that came in againſt me. He ſaith there was a Motion made in my Houſe, that a Commiſſion and Inſtructions ſhould be drawn up, to ſend to my Lord *Willoughby* of *Parham*, and the reſt in *Holland*; but he ſays, *But by whom I cannot ſay:* and ſays he, *There was no Debate, as I remember, to mend the Inſtructions*; though the Attorney-General did lay it upon me, as if I had corrected and amended them, when I did neither read them, no, nor ſo much as touch them in my Life. The Subſtance of the Commiſſion, he tells you, was to authorize the Lord *Willoughby* of *Parham*, *Maſſey*, *Graves*, and others to aſſiſt their Brethren of the *Scotiſh* Nation in their Treaty. Now to this there is a manifeſt Contradiction in another Man's Teſtimony: For Captain *Far* ſwears that the Commiſſion he ſpeaks of was not to treat, but only, as private Perſons to adviſe that the King might agree with the *Scots* upon the Intereſt of Religion, and the Terms of the Covenant; that he might not be drawn away by the high-flown Cavaliers and Malignants. So that *Far* overthrows this Teſtimony of *Adams*. *Adams* ſays it was to treat; and *Far* ſays it was not to treat, but to adviſe. But be it the one, or be it the other, I deteſt both; I had no Hand in, and gave no Aſſent unto it, but manifeſted my Diſſent to the Whole. He being likewiſe aſked (for I am ſtill upon *Adams*'s Teſtimony) whether at a Meeting it was not propounded at my Houſe to write to the Queen, and to *Jermin* and *Piercy*, to mediate with the King to agree with the *Scots*: To this he anſwered, No. And truly he might very well anſwer ſo; for I am ſure I did never in all my Life hear of a Motion ſo much as of a Letter to be writ to any of theſe three Perſons, to the Queen, *Piercy*, or *Jermin*; and ſhould have loathed and abhorred the very Thought of it; and ſhould think that Cauſe the worſe, wherein theſe Perſons were engaged. Being aſked whether there was not a Letter from *Piercy*, that writ for Money to be ſent to the King; and whether the Anſwer given was, That they ſhould ſtay till the King and *Scots* were agreed, and then to ſend Money; *Adams* in this did me this Right: He confeſſed he ſaw ſuch a Letter writ; but (ſays he) *I only ſaw it in the Hands of one* Maſon: a Man, who, for my Part, I never knew nor heard of till I was in Trouble. And being aſked whether this Letter from *Piercy* was read in Maſter *Love*'s Houſe, he ſaid, *Certainly no.* Being again aſked, whether about *Auguſt* there was not a Letter written from *Maſſey*, wherein he ſaid he had Back-friends in *Scotland*, and complained that he was not promoted there, and whether that Letter was communicated at Mr. *Love*'s Houſe: In this alſo he did me right; for he anſwered, *No certainly, that Letter was not, to the beſt of my Remembrance, read there: I heard of ſuch a Letter, but ſaw it not.* Then being aſked whether one *Sterks* was not a *Scotch* Agent; and whether he did not uſe to come to my Houſe: To which he gives this Anſwer, *We took him to be a* Scotch *Agent, and he met ſometimes at Maſter* Love's *Houſe.* Now, Sir, as to that, he ſuppoſed that he was an Agent, but doth not ſwear that he was ſo, much leſs that I knew him to be ſo. Nay, I can ſwear, upon the beſt Information I have had both from his own Mouth, and the Mouths of others, that he was no Agent; for he lived in *England* fourteen Years, and had not been in *Scotland* in fourteen Years.

And I heard himſelf ſay ſo when he went away upon the Act: And I aſked him, Are you imployed by the Church or State of *Scotland?* And he told me, No, he was not. It is in your Breaſts whether you will believe me, or no. And likewiſe Mr. *Blair*, when he was here in *London*, did affirm to me that he was a poor honeſt Man; and that he was no Way imployed as an Inſtrument of State. I know nothing of the Man's Agency: Be he Agent or not, I never ſent Letter or Meſſage by him, nor received any from him in all my Life. But I ſee it is laid heavy upon me in my Charge, that I contributed Money to him; but no Man in his Depoſitions did prove that I ever gave him a Penny. *Adams* being aſked whether Maſter *Love* did not write down the Sums of Money that was to be contributed to *Maſſey*; in this he doth me right alſo, for he ſaith, *Maſter* Love *had a Paper in his Hand, but I did not ſee what he wrote:* And therefore to that I need not anſwer. Being further aſk'd, Did not Maſter *Love* put the firſt Letter of their Names before the Sums which others wrote? he anſwered, He could not ſay ſo. Being aſk'd further, Was there not a Letter penn'd by Maſter *Love* and Doctor *Drake?* This Anſwer he gives, *There was a Letter, but* (ſays he) *I cannot deliver it upon my Oath that it was penned by them; but I thought it was ſo.* He could not tell to whom this Letter was directed, but ſaid, *It was declared to be directed to the General Aſſembly of* Scotland. Now, as I obſerved in the Beginning, this is only the ſingle Teſtimony of one Man. And, indeed, it was the firſt Queſtion (as I remember) that was aſked me, that was of Moment, when I was examined by the Committee, whether I did not pen this Letter. I did declare to them in the Preſence of God, *That I neither penn'd that, nor any other, to any Perſon of the* Scotiſh *Nation, ſince the Wars began:* And this I declare in the Preſence of the ſame God, ſtill to be a Truth. Being aſk'd further, Was Maſter *Love* preſent at ſome Time of this Meeting? He anſwer'd I was: And the Reaſon why he thought that we might pen it, was becauſe of the Language of it. Mr. Attorney-General upon this (I remember) uſes this Expreſſion, *My Lord, this is very high; after we were engaged in Blood, that a Letter ſhould be ſent.* But to this I ſay, there is only a ſingle Teſtimony that ſuch a Letter was writ; and whether it was ſent or no, he doth not prove: Nor doth he prove that I writ it: And I declare to you that I never writ it. As touching this Letter, which Mr. Attorney-General is pleaſed to inſiſt upon ſo much, *Adams* being aſked whether it was agreed upon that this Letter ſhould be ſent, he gave this Anſwer, *It was after the ſame Manner that other Things were agreed upon; but there was no Vote paſs'd:* And therefore he cannot prove my particular and expreſs Aſſent to the Sending of the Letter, or any other Letter whatſoever. And here to take off the Jealouſy of a Correſpondency, which in the Cloſe, through the Grace of God, I ſhall clear to you; but to take it off now a little, before I come to it: If there had been a Correſpondency maintained, would it have been imaginable that from the Time of the Fight at *Dunbar*, which I think is ten Months ſince, to this Time, that there ſhould be no Letter that any Man can ſay, nor that I did certainly know of, that either was written, or conveyed, or

or debated upon to be written, from that time to this very day, to any of the *Scotiſh* Nation? And yet all this tends to aggravate Matters againſt me, and all the Burden is laid upon my weak Shoulders. Other Men that have heavy Loads have laid them upon my Back, to lighten them from off themſelves. Touching this Letter, he ſaith, *This was the Subſtance of it, or it was to this effect, or purpoſe.* And again, I inſiſt upon it to beſeech your Lordſhip and the Court, to take heed what you do. It concerns you more than me: It concerns my Life only; but it concerns your Honours, and Lives, and Souls, and all, that upon an uncertain Evidence you do not ſpill a Man's Blood. The Man never read the Letter, only he heard it read; and then he brings into that and other Letters, *This is the Sum of it, or it was to this effect.* And though this Man hath done me Injury in ſome Particulars, yet in others he hath done me Right: For being aſked, Did Maſter *Love* write Letters, or receive any, or mend thoſe Inſtructions? he only ſwears he ſaw the Letters; but cannot ſay I did read them. Being aſked whether I did give my Conſent to the ſending away of that Letter after *Dunbar*-Fight, which is ſo much inſiſted upon, and ſo greatly aggravated, he did thus far right me; he ſaid, *I will not ſwear he did give his Conſent.* Being aſked whether I was a Correſpondent, he ſaid he took me to be a Correſpondent: And upon theſe Words I had leave to aſk him this Queſtion, Whether he knew I was a Correſpondent? To this he ſaid, That Letters were heard by me; but, ſaid he, *I cannot ſwear that he was a Correſpondent: I did conceive Maſter* Love *to be a Correſpondent; but I did not ſay ſo: And I dare not ſwear that he was a Correſpondent.* So that herein likewiſe there is nothing but his humbly Conceivings, and his Suppoſitions; according to which I hope you will not paſs any Cenſure upon me. And thus I have done with *Adams*'s Teſtimony.

The fifth Teſtimony is that of *Jaquel*, which I do here again in Court except againſt as no legal Witneſs; for he did declare he could not in Conſcience take an Oath againſt me. He did well nigh half an hour declare he could not ſwear, but that he would make a Narrative or Relation of what was true. I did intreat your Lordſhip's leave to put it to him, whether he was under an Oath, or no? and he ſaid, twice at leaſt, *I am as good as under an Oath.* If any Perſon, good or bad, come under an Oath, I muſt ſtand or fall by his Teſtimony; and, according to God's Ordinance, an Oath is to decide all Controverſies: But the Man declared he was not under an Oath, and went out of the Court, and was fined five hundred Pound: And when afterwards he was called into the Court again, he did only put his Hand upon his Buttons on his Breaſt. So that this was not any taking of an Oath; but fearing his Fine, he did it, though with much ſeeming Regret of Conſcience; and I am informed this Day that he denies that he was under an Oath. And if ſo, then I have nothing to ſay to his Teſtimony; and ſo ſhall not ſpeak to it, but only as to a bare Relation and naked Information. There is nothing that doth concern me in his Teſtimony, but only a Concurrence with *Potter*: *Potter* and he coming to my Houſe with ſome Letters (as he ſaith), one from *Bamfield*, another from *Argyle*, *Lowdon*, and *Lothian*, and *Belcarras*, and another from one Maſter *Bailey*, if I remember right. Now, Sir, as to theſe Letters, I do not deny but that they brought them to my Houſe; nay, I do acknowledge thoſe two Men did bring thoſe Letters to my Houſe, at leaſtwiſe which they ſaid were ſuch: But whether they were the Originals or Copies, I know not; for I never read nor kept the Letters, but they carried away the Letters with them. And Captain *Potter* ſaid, *Maſter* Love, *I have News to ſhew you*; at that very time when Mr. *Jaquel* and he came to ſhew them at my Houſe. This Witneſs, I cannot call him ſo, but this Informer ſaith, that being aſked what was done upon the hearing of thoſe Letters, he ſaid *Potter* read the Letters; but that there was no Agreement upon it, but an utter Diſlike in all that heard them about the Contents of them. And he hath theſe Words further: *It was*, ſays he, *a Trouble, I am confident, to them that heard and read the Matter of thoſe Letters.* But being aſked, Did Maſter *Love* agree to the giving of forty Pound to *Bamfield* and his Man? To that Queſtion he anſwers thus: He ſaid there was no Agreement; but it was thought convenient by all. Upon this I craved leave of your Lordſhip to aſk him this Queſtion, How he knew my Thoughts, that I thought it convenient? To which he gave this Anſwer; *I cannot ſay any thing, that Maſter* Love *did ſay it was convenient.* So that therein, though he might preſume upon a Man's Thoughts to know them, yet he muſt only judge my Thoughts by my Words, as the Tongue and Heart agree; for he is not a God: But he doth not ſay that I ſaid it was convenient. Nor did either of them prove that ever I gave a Penny either to *Bamfield* or his Man.

The laſt Witneſs that came in againſt me, is Captain *Far*. And, indeed, I do not know what to make of his Teſtimony: I will not call it a Prompting; that will be thought too bad a Word; but certainly it was ſuch a Teſtimony that I never heard produced in any Court in my Life: For Maſter Attorney General, and ſome others here, did aſk him ninety-eight Queſtions. So that the Man ſpake nothing deliberately, but ſpake by reading out of his private Examinations, which is extra-judicial to be brought in Court, where the Witneſſes are to ſpeak *viva voce*. There was, I ſay, ſo many Queſtions (beſides thoſe I had leave to aſk him) propounded to him, during the time he was upon his Oath. And the Man was of a dull Spirit, and ſlow of Speech; and I did perceive him to be ſo poſſeſſed with Fear, and that he knew not what he ſaid: For he hath manifeſt Contradictions in his Teſtimony, which I believe all the Court will ſee, and therein concur with me, when they come to hear them. The firſt Word I heard him ſay in Court was this, To deſire the Benefit of his Papers. It ſeems he did ſuſpect the Badneſs of his Memory, that he muſt have his Papers to help him (and Papers written by another) before he would depoſe in Court againſt me for my Life.

Being aſked, whether upon the ending of the Treaty of *Jerſey* there was not a Letter came from *Titus*, to deſire ſomebody to come to *Calais*; and whether that Letter was read at any Houſe; and whether at my Houſe *Alford* was deſired to go; he affirms he was, (which none elſe did) and which is a moſt notorious Falſhood. I have no Rancour in my Heart againſt him; the Lord knows I have prayed for all thoſe that perſecute me; and my Heart cleaves to them in Love and Pity. I do not tax the Badneſs of his Conſcience, I think he dares not be ſo vile; but I do tax his Memory in things done ſo long ago. And afterwards he ſays, he could not remember aught (tho' he did pretend to remember) becauſe they were done ſo long ago; yet before he did affirm them. Now to demonſtrate this, that he ſays in this Clauſe, to be falſe, that *Alford* was deſired in my Houſe to go, *Alford* himſelf ſays he was never at my Houſe till he came from *Calais*, which is certainly true: And therefore *Alford* could not at my Houſe be deſired to go to *Calais*. When there was an Account given of *Alford*'s Return from *Calais*, then I know he was there, though I never ſpake with him before that time, as I remember; nor was he ever within my Doors till after his Return. But, ſays *Far*, *I cannot ſay Maſter* Love *was preſent while* Alford's *Return was there read; for ſometimes he was abſent.*

Then further, being aſked what was the Subſtance of that Copy of the Letter from the King that *Alford* brought from *Titus*, he anſwered, That the Sum of it was this, That the King of *Scots* did declare he would give Satisfaction to the *Scots*; and in order thereunto, he deſired Commiſſioners to be ſent over to *Breda*. Theſe are the Words of his Teſtimony. Now, Sir, this is but the ſingle Teſtimony of one Man; and it is contrary to the Teſtimony of that very Man that brought over this Letter: And if any Man knew the Subſtance of the Copy of the Letter pretended to be from the King, it muſt be *Alford*, that brought it over: Certainly none could know it better than he. And therefore for this Man to be ſo ſtrangely beſides himſelf, and to forget himſelf ſo, as to ſay this is the Sum of the Letter, when he that brought it ſaith the contrary, and did not know that this was the Sum of it, this may ſeem ſtrange; and I hope you will judge of the Weakneſs of this Teſtimony. Being aſked whether he did not conceive this to be the Copy of the King's Letter, he did me right in that; for he ſaid he could not tell whether it was the Copy, but that *Alford* told him he brought over a Copy of the King's Letter. And Mr. Attorney-General was pleaſed to aggravate this of Captain *Far* againſt me: Says he, The King ſent over for Commiſſioners to treat; and accordingly at Mr. *Love*'s Houſe it was agreed upon that Commiſſioners ſhould be ſent, and there were Perſons named. To this I ſay, That, God is my Record, I never in all my Life heard (as I remember) of any Letter from the King to that end, that Commiſſioners ſhould be ſent over. And *Far* doth me right herein; for in anſwer to that Queſtion, Was your Commiſſioners agreed upon? he three times anſwers Negatively. I do not perceive that he remembers himſelf ſo well in all his Teſtimony, as in that Particular. Being aſked whether the Commiſſion was agreed upon, he ſaid it was not agreed upon by the Company.

And herein he did me more right than any Man; for he gave my Reaſon, For (ſays he) *the Reaſon given was, Becauſe private Perſons could not give a Commiſſion.* And tho' he hath done me more wrong than any Man, yet herein he hath done me more right than any Man. Being further aſked, Was it not debated to ſend a Commiſſion over? *Drake*, he ſaid, *read a Paper in the nature of a Commiſſion; but it was not agreed upon by the Company, becauſe private Perſons could do no ſuch thing.* And a third Time, he ſays, *The Commiſſion and Inſtructions were read in a Company at Mr.* Love's *Houſe*; (that he affirms, and that I do not deny) *but not agreed upon.* And further he ſaid, He did conceive, to the beſt of his Remembrance, it was in the Name of the Preſbyterian Party of *England:* But (ſays he) *I cannot poſitively ſay it was ſo; for I did but only hear it read.* Then your Lordſhip aſked him this Queſtion, Did you ſay that the Commiſſion was not agreed upon, but that the Inſtructions were? To this Captain *Far* ſaid, That *William Drake* undertook to draw up the Commiſſion and Inſtructions; but yet, ſays he, *I cannot ſay that they were either drawn up, or ſent.* Again, he ſays further, (and herein he doth me more right than *Adams* or *Alford* doth) *Adams*, he ſays it was not agreed upon; yet he ſaith thus, There was a Commiſſion read for to treat; and ſo ſays *Alford:* But this Man ſays directly, That this ſuppoſed Commiſſion was not to treat in the behalf of the Preſbyterian Party. And it had been a Folly for private Men to aſſume ſuch a vain Title to themſelves. So that he ſays directly, upon your Lordſhip's Queſtion to him, that it was not to treat, but to adviſe the *Scotch* Commiſſioners, and the Miniſters eſpecially, to agree with the King upon the Intereſt of Religion, and Terms of the Covenant. But being aſked, Was it not in the behalf of the Preſbyterian Party? he anſwered, No. Being further aſked, Was there not an Agreement at Mr. *Love*'s Houſe for a Letter to be ſent to the Queen? Herein alſo this Man doth me right; he ſaid, No, my Lord. And yet he contradicts himſelf likewiſe; for being aſked in the next Queſtion what was the Subſtance of that Letter to the Queen, he anſwered, The Subſtance of the Letter to the Queen was, That ſhe ſhould perſuade the King to give Satisfaction to the *Scots* in their juſt Demands. Now, either he muſt hear of this Letter ſomewhere elſe, or elſe frame a Fiction to himſelf, that this was the Matter of the Letter, when there was no ſuch Letter *in rerum natura*. The next Thing he charges me with, is, That I ſhould ſay it was agreed that Money ſhould be raiſed for *Maſſey* and *Titus*; and he names the Sum, he thinks 250, or 300*l.* and that I thereupon ſhould particularly move him with this Queſtion, *Captain* Far, *what will you do?* Now, I beſeech your Lordſhip and the Court to conſider, that he doth not ſwear that i ſaid *we were agreed*, but *it was agreed*; and that might be the Act of other Men, and not mine. And in another Place he ſaith, *They agreed*; but he doth not ſay that I ſaid *we agreed*, to include my ſelf: But to that, That I ſhould move him, and ſay, *Captain* Far, *what will you do?* Truly this is but a general Queſtion. And he himſelf did me thus far right: When I had leave from the Court to propound this Queſtion to him, *Captain* Far, *did I move you, or ſay to you, What Money will you give for* Maſſey *or* Titus? he anſwered, He did conceive it was for that Uſe. So that he proves not againſt me, that I moved for Money for *Maſſey* or *Titus*; but only that I ſhould ſay, *Captain* Far, *what will you do?* And if you obſerve the Words of the Teſtimony, they are theſe exactly. He tells you that he brought Five Pounds; for there is all that ever I am charged with.

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I am not charged with lending a Penny; but only that Fifteen Pounds was brought to my Houſe; Ten Pounds by *Potter*, and Five Pounds by this Man. And he affirms that he left this Five Pounds at my Houſe. And herein I perceive a Contradiction in the Man; and therefore it is hard to determine when he ſpeaks true, or when he ſpeaks falſe. Theſe are his very Words *Mr.* Love (ſays he) *aſked me what I would do; and I did lay down Five Pounds upon Mr.* Love's *Table, when ſeveral Perſons were in the Room.* And being aſked, Did Mr. *Love* receive this Money? he ſaid he could not tell; but was loth to tell who he thought received it. But in his laſt Word, ſave one, that he ſpake in Court (which made much for my Advantage) he ſaid, he thought I did not receive it; and God is my Record, I did not: But he ſaid another Man did, and named Captain *Maſſey*. But the Contradiction I obſerve is this: He tells you he laid down Five Pounds, when ſeveral Perſons were in the Room; and in the next Queſtion but one being aſked, Was Mr. *Love* in the Room? *Yes, my Lord*, ſays he, *but I cannot ſay any body elſe was there.* So that therein the Man evidently contradicts himſelf. And it appears he was under a very great Fear, and even confounded by the many Queſtions propounded to him. I aſked him further, *Did I bid you lay it down?* Says he, *I cannot ſay that you bid me lay down the Money.* Being aſked, Was this way of laying down of Money to prevent Diſcovery? he ſaid he did it under that Notion. But being aſked by me, *Did I bid you lay it down under that Notion?* he anſwered, he would not ſay I did. So that I neither directly nor indirectly did bid him bring Money to my Houſe, or lay it down when it was brought there: But other Perſons were in the Room; and he conceives what Perſon took it away. Therefore I beſeech you make a candid and fair Interpretation of what I have ſaid or done.

Being aſked about the Copy of the King's Letter, that *Alford* ſays he brought over from *Titus*, whether I was in the Room whilſt it was read, he ſaid, *I cannot ſay that he was there when it was read; but he was there during ſome part of the Communication.* But ſays he, *I cannot ſay he was there at the reading of the Letter; nor can I ſay he was preſent whilſt the Narrative was read.* He obſerved I was often called away, and was abſent; and ſays he, *I cannot ſay there was any ſuch thing done by Mr.* Love. And I aſked him this Queſtion, *Did I ſend, or agree to ſend Major* Alford *to* Calais? He anſwers, He thinks I did not. And herein he falſifieth his former Teſtimony; for he ſaid Major *Alford* was deſired in my Houſe to go to *Calais*; and yet *Alford* ſwore he never was in my Houſe till after he came from thence. But herein he doth me right too (tho' with Contradiction to himſelf): He ſaid it was agreed at my Houſe that *Alford* ſhould go; and yet now he ſays he thinks I did not agree to the ſending of *Alford*.

Being aſked further, whether I did give Conſent to the ſending away the Commiſſion, he anſwered, *I cannot ſay Mr.* Love *was there when it was ſent away.* And truly I may ſay, who brought it away, or who drew it up, and what was done in it, I cannot tell. There might be a thouſand Treaſons in it, for aught I know; for I did neither own the reading of it, nor the ſending of it, but did utterly proteſt againſt both. Being again aſked, whether I agreed to the ſending of it away, he anſwered, *It was agreed upon by all, that we could not ſend the Commiſſion away.* When I aſked him, *Did I ſay to you, Captain* Far, *Will you contribute Five Pounds for* Maſſey *and* Titus? he gave this Anſwer, ſays he, *You aſked me what I would do; ſo that I conceived it was for* Maſſey *and* Titus. And he affirms he laid this Five Pounds down in my Houſe; but did not ſay that I received it. And in the Preſence of God I ſpeak it, I never ſaw it, nor received it in all my Life.

And thus with much Acknowledgement, and bleſſing God, and thanking your Lordſhip and the Court, you have given me leave to take a brief Survey through the Depoſitions of the Witneſſes, tho' they have been very large, and the Charge againſt me very high.

Now having ſpoken to the Depoſitions (before I ſhall crave leave to ſpeak ſomething concerning my ſelf, and make humble Propoſals to this Court), I ſhall add but one Word, and it is this: I was loth, before I ſaw Witneſſes Face to Face, to confeſs any thing; I deemed it againſt Nature for any to confeſs againſt himſelf, unleſs he could be ſure his Confeſſion ſhould not prejudice him. And I might have been guilty of my own Blood, if I had confeſſed; for then, did the Matter confeſſed amount to Treaſon by your Law, my Life would be at your Mercy, and you might hang me upon mine own Confeſſion. And upon that ground I went reſolved to the Committee; and thro' the Grace of God I reſolved not there to confeſs a Word nor Tittle, till I heard what Proof was brought in againſt me. And now I do ingenuouſly acknowledge that there were ſeveral Meetings at my Houſe; that theſe Perſons met there; and that this Commiſſion was read there, but I did utterly diſlike it, and diſſent from it. And that I was preſent at the reading of Letters, either at the beginning, or end, or ſome part of them, I do acknowledge: And this I ſay, that I was ignorant of the Danger that now I ſee I am in. The Act of the 2d of *Auguſt*, 1650, doth make it Treaſon to hold any Correſpondency, or to ſend Letters, tho' but in a way of Commerce, into *Scotland*, let the Matter of them be what it will. Now herein my Counſel acquaints me with my Danger, That I being ſometimes preſent when Letters were read in my Houſe, am guilty of a Concealment; and as to that, I do humbly lay my ſelf at your Feet and Mercy. But as to Treaſon, I do not know any perſonal Act of mine proved againſt me, that brings me under any Act of yours. And thus having briefly ſpoken concerning the Charge in general, and concerning my Accuſers, and having briefly ſurveyed their Teſtimony, I ſhall humbly crave leave to ſpeak ſomething concerning my ſelf, and I ſhall be very brief in it.

Concerning my ſelf, it is needful I ſhould ſpeak a word: I would not ſtand under Miſrepreſentations, to ſeem to be what I am not. I am preſented unto ſome as if I were a Malignant, an Apoſtate from my firſt Principles, a Mover of Sedition, and what not, but what I am. Wherefore I am conſtrained to ſpeak a Word in my own Vindication, and I ſhall make the Apoſtle's Apology, *I am become a Fool in glorying; but ye have compelled me.* I count it never lawful for a Man's own Mouth to praiſe him, till another Man's Mouth accuſes him; and then he may without Vanity be his own Vindicator. What I ſhall ſay of my ſelf, the Lord knows it is not voluntarily, out of an affected Oſtentation, but by Compulſion, for a neceſſary and clear Manifeſtation of my Principles and Practices, now ſuſpected. As touching Malignity, I hate both Name and Thing: And, as Cardinal *Farneſius* ſaid of himſelf profanely, That if he knew any Part of him infected with *Lutheraniſm*, he would cut it off, and caſt it into the Fire; that I can ſay truly, That if I knew any Part of me infected with Malignity, I would cut it off with the Pruning-hook of Mortification, and by an ingenuous Retraction before you all this Day. God is my Witneſs, I never drove a malignant Deſign, I never carried on a malignant Intereſt: I deteſt both. I ſtill retain my old Covenanting Principles, from which, through the Grace of God, I will never depart for any Terror or Perſuaſion whatſoever. When I look upon all the Vows, and Covenants, and Declarations, and Proteſtations of both Houſes of Parliament, I do find a Suitableneſs between my Judgment and them, and am not conſcious to my ſelf of any thing that I have done in oppoſition or contradiction thereunto: And therefore I may ſay as *Jeremy* did, when he was accuſed, in the like Caſe, of making Defection to a contrary Party, *Jer.* xxxvii. 13, 14. Irijah *ſaid to* Jeremiah, *Thou falleſt away to the* Chaldeans. *Then ſaid* Jeremiah, *It is falſe, I fall not away to the* Chaldeans. So, if it be charged upon me that I am fallen from my firſt Principles, or that I am fallen to Malignity, I ſay to any that ſhall ſo accuſe me, It is falſe, I fall not away to Malignity; I do retain as great a Keenneſs, and ſhall whilſt I live, and as ſtrong an Oppoſition againſt a malignant Intereſt, whether in *Scotland*, or in *England*, or in any Part of the World, againſt the Nation where I live, and have to this Day, as ever I did in former Times. I am no Incendiary or evil Inſtrument, to divide the Nations one from another: God knows the Grief of my Heart hath been for the Diviſions, and the Deſire of my Soul hath been for the Union of both the Nations. And if I had as many Lives as I have Hairs on my Head, or as much Blood in my Veins as there is Water in the Sea, I could count it all well ſpent to quench the Burning that our Sins have kindled between the two Nations. I have all along engaged my Eſtate and Life in the Parliament's Quarrel againſt the Forces raiſed by the King: My appearing in their Cauſe was not from any Aim at Profit, but out of a Perſuaſion of Conſcience and Senſe of Duty. I may ſpeak it, as *Paul* doth it of himſelf, *I was in Labours more than they all.* I ſpeak it without Vanity; I was, according to my obſcure Station and mean Condition, in doing and giving in the Parliament's Quarrel, more than many. Many gave out of their Abundance; but I out of my Want: And as Chriſt ſpake to the Widow who gave two Mites, That *ſhe gave more than they all; for ſhe gave all that ſhe had, even all her Living:* So did I; though I gave my Mite, yet I gave my All. And I did not only deem it my Duty to Preach for the Lawfulneſs of a Defenſive War, but (unleſs my Books and wearing Apparel) I contributed all that I had in the World: And that was no ſmall Sum, conſidering the Meanneſs of my Condition. And I have at this Day a great Sum due to me from the State, which is ſtill kept from me, and now my Life endeavoured to be taken from me. And yet for all this, I repent not of what I have done; tho' I could from my Soul wiſh that the Ends of that juſt War had been better accompliſhed: Then ſhould we have been happy, and united among our ſelves, and honoured among the Nations round about us. I am ſo far (I ſay) from repenting of what I have done, both by doing and contributing, and ſuffering in the Parliament's Quarrel, that were it to do again upon the ſame unqueſtionable Authority, for the ſame declared Ends, and againſt the ſame malignant Perſons, I ſhould manifeſt as much Readineſs of Mind to engage according to my Meaſure, as ever I did.

And thus I have declared myſelf touching my Principles in theſe Particulars; I ſhall now crave leave to expreſs my ſelf a little touching my Sufferings; and then to make but a few humble Propoſals, and ſo caſt my Life into God's Hands and yours. Touching my Sufferings, I may ſay that my whole Life hath been a Time of Affliction, either of Body or Mind: God ſees my Heart to be a tough and knotty Piece, that it needs ſo many Blows to break it. I may ſay with the *Pſalmiſt, I have been afflicted from my Youth up*, and from my Youth up have I met with Oppoſition: From the Prelates, being perſecuted by them meerly for Conſcience-ſake. It is near twenty Years ſince I was cited to the Biſhops Courts: I have been often troubled for hearing of Sermons, and diſcharging other Exerciſes of Religion, which were an Offence in thoſe Days. When I was a Scholar in *Oxon*, and Maſter of Arts (I do not ſpeak it out of vain Oſtentation, but merely to repreſent unto you, that what I was I am, and what I am I was), I was the firſt Scholar I know of, or ever heard of in *Oxon*, who did publickly refuſe in the Congregation-Houſe to ſubſcribe unto thoſe Impoſitions or Canons impoſed by the Archbiſhop, touching the Prelates and Common-Prayer; and for which, though they would not deny me my Degree, yet I was expelled the Congregation-Houſe, never to ſit as a Member among them. When I came firſt to *London*, which was about twelve Years ſince, I was oppoſed by the Biſhop of *London*; and though I was called as a Lecturer to *Ann Alderſgate*, yet it was near three Years before I could faſten upon any Lecture. After this, about the Year 1640 or 1641, I was impriſoned in *Newcaſtle*, merely for expreſſing my ſelf againſt the Errors of the Service-Book, and was removed from Priſon there, by a *Habeas Corpus*, to this Place; and in this Court of *King*'s-*Bench* I was acquitted. After this, about the beginning of the Wars between the late King and the Parliament, I was the firſt Miniſter that I know of in *England*, who was accuſed for preaching of Treaſon and Rebellion, merely for maintaining in a Sermon, in *Kent*, at *Tenderden*, the Lawfulneſs of a Defenſive War, at the firſt Breaking-out and Irruption of our Troubles; but was then publickly acquitted in a Court there, and recovered Coſts and Damages of my Accuſer. After this I had a little Breathing-time, whilſt the two Houſes of Parliament were in Power; only I was once complained againſt by the King's Commiſſioners at *Uxbridge*, for preaching a Sermon

mon there. I did not know that I ſhould preach there till the Pſalm was ſung; and did only preach a Sermon which I had preached the day before at *Windſor-Caſtle*. I was, I ſay, complained of by the King's Commiſſioners to the Houſe, for that Sermon; but within three Weeks I was acquitted and diſcharged by Order of the Houſe of Commons. That Sermon is much ſpoken of, becauſe it is ſo little ſeen, it is ſo obſcure a Piece; and many imagine as if the Keenneſs of my Affection was blunted from what it was in that Sermon. But I declare unto you, that I come up to this Day to every Tittle of that Sermon. I hear it is lately printed; and if it be printed according to the firſt Copy, I will own every Line of it, as that to which my Heart and Judgment concurs to this very Day. After all this, ſince the late Change of Government, I have been three times in Trouble: I was once committed to Cuſtody by, and twice cited before the Committee of Plunder'd Miniſters; but there was no ſufficient Proof againſt me, and ſo I was diſcharged.

But now laſt of all, this great and laſt Trial and Trouble is come upon me. I have been kept ſeveral Weeks in cloſe Priſon, and now I am arraigned for my Life; herein is my great Comfort, even that which was the Apoſtle's, 2 *Cor.* i. 10. *God that hath delivered me, he doth deliver me, in whom I truſt that he will yet deliver me:* And that that ſhall be made good to me, *Job.* v. 19. *He ſhall deliver thee in ſix Troubles, yea in ſeven there ſhall no Evil touch thee.* As *Cato*, he was accuſed thirty-two Times by the unkind State whom he faithfully ſerved, and yet after thirty-two Times Accuſation, his Innocency and Uprightneſs brought him off. Why ſhould not I be confident in my God, who have had a Life-time of Experience of his Care and Love towards me? It is not the Danger of my Life troubles me; I am a ſickly Man, and I know a Diſeaſe will ere-long kill me, whatever you do with me: but this grieves me more, that I ſhould ſuffer from their Hands, for whom I have done and ſuffered ſo much in my obſcure Station, and according to my weak meaſure. Had it been an Enemy had dealt thus by me, and made ſuch an eager Proſecution of me, and ſuch high Aggravations of that which in the Simplicity of my Heart I have done, it had not been ſo much; and as I told the Committee when I was examined by them (who charged me with Jeſuitiſm and Non-Ingenuity, becauſe I would not confeſs againſt myſelf and others), that though I honoured them as private Gentlemen, and ſhould acquaint them with what myſelf had done, when it ſhould not be a Snare to me; but when they ſhall apprehend me by a Warrant for Treaſon, and examine me in order to a Trial for my Life, in no Judicature in the World will I confeſs a Word, till I firſt hear what will come in againſt me. Now, as I told them then, I never wrote Letter, nor received Letter, nor ſent or lent Money to any Perſon of the *Scotiſh* Nation. Now that I ſhould meet with this hard meaſure, to have the moſt rigid and ſevere Interpretation put upon all my Actions, to be look'd upon with ſo jealous (I might ſay with a worſer) Eye, that have in my meaſure ventured my All in the ſame Quarrel that you were engaged in, and lifted up my Hands in the ſame Covenant, that have took ſweet Counſel together, and walk'd in Fellowſhip one with another: that from theſe I ſhould have ſuch hard meaſure, this, this troubles me greatly. Had I been ſo dealt withal at the Juncto at *Oxon*, I ſhould not have been ſo troubled at it; but to be dealt ſo with at *Weſtminſter*, this is that at which I ſtand amazed: yet, bleſſed be God, I am not afraid; my Conſcience doth not tell me of any perſonal Act of mine proved againſt me, that brings me under any of your Laws as to Treaſon.

And thus having expreſſed myſelf concerning my Charge, and the Witneſſes, and myſelf; I ſhall now in the cloſe of all ſay (whatever torturned Collections or Inferences are drawn from my Practices, and however Lawyers may aggravate thoſe things that in part have been proved againſt me), yet I do declare in the Preſence of God, that whatever I have done, in the Simplicity and Integrity of my Heart I have done it; and did deem it to be conſonant and agreeable both to my Conſcience, and to the Proteſtations and Covenant I have taken: And I have done nothing out of Animoſity, or from a Spirit of Revenge. And thus I have done concerning my ſelf.

I have only a few humble Propoſals to make to your Lordſhip and the Court, and then I ſhall leave all to God's Determination and yours. To you that are my Judges, I humbly crave this of you, and I do it upon your Lordſhip's Words the firſt Day of my Appearance here. When you were pleaſed to deny me Counſel, you ſaid you would be Counſel for me: and I beſeech you be ſo, for you are Judges both of Matter of Law and Matter of Fact. I may make uſe of that Paſſage, *Prov.* xxxi. 8. *Solomon* ſays there, *That Rulers muſt open their Mouths for the Dumb, in the Cauſe of all ſuch as are appointed for Deſtruction.* Truly, my Lord, I am as a dumb Man before you; dumb in Matters of Law, I cannot plead one Word for myſelf: I beſeech you, be as *Solomon*'s Rulers were, and open your Mouths for him that is appointed to Deſtruction; you who are my Judges, be my Advocates, my Life lies in your Hands. And then, I beſeech you, let me make this humble Motion to you, That you would not count any thing that I have done to be out of Animoſity or Stoutneſs of Spirit: Truly, nothing but Conſcience could carry me through all my Sufferings; I could not leave ſuch dear Relations that God hath given me, and ſuch a loving People, and comfortable Livelihood, as any Miniſter hath within the Walls of *London*: nothing but Conviction of Conſcience can carry me another way; and till Conſcience be fully ſatisfied, I cannot ſtir one Step.

The next thing I beg, is, to beſeech your Lordſhip and the Court to put a candid and fair Interpretation upon all that I have done, or that by Witneſs you have heard; that it was no malignant Deſign, tho' I do not own the Management of any Deſign: I never writ Letter nor ſent Letter to any of the *Scotiſh* Nation; yet thus far I own the thing, that it was agreeable to my Judgment and Conſcience. For I thought the Intereſt of God and Religion, and the Good of the Nation, would be more advanced if the King went into *Scotland* upon Covenant-Terms, than if he ſhould fall into the Hands of the *Iriſh* Rebels, or offer this Nation to the *Turk* or *Spaniard*, or any other to come in and make a Prey of it. I did judge it would be a Foundation laid of great Troubles and Blood, if he were not received by that Nation. And tho' I did not, and do not in the leaſt own either the Commiſſion or Inſtructions, or the Way of Management of that Buſineſs; yet I confeſs the Agreement between the King and *Scots* I deſired, and deemed it my Duty upon this ground, one Clauſe of the Covenant being, to ſeek the Union and Good of both Nations; and thoſe who endeavour the contrary, are declared by the Covenant to be Incendiaries, Malignants, and evil Inſtruments, who not only divide the Kingdoms one from another, but divide the King from the People. Now they declaring him to be their King, according to my apprehenſion I thought it agreeable to my Covenant, to pray and deſire, as a private Man, and no more, for an Agreement between the King and them, upon thoſe Terms conſiſtent with the Safety of Religion, and the Terms of the Covenant.

And thus I have opened my Heart to you: The favourable Interpretation I humbly beg of you, is this: That Things might not be taken in the worſt Senſe: *Non eſt reus, niſi mens ſit rea*; he is not guilty, unleſs the Mind be guilty; I heard your Lordſhip ſay ſo at *Guild-Hall*, as I remember.

The Lord knows, in the Uprightneſs of my Heart I have done what I have done. It is a Maxim in the Law, (I have read it in Divinity-Books) *Ampliandi ſunt favores, & in pœnis benignior interpretatio facienda:* Favours are to be amplified and enlarged by Magiſtrates; but in Puniſhments the moſt benign and favourable Interpretations muſt be made. Now of my Actions the harſheſt Interpretations are made: I have a Charge laid againſt me, which I deem (and as my Counſel tells me) to be rather a Flouriſh in Law, than Reality of Matter.

I ſtood amazed when I heard the Charge againſt me, I thought it had rather been againſt ſome other Man than againſt me. As if I ſhould ſend to the Queen, *Piercy* and *Jermin!* Herein I did rather venture my Life upon a Trial, than to lie under all that Obloquy which that Charge did lay upon me. Therefore I again beſeech you, put a fair and candid Interpretation upon what is proved againſt me.

I remember a Phraſe, *Summum Jus eſt ſumma Injuria*; To be over-juſt, is to be injurious. *Be not over-righteous*, may refer to Courts of Judicatory. Herein I acknowledge, that my not revealing what my Accuſers have done, this layeth me under the Fault of a Concealment, for which I lay myſelf at your Feet.

The next humble Requeſt I have to make, is this, To intreat your Lordſhip and the Court, that you would not hearken to any politick Suggeſtions that may be laid before you: I know under what Diſadvantage I lie, that am the firſt Miniſter in *England* try'd for Treaſon, in a buſineſs of this nature, and what a prejudice this is to me, to make an Example upon.

The firſt Suggeſtion that I humbly intreat you would not hearken to, is, That it will not be for the Honour and Intereſt of the State, if I be not condemned. Truly, it is for the Honour of the State for you to do Juſtice: if you have found, that I ever writ Letter, or ſent or received Letter, or lent Money; if in theſe regards you have found me within your Acts, ſpare me not: but if I have been only preſent at the reading of Letters, and have been ſilent at what others have done; therein I lay myſelf at your Mercy to ſhew me Favour. It was a Suggeſtion to *Pilate*, *If thou ſpareſt that Man, thou art no Friend to Cæſar*; and ſo if you do not condemn me, you are no Friends to thoſe who commiſſionate you: but be Friends to yourſelves and Families, and take heed that you bring not guiltleſs Blood upon you.

And here (and ſo I ſhall have done) in the Cloſe of all, I do acknowledge, that in many Particulars, as touching not revealing (I ſay not as to perſonal Actings, nor do any prove it againſt me), I do fall within your Acts, as to the Cenſure of a Concealment; and herein I humbly beg your Mercy. And however I may be judged to be a Man of a turbulent and unquiet Spirit, yet thoſe that know me in my Relations, will not ſay ſo of me; and my People, over whom God hath called me (I think), will ſay, I am a Man who deſireth to live quietly in the Land. But however my Spirit and Principles are queſtioned, yet I reſolve by the Grace of God to lead for the future a quiet and peaceable Life in all Godlineſs and Honeſty.

I have but one word more to cloſe all I have to ſay for myſelf, (for I have made no Plea in Law; in thoſe matters I am as a dumb Man, and cannot open my Mouth) and 'tis this: The Charge and Depoſitions lie before you, and I will but lay this before you alſo: That if ſo be my Fact ſhould deſerve Death, which I believe it doth not, and I hope you cannot find me under your own Acts as to Treaſon; yet if you do cenſure me rather upon a political Intereſt, than from the Merit of the Fact, the Scripture accounts not that Juſtice, but Murder. *Jehu* put to death *Ahab*'s Sons, and that by the Command of God; but he did it upon a political Intereſt, to eſtabliſh himſelf in his new-gotten Government: and when God reckons for this, he ſays, *I will avenge the Blood of* Jezreel *upon the Houſe of* Jehu. To do any thing upon a political Intereſt, tho' the Fact may deſerve Death, the Scripture counts this Murder, not Juſtice.

And I beſeech you, let me ſuggeſt one thing to you, though I am *a Worm and no Man*, and deſerve not to be regarded amongſt the Children of Men; yet what I have done and ſuffered, let it be a little thought on by you: And let me urge that of *Abiathar* the Prieſt: he did an Act that was not juſtifiable, and ſaith *Solomon*, *Thou art worthy of Death; but I will not at this time put thee to Death, becauſe thou beareſt the Ark of the Lord God before* David *my Father, and becauſe thou haſt been afflicted in all wherein my Father was afflicted.* I leave it to your own Conſciences to make Application. Many things elſe might be ſuggeſted againſt me, and all to exaſperate and exulcerate your Minds againſt me, to make you with leſs regret of Conſcience to paſs a doleful Sentence upon me; which I hope you cannot, and for the Fear of the Lord you dare not: but if you ſhould, (and ſo I have done) I will ſay to you as *Jeremiah* did to the Rulers of *Iſrael: As for me, behold I am in your Hands, do with me as ſeemeth good and meet unto you: but know ye for certain, that if ye put me to death, ye ſhall ſurely bring innocent Blood upon yourſelves.* But I will ſay as the Apoſtle did, *I hope better things of you, tho' I thus ſpeak.*

And thus I commit myſelf, and my All, unto God, and to your Judgments and Conſciences.

Mr. Attorney-General's Reply to Mr. Love's *Defence.*

Attorn. Gen. MY Lord, you have heard him ſay much, and it had been much better for him if he had ſaid leſs. My Lord, when Men go out of the Way of their own Calling, they very often err; and truly I may attribute much of Mr. *Love*'s Confidence to his Ignorance; my Lord, to his Ignorance of the Law: And when Men meddle beyond their own Bounds, they do tranſgreſs. Mr. *Love* hath made you a continued Speech; my Lord, I do find the old Proverb commonly true, *In multitude of Words there wanteth not Evil.* And ſhould I ſay nothing againſt Mr. *Love*, my Lord, he hath ſaid enough againſt himſelf, in that that he hath now repeated, even to his own Condemnation, in that which he acknowledgeth, my Lord, (I cannot ſay ingenuouſly, tho' himſelf hath ſaid ſo) to be rather a Miſpriſion of Treaſon and a Concealment. My Lord, Acts of Concealment are not ſo long continued, they have not ſo long Continuance: And, my Lord, you very well know (for the Satisfaction of the Gentleman at preſent, and ſome elſe that hear me) that he that hears a Treaſon (for I do now go out a little in his own way) he that hears a Treaſon muſt not look back before he go to the Magiſtrate and reveal it, and if he be at the Plough, he muſt leave his Plough; if this Gentleman were in his Pulpit, he muſt leave his Preaching: He that knows a Treaſon, muſt go preſently and reveal it: There muſt be no Repetition of Treaſon, my Lord: Mr. *Love*, my Lord, will be miſtaken in that. But truly, my Lord, I was very ſorry, conſidering the Condition Mr. *Love* now ſtands in, to hear thoſe Expreſſions from him that he hath made to you in Relation to the paſt and preſent Authority: My Lord, I am not willing to repeat them, Mr. *Love* muſt hear of it another time. Truly, my Lord, here is little of Ingenuity (all Men will believe) in this Gentleman, that hath now laid it for a Principle to himſelf, and all that ſhall hear him (and I think it not to be ſo chriſtian, ſo ingenuous), not to confeſs any thing any time; but that is Ingenuity, that what is proved, that he will confeſs; and that is a high Piece of Ingenuity, that thoſe things that are proved, he will ingenuouſly acknowledge: I, my Lord, do not take that to be Ingenuity, neither in my Law, nor I believe in his Divinity will it be. My Lord, there hath been a great deal of Care and Pains taken by Mr. *Love* to take in Pieces the Evidence; I ſhall not undertake now to join them together, but in convenient Time I ſhall, I doubt not, for the Satisfaction of the Court and their Judgments, who, I muſt ſay, have been threatened by the Gentleman; and, my Lord, I hope for the Conviction of himſelf. My Lord, he knows there are ſhrewd Pieces againſt him that he hath acknowledged, but he would take them off one by one; but when they are put together, they will not be ſingle Evidence, nor ſingle Teſtimony, nor ſingle Facts, but a continued Reiteration and Repetition of Treaſon, a continued and Series of Time. My Lord, you are pleaſed to obſerve, that he himſelf doth appear from 1648 to 1651; ſo that in 1648, 1649, 1650, and 1651, in all theſe Years, my Lord, there hath been this conſtant Repetition and tranſacting of Treaſon.

My Lord, I learn from him, and 'tis very true—It is not good dallying with holy Things; nor is it with States and Commonwealths, it is very bad dallying with them; thoſe that flutter there, will burn their Wings at laſt; and it is not Quirks of Wit, nor Strains of Senſe or Nonſenſe, will, my Lord, clear theſe Things; it will not do it, my Lord. My Lord, he hath deſired you will not hearken to private Examinations; my Lord, I have ſaid ſo too, and there hath none been offered to you, but that which hath been publick, and *viva voce*; all have been ſo. But ſurely, my Lord, I could wiſh this Gentleman, and all others of his Profeſſion, would meddle in their own Sphere, and not to walk out of that, to come and teach Courts what they ſhould do, to teach the Magiſtrate what is his Duty. My Lord, I do hardly think it belongs to them ever in the Pulpit to do thoſe things: But to tell us we muſt not examine beforehand, and aſk Queſtions in private; my Lord, we cannot then be prepared for Felons and Treaſons. And, my Lord, I ſay this Confidence is much from his Ignorance; for theſe things are very familiar, and muſt be continued to be done: ſo that theſe things are not well broached by him, and I do think he will ſay at laſt, he underſtands not himſelf; and thoſe, I hope, that hear, my Lord, will ſay, I do not uſe it: For, my Lord, I muſt ſay, it muſt be otherwiſe in all well-governed Commonwealths. My Lord, he hath not denied, but acknowledged Meetings at his Houſe more than once, twice, or thrice: And truly, I did expect from this Gentleman, that he would not have continued thoſe fearful Imprecations of calling God to witneſs, that he did never write Letter, nor ſend Letter, nor lend Money. I had thought he would not have gone upon theſe Equivocations: Did he never move other Men to write? Did he never move others to lend Money? It is not to ſay, this and this I have not done; but I had thought he would have cleared himſelf totally of any Guilt that Way, either in Relation to receiving, or hearing Letters read; or lending or receiving Money, or moving for Money. My Lord, to put it upon a particular Caſe, this will not blind the Eyes of Juſtice, but you will be able to ſee it. He is pleaſed to ſay, my Lord, he will not lay it to the Badneſs of the Witneſſes Conſciences, but to the Badneſs of their Memories. My Lord, I hope in the Concluſion their Memories will appear to be right, and ſomebody's Conſcience elſe to be bad. And, my Lord, for to hear this ſaid by this Gentleman that is a Miniſter of the Goſpel, that it is a Crime for theſe Men to acknowledge their Offences, this is ſtrange: I had thought the firſt Step to Repentance had been Confeſſion; and that it had been no Offence for any Man living that hath committed a Fault, or that thought he had committed a Fault, to acknowledge it. In my Law and Divinity I thought it ſo, and I have not learned otherwiſe; and ſhall this Gentleman take Exceptions, becauſe theſe Gentlemen who have thought they have done amiſs, have acknowledged their Errors, and have craved Mercy? My Lord, I muſt ſay thus, If any deſerve Mercy, it is thoſe that do acknowledge their Offences, and crave Mercy, and are ſorry for them; and not thoſe that are obſtinate, and bid Defiance to Juſtice: Prove what you can, I will confeſs nothing; that is not ſo conſcientious or chriſtian a Way. And for the Witneſſes, I do wonder that Mr. *Love*, of any Man, ſhould find Fault with them; I cannot ſay they have taken ſweet Counſel together, but I ſhrewdly ſuſpect they have taken very bad Counſel together: Theſe Gentlemen are of his own Choice, and of his own Companions, and thoſe that were converſant with him; and if you pleaſe to obſerve, at every Word, *Will. Drake*; methinks that is a Word of Familiarity. But, my Lord, for theſe, they were his Companions, and whether I might ſay more, his Houſhold-Friends or Gueſts; but ſure they were in his Houſe very often, and were private with him, and in his Chamber and Study; and to cover all theſe Actions, and theſe treaſonable Practices, and Letters and Deſigns, here they muſt come to hear News, and this muſt cover it all: They come for nothing but News, and our Contributions muſt be for charitable Uſes; but you muſt not aſk why or wherefore we lend Money, but it is for charitable Uſes: Neither God nor Man will be blinded in theſe things; and if theſe Fig-leaves be ſewn together, it will neither cover Nakedneſs nor Treaſon. My Lord, Mr. *Love* hath ſaid (and in that given Judgment againſt himſelf), that either to treat or adviſe with the King of *Scots* in *Scotland*, he deteſts them both. My Lord, if he be guilty of both, then, I hope, he doth deteſt and renounce himſelf, and then I think he hath laid your Judgment ſomewhat; his own having paſt firſt, yours will eaſily follow. My Lord, he confeſſes, That for this Act of the 2d of *Auguſt*, 1650, he was ignorant of it, and of the Danger of it. My Lord, he very well knows that Ignorance is no Excuſe; the Act is a publick Act, and hath been long printed, now ten Months ſince, himſelf ſaith; and yet methinks I cannot reconcile that (that he that goes to make others differ), that he knew not of this Act, and yet *Sterks*, the *Scotch* Agent, was baniſhed upon this Act, and there was a Contribution for him for his going away: The ſame Act that doth the one, doth the other. My Lord, he hath been pleaſed to cite a Saying of Cardinal *Farneſus*, *That if he knew any Part of him infected with* Lutheraniſm, *he would cut it off, and throw it into the Fire:* And ſo can he ſpeak truly of himſelf, he would do, if he knew any thing of Malignancy by himſelf. My Lord, the Queſtion between him and us, is, What is Malignancy? I doubt we differ in that; I doubt his ſenſe of Malignancy; I am ſure by ſome Words I ſhrewdly gueſs at, that I count that Malignity, and I hope all this Court, and all that hear me, count that Malignity, that I doubt his Judgment leads him not to it, ſo I doubt we differ upon that.

My Lord, he hath ſaid, he was never an Incendiary, or evil Inſtrument; I wiſh there were not Cauſe for you to think otherwiſe: But ſurely the Gentleman hath made large Imprecations, and hath ſpoken much for himſelf; but I believe he knows there is ſo much Juſtice here, that he expects not to be believed in what he ſays. If it were enough to accuſe, who ſhould be innocent? And if it were enough to deny, who ſhould be guilty? He doth not expect to be believed for his Word *certainly*; for now he knows he ſtands in another Capacity; and as things are alledged and proved on both Sides, ſo he is to be believed, and no otherwiſe. My Lord, he hath been pleaſed to reflect upon myſelf in many Particulars; yea, and the Court knows in what a Capacity I ſtand here, as a Servant to the State to do my Duty faithfully, and I muſt do it; and yet I muſt ſay, it doth not become me to prompt Witneſſes; that Word, my Lord, was not well ſpoken. He is pleaſed to ſay in the Commendation of himſelf, that he hath a Place in *London* where he hath a very good Congregation, and a very good Competency of Maintenance; and I heartily wiſh he had thought ſo really, and had kept himſelf ſingly to that. I do not think he will ſay, that in the Duty of his Place, as a Miniſter of the Word, to preach, to inſtruct, to exhort, rebuke, reprove his People, or any under his Charge, that ever the State did interpoſe or meddle with him, neither the Parliament nor the Commonwealth: Then for God's Love, my Lord, why ſhould this Man interpoſe or meddle with the State? Had you not enough to do in your own Calling? Had you not Charge enough lying upon you, but muſt you be going abroad, and put your Sickle into another Man's Harveſt? I will ſay, the State did never trouble the Gentleman in his Duty; he did go on with as much Peace and Quietneſs as himſelf could deſire, we interrupted not him; let him reflect upon himſelf, and whether others have dealt ſo kindly with him; when had he that Liberty that now he hath had? You may be pleaſed to obſerve, himſelf ſays, twelve Years ago he could not in three Years in *London* get an Admiſſion to be a Lecturer; and when he ſpoke in the Congregation-houſe at *Oxford*, he was expulſed there; he hath had no ſuch Meaſure here. Doth Kindneſs provoke him to theſe things? Thoſe that ſin againſt Kindneſs, are the higheſt Tranſgreſſors. What Provocation hath this Gentleman had in his Miniſtry, that he could not follow that, and have let the Parliament and State alone? Doth he not receive Breath here to live, and his Livelihood to ſuſtain himſelf and his Relations? Why ſhould you interpoſe to diſquiet yourſelf and the Commonwealth, when they did not provoke you? And let all judge, whether this ſhould not convince you; and let me ſay thus much, That you have dealt fooliſhly, and have gone beyond your Bounds, and have not kept within your Limits, in what you have done in theſe things that you have acknowledged.

My Lord, I ſpeak this, that thoſe may hear now that may not hear the other; for that which Mr. *Love* hath ſaid, we muſt have ſome time to recollect, and to ſpeak in the Vindication of the Proceedings of the State againſt this Gentleman; which, though I think it needs not much, in reſpect of the Court that hath heard him ſay ſo much, and confeſs ſo much as he hath done; yet for the Lenity of the State, that hath moved them to take Care of their own Preſervation: And I would not do it, but that he hath ſtood upon all Terms of Defiance with Juſtice and Majeſty; and you have heard from a Fellow-Miniſter what he did the laſt Day, and the Principles he urged this Day, which let me repeat again, there will be no living in Society, if theſe things be let alone. My Lord, it is much inſinuated by him, that his Blood will be upon you and the Court; I would he had thought upon Blood before theſe things

things had been ſo tranſacted by himſelf: I am afraid (between God and his own Conſcience be it, and thoſe that have had Correſpondency with him) that much of this Blood that hath been ſpilt in *Scotland*, hath been made by their Means: You hear him ſay, That what was deſired by them (and in order to what it was) was, That the King of *Scots* might join with the *Scotiſh* Nation, and not go to *Ireland*—that was his Conſcience. I do not know his Conſcience led him to meddle with thoſe Things, to meddle with State-Affairs: But, my Lord, if it be ſo, and this hath been brought on by them, that one hath encouraged the King to join with the *Scots*, and the other hath encouraged the *Scots* to join with the King by hopes of Parties here, which he himſelf acknowledgeth now, was undertook in the Name of a Preſbyterian Party; though I think, and do believe it, for very many honeſt Preſbyterians, that they would ſpit in his Face, if he ſhould ſay it of them: But I ſay theſe Doings have occaſioned the ſhedding of much Blood, and a great deal of Variance between the two Nations, and the Lord knows when it will end. But, my Lord, as he concluded for himſelf, you will be pleaſed, my Lord, to give me leave (though not in that way of Conjuration as he hath done) to ſay for the State, I ſhall not prevent your Judgments; but it is better that one Man, than a State, ſhould periſh. And if this Man be guilty of the Treaſons proved againſt him, I believe himſelf will judge, he had better periſh, and ſuffer Death, than the State ſhould periſh. All theſe Actings of his have been Underminings of the State clean through, carried on very cloſely and covertly in Diſguiſes, and not diſcovered: But he that dances in a Net, will be catched tripping at laſt. My Lord, before you give your Judgment, you will conſider that Juſtice to the Commonwealth———

So, my Lord, I have added what my bad Memory (I hope not bad Conſcience) hath repeated to me, as might give ſome Anſwer to what he hath ſaid: But ſince he hath been pleaſed to take ſuch pains to run through all and every one of the Evidence ſo exactly, and hath had three Days given him for it; my Lord, I ſhall aſk but one for myſelf, and for thoſe that are the Counſel for the Commonwealth. My Lord, this is all I ſhall ſay at preſent to you, and ſhall ſay no more till next meeting.

[Judge *Keble*, the Lord Preſident, ſpeaks after the Attorney-General; the very Beginning of his Speech was not heard, he beginning very ſoftly.]

Ld. Preſident. But again in this Point, for the Preſbyterian Government, if it be rectified, doubtleſs it tends to the Peace of this Nation, and all Places, but not with a *Scotch* Limitation. I deny that; nor limited by a *Scotch* Covenant.

The next Thing is this; becauſe you often fall upon Diſtinctions of the Law, and that you are ignorant of the Law; the more to blame you, that profeſs the Learning of the Law of God; for there is no Law in *England*, but is as really and truly the Law of God as any Scripture-Phraſe that is by conſequence from the very Texts of Scripture: For there are very many Conſequences reaſoned out of the Texts of Scripture; ſo is the Law of *England* the very Conſequence of the very Decalogue itſelf: And whatſoever is not conſonant to Scripture in the Law of *England*, is not the Law of *England*, the very Books and Learning of the Law: Whatſoever is not conſonant to the Law of God in Scripture, or to right Reaſon, which is maintained by Scripture; whatſoever is in *England*, be it Acts of Parliament, Cuſtoms, or any judicial Acts of the Court, it is not the Law of *England*, but the Error of the Party, which did pronounce it; and you or any Man elſe at Bar may ſo plead it. And therefore to profeſs you are knowing in the Laws of God, and yet to be ignorant of the Laws of *England*, when yet the Laws of *England* be ſo purely the Laws of God, as no Law in the World more practical at this Day—for you to be ignorant of them, is not to your Commendation, nor to any of your Profeſſion.

Then, Sir, for your going on in theſe Ways: The Court with Patience hath heard you, I think, two Hours, or thereabouts, and you have done nothing but anticipated the Court: What! Do you think they have not Underſtandings, and Judgments, and Conſciences? They would have done it, they would have examined theſe Witneſſes preciſely, and would have compared them, but you have taken up all this Time by way of Anticipation; and in a Rhetorical Way to do it! Let me tell you, that Orators among the Heathens have been the greateſt Incendiaries; and thoſe Orators in Chriſtendom that do not ſet their Judgments upon right ends, they are the moſt unworthy Men in Chriſtendom: For there are no Hereſies, Murders, traitorous or treaſonable Practices and Attemptings, and all the higheſt Wickedneſſes that ever were committed in Chriſtendom whatſoever, or in this Nation in particular, but they have have had ſome of that Profeſſion that have called themſelves Miniſters of Jeſus Chriſt, as the Jeſuits of Jeſus, and the Prieſts of thoſe; and all theſe Things and high Actings have ſtill had ſome Tincture of your Coat in them. Therefore it is not your Office can excuſe you; your Office is ſacred as other Chriſtian Offices are, and you are no more Divines by your Office; but you are to remember, and you muſt know, that Chriſtian Juſtice that you teach in the Pulpit, to act it in the Court, is of a higher nature than Preaching is: And therefore in this, that you ſhould advance your Profeſſion beyond the Judicatories of this Land, know, that Judgment and Juſtice is the higheſt Religion in the World, both in Chriſtendom and out of it. And this, Sir, we would have you know, That Lawyers Doctrine tends to this, and I hope hereafter you will be more obedient, and better verſed to know theſe Grounds of the Laws of *England*, by which now you are called here. I ſhall ſay no more, but take Advice of the Court about you.

[The Court adjourns, and Mr. *Love* is commanded away.]

The Fourth Day's Proceeding, June 27, 1651.

Mr. *Hall*, the firſt Counſel for the Commonwealth.

Mr. *Hall.* MY Lord, the Priſoner at the Bar, Mr. *Love*, ſtands impeach'd before your Lordſhip of High Treaſon, which Impeachment hath been read before your Lordſhip and the Court. My Lord, by that he ſtands charged with High-Treaſon, with ſeveral Offences of High-Treaſon; That he in the Years 1648, 1649, 1650, and 1651, with *William Drake*, *Henry Jermin*, *Henry Piercy*, *John Gibbons*, *Edward Maſſey*, *Sylas Titus*, and others his Accomplices, did traitorouſly, wickedly, and maliciouſly confederate, plot, and endeavour to ſtir up a new and bloody War in this Nation, and to ſubvert the Government now eſtabliſhed without a King and Houſe of Lords.

My Lord, That in the ſame Years, ſince the Death of the late King, he did, with other his Accomplices, endeavour to promote *Charles Stuart* to be King of *England*, contrary to an Act of Parliament before that Time made in this Nation.

My Lord, That in the ſame Years he and his Accomplices did traitorouſly and maliciouſly aid and aſſiſt the Nation of *Scotland*, to the end that they might invade this Commonwealth; and hath adhered to the Forces raiſed by the Enemies of this Commonwealth.

My Lord, that in the ſame Time, between the Month of *March* and the firſt of *June*, this preſent Month, he hath traitorouſly and maliciouſly held and maintained Correſpondency and Intelligence by Letters, Meſſages, Inſtructions and otherwiſe, with the Enemies of this Commonwealth, and to the Prejudice of this Nation; and in particular with *Charles Stuart* and the late Queen his Mother, and with *Jermin* and *Piercy*, and other Perſons of Counſel abiding with *Charles Stuart*.

My Lord, That he hath likewiſe held Correſpondency and Intelligence with the *Scotiſh* Nation, prejudicial to this Commonwealth, and to the end they might invade and bring a bloody War upon this Nation.

My Lord, Theſe Treaſons and traitorous and wicked Practices of the Priſoner at the Bar, were and are to the apparent Hazard of the publick Peace of this Commonwealth, and Free-State, and the Parliament and People of *England*; and in Contempt and Violation of the Laws of the Land, and contrary to ſeveral Acts of Parliament in ſuch caſes made and provided.

My Lord, There have been ſeveral Witneſſes and Proofs of theſe particular Charges againſt the Priſoner: And, my Lord, I do conceive that there hath been ſuch Proof made, that in your Lordſhip's Judgment he will appear to be guilty of all theſe particular Actings. But, my Lord, I will not enter upon the Proof, only make a ſummary Relation of the Beginning and Continuance of this Plot and Deſign.

My Lord, This Plot did begin very ſuddenly after it pleaſed God to take away the chief Enemy of this Nation. The King died in *January* 1648, and this Plot began in *February*, the very next Month following: And in the ſame Month, my Lord, the *Scotch* Nation did proclaim *Charles Stuart* King of *Scotland*; and they did not ſtop there; but proclaimed him likewiſe King of *England*; and then, my Lord, this Plot began here. For in the Month of *February*, the next Month after the King died, the Meeting was at the *Swan* at *Dowgate*, where were ſeveral of the Correſpondents at that Time; as *Drake*, *Huntington*, *Titus*, and others: And the End of that Meeting was to contrive a Way that they might agree the King and the *Scotiſh* Nation; that was the End of their Meeting at that time.

My Lord, within a few Days after that, they met again, all theſe ſeveral Perſons, at the *White-Hart* in *Bread-ſtreet*, and to the ſame Purpoſe; and at length it was reſolved to make their Addreſſes to the Queen, and to *Piercy* and *Jermin* (firſt it was to the King himſelf) for a Compliance between the King and the *Scots*: Letters were ſent accordingly, and ſeveral Meetings and ſeveral Returns of Meſſages were had of them. My Lord, at length it was reſolved, that they ſhould ſend Meſſengers to the King at *Jerſey*, and agreed upon one *Titus*; and they raiſed Money and gave it to *Titus* to undertake the Journey. My Lord, *Titus* accordingly went in the Month of *May*, 1649, and returned in *Auguſt* following. After he had done his Negociation there, he returned to *Calais*: But being afraid this wicked Plot was diſcovered, by reaſon of Letters that were intercepted, he durſt not come into *England*; but ſent Letters to deſire ſome Correſpondents might be ſent to *Calais*. My Lord, all this time I do not find that the Proof diſcovers the Priſoner at the Bar to be any Actor, or preſent at any Meeting hitherto: But when theſe Letters came from *Titus*, then the Letters were brought to Mr. *Love*'s Houſe; which is the firſt time I find him by Proof to be preſent. The Letters were read in his Houſe, and in his Study, as ſome of the Witneſſes ſay that were there preſent; and it was then agreed, my Lord, That *Alford* ſhould go to *Calais* to *Titus*. My Lord, accordingly he went, and there *Titus* did communicate unto him the Affairs that paſſed at *Jerſey*. Within four or five Days after, *Alford* returns again; and where ſhould the Meeting be but at Mr. *Love*'s Houſe again, where Mr. *Love* and divers of the Accomplices were in his Houſe! A Letter from the King was read, the Diary, the Narrative from *Titus* likewiſe was read there; and there was the Conſultation what ſhould be done, and what further Courſe they ſhould take to join the King and the *Scots* together. My Lord, afterward they did agree that there ſhould be ſome ſent to treat with the King at *Breda*; the Inſtructions were drawn in Mr. *Love*'s Houſe (I think one Witneſs ſays ſo), and Mr. *Love* preſent; Money was raiſed, and Mr. *Love* himſelf did ſpeak to one of the Witneſſes to raiſe Money, which was *Far*: *Far* accordingly did bring in Five Pounds, and laid it down upon Mr. *Love*'s Table, Mr. *Love* being preſent then in the Room.

My Lord, I ſhall not trouble you with the Relation of more Particulars; but, my Lord, I conceive that Mr. *Love* doth upon theſe Proofs ſtand guilty of endeavouring to promote the King to be King of *England*: For, my Lord, what ſhould be the end of uniting the King and the *Scots* together, after that the *Scots* had proclaimed *Charles Stuart* King of *England*, but that they might come in a warlike manner to invade this Nation, and ſet up his Authority as King among us?

My Lord, I conceive I ſhall ſubmit to your Lordſhip's Judgment, that he is guilty of Intelligence from a profeſſed Enemy. The Intelligence is, my Lord, That divers Letters were ſent, and theſe Letters were read in his Preſence, as himſelf doth confeſs he was at the reading of divers Letters,

Letters, and did not conſent to them; and thereupon makes it as it were but Miſpriſion of Treaſon. My Lord, I conceive that this is apparently Treaſon: For if Letters were ſent to one Perſon, and did occaſionally come into another Man's hand, and he conceal them, being not ſent to him, there peradventure it is but Miſpriſion of Treaſon. But when there are ſent to theſe particular Perſons Letters from the King and *Scots*, and divers Perſons in Hoſtility againſt the Commonwealth of *England*, and received by the Confederates in Maſter *Love*'s Houſe, and there were read and debated, though they did not agree to ſome Particulars, yet they are Actors: They are —— in the very Intelligence it ſelf; and did likewiſe return ſeveral Letters.

My Lord, this Intelligence was with the *Scotiſh* Nation; which truly, my Lord, I do conceive hardly an *Engliſhman*, that had the Blood of an *Engliſhman* running in his Veins, would join in Confederacy with that Nation, of all the Nations of the World, againſt this Commonwealth; a Nation that hath been known (and I am ſure the Priſoner at the Bar is well read in the Hiſtories and Stories of this Nation) to have been a conſtant Enemy to this Nation in all Ages through the Memory of all Hiſtories; and, my Lord, of late, not three years ſince, came and invaded this Nation with a puiſſant Army, which it pleaſed God to deliver us from: And this the Priſoner could not be ignorant of, that we had lately a Fight with them at *Dunbar*; that Hoſtility could not be unknown unto the Priſoner at the Bar neither. And yet for all that, to confederate with a Nation that were ſuch conſtant Enemies to us; my Lord, I could not conceive it had been in the Heart of an *Engliſhman*, much leſs in a Miniſter and Preacher of the Goſpel among us.

My Lord, there are ſome particular Charges upon him, more than upon any of the reſt: after *Drake* fled away, being doubtful that his ſecret traitorous Plot would be diſcovered, Mr. *Love* ſupplied his Room; all the Meetings, and Confederacies, and Letters, and Agitations in this Buſineſs, were conſtantly at Mr. *Love*'s Houſe, himſelf being preſent: And, my Lord, Money, as I ſaid before, by Mr. *Love* himſelf deſired to be raiſed for the furthering of this Deſign; and ſeveral Sums of Money were raiſed. I ſhall trouble your Lordſhip with no further Relation, but leave it to the Proof that was made before your Lordſhip and the Court.

Sir Thomas Witherington, *the ſecond Counſel for the Commonwealth.*

Sir *Tho. Witherington.* My Lord, Mr. *Love*'s Defence which he made for himſelf, as he did it for his Life, ſo he took a great deal of pains in it, and was very accurate in the Defence he made, eſpecially in the Witneſſes. My Lord, I ſhall not take upon me (for it is not my Charge at this time) to reply unto the whole Defence that Mr. *Love* made.

My Lord, that I ſhall ſay ſhall be in two Particulars, for Mr. *Love* divided that which he ſaid into four Parts; the firſt concerning the Charge; the ſecond concerning the Witneſſes and Teſtimony; the third concerning himſelf; and the fourth concerning ſome Propoſals to the Court.

My Lord, I ſhall only meddle with that which is concerning the Witneſſes; and ſecondly, to ſome part of that he ſaid concerning himſelf: I ſhall only reply as to theſe two, and the reſt I ſhall leave to Mr. Attorney-General, that better knows what is for the Advantage of the Commonwealth.

My Lord, I ſhall begin concerning the Witneſſes, to clear them (for now we are in our Reply for the Commonwealth). Mr. *Love*, who did profeſs a very great deal of Ignorance in the Laws of the Land, yet he did inſinuate ſomething that implied ſome Knowledge of them, in that, my Lord, he took ſome Exceptions to the Witneſſes. My Lord, I take it, that theſe Exceptions were:

1. That the Witneſſes were not *probi Teſtes & legales.* And,

2. That they were *Participes criminis:* And that indeed is included in the other.

My Lord, Firſt, I ſhall ſpeak to this, That the Witneſſes produced againſt him, are *legales Teſtes:* They are competent Witneſſes, and ſufficient Witneſſes, without Exception againſt them. I ſhall firſt ſpeak to that they are *Teſtes legales:* For Mr. *Love* did object, That they themſelves confeſſed themſelves to be guilty of the ſame Crimes; and ſo their Confeſſion is upon the Matter a Conviction; and ſo they are convicted of the Crimes in which they are Witneſſes againſt him: and ſo are not competent Witneſſes.

My Lord, I ſhall clear this: Under favour, I take it they are very clear and good Witneſſes, notwithſtanding the Exceptions. And, my Lord, this I take to be a very plain Caſe; the Caſe which is in our Common Law: The caſe is——which proves it fully; for if a Man be accuſed of High-Treaſon, indicted of High-Treaſon, and will confeſs the Indictment, and become an Approver, yet he may be a Witneſs againſt all thoſe Parties guilty of the ſame Treaſons with himſelf; he is *Particeps criminis* with them, and they with him: And yet this Man thus becoming an Approver, will at Common Law be a Witneſs, and a legal and good Witneſs againſt them.

My Lord, I ſhall a little open that, becauſe it clears the Caſe. My Lord, an Approver can only approve, it is true; that is, when a Man is indicted of High-Treaſon, and other his Accomplices with him, and he upon the Indictment ſays it is true; and then deſires he may have ſomething aſſigned to him, and then he accuſes ſuch and ſuch Perſons of the ſame Crimes: In this Caſe this Man, after he hath confeſſed the Indictment, and takes his corporal Oath to reveal all Treaſons he knows in the Indictment, (for he can accuſe no further) after this done, he ſhall be a Witneſs; he is a Witneſs againſt thoſe with whom he is *Particeps criminis:* Nay, my Lord, it is of Merit and Juſtice that he ſhall have this Reward, he ſhall be pardoned his Life. Now, that I prove to you, becauſe that ſhews the Reaſon, that even the Man, after Indictment and Confeſſion, yet being an Approver, ſhall be an Accuſer of his Brethren, thoſe that were *Particeps criminis* with him, and a good Witneſs. And the Reaſon of that goes to this Caſe in hand: For although theſe Men had a hand in the ſame Plot and Deſign with him, and have confeſſed, and did confeſs it upon Evidence, that they were there preſent, and did many Things; yet I take it they are clear, competent, and good Witneſſes, and that is no Objection againſt them, that they are *Participes criminis.* My Lord, if the Law were otherwiſe, it were impoſſible to prove many Offences; for many Offences cannot be proved, but by ſome Men that had a hand in them. In an ordinary Caſe, an Action of Treſpaſs and falſe Impriſonment, if three Men are guilty of it, it is an uſual thing in Courts of Juſtice to admit one of them a Witneſs. True, they are not Parties in the Action, and ſo may be Witneſſes: For theſe Things may be ſo ſecretly done otherwiſe, that their Treaſons could never be revealed to recover againſt the Priſoner.

There is a Caſe, I think, in all our Knowledge: It is the Caſe of the Earl of *Caſtlehaven.* He was accuſed of a very grievous Fact: The Witneſſes which came againſt him, were one or two Footmen, that were *Participes criminis* in the very ſame Fact; and theſe Men, by the Opinion of the Judges, were competent Witneſſes. My Lord, he was arraigned, indicted, and convicted, and ſuffered Death: Nay, it is very true, that one of theſe Perſons was afterwards hanged for the ſame Offence. So that, I think, under favour, as to that, I take it that they are clear and good Witneſſes, notwithſtanding that Objection.

The next Objection is, That they were not *probi Teſtes.* Truly for that, my Lord, I muſt appeal to your Judgment in it, whether theſe Men be not *probi Teſtes, & honeſti* too: For in Caſe of an Approver, as I mentioned before, that Man that accuſes his Brethren upon the ſame Treaſon, it is ſaid, that of Merit and Juſtice the King ought to grant him his Pardon; for they that diſcover the Traitors againſt the Commonwealth, theſe certainly are *probi Teſtes*, and good Commonwealths-men. And ſo I take it, that this is no Objection againſt them in that, but as before they were *legales Teſtes*, ſo they are *probi Teſtes.* My Lord, I mention theſe Things, to ſhew that the Witneſſes for the Commonwealth are good and competent in this Caſe.

The next Objection touching theſe Witneſſes, is, That though they be admitted for good Witneſſes, yet there is not to any one Fact two Witneſſes. There is not any one of the moſt criminal Parts of the Charge proved by two Witneſſes. And ſo as before they were incompetent in regard of the Quality and Participancy of their Crimes, ſo now he would make them incompetent for want of Number.

My Lord, I ſhall firſt agree to the Ground of this Objection: For truly, my Lord, I take it, that it is by the common and ancient Law of *England*, that in Caſes of Treaſon there muſt be two Witneſſes; and it is by a Law more ancient than that, that is, by the Law of God. But, my Lord, it is true, the Law of this Land is explained by ſeveral Statutes, the Statute of the firſt Year of *Edward* the Sixth, and the fifth Year, and the ſecond Year of *Philip* and *Mary.* My Lord, I take it upon all theſe Statutes; the one Statute ſays, To accuſe another, there muſt be two Witneſſes: I take it, the Accuſer and Witneſs are all one; that is, the ſame that in one Statute is called a Witneſs, in another is called an Accuſer. But there muſt be two: That is the Objection. But then give me leave to conſider this Caſe, and to conſider how thoſe two Witneſſes ſhall be. My Lord, I ſay, under favour, that in a Caſe that conſiſts of a complicated Fact, that is, the Reiteration of many Actions, my Lord, I conceive none of theſe Laws are to be intended, that for every of the particular Facts there ſhould be two Witneſſes: That cannot be the Intention of any of theſe Laws, that in every particular Fact, that is to ſay, whether Mr. *Love* was preſent at the reading of the Letters; if you have one Witneſs to that, another for the writing of them, another to the ſending of them; though theſe three Witneſſes ſpeak to ſeveral Parts of the Buſineſs, yet they are a concurrent Teſtimony, for all agree to the Fact. I well remember, my Lord, a Caſe in the *Star-Chamber*, againſt *B.* of *Leiceſterſhire:* I think there was an Information againſt him for Bribery, and extorting of Fees. The Matter came in the Concluſion, that one Man proved a Bribe, and another Man proved a Bribe: One proved a Bribe of forty Pounds, and another a Bribe of forty Pounds; but there were ſeveral Witneſſes to ſeveral Bribes. The Queſtion now was, Whether he took Bribes, or no? And theſe tending to the ſame general Charge, it was the Opinion of all the Judges that he did extort and take Bribes. The one Witneſs ſpake to one Bribe, and another to another; and in that Caſe, as two Witneſſes made good a Charge againſt an Offender: Yet in that Caſe it was taken, that where Witneſſes, though they ſpeak not in every Particular, yet all tending to the ſame general Charge of Bribery, theſe were taken for plural Witneſſes, and that was a good Conviction. That was the Opinion of the Judges then. I mention this Caſe only for an Inſtance to expreſs my ſelf in this: For Mr. *Love* cannot expect, that to every particular Thing laid to his Charge two Witneſſes ſhould be produced. But, my Lord, when one Witneſs proves, this Thing he hath done, this Letter hath he written, and another that another Thing he hath done, which all tend to the Treaſon; now theſe are more Witneſſes, and two or three Witneſſes of the ſame Thing, tho' not to the ſame individual Thing, it is——So that upon the Matter they are concurrent Witneſſes in this complicated Fact, though not concurrent in this or that Circumſtance; for that is impoſſible almoſt in any Action to be done.

But then Mr. *Love* did further enlarge this Objection, which was out of a Saying he had, That in caſe of Treaſon, *Probationes oportent eſſe luce clariores*, The Proof muſt be as clear as the Sun. Truly, my Lord, it is very hard that Works of Darkneſs ſhould need ſo much Light for Diſcovery, and that ſo clear a Proof ſhould be neceſſary when the Things are done in Darkneſs and Secrecy. My Lord, I think, under favour, though in this particular we have our Witneſs, as I take it, to ſpeak very plainly and clearly; for it is their own Faults if they do not, for they were preſent at the Meetings, at the Conſultations and Debates: But yet I do obſerve, that in this Caſe Things were carried on in a very ſecret manner. For I do obſerve, firſt, at theſe Meetings, all of them were done under a Diſguiſe, every thing acted in this Buſineſs. I obſerve it upon Evidence, firſt, That the very Meetings themſelves, they go under the Title of Prayer and Faſting; for ſo *Huntington* told you, He was ſpoke to go to Prayer at Mr. *Love*'s Houſe. The Contributions made for raiſing of Money, for ſending of Meſſages

Meſſages and Diſpatches, was under the Diſguiſe of Charitable Uſes. So that here was Darkneſs all along. And then for the Letters, there were no Names ſubſcribed to them: All were done without Names, only the Letter *L.* was upon one. And the Place, truly I muſt ſay, that was obſcure too: For what Man would have thought that the Place of Meeting ſhould have been at Mr. *Love*'s Houſe? A Man that hath been ſo much for, and ſhewed ſo great an Affection to the Parliament, as he ſaid himſelf in Subſtance. A Man would ſooner have thought to have found this Treaſon in any Cellar in *London*, than in Mr. *Love*'s Houſe. For the Inſtructions, for the Directions and Diſpatches, ſome were ſent in Table-Books, written in Sack in a Table-Book: But, my Lord, I am afraid, in the Concluſion, the Letters will be written in Blood. But, my Lord, this I do obſerve, that through theſe Difficulties, though we paſs'd through our Evidence, yet your Lordſhip heard how plain the Proof was in moſt Particulars.

My Lord, I ſhall ſay no more as to theſe Witneſſes, becauſe the other Part of anſwering the Witneſſes, belongs to the *Attorney-General*; for Maſter *Love* went over all the particular Witneſſes.

My Lord, I ſhall only ſay one Thing, and that is this, concerning Mr. *Love* himſelf; and it is only concerning this Point. My Lord, Mr. *Love* himſelf did ſay, He would be ingenuous ſo far as he took himſelf to be guilty. But, my Lord, I know your Lordſhip and the Court obſerves that that Ingenuity did follow the Proof that was for the Commonwealth. My Lord, he confeſſes he was preſent at them; he was ſilent after all theſe Meetings and Debates: I mean the Meetings after they began at his own Houſe; for I ſpeak not of them that were at *Dowgate*, for there is no Proof that he was there. My Lord, this he confeſſes; and this he ſays is Miſpriſion of Treaſon. Truly, my Lord, I muſt be bold to differ from him in that Particular: I take it, that that he confeſſes is High-Treaſon. I ſhall ſpeak a little to Miſpriſion of Treaſon, and ſo conclude.

My Lord, Miſpriſion of Treaſon is when a Man hath Notice of a Thing that is Treaſon, and he conceals it. Now, my Lord, under favour, the Concealment muſt not be long; it muſt not ſleep long with him. My Lord, I remember an Axiom an Author hath in our Law, and that is *Bracton:* He hath a Diſcourſe of Miſpriſion of Treaſon; he hath it in *Latin* —— Says he, *He that knows a Treaſon, he muſt not ſtay in one Place a Day and a Night, but he muſt go on; he muſt go toward the Magiſtrate. Nay* (ſays he) *though he have moſt urgent Buſineſs, yet he muſt ſet it aſide, and go on, and muſt not ſtay in any Place till he hath revealed it. Nay* (he ſays further) *he ought not to look back till he hath given Information to the Magiſtrate.* The Man that doth not after this Manner forthwith reveal it, this only is Miſpriſion of Treaſon. But conſidering this Caſe of Mr. *Love*'s now confeſſing the Fact, he takes it to be Miſpriſion of Treaſon; but I take it to be Treaſon itſelf. My Lord, I ſhall obſerve what Mr. *Love* did: He was at theſe Meetings; theſe Meetings were continued for divers Days and Months. My Lord, was there any Diſcovery made by Mr. *Love?* Was there any Revelation of his to any Magiſtrate? Did he tell it to any Man? Nay, did he confeſs it upon his Examination, when examined? Nay, did he not deny it when he came to the Bar before your Lordſhip? Can this be ſaid to be Miſpriſion of Treaſon, that a Man ſhould hold ſo long in Treaſon, and not reveal it? My Lord, as every Treaſon includes a Miſpriſion of Treaſon in it; ſo I conclude that Miſpriſion of Treaſon may grow up to Treaſon itſelf. Now when a Man ſhall ſo long ſleep upon it, and be violent in it, and not reveal it, I take this Miſpriſion of Treaſon grows up into Treaſon itſelf.

My Lord, I ſhall ſay no more of that, but I ſhall conclude; becauſe the other Part lies upon Mr. *Attorney-General*, who is better able to do it. Only one Thing I ſhall take Notice of to your Lordſhip, and I am troubled at it; and that is, That as he ſaith, that he that hath been ſo much for the Parliament, with whom he hath gone along, and took ſweet Counſel together, and hath been active for, and paſſive with, thro' all the Paſſages of the late Wars; that he ſhould ſuffer from them, this, he ſays, ſtuck very much upon him. But, my Lord, for him that hath been ſo much for the Parliament, ſo familiar with their Proceedings, that hath been ſo active for them, and hath ſuffered ſo much for them; my Lord, for him to kick the Heel againſt the Parliament; for him, after all this, now even in the Infancy of this Commonwealth, that this Child ſhould be deſtroyed, and by one with whom we have took ſweet Counſel together; and by one, I may ſay this, that tho' he had no Hand in making this Commonwealth, yet I dare ſay he had in the Preparations to it; for himſelf all along hath gone with the Parliament: So that, my Lord, I take this to be an Objection againſt him. But, my Lord, I ſhall ſay no more in it, but refer the other Part to Mr. *Attorney-General.*

Mr. Attorney-General, *the third Counſel for the Commonwealth.*

Attorn. Gen. My Lord, I am ſorry Mr. *Love* hath given me the Occaſion of this Meeting, and of my ſpeaking at preſent; I could much rather have wiſhed to have been ſilent: But now I am drawn hither, I am forced to it. Mr. *Love*, my Lord, in the Beginning of his Trial, did deſire God ſo to aſſiſt him, that he might go through it with Gravity, Meekneſs, and Wiſdom, as became a Miniſter of the Goſpel. I wiſh that God had heard his Prayers, that he had ſo gone through it. What he hath done, the Court hath obſerved.

My Lord, in that Part I have to do, I do heartily deſire I might do it with Faithfulneſs to you, and the Duty of the Place I ought to diſcharge, and to the Court.

My Lord, the Work that this Day lies upon me, is to reply ſomewhat to what was ſaid by Mr. *Love* in his own Defence, and to make a faithful Repetition to the Court, and to do the Witneſſes and the Priſoner Right; to repeat that, and that only, that hath been ſaid; and in that, that I may do no Wrong to miſ-lead the Court, and offer nothing to the Prejudice of the Witneſſes, nor to the Priſoner. And truly, my Lord, I ſhall not (in his own Words) have any tortured Collections, nor any Inferences, nor Strains of Wit: He hath ſhewed his Oratory in his Defence; my Lord, I ſhall ſhew the Simplicity of Law in the Reply.

My Lord, the Charge hath been repeated to you; and for that inſiſted upon by Mr. *Love* for the Witneſſes and Teſtimony, you have had Anſwer: I ſhall not trouble you; there hath been Pains taken in it. My Lord, I think all Men were ſatisfied that it was clear enough; yet to make it more clear, Mr. *Love*, my Lord, inſiſted upon one Thing more, and that is upon Point of Time, and the Point of the Juriſdiction of the Court, which (by your favour) I ſhall firſt begin with.

He ſtands charged, he ſays, for Crimes done in 1648, 1649, 1650, and 1651. And thoſe Crimes, he ſays, were before this Court was, or had a Being; and ſo had not Power to take Cognizance of them.

That, my Lord, I ſhall endeavour to clear to you, and I think in much Clearneſs; clearer than the Light, as he will have his Evidence. He ſtands charged (I ſay) poſitively, my Lord, with no Crime before a Law was emitted, that did give an Inhibition, and was publiſhed and known. He ſtands charged with no Crime before the Law was publiſhed, that did declare what the Crime was, and gave Notice to beware.

My Lord, that that was firſt, was the Law that was made the Thirtieth of *January*, 1648, that doth declare, (and upon that Law I ſhall fetch the Foundation and Riſe of this Treaſon) That whoever ſhall proclaim, declare, publiſh, or any Way promote *Charles Stuart*, or any other Perſon, to be King or chief Magiſtrate of *England* or *Ireland*, without Conſent in Parliament, ſhall be adjudged a Traitor, and ſhall ſuffer Pains of Death as a Traitor. Here was this Law publiſhed, and Notice given what every Man ſhould truſt to, and, I may ſay, my Lord, Obedience expected. Againſt this Law hath Mr. *Love* tranſgreſſed, and, under favour, in a very high Meaſure; ſo that, my Lord, I charge him upon this Law, and ſince this Law was made; and to this Law there is no Limitation of Time for Men to be queſtioned for it: And for this Law, it is in expreſs Terms given in Commiſſion to this Court to take Cognizance of it: So that, I think, this is a little clear to him.

My Lord, the next is a Law publiſhed in *July*, 1649, that is entitled, *An Act declaring what Offences ſhall be Treaſon:* That, I think, he is not ignorant of, though he pretended to be ignorant of another. My Lord, that Law likewiſe, though it was before this Court was erected, yet this Court hath, by expreſs Words of the Commiſſion, Power to take Cognizance of it. And this Court, in theſe Things, is not like other Judicatories, that when Offences are committed, the State takes care to appoint Courts and Judges to judge thoſe Offences. Let it be no Offence to Mr. *Love*, if this Court were erected eſpecially to try him. But the Law was not made eſpecially to puniſh him; for the Law was made before, and the Offence committed before; and ſo, I think, in all *England* the Offences are committed before the Judges go their Circuits, and have their Commiſſions.

My Lord, the next is the Law that conſtitutes this Court, and ſays in what Particulars this Court hath Power to take Notice of Offences, beſides thoſe mentioned before, and the laſt concerning the *Scots:* That was but lately, which Mr. *Love* ſays he was ignorant of; but he was not ignorant to do ſomewhat againſt it. My Lord, theſe are the Laws that Mr. *Love* is impeach'd upon.

The next Thing that I have to do, is (and in that I humbly beg your Favour, that as I am now to do Juſtice, if I may ſo ſay, to the Court, and to be faithful to my Truſt, and the Duty impoſed upon me) to repeat the Evidence right unto you; and in that, as the Gentleman, the Priſoner at the Bar, hath had that Favour from you to have a Notary by him, to take all that was ſaid of all Parties; ſo, my Lord, by your Favour we have had ſome here to help our Memories: With whom I have conferred; and by the Help of their Notes and our Memories, my Lord, we think we have faithfully tranſcribed that which was ſaid by the Witneſſes. And, my Lord, I humbly crave Favour, as not now being a private Examination to be read, but a publick Teſtimony in the Preſence of Mr. *Love* himſelf and the Court: I hope it is not private now, but I may uſe Notes to do him Right, and may read thoſe Things that they teſtified upon their Oath here.

In the firſt Place, my Lord, I ſhall according to my beſt Judgment do him no Wrong. For the firſt, I ſhall acknowledge it was but a Hear-ſay, and that from *Drake*, of Letters ſent from *Scotland* to the Preſbyterian Party in *England*, to let them know what had been done of proclaiming the King there, and that Care ſhould be taken for their Intereſt. This I do acknowledge was but a Hear-ſay; but that which followed not long after that Time, my Lord, was poſitive; and there (my Lord) I ſhall begin the Riſe of this. And thus, as hath been obſerved by my Fellows, that are Counſel here, though there was not acting, nor Preſence nor knowing, yet (my Lord) under a ſecond, it will appear he was conſenting and approving, and ſo guilty of the firſt Fact. My Lord, there was a Meeting at *Dowgate:* I ſuppoſe you remember it full well; it hath been ſeveral Times repeated to you by ſeveral Perſons; and *Titus* the Party now beyond the Seas, and *Drake*, and other Traitors fled, were prime Sticklers for this, and moved others to come in, and to be there preſent, and hear what was the Deſign. As I did crave your Lordſhip's Favour, ſo I ſhall, that I may not (as he ſays) truſt to a fickle nor a roving Memory, that I may be faithful, to read to you that I have taken, and what was ſaid by them. I ſuppoſe Mr. *Love* hath by him one that can controul me, if I do not Right.

I begin with this Meeting at *Dowgate*, and continued at the *White-Hart* in *Bread-ſtreet: Alford* gave you this Evidence, *That one Morning he was wiſhed by* Drake *to go to the* Swan *at* Dowgate: *When he came there, there was one* Titus *who gave Relation of the good Diſpoſition of the Prince, and how inclinable he was to take the Covenant, and to caſt off the Cavaliering Party, and thoſe about him, if there were Opportunity found, how to make him know there was a conſiderable Party in* England *that would ſtick cloſe to the Ends of the Covenant; and upon that, we that were there did think we were bound in Duty, in Relation to the Covenant, to preſs the Prince to take it, and to pro-*

ſecute the Ends of it. And for that Titus *ſaid, if we would appoint another Meeting, he would draw up ſomething in Way of Application of the Preſbyterian Party to that Purpoſe.*

We afterwards met at the Bear *in* Bread-ſtreet, *and there he drew forth Something he had framed to that Purpoſe, and read it, and it was agreed to be ſent over to the Prince; the Subſtance of it was to preſs the Prince to apply himſelf to take the Covenant, and to proſecute the Ends of it, and to caſt off all the Cavaliers and that Party about him, which had brought ſo much Miſchief to his Father, and would do likewiſe to him: And this (I believe) was ſent over, for* Titus *undertook to ſend it over. We aſked him, how the Prince could be made to believe that this coming from ſo inconſiderable a Party as we were, ſhould come under the Notion of the Preſbyterian Party of* England? *He ſaid he would undertake it by Means of my Lord* Piercy. And, my Lord, I think you do remember there was one *Maſon*, Servant of *Piercy*, that was ſent over hither, ſo teſtified by ſome, to reconcile the Royal and Preſbyterian Party. This *Maſon*, my Lord, was *Piercy*'s Servant, ſo teſtified here by divers. My Lord, here is now the Foundation: *Drake* is he that moves *Alford*; and *Titus*, I may ſuppoſe, the Mover of *Drake*; and both of them fled as Traitors.

My Lord, if they were Traitors, and this is Treaſon; then whoever had a hand in carrying on their Deſign, himſelf is a Traitor, and this Action is Treaſon. My Lord, this is the Teſtimony of *Alford*.

My Lord, there is another Witneſs, and that is Lieut. Col. *Bains*, who I think was preſent only at this Meeting, and had enough of it, and did leave it; and yet was preſent at this, and gave in Evidence of what was there propoſed. I think he was preſent at no other Meeting, he was ſatisfied this was too much; his Teſtimony, as I take it, was this, for I ſhall read it, that I may do no Wrong to no Party: *Bains* ſaid, *It was alſo propoſed by* Titus, *that ſomething ſhould be done, in order to reſtoring the Preſbyterian Intereſt, by Application to the Prince, and to aſſure him, that he had a conſiderable Party in* England, *which looked upon it as a Duty, and lying upon all of them by the Covenant. And that it was neceſſary ſomewhat ſhould be done by ſome Parliament-Men, Miniſters, and Citizens, that were leading active Men, that he might have an Aſſurance that ſomewhat would be done for him; and ſomewhat to the Queen,* Jermin *and* Piercy, *whom he ſaid were their Friends.* This, my Lord, was that which *Titus* ſaid at this Meeting; and teſtified by *Bains*.

My Lord, there is another, Colonel *Barton*, who was produced as an Evidence. My Lord, I think that he ſpoke not much more than to this, and gave off here. My Lord, his Teſtimony was this; for I do conceive, under Favour, we have taken the very preciſe Words ſpoken by them; and, my Lord, ſo as ſpoken and taken, ſo written, and ſo, my Lord, read to you. *Barton*, my Lord, ſaid, That *Drake* would have him to be a Meſſenger; and to that Purpoſe there were ſeveral Meetings at the *Swan* and *White-Hart*. This was what *Barton* teſtified.

My Lord, then there was Major *Huntington*, which was at this Meeting, and one more at Mr. *Love*'s Houſe, which he full well remembers. My Lord, *Huntington* ſays this, That about *March* 1648, (in *January* was the Law publiſhed) *Alford* told him that *Titus* was in Town, and that he was newly come from beyond the Seas from their Friends, *Maſſey*, *Bunce*, *Graves*, and others; and that *Titus* was to meet the next Day at *Dowgate*, where he fell into high Praiſes of the Prince, and told them, that though he was taking unhandſome Courſes, yet they had great Hopes his Inclinations were otherwiſe. *Titus* ſaid further, he feared his inclining to the *Iriſh*, unleſs ſomething ſhould be gotten from his Friends here to divert him; that you remember was Mr. *Love*'s Charity too, as you will hear anon. *Titus* propoſed to get Letters from Perſons of Honour, to perſuade him to a good Opinion of the *Scots*, to take the Covenant, and to join with them.

Afterward they met at the *White-Hart* in *Bread-ſtreet*, where *Titus* declared that he ſhould gain theſe Letters, and hoped to ſet ſomething a-foot to the ſame Effect; and there ſaid, they were confident they could ſee no Way under Heaven for him elſe, but by taking the Covenant, and engaging the *Scots* againſt *England*: To which Purpoſe he drew forth a Paper, purporting that they were bound in Honeſty, Conſcience, and Loyalty, to maintain and help him to his juſt Rights, if he would go along and join with the Covenanting Party in *England* and *Scotland*.

My Lord, this is that now that hath paſt in Proof by Evidence concerning this firſt Meeting at the *Swan* at *Dowgate*, which I do humbly conceive was the Riſe and Foundation of what follows afterward. And this, my Lord, if true, I ſuppoſe no Man will ſay, but that was Treaſon that was tranſacted there. I do not ſay, my Lord, that Mr. *Love* was preſent at it, nor, as yet, can I ſay, knowing of it; but what follows after, my Lord, will bring him in Danger.

My Lord, here, you have heard, was this Meeting, and what was propounded to be done here, and how active *Titus* was, and that he was to go (you have heard by the Teſtimony) to *Piercy*; and it is not doubted by any but he did go thither; it is not doubted by any but he was ſent, and did go thither. To that Purpoſe I ſhall now read you two Witneſſes more, which I have cauſed to be tranſcribed too, in the Words as ſpoken by them, as I do conceive, that is, *Adams* and *Far*: That there was Money agreed upon, to ſend *Titus* to *Piercy*; that there was Money collected, and that they themſelves did contribute. *Adams* he expreſſeth it thus: *That upon a Meeting, the Place and Time I remember not, where I think were preſent* Drake, Titus, Alford, *and my ſelf, and I cannot tell how many more; it was agreed that* Titus *ſhould go to* Piercy: *the End of his going was to promote an Agreement between the King and the* Scots, *according to the Covenant* (and, my Lord, you ſhall hear in due Time what that Covenant is, that Mr. *Love* hath ſaid in his late Defence). *In Order to his going, we did agree to furniſh him with Money for the preſent, and made ſome Kind of Promiſe to keep him while he was out: About an hundred Pounds was furniſhed; for my Part, I paid twenty Pounds of it.* This is *Adams*.

The next is *Far*: He ſays, *He did underſtand by* Drake, *that* Titus, *who was here requeſted as one to be preſent at the Treaty of* Jerſey, *which* Titus *did undertake to go thither*: he undertook to go himſelf. *That after he was gone,* Drake *deſired* Far *to let him have Ten Pounds, ſaying,* Titus *was in want, and upon this I lent him Ten Pounds: the Letter was read at Mr.* Love's *Houſe when he came from* Calais. So, my Lord, here is now, under Favour, his Proof before you of this Meeting at *Dowgate*, at the *Swan* there, finiſhed in *Bread-ſtreet*, carried over unto *Jerſey*, *Titus* the Meſſenger furniſhed with Money by a Party from hence in this Errand, as we told you. My Lord, all this while I do not hear of Mr. *Love*; if he were, my Lord, he was like the Mole under Ground; but however, my Lord, Mr. *Love* hath carried himſelf (as ſome have ſaid) like a Rat among Joint-Stools, a Man can ſee him, but cannot hit him. But, my Lord, I doubt he will appear to be too buſy in what follows, and that he had a Hand in it at firſt.

My Lord, the next to go on with is this, in Time: That when *Titus* finiſh'd his Work in *Jerſey*, he was then to give an Account to his Maſters that employed him, and upon his Return he was to do it faithfully, as he thought. But being informed, that the State had vigilant Eyes, and they diſcovered him what he had been doing there, and he having Notice from ſome of his ſtedfaſt Friends here of it, he thought it was not ſafe for him to come in Perſon, ſo that his guilty Conſcience kept him off. But then he did deſire that he might give an Account by the Hand of ſome others, by their Memories; and for that Purpoſe wrote a Letter, to whom I cannot tell, I think to *Drake*: The Letter was written, and under Favour, my Lord, this Letter from *Titus* was read in Mr. *Love*'s Houſe, to have one ſent to him; and there it was propounded for ſome to be ſent. *Adams* was propounded for him to go; *Far* propounded for him to go: But not them, but *Alford* was agreed to go, and did accept of it; but not that he was there, my Lord. My Lord, for this I ſhall crave the ſame Favour from you, to read *Adams* and *Far*, as to that Particular. This is Major *Adams*; *It was moved in Mr.* Love's *Houſe, Mr.* Love *being there preſent, that I ſhould go to* Calais *to meet* Titus; *but* Alford *going thither, did at his Return give an Account of the State of Things at Mr.* Love's *Houſe.* My Lord, that I read him for, is for that Part, that it was moved in Mr. *Love*'s Chamber, Mr. *Love* being then preſent: *That I ſhould go to* Calais *to meet* Titus; it was moved, that *Adams* ſhould go: My Lord, this I read to ſhow Mr. *Love* was privy to this before the Meſſenger was ſent. My Lord, the next is Captain *Ralph Far: I was in Mr.* Love's *Houſe in his Study, wherein* (in Mr. *Love*'s Study) *a Letter was read from* Titus, *deſiring one might be ſent to him to* Calais; *and thereupon it was moved that I ſhould go, but afterwards it was agreed that* Alford *ſhould go, who went accordingly.* That is now as to that Particular, that before any Man was ſent unto *Calais*, it was made known in Mr. *Love*'s Houſe, and ſome propounded for to go, and at laſt another did go; this, my Lord, I offer to you, as that which will not be controverted by Mr. *Love*, for I have read you two Witneſſes to it. The next, my Lord, is, in which (I think) we do not differ; but that when *Alford* had been at *Calais*, and had taken the Account that *Titus* gave him, the Copy of the Letter which he ſaid was from the King to the Preſbyterian Party here, the Narrative of all the Tranſactions and Proceedings to *Jerſey*: that upon his Return, I think we do not differ, nor is it denied; I am ſure Mr. *Love* acknowledged it in his laſt Defence, becauſe proved by four, therefore confeſſed, my Lord, that this Narrative, the Copy of this Letter was read in his Houſe; and for that I have the Teſtimony of *Adams*, *Alford*, *Jaquel*, and *Far*; which, if it be your Pleaſure, I ſhall humbly read unto you.

The firſt is Major *John Alford: Having received at* Calais *a Narrative in writing of* Titus's *Tranſactions in* Jerſey, *I brought the ſame to* Drake, *to whom it was directed.* Now it appears to whom the Direction was. *And he brought it to Mr.* Love's *Houſe, where it was read; afterwards there was a Commiſſion ſo called.* But, my Lord, if you pleaſe, that is for this in the firſt Place, That this Narrative brought from *Titus* by *Alford* was read at Mr. *Love*'s Houſe.

The next is *Adams*; *But* Alford *going to* Calais, *did at his Return give an Account of the State of Things at Mr.* Love's *Houſe, which Account was the Narrative from* Titus, *and the Copy of the Letter ſaid to be the King's Letter: The Contents whereof I remember was as followeth: The King expreſſed a great deal of Affection to the Miniſtry in general in* England, *and promiſed them great Favours, when he was in a Condition, and deſired them to continue ſtedfaſt in the Way they were in; which Letter was read and publiſhed in Mr.* Love's *Study, and Mr.* Love *was there ſome times of the Reading. At the ſame Time a Motion was made, of giving thanks to* Titus *for his well managing Affairs there, and at the ſame Time the Commiſſion and Inſtructions were.* So that here is another Teſtimony, that this was done at Mr. *Love*'s Houſe; the Narrative, ſays this Gentleman, and the Copy of the King's Letter.

My Lord, the next I ſhall read unto you, is Mr. *John Jaquel: After* Alford's *coming Home, I was at Mr.* Love's *Houſe, where was* Potter, Drake, *and* Alford; *and Mr.* Love *was there ſome times, though divers times ſomebody came to ſpeak with him, and called him, and he went to ſpeak with them. A Narrative from* Titus *was there read by* Alford *or* Drake, *wherein was declared the King's Inclination to make Peace with the* Scots, *but his wicked Council hindred him. I think it was a Narrative of what had paſſed between the King and* Titus *at* Jerſey. This is that that *Jaquel* ſays.

The next, my Lord, is *Far*. *Alford* being returned, he gave an Account of his Employment at Mr. *Love*'s Houſe; a Copy of a Letter was there read, from the King to the Preſbyterian Party in *England*: The Subſtance was to ſend Commiſſioners to the Treaty at *Breda*. The Narrative brought from *Titus* was communicated at Mr. *Love*'s Houſe, where were preſent ten or twelve Perſons. So, my Lord, you have heard theſe four Witneſſes, what they have ſaid concerning this: Now you ſhall give me Leave to make Application of this to the former, I ſhall crave your Favour to go thorough this: There follows more at Mr. *Love*'s Houſe, this is not ended yet. My Lord, after this, there was ſomewhat propounded to be done upon this Narrative and a Letter from the King; ſomewhat was propounded at this Meeting: My Lord, then there was (as I know the Court remembers) Speech of a Commiſſion that was ſomewhat controverted. There was Speech of a Commiſſion, and a Commiſſion read: Mr. *Love* ingenuouſly acknowledgeth, and it was proved, and he

he declared his diſſenting from it, and that he was againſt it, becauſe as private Perſons they had no Power to do any ſuch thing. But, my Lord, that there was a Commiſſion read there, brought by *Drake* (I do not ſay that this proves that Mr. *Love* corrected it); that there were Inſtructions and Letters read for to be ſent over, I think, is not denied: But, my Lord, for that, if you pleaſe, I ſhall read you the Witneſs. The firſt is *Alford*: *Afterwards there was a Commiſſion, ſo called, agreed among us, ſent over to the Lord* Willoughby *of* Parham, Maſſey, Graves, *and* Titus, *at* Breda, *to adviſe with the* Scotch *Commiſſioners there, in behalf of the Preſbyterian Party in* England. *This Commiſſion was read in Mr.* Love's *Study, and at the ſame time Inſtructions for the Commiſſioners to walk by, were agreed on to be ſent; which Commiſſion and Inſtructions were the Subſtance of the Petition formerly ſent, to preſs the King to take the Covenant, and to proſecute the Ends of it.* This Petition was (I conceive) what was formerly agreed upon at *Dowgate*; which Commiſſion and Inſtructions one *Maſon*, the Lord *Piercy*'s Man, carried over. This is *Alford*'s Teſtimony as to this. And being aſked by Mr. *Love*, *Did not I diſſent from ſending the Commiſſion and Inſtructions?* he ſays this, *It was agreed in the general, that the Commiſſion and Inſtructions ſhould be ſent, Mr.* Love *being then preſent.* All preſent are Principals, my Lord.

My Lord, in the next place is Major *Huntington*'s Teſtimony; and the firſt is this, That *at Mr.* Love's *Houſe in the beginning of* March 1649, *I found* Drake *and others, and there was read a Paper in the nature of a Commiſſion, commiſſionating my Lord* Willoughby *of* Parham, Graves, Titus, Maſſey *and* Bunce, *to treat in the behalf of the well-affected Party of* England, *and to join with the* Scotch *Commiſſioners, according to ſuch Inſtructions as ſhould be therein incloſed. And this Queſtion being aſked, What Power have we to give or ſend ſuch a Commiſſion?* Drake *anſwered, We have the King's Command for it, and the Authority of ſome ſecluded Parliament-Men; for I look upon them beyond the Power that is now ſitting. Whereupon Mr.* Love *replied, Come, come, let it go.* You have heard *Huntington's* Teſtimony, and Mr. *Love*'s Paraphraſe upon thoſe Words.

The next is *Adams*: *At the ſame time a Commiſſion and Inſtructions were ſpoken of at Mr.* Love's *Houſe to be drawn up and ſent*: *As I remember, Mr.* Gibbons *brought the rough Draught. I am very confident that Maſter* Love *was there ſome part of this time, and it was in his Study where this was generally conſented unto. The Inſtructions were there agreed alſo, and read by* Drake, *as I remember.* Sterks, *the* Scotiſh *Agent, met with us ſometimes at Maſter* Love's *Houſe.* This is what was teſtified by *Adams*. There is another to this, and that is Captain *Far*. William Drake *read there a Paper of the Nature of a Commiſſion, which was not agreed to by the Company, becauſe private Perſons had no Authority to give Commiſſion. The Commiſſion was in the Name of the Preſbyterian Party. A Letter and Inſtructions was then agreed upon; the Commiſſioners were to be the Lord* Willoughby *of* Parham, Bunce, Maſſey *and* Titus, *who were to move in the behalf of the Preſbyterians. Papers then were read, to have been ſent to the Queen, to perſuade the King to give Satisfaction to the* Scots; *but they were not aſſented to.*

My Lord, I have done with this that concerns this Meeting; and now I ſhall apply that which I intended, and ſpoke of before. The Deſign you heard, that, my Lord, was at the *Swan* at *Dowgate*, was treaſonable enough in Conſcience, high enough; a Party employed to agitate! And though we do not find Mr. *Love* to have been knowing or privy to it at firſt, yet, my Lord, if there be a Treaſon hatched and deſigned, a Party ſent out, and any ſubſequent Act of any other Party that ſhall come into this, and approve of it, and join in it in what way ſoever, this Man, my Lord, is guilty of the firſt Tranſaction of Treaſon. So that though Maſter *Love* did ſo walk under ground, that we cannot bring him in to be knowing at firſt, yet I bring him approving at laſt: And, my Lord, tho' here be his firſt appearing, it is enough, and too timely. And, my Lord, *Titus* departing, and an Account given of all, and, for aught appears, not to be proved by me, nor by any for the Commonwealth, whether Maſter *Love* did approve or not, or how far he went in it. But he was preſent, and at the Debates and Diſcourſings about it, and Actings in it. My Lord, this is far from Miſpriſion of Treaſon; for Miſpriſion of Treaſon is a bare ſilent Act that carries nothing of Diſcourſe nor Debate with it; it is a ſimple Act of Omiſſion. But when Treaſons are hatch'd and are deſigned, and others ſhall come and treat, and debate, and diſcourſe upon carrying them on; my Lord, by the ſubſequent Act he hath approved of all that paſs'd before, and made himſelf Party to it. Here is an Account given by *Titus* of what had paſſed there; this is brought into Maſter *Love*'s Houſe, there are Debates concerning a Commiſſion; whether they took the King for the Authority, or the King wrote of it, it doth not much move me. A Copy of a Letter from the King was read there, let them take it among themſelves as they pleaſe. Here was a Commiſſion debated, and Maſter *Love* acknowledgeth he debated againſt it. My Lord, under favour, if he had declared an utter Diſlike, and (as he himſelf ſays) a Deteſtation and Abomination againſt it; but he goes on, though not in that Particular, yet in another, and he is guilty of all. In Treaſon there are no Acceſſaries, all preſent are Principals.

The Crime of Treaſon is beyond the crying Blood of Murder; one is but private, the other is publick: ſo as, my Lord, though Mr. *Love* acknowledgeth, that he ſo far owned the Narrative from *Titus*, and the Proceedings there, the reading of it, but did diſſent from the Commiſſion, and did ſpeak againſt it, and at preſent I ſhall take it ſo too; yet for the Inſtructions ſent, and for the Commiſſion named, you have had four Witneſſes named to you. My Lord, Diſſent will not ſerve his Turn; and yet to that there is not a Pretence of a Diſſent from the Inſtructions, and what was ſent, and that is a Conſent and Concurrence, and that is an Approbation of all precedent Actions, and makes himſelf a Party in it, and that is by one Witneſs: And, my Lord, you have heard by Maſter Serjeant *Witherington*, that to every Circumſtance there needs not two Witneſſes, but to the Deſign there muſt be two: And *Adams* himſelf ſays, it was propounded to have given *Titus* Money, as you ſhall hear by and by; and *Far* tells you, That there was going on ſo far in it, that a Paper was read for Letters to be ſent to the Queen, to move her to perſuade the King, but that was not aſſented to; but it was moved among them.

My Lord, the next thing I ſhall take, as near as I can, was when this was done, and this Tranſaction paſſed over, and the Inſtructions ſent, that were agreed upon for Commiſſioners at *Breda*; then begins the Troubles in *Ireland*. You have heard of a Paper-book ſent, written in Sack, and returned a Year after; that comes next. There was ſent over from Col. *Bamfield* (Mr. *Love* ſays he knew not the Face of the Man) but he lik'd his Employment, it ſeems, that would be privy to ſuch Proceeding from a Man he knew not. There came a Servant over, I take it from *Bamfield*, and that was about *Chriſtmas* laſt, that is the time expreſſed after *Dunbar* Fight. My Lord, this was brought, the Letter was delivered to *Potter*, and their Superſcription was ſingly with the Letter *L.* which I may ſay, may be better applied to Maſter *Love*, than to any other, all Circumſtances conſidered; yet I ſhall not conclude from it; but though he ſays he had no Letters directed to him, I ſhall ſay as truly, that they were directed to him, as much as to any Man elſe, and a little more; for Maſter *Love* was very unfortunate that theſe Letters ſhould be brought to him, read in his Houſe, the Tranſactions there, and Mr. *Love* to have no hand in it, this is hardly to be believed.

My Lord, in the next place are theſe Letters that came from *Bamfield*; if it pleaſe you, for that I ſhall read *Potter*. *I received Letters out of* Scotland *from* Bamfield, *with the Letter* L. *upon it, wherein was a large Narrative of the Affairs of* Scotland, *from* Dunbar *Fight, to the time of the Date of them, which (I think) was about* Chriſtmas. *I carried theſe Letters to Mr.* Love's; *where was one or two more with us,* Jaquel, *and, I think,* Dr. Drake; *we three, I am ſure of it. There were Letters from a nameleſs Perſon, whom we ſuppoſed to be Maſter* Bailey; *and a Letter from my Lords of* Argyle, Lothian, *and* Lowdon. *Theſe Letters wrote for Ten thouſand Pounds for buying of Arms, and hiring of Shipping; and for Five thouſand Men to be landed in* England. *Theſe Letters were diſliked and diſſented from; and it was agreed to give a negative Anſwer: And we thought fit (for our own Safety) to raiſe ſome Money for the Meſſenger and* Bamfield: *The Sum agreed on was Forty Pounds, to which I contributed Ten Pounds. I carried the Letter to Mr.* Love's *to take Advice upon it. Mr.* Love, *and I, and* Jaquel, *read thoſe Letters that were opened, and thoſe that were not opened, we did open and read, and diſcourſe on them; and upon Advice reſolved to do nothing in it:* Neither did they reveal it. And then being demanded, Whether at Mr. *Love*'s Houſe there was not a Diſcourſe for raiſing 4 or 500*l.*? he anſwered, *There was.* Being demanded, Whether Letters were not return'd to *Bamfield*, with the Money ſent him? He anſwered, *A Letter was left at my Shop, and I apprehended it came from Maſter* Love, *or Mr.* Drake. And *Jaquel* being demanded, Whether Mr. *Love* and Mr. *Drake* were not appointed to draw up the Letter? He anſwered, *Yes, they were.* And that is *Potter*'s Teſtimony.

The next mention is, That *Jaquel* was preſent there, here is ſure of it, Maſter *Love* himſelf and *Jaquel*. This is *Jaquel*'s Teſtimony: *At a Meeting at Mr.* Love's *Houſe, Maſter* Love *being preſent, it was thought fit that Forty Pounds ſhould be raiſed for* Bamfield. *A Letter was read from* Bamfield *at Maſter* Love's *Houſe, Maſter* Love *being preſent: Mr.* Love *declared, he never ſaw, or knew* Bamfield. *The Letter was for Five thouſand Pounds to hire Shipping. And another Letter from my Lords of* Argyle, Lothian, *and others, at the ſame time and place were read, to induce the Confederates to give credit to* Bamfield. Potter *moved, That Ten Pounds might be given to the Meſſenger that brought the Letter, and Thirty Pounds to* Bamfield; *which was conſidered of, and nothing ſaid againſt it: There was no Agreement, but it was thought convenient by all then preſent.* Upon this Mr. *Love* aſk'd Mr. *Jaquel* a Queſtion, and he ſaid, *I cannot ſay that Mr.* Love *ſaid it was convenient, but it was not diſſented from, or ſpoken againſt by any.*

My Lord, I ſuppoſe this is a faithful Relation of what the Witneſſes ſaid. My Lord, you have heard of this, and the time when it was, that *Bamfield*'s Servant was ſent, and Letters brought from *Scotland*, giving an Account of Proceedings there: Letters from *Argyle*, *Lothian*, *Lowdon*, and *Belcarris*, to give credit to what *Bamfield* ſhould relate: Money provided, though not the Sum, nor the Means thoſe Letters did hint to them; perchance their Purſes could not reach that; but ſo far as they could go, they would: they would reward him that brought it, and him that ſent it; and thereupon 40*l.* was provided, ten Pounds for the Meſſenger, and thirty Pounds for *Bamfield*. In this Repetition I think I have not wronged Mr. *Love*.

The next is the Letter that came from *Maſſey* and *Titus*, who were then in *Scotland*; and in what Condition, I think every Man knows, in what Condition they are there: though by the way I ſhould be ſorry to repeat that which Mr. *Love* did ſay the firſt Day, That it did not appear to him, that the *Scots* were in Arms againſt the Parliament of *England*, but in Arms for their own Preſervation: and therefore did deſire Counſel. Here was one of his Reaſons why he deſired Counſel to be informed, to adviſe him whether they were in Arms for their own Preſervation, or in oppoſition to the Parliament of *England*. This was that Mr. *Love* was pleaſed to ſay the firſt Day. My Lord, this of *Maſſey* and *Titus* gives them Account likewiſe of the Affairs in *Scotland* after *Dunbar* Fight too. If you pleaſe, my Lord, I will read you three Witneſſes to that, and that neither doth Mr. *Love* deny, but that theſe Letters were read at his Houſe.

This is Major *John Alford*'s. *After* Dunbar *Fight we met at Mr.* Love's *Houſe in his lower Room, where a Letter from* Maſſey *was read, which gave an Account of the Fight there; wherein he alſo wrote for Arms, mentioning his own and* Titus's *Neceſſities. Thereupon a Propoſition was made for raiſing of Monies for the ſupplying of their Neceſſities; and Five hundred Pounds being propounded, it was brought down to Two or Three hundred Pounds to be raiſed among our ſelves. Mr.* Love *did then move for Contribution-Money to that purpoſe; and I thereupon promiſed Ten Pounds, which my Man paid.* This, my Lord, is the Teſtimony which *Alford* gives as to this concerning *Maſſey*.

The next is *Adams*. *When the Money was propounded to be raiſed for* Maſſey *and* Titus, *certainly Mr.* Love *was then preſent*; [and this after the Fight

Fight at *Dunbar*] *and the Money was agreed to be raiſed by thoſe that were privy to the Correſpondency. Mr.* Love *had then a Paper in his Hand, and did write ſomething, I ſaw not what he did write; and ſo every Man that was there did write what he would lend; I conceive Mr.* Love *ſummed up every Man's Sum.* Maſſey's *Letter was for Arms, and the Money propounded was for* Titus *and* Maſſey; *for* Titus, *becauſe he was ſent by us; and Mr.* Love *was there.* This, my Lord, is *Adams*'s Teſtimony; and though he did not know what Mr. *Love* writ, yet he knew what Mr. *Love* moved.

My Lord, here is another, and that is Captain *Far*, which I ſhall make bold to read to the Court likewiſe, concerning the ſame Action. *After* Dunbar *Fight, I came ſomewhat late to a Meeting at Mr.* Love's *Houſe, where Mr.* Love *told me a Letter was come from* Maſſey, *to aſſiſt the King with Money and Arms; but it was not agreed that any Money or Arms could be ſent. And I underſtood from Mr.* Love, *they could not do it. Mr.* Love *then likewiſe told me, they agreed to raiſe a Sum of Money for* Titus, Maſſey *and* Graves, *to be ſent to relieve them in their Neceſſity: Which Sum, whether it was* 250 l. *or* 300 l. *I cannot poſitively ſay; but Mr.* Love *moved me to contribute. I told him I would give him Five Pounds, which I brought wrapp'd up in a Paper, and laid it down on Mr.* Love's *Table, Mr.* Love *and ſeveral others being in the Room; it was ſo done, that there might be no Diſcovery.* And Mr. *Love* aſking him ſome Queſtions upon this, Whether it was done ſo by Mr. *Love*, or no? He did not know that; but it was done ſo by himſelf, that there might be no Diſcovery. My Lord, Mr. *Love* did not diſagree: *Far* being croſs-examin'd by Mr. *Love*, did not ſay, that Mr. *Love* did diſagree to the ſending the Money to *Maſſey* and *Titus.* So I have done with that Particular likewiſe, the receiving Letters from *Maſſey*, and of the Account from *Scotland*, and the Fight there.

That which *Adams* ſaith, Mr. *Love* having replied unto it, concerning a Letter writ to the General Aſſembly and Kirk of *Scotland*; and in that, my Lord, he is pretty poſitive. *Adams*'s Teſtimony is; *There was a Letter written to the General Aſſembly and Kirk of* Scotland, *at Mr.* Love's *Houſe, Mr.* Love *was ſometimes preſent at this Meeting: Which Letter was taken to be penn'd by Mr.* Love *and Mr.* Drake; *and I thought it to be ſo, becauſe of the Language of it: And that after* Drake *eſcaped, all the Meetings I know of, were at his Houſe*; [and ſo, my Lord, ſay ſome others.] Being examined, he ſays, *I ſaw Letters which were read in Mr.* Love's *Houſe*; *Mr.* Love *was preſent and privy to the debating of them, and did not declare any Diſſent.*

My Lord, I have now done with theſe Particulars; you have ſeen Mr. *Love* at the End, though you found him not at the Beginning: It is not good to come at the ending of the Quarrel. But, my Lord, under Favour, by the Laws and Rules of Juſtice, if any ill Thing be contrived and plotted, and afterwards any other Perſon ſhall come into the Contrivance of it, and carry it on; my Lord, I think I ſhall not need to ſay much in it, but he is culpable and guilty of the whole, from the firſt to laſt. And that Mr. *Love* ſhould be but a mere Spectator, a mere concealed Perſon, it is very hard to be believed by any that are rational Men: for after that once *Titus* had done his Errand at *Jerſey*, and gives his Account here, my Lord, That his Tranſactions, and the ſubſequent Employment, all that we know of, are all tranſacted, and carried on in Mr. *Love*'s Houſe, in Mr. *Love*'s Study, in Mr. *Love*'s Preſence: It was not one or two, or three Times, which had been enough, and very well had it been for Mr. *Love*, if he had done as *Baines* did, or as *Barton* did; they, when they heard (though they were too much for them, my Lord, to conceal, as they have done, yet did confeſs it when required) they left off when they heard of it, they would go no further in it, they knew the Danger of it. Mr. *Love*, my Lord, as you will hear anon, by what himſelf hath propoſed, what Judgment and Conſcience led him to carry on this; it was a Conſcience of his own covenanting Intereſt and Principles for the *Scots* and Religion, that led him on to carry on this Deſign

My Lord, I have done with this, that is, the Evidence againſt him; for Application to it, you have heard the ſeveral Laws read before the Charge opened: That Man is guilty of High-Treaſon, and is a Traitor by the Laws of the Land now, that doth any Way promote, declare, or publiſh *Charles Stuart* to be King of *England.* My Lord, you have heard the Evidence, what *Titus* hath plotted, what *Drake* hath carried on, what Mr. *Love* hath approved of, and how far he hath conſented and joined in the Deſign. My Lord, I ſhall ſay it again, if *Titus* and *Drake* be Traitors, as their own guilty Conſciences have made themſelves judge themſelves ſo: He that flies, confeſſeth the Fact; my Lord, they are fled. My Lord, if they be Traitors, Mr. *Love* muſt be the ſame with them; for Mr. *Love* was carrying on, and hath agreed, and concurred, and approved of carrying on the Deſign that *Titus* and *Drake* have acted: Conſenters and Agents are to have the ſame Puniſhments; in Treaſon there are no Acceſſaries. My Lord, the next Point is this; the next Act is that of the 17th of *January*, 1649. Having given you the Evidence, you will give me leave now ſhortly to repeat the Law. The firſt is, for promoting *Charles Stuart*, &c. That if any Perſon ſhall maliciouſly and adviſedly plot, contrive and endeavour to ſtir up, or raiſe Forces againſt this preſent Parliament, and for the Subverſion of the ſame, and ſhall declare it by any open Deed, *&c.*

My Lord, Mr. *Love* is pleaſed to expreſs himſelf, That none can accuſe him, nor none have ſworn againſt him, that he hath raiſed any Seditions, any Inſurrection, any Rebellions; my Lord, I cannot ſay it fully, whether he be guilty of that, or no: But this I will ſay (the Judgment I ſhall leave to the Court upon the Evidence heard) if Mr. *Love* be guilty of any Thing moving or tending towards the raiſing of Forces, Seditions or Rebellions; though the Thing be not done, yet, my Lord, it is Treaſon; thoſe Practices, thoſe Purpoſes are Treaſon by the Law, though they never came to Act. We ſhall not look, I hope, to ſee a Rebellion raiſed before we ſhall ſay it is Treaſon, and endeavour againſt it; but for that, how far he is guilty upon the Evidence of being inſtrumental of the War in *Scotland*, and to have endeavoured to have a Party got in *England*, my Lord, I ſhall leave it to your Judgment, upon the Evidence you have heard.

My Lord, there is likewiſe another in the ſame Law: If any Perſon procure, invite, agree, aid, or aſſiſt any Foreigner or Stranger to invade *England* or *Ireland*, or adhere to any Forces raiſed by the Enemies of the Parliament or Commonweath, or Keepers of the Liberties of *England*; this is High-Treaſon. For this, you have heard the Evidence what Mr. *Love* hath done towards this; ſtill upon the ſame Foot of Account it is Treaſon, though but propoſed and intended, though not acted. Then there is another Clauſe upon the Law that Mr. *Love* hath inſiſted upon, of conſtituting this Court. But for thoſe former I have ſaid, and you ſhall give me leave to repeat it again, That theſe Laws offended againſt, though in Time before this Court was conſtituted, yet this Court hath, in expreſs Words, Commiſſion and Authority given them by the Parliament, to take Cognizance of all Facts and Offences done after that Law, though done before your Commiſſion; and that, my Lord, is not to be doubted to be a very good and legal Authority. And yet for this the Law that conſtitutes this Court, of the 26th of *March* 1650, That no Perſon after the 29th of *March* 1650, ſhall give or hold any Intelligence by Letters, Meſſages, or otherwiſe, with *Charles Stuart*, *James Stuart*, or the late Queen their Mother, or the Council abiding with any of them, prejudicial to the Commonwealth; or with any that ſhall be in Arms againſt the Parliament of *England*, or ſhall bring or ſend in *England*, *Ireland*, or any Dominions of this Commonwealth, Letters, Meſſages or Inſtructions, tending to raiſe Inſurrections, or a new War within this Nation, and ſhall not forthwith reveal the ſame to the Speaker of the Parliament, or to the Council of State, or two Members thereof, or to two Juſtices of Peace, ſhall be guilty of, *&c.* That is a Clauſe in the Law that conſtitutes this Court. And no Perſon ſhall voluntarily relieve any Perſon in Arms, or that ſhall be in Arms againſt the Parliament, with any Money, Victuals, or Ammunition on pain of Death, or other corporal Puniſhment. And whoſoever ſhall voluntarily take up Arms againſt the Parliament, and ſhall encourage others to do ſo, ſhall die without Mercy.

Theſe, my Lords, are Clauſes contained in the Act that conſtitutes this Court; and I read the Law before the Charge: And now, my Lord, I have repeated the Evidence faithfully, now let it be conſidered how far the Evidence goes with them. There are three Acts of Parliament, I ſuppoſe Mr. *Love* knew not of the next; for he ſays, he knew not of that of the 2d of *Auguſt*; but it was publiſh'd ſolemnly at the *Exchange*, and at *Weſtminſter-Hall*: But Ignorance cannot excuſe him; that no Man will pretend. This, my Lord, is in Relation to *Scotland*; it was made in *Auguſt.* The Battle at *Dunbar*, I cannot well tell whether it was in *September* or *October*; in *September* this Correſpondency from *Bamfield*, *Argyle*, *Lowdon*, and *Lothian*, *Belcarris*, *Maſſey*, and the reſt, were all ſince *Dunbar* Fight; that is clear, they were ſince that Time: The Words of the Law are theſe; 'Whoever, after the 5th of *Auguſt*, ſhall uſe, hold or maintain 'any Correſpondency or Intelligence with any of the *Scotch* Nation reſiding in *Scotland*, without Licence from the Parliament, or with any other 'Perſon or Perſons of the *Scotiſh* or any other Nation, whom they know to 'adhere to the *Scotiſh* Nation againſt the Parliament; or ſhall abet, aſſiſt, 'countenance, or encourage the *Scotiſh* Nation, or any other Perſon adhering to them in their War againſt the Parliament and Commonwealth 'of *England*, or ſhall ſend, or cauſe to be ſent and conveyed any Money, 'Horſe, Arms, Ammunition, or any other Furniture of Plate, Goods, 'Merchandiſe, or any Supply whatſoever, to the *Scots*, or to any Port or 'Place thereof, or in their Power, or in Confederacy againſt this Nation, 'theſe Facts are High-Treaſon by this Law.' And the High Court of Juſtice is to take Cognizance of the Contents by expreſs Proviſion of that Law.

My Lord, I ſhall not need to repeat the Evidence again; but upon theſe, my Lord, I muſt leave him to your Juſtice and Judgment to do what in your Conſciences you think is juſt upon theſe Laws, and what Mr. *Love* hath done in Tranſgreſſion againſt them.

My Lord, Mr. *Love* was pleaſed, at the Beginning of his Trial, to make ſome deep Proteſtations; I think he did move all honeſt Men that heard him: And truly I did think, and did hope that they were not made with any relation to Equivocation, or mental Reſervation, but to a poſitive Denial of any Facts of Treaſon, or looking that Way; that it had been made in that Senſe, that he had been clearly not guilty of any Thing. But, my Lord, having looked upon them, and cauſed them to be tranſcribed to me, I do find that they are ſomewhat cautious, and perchance they may be true, my Lord, in the Senſe ſpoken by Mr. *Love*; but whether true in the Senſe they ſhould have been ſpoken by a Chriſtian in a publick Aſſembly, that I ſhall not judge. His firſt Proteſtation was, in the Preſence of God and this Aſſembly, 'That I never wrote any Letter to the 'King, or to the Church, nor to the Queen, or Church and State of '*Scotland* in general, or to any particular Perſon of the *Scotch* Nation, 'ſince the War began to this very Day.'

My Lord, this may be true; but whether any Letter hath been ſent from the King, or from the *Scotiſh* Nation, or others, or by *Maſſey*, or the reſt, that ſhall be believed as the Evidence is.

Mr. *Love.* It is in my ſecond Proteſtation.

Attorn. Gen. 'Again (ſaith he) I do likewiſe declare in the Preſence of 'the ſame God, I never received Letter written to me from the King, 'or from the Queen his Mother, or from the Church or State of *Scotland* 'in general, or any particular Perſon of the *Scotiſh* Nation ſince the War 'began. I proteſt and declare likewiſe in the Preſence of the ſame God, 'I never collected, gave or lent Penny of Money either to ſend into '*Scotland*, or any foreign Parts, either to the King of *Scots*, or to the 'Queen his Mother, or to the Church or State of *Scotland* in general, 'or to any particular Perſon of the *Scotiſh* Nation, ſince the Wars be'gan.' But that Mr. *Love* did not move others to contribute, we have not a Word of that. Truly, I did think it when he ſpoke it? But it ſeems theſe Aſſeverations were ſtudied to evade, and that he would ſpeak true, but not the whole Truth. I have given them but a Touch; theſe may be true, my Lord, but, under Favour, there is ſomething elſe that is as true, and goes almoſt as near as this.

My

My Lord, Mr. *Love* the laſt day had your Patience and Juſtice to make a large Defence, and he was very large in it; and though he did beat us down that are the Counſel for the Publick, that we ſhould not uſe Oratory, nor Flouriſhes, nor Querks of Law, nor Niceties, in which I ſhall be guided by him, and ſhall not do it; yet he is pleaſed fully to make uſe of all Inſinuations to the Court to trip up every Witneſs upon Niceties, upon Not-expreſſion, upon Non-ſenſe, and ſuch, my Lord, which I ſhall not follow him in: for I ſhall deal as Truth ought to deal, in pure Nakedneſs and Simplicity, and not uſe any Oratory, but to ſet the Matter of Fact before you, and leave it unto the Court, who are the Judges between the Commonwealth and himſelf for Life and Death. But, my Lord, you ſhall give me leave to touch upon ſome few things in the late Defence of his; it was divided into four Parts.

The firſt, the Charge; the ſecond, the Witneſſes and Teſtimony, both in one: The Witneſſes for the Perſons, the Teſtimony for the Fact. The third, concerning himſelf; the fourth, ſome Propoſals to the Court: which truly, my Lord, might better have been termed rather Threatnings than Propoſals.

My Lord, for the Charge, you have heard it hath been gone through, and the Evidence concerning it. Concerning the Witneſſes, my Lord, I have read unto you (for I do take it upon my Conſcience) what I knew, and nothing but what was true: I have not varied, that I know of, a Syllable; and I think I ought not to do it; the Duty of my Place requires it not from me.

My Lord, concerning himſelf, he is pleaſed to ſay ſomething, and much of his Merit: But, my Lord, it is a Grief to this Court, to my ſelf, and all that are Well-wiſhers to the Publick, that any Man that hath been a Friend to the Parliament, that hath gone along with them, acted for them, ſuffered for them, done as he hath done, that this Man ſhould be called to publick Juſtice: I hope, my Lord, all that hear me bear witneſs, that I think, my Lord, we are all ſenſible of it.

But, my Lord, look upon who hath been the Cauſe of it; let that be look'd into, and every Man will be ſatisfied in his own Judgment and Conſcience, whether Mr. *Love* were provoked, or no, or whether he hath not provoked the State to bring him to be thus exemplary in Juſtice. Mr. *Love* ſays, my Lord, (I ſhall deſire to make uſe of the Paper) *I confeſs it is not ſo much the Danger of my Life; I am a ſickly Man, and I know a Diſeaſe will ere-long kill me, whatſoever you do with me: But this grieves me more, That I ſhould ſuffer from your Hands, for whom I have done and ſuffered ſo much in my obſcure Station, and according to my weak Meaſure. Had I been ſo dealt with at* Oxford, *at the* Junto *there! But to be ſo dealt withal in* Weſtminſter-Hall, *this troubles me.* And, my Lord, it doth trouble me to deal ſo with him. My Lord, whether may we or himſelf take up this Complaint? Had the State been thus uſed by a Cavalier, by a profeſſed open Enemy, it had not been ſo much Trouble to us; you would have come to Juſtice upon a little more Deſire than now: But that Mr. *Love*, a Miniſter, a Miniſter of the Goſpel, a Man that hath preached for us, prayed for us, acted with us, gone along with us; that he ſhould go to undermine us, that he ſhould be joined, or in Confederacy with others to undermine the State, where he did live peaceably and quietly, where none interrupted him: He had a free Liberty, as much as a King in this Commonwealth: Truly, that Mr. *Love* ſhould do this, it is (I think) an Aggravation; and not an Aggravation upon the Court or State, that they ſhould proſecute where a Man is proſecuting them. What he hath done, my Lord, you have heard; what his Offences have been, and who gave the Cauſe; That a Miniſter ſhould do this; one that had a Calling otherwhere, and better to employ himſelf, than to meddle with States and ſecular Affairs: And theſe Things to be done in Mr. *Love*'s Houſe, and in his Study, where he ſhould have been ſtudying better Things. My Lord, next he ſays, *I could not leave ſuch Relations as I have, nor ſuch a loving People and competent Living, as any Miniſter hath within* London, *only Conſcience carried me another way; and till Conſcience be ſatisfied, I cannot ſtir one jot.* My Lord, this his Conſcience, I do not know what it hath to do in Government, or what Mr. *Love*'s Conſcience had to do in theſe Affairs: He had a Calling of his own to uſe; and ſhould I go out of my Calling, and meddle with other Men, I humbly conceive I were a Buſy-body. Mr. *Love* had a Calling enough for any one Man to employ himſelf in; and, methinks, when he ſays he had ſuch a Relation to a loving People, a Competency of Livelihood, that he ſhould not apply himſelf to return to them, but to wander abroad: And when we once wander, it is hard coming in again, till perchance we are fetch'd in again with the Whip. But, my Lord, Mr. *Love* had other Relations, of Wife and Children, which he might have look'd upon alſo, and taken care of them.

In the laſt place, he is pleaſed to ſay, (and that I believe hath carried on his Deſign) *The Covenant-Intereſt.* You have heard what *Titus* did, what *Drake* did, and what the reſt did; that all this, it was upon the Covenant; and the Covenant is urged, I am ſure, to Things the Parliament hath forbid. Mr. *Love* is pleaſed to declare himſelf ſtill to retain his old Principles, from which (by the Grace of God) he will not be taken off by any Terror. My Lord, you will hear by and by what the Covenant he ſuppoſes leads him to: And, my Lord, I ſhall take it aſunder, and bring it next, if you pleaſe, that is the Covenant-Intereſt. Says Mr. *Love*, *Though I own not the way of managing any Papers, I neither writ them, nor ſent them, yet thus far I own the Thing; I confeſs it was agreeable to my Judgment and Conſcience, and I thought the Intereſt of Godlineſs would be more promoted if the King went into* Scotland *upon Covenant-Terms; it would be more for the Good of the Nation.*

Mr. *Love*. No, Sir, thoſe are not my Words: I ſaid, *Than to fall in with the* Iriſh *Rebels, or to offer this Kingdom to the* Spaniard. I thought a greater Foundation of Trouble would be laid, if this Reception were not laid by that Nation. And the Covenant hath a Clauſe in it, That we are to ſeek the Good and Union of both Nations; and they are judged to be Incendiaries and Malignants that not only divide the King from his People, but the Kingdoms one from another.

Now they declaring him to be their King, according to my Apprehenſion, I thought it agreeable to my Covenant to pray and deſire, as a private Man, and no more, that there might be an Agreement upon thoſe Terms, conſiſting with Religion and the Terms of the Covenant.

Attorn. Gen. But had you gone on as a private Man, Mr. *Love*, we had not ſtir'd you now. My Lord, this is plain of it ſelf what Intereſt this Covenant-Intereſt is, *Till the King and the People in the two Nations,* &c. Truly, my Lord, Mr. *Love* is pleaſed to expreſs himſelf ſomewhat obliquely againſt the preſent Government: He ſaith, my Lord, *When I look upon all the Vows, Covenants, Declarations, Proteſtations, of both Houſes of Parliament, I find a Suitableneſs between my Judgment and them, and am not conſcious to my ſelf of any thing I have done in Oppoſition or Contradiction thereunto; I repent not of whatſoever I have done; though I could wiſh the Ends of that juſt War had been better accompliſhed: Then ſhould we have been happy, and united among our ſelves, and honoured among the Nations round about us. I am ſo far from repenting of what I have done, both by doing, and contributing, and ſuffering in the Parliament's Quarrel, that were it to be done again upon the ſame unqueſtionable Authority, for the ſame declared Ends, and againſt the ſame malignant Perſons, I ſhould manifeſt as much Readineſs of Mind to engage, according to my meaſure.*

After this, where he had mentioned his Troubles at *Oxford*, when a Scholar there; and at *London*, when he came to a Lecture here; at *Newcaſtle*, when he ſpake for the Parliament there; and in *Kent*, when he ſpake againſt the King there; when theſe were over, after this he had a little Breathing, whilſt the two Houſes of Parliament were in power. This Gentleman was troubled in the Time of the King, in the Time of the Biſhops, in the Time of theſe Wars, for being for the Parliament: But I appeal to his own Conſcience and Judgment, whether ever he was troubled or diſturbed by this Parliament, or by this Government of the Commonwealth, whether he had not as free and as full Liberty to preach the Goſpel, to inſtruct others, and to ſave Souls, as his Heart could wiſh; and I deſire to know whether ever the Parliament did interpoſe with him, till he did interpoſe with us. He went out of his Way, my Lord: He was quiet and ſafe, in as much Security as any of us; and, my Lord, even thoſe that were the Watchmen for the Safety of this Commonwealth, did watch and take as much Care even for his Preſervation, as for any one of ours: And thus he hath requited them. My Lord, I will repeat it: I appeal to his own Conſcience, and to any of his Friends here, whether ever, till his Judgment and Conſcience did interpoſe in State-Affairs, to diſpoſe of Kingdoms and Commonwealths, whether ever he were in the leaſt interrupted.

My Lord, he ſays himſelf, when he came to be a Lecturer in *London*, the Biſhop would not admit of him in three Years; yet, my Lord, he is admitted here three Years, and none hath interrupted him. And your ſelf ſay, you have a competent Livelihood, and a People very loving to you; and you might have ſo continued, if you would.

My Lord, his Propoſals to the Court, I do ſay, were hardly fair Propoſals; for they had a little of Threatning in them: *For* (ſays he) *if you cenſure rather upon a political Intereſt, than of the Merit of the Fact, the Scripture counts it not Juſtice, but Murder.* Truly, my Lord, I think Juſtice is a political Intereſt, the Preſervation of the general: But ſurely I do not think the Perſon will come in Judgment before you, but the Merit of his Fact; and as yet I may ſay, I ſuppoſe the Treaſons he hath committed, if thoſe find him guilty, if the Court finds him guilty of thoſe Facts laid to his Charge, and if you are ſatisfied in your Judgments that they are proved, my Lord, it is Juſtice, not Murder; and it is Juſtice that which political Intereſt requires of you, that Juſtice be done upon the Priſoner. And he is pleaſed to ſay in his laſt Defence, That he denied the Commiſſion to be ſent, and entitling the Preſbyterian Party to it: and he hath acknowledged it had been very high Preſumption if they ſhould have done it, and a notorious Falſhood. And in that I join with him; and whether he hath not done ſo, my Lord, that I ſhall leave to you. That the Preſbyterian Name was made uſe of, you have had many concurrent Evidences; and Mr. *Love* was preſent when theſe Things were mentioned: And if it be a Fault, which himſelf hath acknowledged, it is Right done to the Preſbyterian Party, who, I am ſure, will not own him in it.

My Lord, but a Word more: This laſt Day he was pleaſed to mention his * Sermon; which made me a little to enquire after it: It was preached at *Uxbridge*, (my Lord, I had the Honour to be at the Treaty) which hath been ſo much ſpoken of; and truly I wonder this Gentleman did not remember what he ſaid then. If you pleaſe, my Lord, I ſhall put you in mind of ſome Paſſages: I have the Sermon here.

[Mr. Attorney-General reads out of the Book, which he ſaid was Mr. *Love*'s Sermon.]

I have ever thought that too much Mercy towards Malignants hath made more Delinquents than ever Juſtice hath done. Mercy ſhould not weigh down Juſtice; (my Lord, theſe are good Inſtructions.) *In God they are both equal; why ſhould it not be ſo in Man? Pity to the Bad, hath proved Cruelty to the Good: The ſparing of Offenders hath made many worſe; few or none better.* (And, my Lord, we know it.) *To them that have ſhewed no Mercy, let Judgment be ſhewed without Mercy: Much Guilt contracted; much innocent Blood ſpilt; which either muſt be avenged on us, or by us.* My Lord, that is one of his Clauſes; and here is another: 2. *The Lord heals a Land by cutting off thoſe diſtempered Members that endanger the Health of a Land.* (Here is good Doctrine, my Lord.) *It was the Lord troubled* Achan, *and cut him off, becauſe he troubled* Iſrael. *Oh, that in this our State-Phyſicians would reſemble God, to cut off thoſe from the Land, who have diſtempered it*; (I ſuppoſe he meant, *or ſhall do.*) That, my Lord, was his Opinion then. *And thoſe who lie under the Guilt of much innocent Blood are not meet Perſons to be at peace with, till all the Guilt of Blood be expiated either by the Sword of the Law, or the Law of the Sword; and a Peace can never be ſafe nor juſt till then.* What Mr. *Love* hath endeavoured ſince, my

* Clar. Hiſt. Vol. 2. p. 445.

my Lord, I ſhall ay nothing. And I have but one Word more, and it is this; my Lord, he ſays it is not likely to have a Peace with ſuch Men as theſe, the Malignant Party, while they continue thus. *We can as ſoon make Fire and Water agree, yea, I had almoſt ſaid Heaven and Hell, as their Spirits and ours; for either they muſt grow better or we worſe, before we can agree.* My Lord, I think there is little hope of their growing better; and, my Lord, we have not grown worſe.

My Lord, I ſhall trouble you no further: I ſhall uſe nothing of Aggravation; but as Juſtice is blinded, ſo let the Evidence appear to you in pure Nakedneſs.

My Lord, you have heard the Evidence (as I humbly conceive) in the ſame Language, in the ſame Habit, in the ſame Words, as ſpoken by the Witneſſes: And, my Lord, having heard thoſe, and the Laws, and the Charge againſt him, upon the whole I ſhall humbly leave him to ſtand or fall by your Juſtice and Judgment.

Mr. *Love.* My Lord, I humbly crave leave to ſpeak but one Word: Mr. Attorney-General hath replied to my Defence, as to the Matter of Fact. Concerning his Reply I ſhall not inſiſt upon it; yet I ſhall humbly crave leave to inſiſt upon two Particulars.——

Attorn. Gen. If I have given any new Evidence, Mr. *Love* ought to be heard: But, my Lord, I have declined it. And for thoſe Paſſages in his Sermon, I do not urge one Word of Evidence againſt him; and for the reſt, they are his own Words, which he hath ſaid the laſt Day; And I have brought nothing new before you. And if the Sermon preached at *Uxbridge* ſhould be an Occaſion, I ſhall caſt it aſide.

Mr. *Love.* I humbly conceive there are new Suggeſtions expreſſed in Court by thoſe worthy Gentlemen, whoſe Names I know not, nor their Employments neither. But as to thoſe I ſhall humbly crave leave in a Word or two; and then, as to the whole Matter of the Depoſitions, I ſhall humbly offer ſome Matter of Law, ariſing upon the whole Matter given in.——

Attorn. Gen. I ſhall crave leave too, my Lord, and leave it to you: For any Suggeſtions, they are but Suggeſtions, as Mr. *Love* ſays himſelf; and that is nothing for the Evidence. Mr. *Love*, my Lord, had the laſt Day, and I ſhould have this. Had he ſaid he had any thing to ſay, or if he had had any thing more, he might have ſaid it; I did wait if he would have ſaid any thing: But, my Lord, then the whole was clos'd, and no new Evidence. I did not anſwer all the Suggeſtions of Mr. *Love* the laſt Day: His Evidence and Depoſitions will conclude the Court, that it is not Suggeſtions and Inſinuations; the Court are above theſe. When the Evidence is clos'd for the Commonwealth, let it be concluded there: If they offer any new Evidence, Mr. *Love* may have Liberty to anſwer.

Mr. *Love.* Though I dare not tax Mr. Attorney-General for diſcharging his Duty in his Place; yet for the Preſervation of my own Life, I muſt not be wanting to my ſelf, if your Lordſhip and the Court will give leave; and that is humbly to beſeech your Lordſhip to take notice that Mr. Attorney-General, in the Relation of the Matter of Fact in the Depoſitions, is pleaſed to raiſe the Correſpondency (as he is pleaſed to call it) as high as *Jerſey*; and ſo makes me to be *Particeps criminis*, that I ſhould be judged by you upon the whole Matter. Now *Alford* upon Oath did declare, That *Drake* and *Titus* held Correſpondency; and that the Miniſters knew nothing of it.

Attorn. Gen. I do not ſay you did.

Mr. *Love.* Therefore I beſeech you I may not be judged upon that Matter: and then I beſeech your Lordſhip to obſerve that Mr. Attorney-General is pleaſed to ſay he would not inſiſt upon Inferences, nor Strains of Wit; but truly I have diſcerned both.

Ld. Preſident. You totally err from the Way you ought to walk in, and take upon you to judge others. The Court will conſider whether he hath offered any thing or not: We have Notaries, and ſo have you. You ſpent the laſt Day only in making Comments and Collections; yet that you might have ſome Liberty of Diſcourſe, we ſat here patiently two Hours; and did hear that which we ought not, nor you ought to have ſpoken. And now you are entering the ſame way of Inferences and Collections, as though we did not ſit here to take notice of what was done, but we muſt receive the laſt Word from you and your Comment. If you had new Matter the laſt Time, you might have been heard: We expected you would have brought new Witneſſes; but they were in the ſame Crime with yourſelf; and you would rather betray your ſelf than them, and God and the Truth than them. But we will be as careful of any Comments as you your ſelf can be. And I think that we have ſo much Piety and Charity, that we ſit here with as good Affections of Juſtice and Piety, as are in your own Breaſt. This Book was not given as Evidence againſt you; and all that is in your Comments, we ſhall underſtand it.

Mr. *Love.* My Lord, I have only one Motion: I have ſome Matters in Law to offer to your Lordſhip, to conſider by way of Exception to the Charge, and alſo to the Depoſitions of the Witneſſes. I have a Paper that I humbly deſire might be read in Court as Matter in Law, ariſing from the Charge, and from the Depoſitions of the Witneſſes.

Attorn. Gen. Why did you not this before?

Mr. *Love.* I am ignorant of the Cuſtoms of the Court.

Ld. Preſident. I believe you have wronged your own Breaſt in many Things you have ſaid; and you have ſaid you have been ignorant in many Things that you have known very well: It is not good to dally. You will be ignorant at one time, and at another time more knowing than others.

Mr. *Love.* I beſeech your Lordſhip, it is a new Suggeſtion of the Attorney-General, That Concealment of Treaſon for a Tract of Time is Treaſon.

Ld. Preſident. There is no new Words of Suggeſtion: If Mr. Attorney hath not ſpoken it, nor read it according to the Truth, we will examine it.

Mr. *Love.* He hath done it with diſadvantage to me.

Ld. Preſident. If we have, he ſhall not do it with diſadvantage to us; for we will be as indifferent as your own Breaſt: Therefore be not you a Commentator of that. We underſtand ſo well as God enlightens; for whether he hath done it with advantage or diſadvantage, that is our part to conſider.

Mr. *Love.* I deſire to have Counſel upon this Matter of Law ariſing from the Evidence; That Concealment of Treaſon, by your Acts, ſuppoſe it be for Continuance or Tract of Time, yet by the Law it is not Treaſon. And my Counſel informs me, That the Act of the 26th of *March*, that conſtitutes this Court, gave you Power to inquire into Treaſon, but could not take Cognizance of Miſpriſion of Treaſon till there was a ſubſequent Act. Therefore I deſire this Favour, That ſeeing it is ſo much ſuggeſted in Court, and ſeeing the Witneſſes none can prove a perſonal Act of mine, to bring me under your Law, as to Treaſon, I deſire my Counſel to clear this, That Concealment of Treaſon, though for never ſo long a Tract of Time, is not Treaſon by the Law of the Land.

Attorn. Gen. I will out Mr. *Love* of that Scruple: He is not charged for Miſpriſion of Treaſon, tho' I could have done it; but that I inſiſt upon, is flat Treaſon. It is true, Sir *Thomas Witherington* was pleaſed to expreſs it in the way of Argument, That Concealment of Treaſon long, comes to be Treaſon: But here are Acts, and I inſiſt upon the Evidence; and the Court will judge, for they have heard the Evidence.

Mr. *Love.* I beſeech your Lordſhip that the Paper might be read, the Exceptions that I have againſt the Indictment, and the Matters of Law ariſing from the Evidence.

Attorn. Gen. My Lord, truly I profeſs, I hope I am not in my Nature cruel, that I ſhould do Injury to Mr. *Love:* But, my Lord, I cannot favour him, to do Injury to the Law of the Nation. My Lord, he hath one by him that hath taken every Word of the Charge.

Mr. *Love.* I did plead upon your Lordſhip's Promiſe that I ſhould have a fair and indifferent Hearing; and if Matter of Law did ariſe from Matter of Fact, which could not, you ſaid, be known till the Witneſſes were depoſed, I had your Lordſhip's Promiſe, and I think the Court's, that I ſhould have Counſel to plead to Matter of Law.

Attorn. Gen. My Lord, I think here is no Legiſlative Power in this Court to change Laws. My Lord, I appeal to all here, whether the Evidence we gave were not cloſed upon Saturday, and all the Depoſitions; whether Mr. *Love* did not take Care and Pains to make his own Defence, as to Matter of Fact, and ſpent ſo many Hours on Wedneſday laſt. My Lord, he had all before that; if he had Matter of Law, it was more proper to move then: But when he hath gone ſo far, and we have cloſed all, do but conſider the Conſequence, that when this is done, and all the Evidences heard, then to come with Matter of Law.

Ld. Preſident. Mr. *Love*, that you have ſaid hitherto, is nothing but of the ſame Nature of that you ſaid the laſt Day; and the Court will take it into Conſideration, and judge of it: But if you have any thing in your Paper that is ſo included upon the Evidence; for I tell you the Evidence was ended the laſt Day, and your Reply; and if you had any thing, you ſhould have offered it the laſt Day. Here hath been nothing new offered concerning you, but as it is uſual for the Counſel for the State to ſtate the Matter of Fact to the Court; for they have the laſt Word: But you had fully ended before; and ſhall we go out of the Way for you, more than for a whole Generation which the Law runs unto? I do not know how to do it: You had this Paper in your Pocket; you might have pulled it out; and you have had Time in a nearer degree to it: Yet the Court is willing, if you can out of your Paper, by Advice of Counſel, ſhortly read what you inſiſt upon for Matter of Law, they will hear it, if ſuch Exceptions are not of your own, but by the Advice of Counſel.

[Mr. *Love* gives in his Exceptions.]

Exceptions taken by Chriſtopher Love, *Clerk, to the Charge of High-Treaſon, and other high Crimes and Offences, exhibited to the High Court of Juſtice againſt him by* Edmond Prideaux, *Eſq; Attorney-General for the Commonwealth of* England.

[Theſe Exceptions are not here printed, for that they come in more properly afterwards; being again in Subſtance given into the Court, and ſigned by Mr. *Love*'s Counſel, and the Subſtance of them then debated in Court by Mr. *Hale*, a Counſel for Mr. *Love*.]

Attorn. Gen. My Lord, you have now ſome Fruits of the Notary. By the Law of *England*, he that is impeached of High-Treaſon, is not to have the Copy of the Indictment: It is ſaid the Court are Judges for the Priſoner, and Counſel for him. To you all Things be ſubſtantially charged. That there is a ſubſtantial Charge, the Evidence makes out. But this Precedent being admitted, and the former of *Lilburne*'s cited, I ſhall have little Encouragement to go on with any Charge of Indictments.

Ld. Preſident. Though it be more than the Law permits, yet the Court will take Conſideration of it.

Attorn. Gen. He did read his Papers: I think it is more than ever was heard of in any Court in the World. But to take his Papers in by your Clerk; I hope this is no Replication to the Charge: I hope he anſwers not that way; then we ſhall diſpute that way again. If he gives Papers, I may; and, as Ambaſſadors, treat by Papers.

Ld. Preſident. Mr. *Love*, we have gone out of our Way for you: And whatever hath been ſuggeſted by the Counſel this Day is nothing, unleſs they had offered new Matter; and they have offered none; and therefore it is againſt any Law that was ever yet practiſed in *England*. You were concluded before, though haply the neglecting of it might have been a Prejudice to you: Yet you have offered a Paper, which the Court will take as a Paper to conſider of.

[The Court adjourns into the *Painted Chamber:* And upon their Return, the Lord Preſident ſpeaks.]

Ld. Preſident. Mr. *Love*, our long Abſence upon this account may ſeem to you and others, that we have had ſomething of great difficulty among

among us, which we have considered of. That which hath been upon your Papers last offered, in which you have set down the Parts of the Charge, and the Statutes, and your Exceptions; these we have considered of. But to these, though you do affirm it here to us, that it is by Advice of your Counsel, yet it is not under your Counsel's Hand, nor your own, which in order it should be: We have considered of them; and our examining of them hath taken up a great deal of this Time we have been absent. We find that there may haply be some Mistakes in your Notes: Therefore it is resolved, though there seem not much Difficulty to us, yet you shall have Counsel, thus doing, That they shall set it down under their Hands, what Matter of Law they will argue to, and bring it under their Hands, upon Tuesday next at Eight o'Clock to this Place, or to the *Painted Chamber*.

Mr. *Love*. Shall the Counsel have only bare Liberty, or will the Court assign them me?

Ld President. If you desire it, and name them, they shall be assigned you.

Mr. *Love*. I desire Mr. *Maynard*, Mr. *Hale*, Mr. *Waller*, and Mr. *Archer*.

[The Clerk was called upon to read the Order.]

Clerk. 'Friday, the 27th of *June*, 1651. Ordered by the High 'Court of Justice, That if the Prisoner's Counsel shall under their 'Hands assign any Matters of Law, fit to be argued and presented to 'this Court, on Tuesday next at Eight o'Clock in the Morning, this 'Court will take the same into further Consideration.'

Mr. *Love*. I would know whether they are assigned to plead here in Court, or to bring a Paper under their Hands.

Ld President. If they will, under their Hands, set down what they will stand to for Law, it shall be considered, and they shall plead.

Mr. *Love*. I humbly thank your Lordship's Favour, and the Favour of the Court.

[Mr. *Love* is commanded away. The Court adjourns.]

The Fifth Day's Proceedings, July *the 1st*, 1651.

THESE Exceptions following, signed by Mr. *Love*'s Counsel, were delivered this Morning by Mr. *Love*'s Solicitor into the Court, sitting in the *Painted Chamber*.

Exceptions to the Charge of High-Treason, and other High Crimes and Offences, exhibited to the High Court of Justice, by Edmond Prideaux, *Esq; Attorney-General for the Commonwealth of* England, *against* Christopher Love, *Clerk; and Matter of Law, humbly presented to the said High Court, according to the Direction of an Order hereunto annexed.*

[For this Order, see above.]

First, THE Charge is, 'That *Christopher Love*, as a false Traitor 'and Enemy to the Commonwealth of *England*, and out of 'a traitorous and wicked Design to stir up a new and bloody War, and 'to raise Insurrections, Sedition, and Rebellion within this Nation in 'several Days and Times, that is to say, in the Years of our Lord 'God 1648, 1649, 1650, 1651, at *London*, and in divers other Places 'within this Commonwealth of *England*, and elsewhere, together with '*William Drake*, and divers other Persons, did traitorously combine, 'confederate, and complot together, to stir and raise forces against the 'present Government of this Nation, since the same hath been settled 'in a Commonwealth and Free State, without a King and House of 'Lords, and for the Subversion and Alteration of the same.'

The Act of the 17th of *July*, 1649, is, that if any Person shall maliciously or advisedly plot, contrive, or endeavour to raise Forces against the present Government, or for the Subversion or Alteration of the same, and shall declare the same by open Deed, that every such Offence shall be Treason.

Exception 1. The Words *Maliciously* or *Advisedly* are left out of the Charge.

2. That the Words of the Act are omitted, which are, *Plot, Contrive, or Endeavour*.

3. It is not Treason within the Act to plot, contrive, or endeavour to stir up or raise Forces against the present Government, or for the Subversion or Alteration of the same, unless the same be declared by some open Deed. But the Charge is, 'That *Christopher Love* did combine, 'confederate, and complot to stir and raise up Forces against the present 'Government, *&c.*' And it is not charg'd that he the said *Christopher Love* did declare the same by any open Deed.

Secondly, Whereas the said *Christopher Love* is by the said Articles charged, 'That for the Subversion and Alteration of the same, and to 'carry on the said traitorous Design, that he did traitorously and ma'liciously declare, publish, and promote the eldest Son of the late King 'to be King of *England*, (meaning this Commonwealth) without the 'Consent of the People in Parliament first had, and signified by Au'thority or Ordinance to that purpose.'

The Act of the 30th of *January*, 1648, is That no Person do presume to proclaim, publish, or any way promote *Charles Stuart*, Son of the late King *Charles*, commonly called the Prince of *Wales*, or any other Person, to be King or Chief Magistrate of *England*, by colour of Inheritance, Succession, Election, or any other Claim whatsoever.

Exception. It is not expresly charged that the same was done after the said Act made; neither doth the Charge pursue the Words or Intent of the Act.

Thirdly, The Charge is, 'That to accomplish the said traitorous 'and wicked Design, the said *Christopher Love*, on several Days and 'Times in the Years aforesaid, at *London*, *&c.* together with *William* 'Drake, and other Persons, did traitorously and maliciously invite, aid, 'and assist the *Scots*, being Strangers, to invade this Commonwealth of '*England*, and hath adhered to the Forces of the Enemies, raised against 'the Parliament.'

The Act of the 17th of *July*, 1649, is, That if any Person shall procure, invite, aid or assist any Foreigners or Strangers to invade *England* or *Ireland*, or shall adhere to any Forces raised by the Enemies of the Parliament or Commonwealth, or Keepers of the Liberties of *England*, every such Offence shall be taken to be Treason.

Exception 1. That it is not alledged in his Charge who in particular were the Strangers that were invited to invade *England*.

2. That it is not alledged that at the Times of the Invitement, Aid and Assistance, laid in the Charge, the *Scots* were Strangers.

3. That it is not alledged particularly in the Charge, to the Forces of what Enemies, raised against the Parliament, *Christopher Love* did adhere.

4. It chargeth the Prisoner for a treasonable Assistance in some Years that were before the said Act of the 17th of *July*, 1649, was made.

5. To advance the said traitorous and wicked Design, is uncertain to what Design it shall have reference, several Charges of Treason being before expressed.

Fourthly, The Charge is, 'That *Christopher Love*, divers Days and 'Times between the 29th of *March*, 1650, and the first Day of *June*, '1651, at *London*, *&c.* did traitorously and maliciously give, hold, use, 'and maintain Correspondency and Intelligence by Letters, Messages, 'Instructions, or otherwise, prejudicial to this Commonwealth, with '*Charles Stuart*, Son of the late King, with the late Queen his Mother, 'and with *Henry Jermin*, *Henry Piercy*, and divers other Persons, being 'of Counsel, and abiding with *Charles Stuart*.'

By the Act of the 26th of *March*, 1650, the Matters charged herein are only prohibited, but are not made Treason.

Exception 1. That this Charge is mislaid, being charged to be done traitorously.

2. The Charge is uncertain, being alledged in the Disjunctive (or otherwise) and shews not in what other manner.

Fifthly, The Charge is, 'That *Christopher Love*, within the Times 'and at the Places aforesaid, did traitorously and maliciously use, hold 'and maintain Correspondency and Intelligence with divers Persons of 'the *Scotish* Nation; that is to say, with the Earl of *Argyle*, and others 'of the *Scotish* Nation, and with divers other Persons of other Nations, 'whom *Christopher Love* well knew to adhere to the said *Scotish* Nation 'in the War against the Parliament.'

The Act of the 2d of *August*, 1650, is, That all and every Person that shall use, hold or maintain any Correspondency or Intelligence with any Person or Persons of the *Scotish* Nation, residing in *Scotland*, without the Licence of the Parliament, the Council of State, or the Lord General; or with any Person or Persons of the *Scotish*, or any other Nation, whom they shall know to adhere to the *Scotish* Nation in this War against the Parliament.

Except. 1. That it is not laid, that the Persons of the *Scotish* Nation mentioned in the Charge were residing in *Scotland*, nor expresly alledged that they did adhere.

2. That it is not aver'd, that such Correspondency was holden without the Licence of Parliament, Council of State, or the Lord General, nor in what War the Correspondence or Intelligence was held.

3. It is not laid, with what particular Persons of any other Nation adhering to the *Scotish* Nation, Correspondency or Intelligence was holden, nor of what Nations.

4. This Correspondency and Intelligence is not laid to be after the fifth of *August* 1650, mentioned in the said Act of the 2d of *August* 1650, but refers to a time preceding that Act.

Sixthly, The Charge is, 'That *Christopher Love*, within the Times 'and at the Places before-mentioned, did traitorously and maliciously 'abet, assist, countenance and encourage both the *Scotish* Nation, and 'divers other Persons adhering to them in this War against the Parlia'ment: And did send and convey, or cause to be sent and conveyed, 'Moneys, Arms, Ammunition, and other Supplies to *Scotland* and 'other places, and to the said *Titus*, &c. in Confederacy against this 'Nation, without Licence of the Parliament of *England*, or Council of 'State, or General of the Army.'

The Act of the 2d of *August*, 1650, is, That no Person that shall abet, assist, countenance or encourage the *Scotish* Nation, or any other Person or Persons adhering to them in their War against the Parliament and Commonwealth of *England*; or shall go or send, or cause to be sent, *&c.* any Money, Horse, Arms, Ammunition, or other Supplies into *Scotland*, &c. or to any Person under their Power, or in Confederacy with them against this Nation, without the Licence of the Parliament of *England*, Council of State appointed by their Authority, and of the Captain-General of the Parliament's Forces as aforesaid.

Except. 1. That there are no particular Persons named, who were abetted, assisted, countenanced, or encouraged, neither of the *Scotish* Nation, nor of any other Persons adhering to them.

2. In the Charge, the sending of Money, *&c.* is not laid to be done without the Licence of the Parliament of *England*, or of the Council of State, or General of the Army.

The words of the Act are, 'Without the Licence of the Parliament 'of *England*, or Counsel of State appointed by their Authority, or of 'the Captain-General of the Parliament's Forces.'

3. The Time to which this refers, is between the 29th of *March* 1650, and the 1st of *June* 1651; and so it takes in the time between the 29th of *March* 1650, and the 2d of *August* 1650, which is before the making of the Act.

Seventhly, The Charge is, 'That the said *Christopher Love*, at the 'Times and Places before-mentioned, did traitorously and voluntarily 'relieve the said *Sylas Titus*, and one *Sterks* a *Scotchman*, which then 'were and yet are, under the power of the *Scotish* Nation, and in Arms 'against the Parliament of *England*, with Moneys, Arms and Ammu'nition.'

By the Act of the 26th of *March* 1650, the Matters charged herein are only prohibited, but not made Treason.

Except. 1. That this Charge is mislaid, being charged to be done traitorously.

2. It

2. It is laid to be at the Times before mentioned, whereas there are ſeveral Times before mentioned; ſo as it is uncertain to which of thoſe Times this Charge relates.

3. And of theſe Times, ſundry of them are laid to be in ſeveral Years before the making of the Act upon which this Charge is grounded.

Allegations by Chriſtopher Love, *touching the Matters and Proof upon the Charge.*

THO' I do not conceive any ſufficient Proof is made of the Charges againſt me, yet I ſhall be ready to make it appear upon Proof:

That one of the principal Witneſſes hath depoſed againſt me upon Promiſe of Reward, and upon Menace of Puniſhment.

That one hath received extraordinary Rewards for his depoſing.

That divers of the Witneſſes againſt me have been by their own Confeſſion detected of contributing of Supplies and Aſſiſtance, ſending and receiving Letters contrary to the late Acts.

That no two lawful Witneſſes produced prove any one Treaſonable Act.

That no Witneſs doth depoſe farther than Concealment, or Miſpriſion of Treaſon at the moſt.

Chriſtopher Love.

AS this Caſe is ſtated, we conceive theſe Queſtions may ariſe:

1. Whether in this Caſe theſe be lawful and ſufficient Witneſſes, as by Law is required?

2. Whether here be two lawful Witneſſes?

3. Whether any Concealment of Treaſon be Treaſon within the late Acts?

We have not ſeen any Authentical Copies of the Charge or Evidence; but upon the Copies we have ſeen, we humbly conceive fit to tender theſe Matters and Exceptions to the Conſideration of this High-Court. And we ſhall be ready to ſpeak to them, or any of them, or to any other Matters ariſing upon the Caſe, as we ſhall receive further Directions.

Matthew Hale.
John Archer.
Thomas Waller.

After the Court had received the precedent Exceptions, and were ſat in Weſtminſter-Hall, *Mr.* Love *was commanded to the Bar.*

When Mr. *Love* appeared at the Bar, he deſired the Court that his Counſel might be heard to theſe Exceptions. And when Mr. *Archer* and Mr. *Waller*, who were of his Counſel, appeared in Court, the Court demanded of them, whether they were of Mr. *Love*'s Counſel? they anſwered, they did underſtand they were aſſigned to be of his Counſel by the Court. Then the Attorney-General demanded of them, whether or no they had ſubſcribed the Engagement? they anſwered, they had not done it; and ſpake further to this purpoſe, That they were by the Court aſſigned to be of Mr. *Love*'s Counſel, and were ſent for into the Court, and in obedience thereunto they had appeared, and were ready to ſpeak, if they might be heard. It was demanded of them by the Court, whether or no they would ſubſcribe the Engagement? they anſwered, That they deſired time to conſider of it; and ſo withdrew.

After they had withdrawn, Mr. *Love* moved the Court that Mr. *Hale*, another of his Counſel, might be ſent for.

[Upon the coming in of Mr. *Hale*, the Lord Preſident ſaid;]

Ld Preſident. You come as Counſel for Mr. *Love*; the Gentlemen that were here, are brought into an Incapacity of doing him ſervice that way; we aſked them whether they have engaged: we doubt not you, but tell you the Reaſon why we did it.

Mr. *Hale.* My Lord, I have done it.

Ld Preſident. Therefore you are aſſigned.

Mr. *Hale.* I had very late notice of this Buſineſs, it was Saturday Night late before I had notice of it, and the next day was not a day to think of thoſe things. Yeſterday was Monday, and the moſt part of that day I ſpent in looking over thoſe things that had been, I think, preſented to your Lordſhip and the Court; we did not know what Command your Lordſhip would put upon us, whether you would admit us to ſpeak, and to what you would admit us to ſpeak, and when you would admit us to ſpeak. It is impoſſible, (my Lord) I muſt deal plainly, I profeſs it is impoſſible for me, in a Buſineſs of this great conſequence, to undertake to ſpeak any thing for the preſent, till ſuch time as I know your Lordſhip's Directions; and this was that we acquainted this Gentleman with, as ſoon as ever I ſaw him, and the firſt time that ever I ſaw him, which was but this day.

Attorn. Gen. I think that Mr. *Hale* hath put ſomewhat under his Hand.

Mr. *Hale.* We have done ſo.

Attorn. Gen. Nay, you muſt ſtand ſingle, the other two are ſet aſide, it muſt be you only; I ſuppoſe Mr. *Hale* knows what he is to ſpeak to.

Mr. *Hale.* Truly we know what we are to ſpeak to; but to ſpeak upon ſuch a Buſineſs on ſuch a ſudden, when we did not know what Directions the Court would give, that I could not undertake, and I think Mr. Attorney-General will not preſs it upon us, it were a hard caſe if he ſhould.

Attorn. Gen. Mr. *Hale* knows as well as any Man what is to be done in theſe Caſes, none better than himſelf; the Court uſeth not to aſſign Counſel to pick Flaws, but thoſe that are juſt Exceptions: and the Court is doubtful too, how they will allow Counſel to debate them, and ſtand to the Judgment of the Court. I ſuppoſe he comes to ſpeak to that that the Party hath alledged.

Mr. *Hale.* It is true, we do ſo: but Mr. Attorney-General knows likewiſe, that when Matters of Law are aſſigned, that there is ſome reaſonable time, we expect not long, but ſome reaſonable time is aſſigned alſo for the Parties to prepare themſelves; for truly otherwiſe I ſhould not do that Duty I owe to the Court and my Client, if I ſhould ſpeak *ex improviſo*, in ſuch a manner as I have done; for the firſt time I ſaw any thing of it, was on Saturday Night, between Eight and Nine of the Clock.

Ld Preſident. Tho' that was the firſt Sight of this Paper, as it is now ſet down, it was not the firſt notice you had to be of his Counſel, but himſelf hath declared it here long ago, that the former Paper was by your Advice.

Mr. *Hale.* No, my Lord, if he did ſo, I will plead Not Guilty.

Ld Preſident. I will not ſay your Name, but when he gave us in his Paper before this, the laſt Day, you ſaid it was the Advice of your Counſel.

Mr. *Love.* Not Mr. *Hale.*

Ld Preſident. Then haply we ſhall eaſe you a great deal: that that is under your Hand, is very ſhort, and we ſhall eaſe you of ſome of that too; and you know that upon all Aſſignments in the Upper Bench and Common Law, when they firſt open it, they ſhow ſome Cauſes upon which they will argue it; and when you have had time already, now ſhew ſomething that may be worthy of it, and we will conſider of it.

Attorn. Gen. Before he ſpeak, my Lord, I deſire that he will give it under his Hand poſitively, not Queries, but poſitive, that this in his Judgment he thinks fit to be Matter of Law, and to be argued.

Mr. *Hale.* My Lord, we think that theſe things are ſuch.

Ld Preſident. Then you muſt upon the firſt ſight open it ſo far, that it may be your Judgment.

Attorn. Gen. But not ſuffer it to be debated unleſs you think it doubtful.

Mr. *Hale.* We are here aſſigned Counſel for him, and if your Lordſhip will pleaſe to give us that Time that may be convenient for us to do our Duty for him; if not, we ſhall do but your Lordſhip wrong, and our Client wrong, if we ſhould ſpeak.

Ld Preſident. You may have ſome convenient time, but you muſt open it now, that we may judge what time is proportionable; if you will not open it, that this is the Point you will argue upon, we can ſay nothing.

Mr. *Hale.* Then the reading of that which we have exhibited to the Court, will be as much as poſſibly I ſhall be able to do at this time, for we have had no Copy of the Charge.

Ld Preſident. Nor muſt have.

Mr. *Hale.* And we have taken a Copy at random, according as it hath been offered to us by thoſe that have taken Notes, and we have preſented upon thoſe Notes, and we have applied ourſelves to Mr. Attorney for a Copy of the Charge, and he conceived that it was not fit for him to do it without Direction of the Court; but for a Copy of the Charge, when Exceptions are taken, it is uſual to have it granted: and for us to ſpeak and ſpend your Lordſhip's time upon Matters that are contained in a Charge, whereof, for my own part, I never heard, and which is uſual upon Exceptions offered to be granted, it would be very ——

Ld Preſident. It is an excellent thing to ſpeak to Men of Underſtanding: Did you ever know an Indictment in this nature, a Copy of it delivered upon the Priſoner's Prayer?

Mr. *Hale.* Yes, I have known it very often.

Ld Preſident. He ſhall, as his Memory ſerves him, ſpeak to the Subſtance; but to have a Copy of the Charge, I take it, you have not known.

Mr. *Hale.* Thus far I have known it. I have been commanded to be of Counſel with Perſons that have been impeached of Treaſon by the Parliament; I know that the Archbiſhop of *Canterbury*, when he was impeached of Treaſon, had a Copy of his Charge, that I know he had: I know this is the uſual Courſe, that if a Perſon takes Exceptions to a Matter contained in an Indictment, though it is true he ſhall not have the Copy of the whole Indictment, yet he ſhall have a Copy of ſo much whereupon his Exception grows; that hath been done, and will not be denied: but for the other matter, I know that in the Archbiſhop of *Canterbury*'s Caſe there was a Copy of the whole Charge granted, and the like was done in the Caſe of the Lord *Strafford*.

Attorn. Gen. I ſhall give that Anſwer a little more than I did: Parliamentary Proceedings are no Rule for other Courts to walk by; beſides, my Lord, you ſit here upon a known publiſhed Law, and the Offence charged is againſt thoſe Laws. I believe Mr. *Hale* well remembers, that both my Lord of *Strafford*'s Caſe, and the Archbiſhop of *Canterbury*'s Caſe, were both of them for many ſeveral Facts ſeveral times a long time committed; which ſeveral Facts being judged by Parliament, were judged to be Treaſon not againſt any ſettled poſitive Law: And for *Strafford*'s Caſe, you know how the Judgment at laſt was given by Act of Parliament, King, Lords, and Commons. And for the Archbiſhop of *Canterbury*'s Caſe, you know what the ſeveral Complaints againſt him were, many of them not Treaſon, but ſo many of them together, that in Parliament they thought fit to judge him guilty of Treaſon; but thoſe Privileges are not to be parallel'd, he knows very well it was not againſt ſuch and ſuch a Law, to make thoſe Offences Treaſon. Having given thus much Favour, I may ſay to the Priſoner, that he may by Memory exhibit his Exceptions, he hath done it; if you judge that thoſe Exceptions are worth the debating, be worthy of it, you may (as Mr. *Hale* ſaith) give Directions for ſo much to be given him, otherwiſe (for my part) I did never give it unto any; but thoſe that have been in my place before, did never give it but by immediate Warrant from the King, or the Parliament now, but for ſo much as the Court thinks fit, for ſo much as concerns the Exceptions.

Sir *Tho. Witherington.* For that that Mr. *Hale* objects to the Indictment, it ſtands with a great deal of Juſtice; for if a Priſoner lays hold of part of an Indictment, and ſays there is a Miſtake in it, there is reaſon it ſhould be ſo, becauſe the Court muſt judge it whether it be ſo or not, therefore there is neceſſity of it that there ſhould be a Copy of ſo much; but I think he never knew that all the Indictment was, but that part, and that is of neceſſity for the Court, that they may ſee whether the Exceptions accord with the Indictment, or no: If there be any Exception to an Indictment, if that Exception remains not as a Doubt or Queſtion, there ſhall be no Copy of ſo much of the Indictment given. If he ſhall raiſe a Doubt that there is any Doubt in Law, or any Queſtion and Variance between the Acts and the Charge, if he ſhall raiſe any ſuch Doubt, then I think according to the old Law he may have that Part of the Charge; but we deſire he may raiſe ſome Doubt to the Court.

Mr.

Mr. *Hale.* My Lord, we have raiſed the Doubts, and we are ready to deliver in thoſe that we conceive to be Exceptions to the Charge; if we be over-ruled in them, we have no more to ſay: but if your Lordſhip, upon the View of theſe things we have offered, think them worthy to be ſpoken to before your Lordſhip, then ſurely that is agreeable with that very Rule which the Council of the State is pleaſed to ſtate; that is, that in caſe we alledge that which the Court ſhall think fit for us to debate before them, that then we may have that whereby it may appear whether we debate upon that which is, or is not.

Attorn. Gen. Mr. *Hale* ſaith he hath given them in, but I have ſeen none of them, my Lord.

Ld Preſident. Whether their Memory be perfect or imperfect, that we ſhall help you withal; and then I will tell you what you were beſt do, for Time goes away: we will, before you take it, take the ſeveral Statutes and the Charge, and your Exceptions, and compare them all together before you, and you ſhall except to every one as you go.

Attorn. Gen. I deſire the Exceptions may ſtand as they are.

Ld Preſident. Ay, but he ſhall ſee whether there be any material Variance between the Notary and the Charge.

Attorn. Gen. That Notary was upon favour too, Mr. *Love* will acknowledge it.

Mr. *Love.* I do with all Thankfulneſs acknowledge it, my Lord.

Attorn. Gen. I deſire it may be no Precedent for After-Times.

The Clerk. If you pleaſe, read your Exceptions.

Mr. *Hale.* My Lord, we begin with the firſt, and theſe are the Exceptions: We take it, that the Charge is grounded upon the Act of the 17th of *July* 1649, and we take ſome Exceptions to that firſt part of the Charge; that is, concerning what Offences ſhall be adjudged Treaſon.

Ld Preſident. Read your Exceptions, and then you ſhall hear the Charge.

Mr. *Hale.* Our Exceptions are theſe; firſt, That whereas the Words of the Act are, 'That if any Perſon ſhall maliciouſly and adviſedly 'plot, contrive, or endeavour to ſtir up, or raiſe Forces againſt the 'preſent Government, or for the Subverſion or Alteration of it;' that the Words *maliciouſly* or *adviſedly* are left out of the Charge, which we conceive are material Words.

Attorn. Gen. Read.

Mr. *Barnard* the Clerk. *That he the ſaid* Chriſtopher Love, *as a falſe Traitor and Enemy to this Commonwealth and Free State of* England, *and out of a traitorous and wicked Deſign to ſtir up a new and bloody War, and to raiſe Inſurrections, Seditions, and Rebellions within this Nation, did ſeveral Days and Times in the ſeveral Years of our Lord* 1648, 1649, 1650, 1651, *at* London, *and in divers other Places within this Commonwealth of* England, *and elſewhere; together with* William Drake *late of* London, *Mercer,* Henry Jermin, *late of* London, *Eſquire,* Henry Piercy *late of* London, *Eſquire,* Richard Graves *late of* London, *Eſquire,* Edward Maſſey *late of* London, *Eſquire,* John Gibbon *late of* London, *Gentleman,* &c. *and other their Complices yet unknown, did traitorouſly and maliciouſly combine and confederate themſelves together, and plot, contrive, and endeavour.*

Attorn. Gen. What ſay you, Mr. *Hale?*

Mr. *Hale.* Now we find what the Inconvenience is, of coming to put in our Exceptions, when we have not a clear Copy of the Charge; and that was the Cauſe why we did ſubjoin this, that in caſe any Miſtake ariſe by miſtake of the Copies, that we may amend: it is true, we find *maliciouſly* is in.

Attorn. Gen. Traitorouſly will be enough.

Mr. *Hale.* I think not. That is over; for if it be maliciouſly alledged, that is over. Then the next thing we except to, is, *he traitorouſly combined, confederated, and complotted together:* it is true, there is *Plot* in it, but there wants the Words *contrive* and *endeavour*; but that is not the principal matter we ſtand upon.

The Clerk. They are in.

Mr. *Hale.* Then that is anſwered too. The next Exception that we take to the Charge, is, That the Act upon which this part of the Charge is grounded, ſays, that he muſt manifeſt it by an Overt-Act, by an open Deed: now we ſay, there is (as we conceive) nothing charged upon him in purſuance of this Act, that is, there is no overt or open Deed laid in the Charge; for the Words of the Act are ſo, *That if any Man ſhall maliciouſly plot, contrive, and endeavour to ſtir up, or raiſe Forces againſt the preſent Government, and ſhall declare the ſame by open Deed, that then every ſuch Offence ſhall be Treaſon.*

Attorn. Gen. If Mr. *Hale* hath read the Copy of the Charge as it was taken, I think he finds divers of them in the Charge of open Acts.

Mr. *Hale.* The Buſineſs is not, whether there be open Deeds, but whether they are applied to this Act, or be Subſtantive Charges of themſelves.

Attorn. Gen. I would aſk him whether that open Act muſt be in the Indictment, or in the Evidence?

Mr. *Hale.* In the Indictment: it muſt be expreſly laid in the Indictment, or elſe it is no good Indictment.

Attorn. Gen. But for that, that we may not diſpute upon thoſe Things, my Lord, there are the ſeveral Charges againſt the ſeveral Acts; there are ſeveral open Acts that are laid in the Indictment, and (I think) if he look upon it, he will find that they are laid to every one of them, and relate and refer to every one of them.

Sir *Tho. Witherington.* There is writing of Letters, contributing of Money, and receiving of Meſſages.

Mr. *Hale.* That will appear by the ſubſequent parts of the Charge.

Ld Preſident. The ſubſequent parts of the Charge will make that appear, for if he did lend Money, *&c.* if they be really there, we ſhall hear it by and by.

Mr. *Hale.* I take it, that the Law is very plain, that the Act muſt be mentioned in the Indictment.

Attorn. Gen. But we will not debate that when we are expreſs in the thing; we are not ſo tied to Form, as to pin them to every Word of it.

The Clerk. *And further to carry on and accompliſh the ſaid wicked Practice and Deſign, he the ſaid* Chriſtopher Love, *divers Days and Times between the 29th of* March 1650, *and the 1ſt of* June *in the Year of our Lord* 1651, *at* London, *and other Places as aforeſaid, did traitorouſly and maliciouſly give, hold, uſe and maintain Correſpondency and Intelligence by Letters, Meſſages, Inſtructions, and otherwiſe.*

Ld Preſident. Theſe are open Acts.

Mr. *Hale.* Then favour us in this: we take it that between this, and the firſt Charge, there comes a particular Charge, that relates to *Charles Stuart,* that is intervenient between the firſt Charge and this that is now read, or elſe we are miſinformed by the Priſoner; and if there be ſo, then we think our Exceptions will take place.

Sir *Tho. Witherington.* It is all contained in one Indictment, and then that that explains the Overt-Act follows afterwards, as a diſtinct thing in the Indictment; and ſo it was in my Lord *Cobham*'s Caſe in that Indictment, and in my Lord of *Eſſex*'s Caſe.

Ld Preſident. He may make Overtures.

Mr. *Hale.* We confeſs it; but we ſuppoſe it very certain, that both as this Act is penn'd, and as the Act of ——— is penn'd, which are much at one as to the manner of penning them, there is of neceſſity an Overt-Act to be laid, to make good that general Charge: that, we conceive, will be plain; and that is admitted and agreed by the Lord *Coke* in his Collections of the Pleas of the Crown, *fol.* 12, 13, where he ſaith, 'The 'Indictment of the Earl of *Somerſet,* in the Time of *Edward* VI. and all 'other of the like Form, were againſt Law:' Becauſe he ſaid, that he did not follow the Words of the Act, and that he did it *per apertum factum,* and ſhews not what that open Deed was; that was not a good Indictment, for the Fact muſt be ſet forth in the Indictment; that muſt be done. Then the Queſtion is, Whether this be ſo done here or no? We conceive by this Charge it is not ſo done here, upon this ground; we ſay, there follows after this a particular Charge concerning his Promotion of *Charles Stuart*; and then ſubſequent to that, there follows this that the Court hath now read. We ſay, that in this Caſe here is not a Charge of an Overt-Act, neither by the one nor by the other; there is not a Charge by the former, becauſe that is a diſtinct Treaſon, made diſtinctly treaſonable by another Act: and therefore that which is made a diſtinct Charge of Treaſon by another Act, ſhall not be an Overt-Act within the former; that is one thing we ſay. And another thing we ſay is this, That in this Caſe, the Second, that is that which the Court hath been pleaſed to direct to be read to us concerning his holding Correſpondence, that ſhall not be an Overt-Act relating to the firſt Charge; for it is an uncertain Relation: for there be two Deſigns mentioned before, the one is a Deſign contained in the firſt Charge, the other a Deſign contained in the ſecond Charge, for the promoting of *Charles Stuart*; and we ſay, the third ſhall not be coupled up to the former, becauſe it is a diſtinct Charge of Treaſon in itſelf, and becauſe it is uncertain to which it relates: for it refers not more to the firſt Charge than to the ſecond concerning the promoting of *Charles Stuart,* that is called the Prince of *Wales.*

Ld Preſident. For this I take it for the preſent, that the Charge is founded upon four Statutes; if he lay the Offence againſt the firſt, ſecond, third, and fourth, and he ſhall come and conclude it without relation to any Particular of theſe Treaſons, he did thus and thus by Letters and Correſpondencies, that will relate to them every one, tho' it comes but in the Concluſion; and tho' the Statutes be various, yet the Indictment is but one, and he may put in this of the Overtures in one place ſufficiently, to be a ſufficient Overture to every one: and therefore tho' to one of them there ſhould be no Overture in it at all, but *valet ut valere poteſt,* it will hang upon ſo much, as it will bear an Overt-Act, and then you will not deny but that thoſe Words are Overtures.

Mr. *Hale.* It is true, they are ſo; but yet ſtill we conceive this third, which we call the third Charge, that is concerning holding Correſpondence, the third or fourth, I cannot tell which it is, but it is one of them; we ſay, that that is not an Overt-Act applied to the firſt Charge. When we come to the Subſtance of that Charge as it ſtands by itſelf, then our Exceptions will riſe upon it, as it ſtands ſingly by itſelf; but we conceive that ſhall not be a ſupplemental Charge to make good that firſt Charge, that is concerning endeavouring to ſubvert the State as it ſtands eſtabliſhed, it ſhall not be uſed as an Overt-Act to make good the firſt Charge. When we come to that particular Charge, that is concerning the maintaining of Correſpondence, whether it be a good Subſtantive Charge of itſelf, then we ſhall offer our Exceptions to that; but in the mean while we are but upon Debate of the firſt, whether the firſt containeth ſuch a Charge, as by the Act of the 17th of *July,* 1649, is required.

Attorn. Gen. My Lord, we are heard before you concerning it; Mr. *Hale* will find, that after all theſe Laws are repeated, and after all his Offences againſt thoſe Laws are repeated, it is concluded that all are againſt the ſeveral Acts of Parliament in ſuch Caſes made and provided. If Mr. *Hale* will ſingle them, the Impeachment doth not, but relates to all of them; and, I think, that in this way of Impeachment, we are not tied to thoſe very nice and ſtrict formal Rules upon Indictments: but if Subſtance doth appear, it doth appear to you, my Lord, that in Subſtance the Acts are purſued, and that upon the whole Impeachments there are, even this that is required, the Expreſſion of an open Deed, an Overt-Act; thoſe are laid, and it will be acknowledged by Mr. *Hale,* that they are in themſelves ſufficient, being thus expreſs'd and concluded, that thoſe ſeveral Practices, and Deſigns, and Treaſons, are againſt the Form of the ſeveral Statutes in that Caſe made and provided, not in relation to the 17th of *July,* nor the 2d of *Auguſt,* but to all of them. And I believe that all of theſe Facts, all of this Treaſon, all of this Deſign, whether with the *Scotch* Nation, or Members of the *Scotch* Nation, or thoſe adhering to the *Scotch* Nation, had all but one Foundation, the Subverſion of this preſent Government, that was the Foundation and Treaſon of the Whole, that was it that was intended: for to bring one in, and not to caſt out the other, would have done no Good; but upon the whole, that was the Treaſon. And upon all theſe Circumſtances and open Deeds and Deſigns, the Sum, though it be a Treaſon to hold Correſpondence, though it be a Treaſon to promote *Charles Stuart,* though it be a Treaſon to do other Things; yet the Treaſon is in this, the *Scotch* Nation to come in with intent to ſubvert the Government, *Charles Stuart*

Stuart to be made King to ſubvert the Government. So that the grand Work at heart, at root, was the Subverſion of the preſent Government; and as for that, I wiſh heartily, for Mr. *Love*'s ſake, there were not ſo many open Deeds expreſt by him.

Sir *Tho. Witherington.* Mr. *Hale* ſpeaks of the Charge; the Words are theſe: *And further to carry on and accompliſh the ſaid traitorous and wicked Practice and Deſign, he the ſaid* Chriſtopher Love (now this I take to be the Overt-Act) *divers Days and Times between the 29th of* March 1650, *and the 1ſt of* June 1651, *at* London *and divers other Places, as aforeſaid, did traitorouſly and maliciouſly uſe and hold Correſpondence and Intelligence by Letters,* (thoſe are open Acts) *Meſſages, Inſtructions, and otherwiſe, to the Prejudice of the Commonwealth:* and theſe are laid within the Time, and not a diſtinct Charge, as Mr. *Hale* would infer; but they do directly ſet forth an Overt-Act done by Mr. *Love.*

Mr. *Hale.* Is it your Lordſhip's Pleaſure I ſhould reply any thing, becauſe I come utterly unprovided for it, I muſt profeſs?

Attorn. Gen. We may give him this, and one or two more.

Ld Preſident. Go on, Maſter *Hale*; if you have that that is material for another Reply, do; but take this, Maſter *Hale*, I take it very ſtrong both in Grammar and Logick too, as well as in Law, that when all the whole Charge is radically and fundamentally but one Treaſon; though there be many Branches of it, the Charge hath knit them all together, and made but one Act of ſo many complicated Treaſons as are here; and when he comes to the latter end, if ſome of them were *de facto*, not by an Overt-Deed publiſhed, yet if he come and prove, that it was ſo done by the Proofs, that there was Correſpondence, and theſe things *de facto* done, and that Charge *de facto* done, you cannot break it there, to ſay that this Fact did not reach to all: for if there be any one, it is ſufficient; but here it is to all, even to that one that you ſpeak of.

Attorn. Gen. My Lord, I ſhall read a Word to Mr. *Hale*; *All which Treaſons, and traitorous and wicked Practices and Deſigns of him, the ſaid* Chriſtopher Love, *were, and are to the apparent Hazard of the publick Peace of this Commonwealth and Free State, Parliament and People of* England, [Mr. *Hale* findeth not theſe in any Indictment.] *and to the manifeſt Breach, Contempt and Violation of the Laws of this Land, and contrary to the Form of divers Statutes and Acts of Parliament in ſuch caſe made and provided*; in general, my Lord.

Mr. *Hale.* We conceive, under favour, and we think that it cannot be denied, that ſuch a Concluſion will not ſerve the turn.

Attorn. Gen. No, not in an Indictment.

Mr. *Hale.* If there be a ſubſtantial part of the Charge omitted, that ought to be alledged in Fact, it is not in the Concluſion, *that contrary to the Form of the Statutes in this Caſe made and provided*, will help it. My Lord (I come unprovided) the Caſe of my Lord *Dyer*, that known Caſe upon an Indictment for Recuſancy, or for a wilful or knowing harbouring of a Jeſuit or Prieſt: ſaith my Lord *Dyer*, *It is not enough to ſay, he did harbour him contrary to the Form of the Statute, but he muſt ſay, he did it knowingly: he muſt alledge and purſue the ſubſtantial words of the Act of Parliament.* And ſo again, an Indictment for abſenting from Church; it is not enough to ſay, He did it *contrary to the Form of the Statute*; but that he did it *obſtinately.* Therefore that general Concluſion, that this was *to the Hazard of the Commonwealth*; (it is true, it is an ill thing for a Man to do ſuch a thing that is to the Hazard of the Commonwealth) but thoſe Words ſerve not the Statute neither: and then to ſay at the Concluſion, *contrary to the Form of divers Statutes*, that will not help it, under favour, in caſe of an Indictment. Then Mr. Attorney makes a Difference between the Caſe of an Indictment and this Charge. I conceive that in this Caſe there is no Difference; the Matter is the ſame, the one concerns the Life of a Perſon, and ſo doth the other: the Offence is the ſame; the one is a Charge of High Treaſon, and ſo is the other. It is true, thoſe Formalities that concern the Manner of the Trial, thoſe (it is true) are laid by, becauſe here is no Jury to come before your Lordſhip; but your Lordſhip trieth upon the hearing of the Teſtimony, and according to things alledged and proved. But for other Matters that eſpecially are ſubſtantially required by the Act of Parliament, we conceive that thoſe ſhall be ſupplied no more by an Intendment in caſe of a Charge before your Lordſhip, than in caſe of an Indictment for Treaſon. To this I ſhall ſay no more, but leave a word or two to your Lordſhip's Judgment. For the other thing (we are ſtill but upon the firſt Charge, the firſt Article) it hath firſt of all been inſiſted upon, that an Overt-Act is not neceſſary to be alledged, becauſe ſupplied by the Words of the Concluſion, *contrary to the Form of the Statute.* To that I have anſwered, I conceive, it is not, nor can it be ſupplied, becauſe it is a ſubſtantial thing in the very Words and Bowels of the Act, and cannot be ſupplied by a general Concluſion. Then it hath been ſaid by Sir *Thomas Witherington*, the State's Serjeant, That in this caſe thoſe ſubſequent Matters and Charges ſhall be an Overt-Act within the Statute; that is that which he hath read to you; it is in the fourth Article (as I take it) *That* Chriſtopher Love *divers Times between the 29th of* March 1650, *and the 1ſt of* June 1651, *did traitorouſly and maliciouſly hold and uſe Correſpondence and Intelligence by Letters and Meſſages.* But that cannot be; I may ſay it, that is not a ſufficient Manifeſtation of an Overt-Act, becauſe there do precede it theſe particular Charges of Treaſon within particular Acts of Parliament. Why then, if ſo be (to maintain his Deſign, for the carrying on of his Deſign aforeſaid) this ſhould be ſaid to relate to the firſt Deſign, why not to the ſecond Deſign of promoting *Charles Stuart* to be King? And why not to the third Deſign? So that where there are three ſeveral Deſigns before, all made Treaſon by the Acts of Parliament, that cannot be an Overt-Act to make good the firſt part of the Charge, with Submiſſion to your Lordſhip's Judgment. And then another thing we ſay, That this Charge which Sir *Thomas* would carry up to the firſt Charge, and make it as an Inforcing an Overt-Act within the firſt Charge, that cannot be, for this other Reaſon; becauſe it is charged as a traitorous diſtinct Act in him. Now we have this Learning delivered by Sir *Edward Coke* in his Comment upon this, in the 25th Year of *Edward* the Third; that is where there are ſeveral Acts made Treaſon, the one is an Act for levying of War: Now there the Caſe was Treaſon againſt the Perſon of the King, Queen, Prince, *&c.* that one part ſhall not be an Overt-Act in caſe of an Indictment, ſhall not be conſtrued as an Over-Act for the making good of another part; becauſe where all are made equally traitorous, and all are charged as equally traitorous, we think, with Submiſſion, thoſe parts ſhall not be made an Overt-Act to another Treaſon. So when here is a Treaſon made by the Act of the 17th of *July*, and another by a ſubſequent Act, that which is charged as a Treaſon in the ſubſequent Act, ſhall not be ſaid to be an Overt-Act for the making good of the former; if the former be not a Treaſon, able to maintain and ſupport itſelf, this ſubſequent Act ſhall not ſerve as a Bolſter to uphold it, and to ſupply that which is laid as a diſtinct Treaſon of itſelf. Now theſe are the three things we inſiſt on: Firſt, That an Overt-Act is neceſſary to be laid. Secondly, That it is not ſupplied by the general Concluſion, nor can it be. Next of all, That this Act that is here laid to be done traitorouſly, to hold Correſpondence and Intelligence, it refers no more to the firſt Deſign, than to the ſecond or to the third Deſign, which are charged as three diſtinct Treaſons; and this is charged as a diſtinct and poſitive Treaſon of itſelf, and therefore ſhall not be carried over as a Supplement to another.

Attorn. Gen. We granting that an Overt-Act is neceſſary to be expreſs'd; grant it ſhould be ſo, but no more but in Evidence: and then granting in the next place, That the general Concluſion will not be ſufficient to maintain it, when it is requiſite an open Deed ſhould be expreſs'd. Then for the third, I cannot be of his Judgment in this way of Impeachments; but as we ſee one Perſon may commit four or five Treaſons, and one Act may be an Offence againſt four or five Acts of Parliament; and this is the Truth: for where the ſeveral Acts are repeated, that (my Lord) are thoſe Laws againſt which this Treaſon, and this treaſonable Practice and Deſign is laid to be; then follows the ſeveral Enumerations of thoſe Practices, Deſigns and open Acts of his, now applied by us: but Mr. *Hale* would take them and apply them to one ſingly. But I obſerve to your Lordſhip, that thoſe open Acts of his, are Offences by an open Act againſt the ſeveral Acts of Parliament; but it ſerves his turn for his Client to apply them ſo: but I hope you will not apply them ſo; but when they come between the Offences, and the Overt-Acts follow it, and the Concluſion upon the whole, that all thoſe traitorous and wicked Practices and Deſigns are againſt the ſeveral Acts of Parliament: And if there be an open Act, ſo expreſs'd, in the Impeachment, that in Law is an open Act, ſuppoſe it ſhould be required to be expreſs'd, if there be an open Act, then I hope you will be ſatisfied, when it has been well proved, if it be expreſs'd in the Indictment an open Act, that I hope will ſatisfy your Judgments and Conſciences; eſpecially when open Acts ſhall appear to you to be an Offence againſt the Acts of Parliament. I ſhall leave this to your Judgment, and trouble you no further; and you will find in its place whether it be requiſite or not.

Ld Preſident. That that Mr. *Hale* ſaid, if it were a thing of abſolute Neceſſity in an Indictment, then the Concluſion will not help; if the thing were of abſolute Neceſſity there charged, and not charged *contra formam Statuti*, will not do it: but if I underſtand it right, it is fully laid in this Charge, that he did by open and Overt-Acts do the thing; it is laid ſo: the Words of open Act are not, but the Value, that is, that he did by Writing, by Words, by Meſſages, by Money; and theſe are really Overt-Acts, though he did not call theſe Overt-Acts; theſe are laid fully in the Charge: and then, if they be laid fully in the Charge, and we ſatisfied in the full Proof of that Charge, that we have heard Overt-Acts to maintain it, then I think this cannot come within any of thoſe Caſes, that when an eſſential thing is left out of an Indictment, there the Concluſion will not help: this I conceive ſo far. Then the next, what Method or Order this can be, by ſetting down the Statutes, and then withal theſe Overt-Acts of Letters, of Meſſages, of Money, will reach to every one of the Qualities, that theſe Treaſons are manifeſted by this Act? but if it were a Treaſon of ſuch a Nature, that none of theſe could reach to the Manifeſtation of it, then you ſay well: but when theſe Words reach to the Manifeſtation of every Charge laid in the Charge, then it is effectual and real, and the Concluſion is ſufficient.

Attorn. Gen. Before he goes to the next, I ſhall crave your Direction in it; for I profeſs, my Lord, to you, that I, in drawing the Impeachments, take not myſelf to be ſo ſtrictly tied to the Forms of Indictments in Letters and Syllables; and the Forms I have taken and do take, are thoſe that have paſs'd heretofore, and I follow them; and till I receive your Direction to the contrary, I take not myſelf bound but to expreſs the Subſtance of that which is laid to his Charge, by which he may know his Offence, and give an Anſwer: But to Forms, and Quiddities, and Niceties, I conceive I was not bound to that.

Mr. *Hale.* I preſs not Forms, nor Quiddities, nor Niceties in this Buſineſs. The next is concerning the Charge of promoting the Prince of *Wales.*

Attorn. Gen. No, there is no ſuch thing in it; your Copy is amiſs again; read it.

Mr. *Hale.* Our Exception is this (we have been but upon the firſt all this while, I take it ſo) the next is, That he did traitorouſly publiſh the Son of the late King of *England*, to be King of *England* (meaning this Commonwealth) without the Conſent of the People in Parliament firſt had or ſignified by Ordinance to that purpoſe. I think we ſhall not trouble your Lordſhip much with that; for if that be as our Copy is, it is true, it is not well laid: but if it be never ſo well laid, I conceive, as I am informed, there is nothing of that endeavoured to be proved.

Attorn. Gen. That we leave to the Court, Mr. *Hale.*

Mr. *Hale.* Then the next is, That to accompliſh the ſaid traitorous and wicked Deſign, *Chriſtopher Love* did at ſeveral Days in the Years aforeſaid, traitorouſly and wickedly adviſe the *Scots.* Our Exception to that is this: There is a treaſonable Aſſiſtance charged, in ſome of the Years that were before the making of the Act that did prohibit it.

Attorn. Gen. And afterwards too, Mr. *Hale.*

Mr.

Mr. *Hale*. It lays it in ſome of the Years before the making of the Act, and that is ſufficient to invalidate this Charge.

The Clerk. *And further, to carry on and accompliſh the ſaid traitorous and wicked Practices and Deſign, he the ſaid* Chriſtopher Love *ſeveral Days and Times in the reſpective Years aforeſaid, at* London, *and divers other Places within this Commonwealth of* England, *and elſewhere, as aforeſaid together with the ſaid* William Drake, Henry Jermin, *and other their Complices aforeſaid, did traitorouſly and maliciouſly invite, aid and aſſiſt the* Scots, *being Forreigners and Strangers, to invade this Commonwealth of* England, *and hath adhered to the Forces raiſed by the Enemies of the Parliament and Commonwealth aforeſaid, and Keepers of the Liberties of* England, *as aforeſaid.*

Attorn. Gen. You will find this in a Statute before this.

Mr. *Hale*. Not before the 17th of *July* 1649, and then your Charge is repugnant; you charge us for an Offence which is precedent to the Statute.

Attorn. Gen. For that, you go and take them and pick them; but we lay them all together: there were Treaſons he committed in 1648, and that which I pitch upon ſtill is this (that Mr. *Hale* thought was waved) That this Man did not promote the Intereſt of *Charles Stuart* late King, or that he had not endeavoured a Subverſion of this Government; I lay that againſt this Act made in 1648. Then by conſequence to maintain that, he did it to promote his Intereſt, and to ſubvert the Government; and there was a Law in 1648 that did inhibit that: there is a Law inhibits the calling in of Strangers; and it follows by that, that he who calls in Strangers, may promote the Intereſt of *Charles Stuart* too: and that Foundation is to this purpoſe, that he did promote him to have been King of *England:* and you know what he expreſs'd to you, what Tenderneſs of Conſcience he had to take care that he might not go elſewhere.

Mr. *Hale*. If it be ſo, then we muſt deſire that part of the Charge may be read.

Attorn. Gen. I have not charged them; nor until I receive Command, ſhall I vary from what I have received formerly, that I ſhall charge this to be againſt this, and that againſt that; but I have laid down the Acts of Parliament that have made things Treaſon; and the Offences ſeverally, and upon the whole conclude; that theſe are Treaſons againſt ſeveral Acts of Parliament ſeverally; if one or all together ſerve turn, I hold it well enough. If you put me to every one of them particularly, I muſt have more time, and better Clerks to draw the Indictments.

Mr. *Hale*. Still the ſame Objection meeteth (with Submiſſion to the Court and Mr. Attorney, the ſame Objection meets) with them; we ſay then, he will make this a kind of an additional Charge to the firſt or to the ſecond, or to both; but we know not to which.

Attorn. Gen. Yes.

Mr. *Hale*. But we ſay, That that is not ſufficient upon theſe Reaſons, becauſe it is a Charge of Treaſon in itſelf, and therefore ſhall not be made an additional and ſupplemental Charge to make out another. And then we ſay, that this is uncertainly charged, whether you will make it ſupplemental to the firſt Charge of Treaſon, that is, the endeavouring of the Subverſion of the Commonwealth; or to the ſecond Charge of Treaſon, which is a diſtinct Charge of Treaſon, of the Promotion of the Intereſt of *Charles Stuart*.

Attorn. Gen. I cannot divide them.

Ld. Preſident. Are not theſe as perfect as before? Doth not the Subverſion of this Commonwealth promote the Intereſt of *Charles Stuart?* And doth not the Promotion of *Charles Stuart* ſubvert the Intereſt of this Commonwealth? If he hath laid it, that he did both of theſe by aſſuming it by a double or multiplied Act; and all theſe multiplied Acts are but one Subverſion: if I ſubvert it by one, or by twenty Acts, both of them are the ſame in nature; for the Subverſion of the one, is the bringing in of the other; and the bringing in of the one is the Subverſion of the other; and ſo they are Relatives fully one to the other, and there cannot be more expreſs'd in the Charge than this. And notwithſtanding all theſe Acts, though that Act hath made the Treaſon, cannot it be by another Act? You may proſecute by virtue of this ſubſequent Act, any thing that was underſtood to be general Treaſon by the Law of the Land.

Mr. *Hale*. My Lord, this is that we inſiſt upon. It is true, we do conceive, though the Promotion of the Intereſt of *Charles Stuart* is not conſiſtent with the Preſervation of the Intereſt of the Commonwealth, yet every Deſtruction of the Intereſt of the Commonwealth is not therefore a Promotion of the Intereſt of *Charles Stuart*; for then there could be no Treaſon againſt the Commonwealth, but it muſt be a Promotion of the other's Intereſt. Now there may be a Treaſon againſt the Commonwealth, without the Promotion of the other's Intereſt. I urge it to this purpoſe, to make it appear, that they are ſeveral Charges bottomed upon ſeveral Acts; and therefore the reference here made to promote the Deſign aforeſaid, is uncertain to which it ſhall relate: it may fall out the Party may be guilty upon the firſt Article; it may fall out he is not guilty upon the ſecond Article, and then it is uncertain to which Article it relates, that he is guilty of, or not guilty of: and here may be the Conſequence of it, then you will make a Treaſon, which to this third Clauſe is a Subſtantive, and contained in it ſelf, to be an Overt-Act to another Charge of Treaſon, and that you cannot do; you cannot make a Treaſon which is ſo charged, to be an Overt-Act, or Expoſition, or a Declaration of that which is contained in the former; like that Caſe I inſtanced in before, of the 25th of *Edward* the Third, That no Man ſhall go about to deſtroy the Perſon of the King, nor to raiſe War againſt his People: ſo that we uſe it not in any other reference, but only to explain and bring the Reaſon of that ancient Law to this Law. In that Caſe a Man cannot charge the Overt-Act of going about to deſtroy his Perſon, which is a diſtinct Treaſon of itſelf, to be an Overt-Act to the Charge of levying War, which is another diſtinct Treaſon. And if he alledge, ſuch a one did go about to deſtroy the Prince, or the Conſort of the King, or the King, and to make the levying of War to be an Overt-Act to it, this he cannot do; becauſe though it is true, it might be an Overt-Act to it, yet notwithſtanding it being made a diſtinct Treaſon, it cannot be an Overt-Act to another Treaſon: And ſo here, this very aſſiſting and inviting of Forces is made a diſtinct Treaſon. And ſo if you take it ſubſtantively, it is inſufficiently laid: And if relatively, you may not do ſo, becauſe it a Treaſon of it ſelf, and ſhall not be brought in relation to another Treaſon laid before it.

Attorn. Gen. For that, I hope Mr. *Hale* will leave me to that Liberty I have; that is; That if one Act be an Offence againſt ſeveral Acts, I may aggravate it ſo, as to make him know it is ſo. And I take it for an Aggravation of his Offence; when he hath offended againſt ſo many ſeveral Laws, which he hath done; and that I may have Liberty to ſay ſo, though perhaps that Subverſion of this Government is not in every reſpect a promoting of the Intereſt of *Charles Stuart:* But the Subverſion of this Government, as it is here laid in this Indictment, is a Promotion of the Intereſt of *Charles Stuart*. And ſo it is here. And I have done now with that.

Ld. Preſident. Then Mr. *Hale*, I will add a Word; becauſe that you did put the Caſe of a Man deſtroying the Perſon of a King, and levying of War. If it be laid; thoſe very Acts, if they be laid as a continued, or a *Medium*, or an Enterprize, that he had taken up a War to deſtroy the Perſon of the King; thoſe Words in one Senſe, if it had been laid ſolitarily by it ſelf, and deſtroying the King in another; but if he ſhewed that by levying of War, he endeavoured it, then the Denomination is from the End in that place: and though they be two Treaſons ſubſtantively, yet when they are laid as one continued Act, they are but one: And ſo it is in this Caſe: All theſe, though there are ſeveral Statutes, and ſeveral Treaſons, theſe multiplied Acts make up but one compleat in the Concluſion. If there want one of theſe, if there be ſufficient in the other, it is Treaſon enough, and too much too; (I would it were not ſo;) If they be laid in Subordination, as all theſe are, every one of them further to promote this, and to promote that, ſo they are laid in Promotion of it to every one: And then they are contiguous, and depend one upon another, and are ſubſtantive; and ſo ſubſtantial, as that they may be Relatives one to another. And ſo are theſe.

Attorn. Gen. The next, Mr. *Hale*.

Mr. *Hale*. The next is the fourth Charge; and that is concerning holding Correſpondence by Letters and Meſſages with *Charles Stuart*, and the late Queen his Mother: We ſay that this Part of the Charge is ill laid alſo. It is laid in nature of a Felony by the Act, and laid to be done traitorouſly in the Charge; and that a ſubſtantial (not a mere Formality, but a ſubſtantial) Miſtake: For if ſo be a Woman be indicted of Petty Treaſon, becauſe it is *Proditoria*, yet in truth it amounts but to Felony. Now, in Caſe where ſhe is an Acceſſary to a Felony, the Indictment is nought. If a Man be accuſed that he did traitorouſly ſuch an Action, which in it ſelf amounts but to a Felony, that Charge is nought. And ſo it is here; it is miſlaid: For by the Act of the 29th of *March*, 1650, the Matters therein charged are not made Treaſon, at moſt but capital, but we think it only prohibited, and then we ſay it is an uncertain Charge. And ſo, it is under favour: For though the Act ſaith no Man ſhall hold Correſpondence by Letters, Meſſages, or otherwiſe; yet when we come to inform upon it, or to indict upon it, it is not enough to ſay he held Correſpondence by Letters, Meſſages, or otherwiſe; but, if you will ground your Deed upon that Act, you muſt ſhew what that *otherwiſe* is. And that is the Exception to that Part of the Charge.

The Clerk. *And further, to carry on the ſaid traitorous and wicked Practice and Deſign, he the ſaid* Chriſtopher Love *divers Days and Times, between the 29th of* March, 1650, *and the 1ſt of* June, 1651, *at* London *and other Places, as aforeſaid, did traitorouſly and maliciouſly give, hold, uſe, and maintain Correſpondence and Intelligence by Letters, Meſſages, Inſtructions, and otherwiſe.*

Mr. *Hale*. *Or otherwiſe* was our Notes; then that is out of doors: But our Exception is, That it is alledged to be done traitorouſly.

Ld. Preſident. And the Statute ſaith it ſhall be Treaſon.

Mr. *Hale*. No, it ſaith not ſo: The Act lays it only in nature of a Felony, and in the Charge it is laid to be done traitorouſly; and ſo the Charge is miſlaid.

Attorn. Gen. I confeſs it is expreſt ſo in the 29th of *March*, 1650, and it is not ſaid what the Offence is; but I conceive, in the firſt place, that by the Law of *England* he that holds Correſpondence with a Traitor will go very near it, my Lord. And then I humbly conceive that ſtill, he going upon the firſt Act, it is laid to be with *Charles Stuart*, and the Queen and Counſel with him, (I think) it is a promoting of his Intereſt: He to hold a Correſpondence with him whom the Parliament hath ſaid, You ſhall in no caſe promote his Intereſt.

Mr. *Hale*. I muſt be bold ſtill a little, to crave Mr. Attorney's Favour, to reply upon him in this kind of way; for I have not had Time.

Attorn. Gen. You have had more Time than I; for I heard not of it till now.

Mr. *Hale*. We ſay the Charge is not good, becauſe it is made Felony only by the Act, and laid in the Charge to be done traitorouſly; and then we ſay that Charge is uncertain to what Deſign it relates: If it relates to the Buſineſs concerning the promoting of *Charles Stuart*'s Intereſt, if it be ſo, we conceive it is not proved: For the Proof I mention not; but that is not inſiſted upon, that Maſter *Love* did promote the Intereſt of *Charles Stuart*, contrary to the Act of Parliament; that (I think) is not inſiſted upon.

Attorn. Gen. O, yes.

Mr. *Hale*. I conceive no.

Attorn. Gen. I conceive very much otherwiſe, Mr. *Hale*.

Mr. *Hale*. I deſire that Charge once more may be read, concerning the promoting the Intereſt of *Charles Stuart*.

The Clerk. *And the better to carry on and accompliſh the ſaid traitorous and wicked Practice and Deſign, he the ſaid* Chriſtopher Love, *with the ſaid* William Drake, &c. *(ſince the Death of* Charles Stuart, *late King of* England, *who, for his notorious Treaſons, and other Tyrannies and Murders by him committed in the late unnatural and cruel Wars, was by Authority, derived from the Parliament, juſtly condemned to Death, and executed) ſeveral Days and Times, in the reſpective Years aforeſaid, at* London *aforeſaid, and ſundry other Places within this Commonwealth, and ſince this Nation*

Nation was ſettled in the Way of a Commonwealth, or a Free State, as aforeſaid, did traitorouſly declare, publiſh, and promote Charles Stuart, *eldeſt Son to the late King, to be King of* England.

Mr. *Hale.* We are informed that there is nothing of any particular Act of his concerning that: But we have nothing to do with the Fact. But we conceive that no ſubſequent Thing, by way of Conſtruction or Interpretation, ſhall make a publiſhing and promoting in ſuch a manner as this is, it muſt be ſuch a Thing as expreſly publiſheth and promotes him to be the chief Magiſtrate of *England*, according to the Words of the Act, and not by way of Dilation: We ſay this is not a Thing to be applied to ſerve the Turn, upon this Reaſon; we ſay that the holding of Correſpondence and Intelligence with *Charles Stuart*, eldeſt Son to the late King, cannot be coupled to the Promotion of the Intereſt of *Charles Stuart*, to be King of *England*, ſeeing that is but by way of Interpretation to bring it within the firſt part of the Act.

Attorn. Gen. For that, I ſhall crave your Direction.

Ld. Preſident. It is not interpretative, but poſitive.

Attorn. Gen. But I ſhall crave your Pleaſure; Whether I ſhall in my Impeachments afterwards put in all my Evidence? What is charged, and Evidence proves, that you will judge upon, I hope.

Mr. *Hale.* Then the next part of the Charge, and that is the fifth, That he did hold Correſpondence with divers Perſons of the *Scotch* Nation. Our Exception to that is plain: We conceive that part of it is not well laid neither; it is not laid in purſuance of the Act of Parliament, as our Notes are. This is that we ſay, That it is not expreſly alledged, that they were Perſons reſiding in *Scotland*, our Notes are.

Attorn. Gen. Like enough ſo, Sir.

The Clerk. *And further, to carry on and accompliſh the ſaid traitorous and wicked Deſign, he the ſaid* Chriſtopher Love, *ſeveral Days and Times in the reſpective Years aforeſaid, at* London *aforeſaid, and divers other Places within this Commonwealth of* England, *and elſewhere, as aforeſaid, did traitorouſly and maliciouſly hold and maintain Correſpondence and Intelligence with divers Perſons of the* Scotch *Nation*, viz. *with the Earl of* Argyle, Lowdon, Lothian, Bailey, Belcarras, *and divers other Perſons of the* Scots *and other Nations, whom he well knew to adhere to the* Scotch *Nation in this War againſt the Parliament and Commonwealth of* England.

Mr. *Hale.* This we conceive is not a good Charge; for the Words of the Act of the 2d of *Auguſt*, 1650, upon which this is grounded, are, That no Man ſhall hold Correſpondence with the *Scotch* Nation reſiding in *Scotland.*

Attorn. Gen. You were beſt read further, Mr. *Hale.*

[Then Mr. *Hale* read part of that Act, beginning at theſe Words, [*Be it enacted, ordained, and declared by this preſent Parliament,*] and ending with theſe Words, [*Without the Allowance, Licence,* &c.]

Mr. *Hale.* It is true, there is no Reſiding; for that yet comes not home, we conceive, to part of the Charge. There are two Parts of the Charge; the one, *That he did maintain Correſpondence with divers of the* Scotiſh *Nation; and with divers other Perſons of divers other Nations, whom he well knew to adhere to the* Scotch *Nation in this War againſt the Parliament.* As to the firſt, that is out of doors: Then here is no full Charge of holding any Correſpondence with any of the *Scotch* Nation; for that part of the Charge reſts upon this, that it muſt be with holding of Correſpondence with any ſuch Perſons as are reſiding in *Scotland*, and with any other Perſon reſiding there. Then as to the other part———

Ld. Preſident. It is a continued Speech; Not with the *Scots*, nor any other.

Mr. *Hale.* Then here is another Thing in it: That it is not averred that ſuch a Correſpondence and Intelligence was held without the Licence of Parliament.

Attorn. Gen. You are miſtaken in that; your Notes are not true.

The Clerk. *And he the ſaid* Chriſtopher Love, *within the Times, and at the Places before mentioned, did traitorouſly aſſiſt, encourage, without the ſpecial Licence of the Council of State, or Parliament, or Captain-General of the Parliament Forces.*

Mr. *Hale.* We ſay then, theſe are two diſtinct Charges, and grounded upon two diſtinct Parts of an Act. But there is this more in it, which we conceive is not to be anſwered, with Submiſſion; under favour, it is ſaid he did it within the Times aforeſaid: The Times that are aforeſaid are between the 29th of *March* 1650, and *June* 1651. Now this Act, whereby this is made traitorous or treaſonable, takes not place till the 5th of *Auguſt* 1650: So that it might be done within the Times aforeſaid, that is, between the 29th of *March* 1650, and *June* 1651, and yet not contrary to the Act of the 2d of *Auguſt*, which was 1650.

Sir *Tho. Wither.* We lay it within all the Times aforeſaid: And I ſuppoſe the Matter of the Evidence hath told you the Times, which now we are not to diſpute.

Mr. *Hale.* Whatſoever is done between the 29th of *March* 1650, and the 2d of *Auguſt* 1650, is not done contrary to the Act of the 2d of *Auguſt* 1650, upon which Act this Charge is grounded: There is a Time between them, and between the Time of exhibiting of theſe Articles. Whatſoever is ſaid to be done between the 29th of *March* 1650, and the exhibiting the Articles, is not ſaid to be done after the 2d of *Auguſt* 1650: For if it be done between the 29th of *March* and the 2d of *Auguſt*, it is done within the Time aforeſaid, that is, between the 29th of *March* 1650, and *June* 1651; and yet not done contrary to the Act of the 2d of *Auguſt*, becauſe done before the Act came forth.

Attorn. Gen. Though Mr. *Hale* will not conſent to it, we will ſtrike out the 29th of *March*; and then he will not deny but that is good enough, with that ſtriken out, before the firſt of June 1651. Whether it be not good enough, and no Time laid before it?

Mr. *Hale.* No indeed, it is not good enough.

Attorn. Gen. Why not? It is after the Offence committed.

Mr. *Hale.* Becauſe it may as well be before the Act, as after the Act.

Attorn. Gen. If we lay it after the Offence committed, I ſuppoſe it is well enough; and the wiſeſt will think ſo. Lay it to be the 1ſt of *June* 1651: Suppoſe it were in *September* before, it is good enough.

Mr. *Hale.* If you lay it upon the 1ſt of *June*, it is a Year; before it is not good enough.

Attorn. Gen. That that Mr. *Hale* inſiſts upon, he may ſay it is before the 1ſt of *June* 1651, ſo long ſince; but in a juſt and reaſonable Intendment, when we inſiſt upon that Law that makes it Treaſon to hold it after ſuch a Time, and we ſay that before the firſt of *June* 1651, he did commit Treaſon in holding Correſpondence, and ſending Proviſions of War before that Law, though it were before the ſecond of *Auguſt* 1650, that were not againſt that Law.

Mr. *Hale.* Still we ſay, That *contrary to the Form of the Statute*, or *contrary to the Form of the Law*, which is but the Concluſion, ſhall not ſupply that which is material to be alledged. Now when here is an Act laid to be done, certainly it is material to alledge that it is done in ſuch a Time as may appear to be after the Time of the Prohibition of it to be done. The Prohibition runs to the 2d of *Auguſt* 1650, That no Man after the 5th of *Auguſt* ſhall do ſuch an Act: Then it muſt be laid to be an Act done after the 5th of that *Auguſt*. But it is not laid ſo here; but laid ſo as may be intended to be done before the 5th of *Auguſt*: For here is a Time laid between the 29th of *March* 1650, and the Time of the exhibiting the Articles, which is in *June* 1651; and that he did this within the Time aforeſaid. Now he that ſaith he did it the 30th of *March*, ſaith he did it within the Time aforeſaid; and yet ſaith not that it is within the Act.

Sir *Tho. Wither.* We have given an Anſwer to that: We have laid it within and without the Time. That is within the Time, the Witneſs doth prove it; and Mr. *Hale* ſpeaks not to what we have proved, and cannot ſpeak to it.

Mr. *Hale.* The Proof ſhall never ſupply the Inſufficiency of the Charge: For we may as entirely offer you an Exception to this Matter after you have heard the Proof, as before you have heard it; for it ſtands no ways upon the Charge ſingly; ſo that it ſhall not be ſupplied out of Matter that appears in the Proof, but it muſt be conſidered whether the Charge can ſupply itſelf, or not: for that that is alledgable againſt the Charge before the Proof made, is alledgable as well afterwards. If it were not good before the Proof, the Proof ſhall not be ſupplemental to it: For upon that Reaſon, if an Indictment did want Time or Certainty, then after the Party were heard upon his Defence, it might be ſaid, when this Exception was taken to the Indictment, all this might appear upon the Evidence. But that will not ſupply the Defect of the Indictment.

Attorn. Gen. I am ſure we have laid it late enough, the firſt of *June* 1651, before that Time; and Mr. *Hale*'s Exception is ſtill upon that way of Proceedings upon Indictments: He muſt have that poſitive and ſtrict Certainty in it in each Particular. I muſt give it that Anſwer ſtill, that if you do in theſe Caſes put me to it, to expreſs every particular Circumſtance of every particular Fact, and every particular Time, and that it muſt conduce in the Concluſion of it, I muſt make you Impeachments that will not be fit for you to read, nor hear: But, under favour, if that it contains in it in this way of Charge that convenient Certainty, that Conveniency that may put the Priſoner to the Knowledge of it, and to prove it. For this relates not ſingly: For if I ſhould go that way Mr. *Hale* hath laboured to draw me, that is, to take every one of theſe ſeverally, and that I muſt make a diſtinct Charge upon one, and upon the other, and a diſtinct Evidence upon one, and upon the other; I conceive theſe run quite through all the Laws, every one of them. Had I confined this now between the 5th of *Auguſt* 1650, and *June* 1651, then what had become of all the Laws before that Time? Therefore to make them relative to all, I have expreſs'd ſuch a Time as may relate to all: For had I confined it ſingly upon this or that Act, whereas I humbly conceive that theſe Acts, and theſe Offences of Mr. *Love*, are relative to more than one Act of Parliament, and go to ſeveral Acts: And therefore I cannot confine myſelf to one Act, and ſay it was done at ſuch a Time, and there limit it, and let it die. But my Endeavour hath been, and upon this Particular we debated it, when we did draw it: we put it ſo that the ſeveral Acts may have the ſeveral Effects, and Mr. *Love*'s Treaſons look upon every one of them, and they upon every one of his Treaſons; and as his Offences run through, and againſt all the Acts, ſo muſt our laying it upon him run, and the Evidence alſo. And though we took care to lay it back far enough, that was, to the 1ſt of *June* 1651, and ſo laid it high enough to the other, that it might reach the reſt. And in this way we are not tied ſo to expreſs it in every Particular, as other Indictments run.

Mr. Hall, *Attorney of the Dutchy.* He would charge it upon the Times between the 29th of *March*, and the 1ſt of *June*; that be not the Times that we have expreſs'd in this; for it is that within the Times aforeſaid we have poſitively laid, that it was in the Year 1651: For we have laid before, that in the Years 1648, 1649, 1650, 1651; then in the Times aforeſaid we have poſitively laid that this Fact was done in the Year 1651, which of neceſſity muſt be ſince that Act concerning the *Scots* was made: And that I conceive is an expreſs poſitive Time mentioned in the Charge, and gives a full Anſwer to that Objection; for it is not within ſuch a Time, but in the Year 1651.

Mr. *Hale.* That Charge is within the Times aforeſaid, which is laſt mentioned, between *March* 1650, and 1651.

Mr. *Hall.* That we ſhall ſubmit to the Court, whether in the ſame Times aforeſaid ſhall not relate to all the Times before mentioned, as well as the particular Times he hath picked out; for we mention that in the Year 1651 theſe Things were done.

Attorn. Gen. For that I have given you, that that is the general Anſwer, if I be put to it: Whereas Mr. *Love* had tranſgreſſed againſt thoſe ſeveral Acts of Parliament, we have put it ſo, that we conceive his Offences run through them all; and ſo we have laid them: And (I hope) we are not upon thoſe Niceties, that we muſt expreſs the direct Days and Times, as Indictments run: But here is enough to make him know his Offences.

Ld. Preſident. I conceive it is much better as it is too, and more obvious

vious to every Underſtanding, and their Interpretation; than as you would have it, a great deal: For the Neceſſities of the Day, it is not material, that you will agree; nor the Week, if they lay a Time ſo many Months before, or after, if the Proof come and fall within the compaſs of the Charge. As the Proof is laid, ſo is the Fact: The Proof determines whether it were within the Times without the Law, or within the Times aforeſaid; for it is not within that Time, and every of them, but within the Times generally laid, all thoſe Acts were done. And thoſe muſt be laid in particular which was at one Time, and one at another, which were two Years a-brewing, and are by the Proofs laid in general; that is beſt to ſay one Fact was done at one Time, and another at another Time, and at ſuch a Time, and not at ſuch a Time. It can be no Man's Judgment to be ſo laid in an Indictment or Charge; but they muſt be laid thus in general, and the Evidence muſt make it particular, that it was within the Times that are laid; as when there are no Times, as from *March* to *June* and *Auguſt*; and after, if they be both laid, if the Fact be within ſuch a Time that is within the Law, all the other is out of doors.

Mr. *Hale.* My Lord, thus, if it pleaſe your Lordſhip, I think, with Submiſſion to your Lordſhip's Judgment, that in ſuch a Caſe it is not in the Proof to make good a Charge: If the Charge do not contain a ſufficient Certainty, it is not in the Proof to make it good. My Lord, I inſiſt now upon the Neceſſity of a Day to be preciſely laid. I know (though it is true, it hath been otherwiſe held in ſome Caſes), yet in a Caſe of this nature, the Day is now material; for now we are upon Act of Parliament. As now, if ſo be the Statute of the 29th of *Elizabeth* enacts that every Man that ſhall knowingly entertain a Jeſuit, that that Man ſhall be a Traitor, ſhall ſtand guilty of Treaſon; if ſo be a Man would ſay in an Indictment, that ſuch a Man between the 28th of *November* in the 28th Year of the Queen, and the 28th of *December* in the 29th Year of the Queen, did entertain ſuch a Jeſuit, this Indictment would be naught, not upon the Uncertainty of the Day, but becauſe it takes in a Time which is not prohibited by the Statute. The Indictment may be true, that he did receive a Jeſuit within that Time, and yet that he did not receive him contrary to the Form of the Statute; and to ſay in the Concluſion *contrary to the Form of the Statute*, will not help it. For that is our Objection, that it is not done contrary to the Form of the Statute, becauſe it takes in ſuch a Time, as that it might be done before the Statute came forth. We ſay, that when there is a Time laid between the 29th of *March* 1650, and *June* 1651, and that within that Time he did do thus and thus, there is the Fault; it doth over-reach the Time of the Prohibition of the Statute, for any thing appears to the Court: The Court may find the Indictment or Information true, that he did it within this Time, that is, between the 29th of *March* 1650, and *June* 1651, and yet for all that the Party not in fault to be impeached, becauſe he might not do it contrary to the Act; for he might do it between the 29th of *March* 1650, and *June* 1651, and yet do it before the Act came forth, which was in *Auguſt* 1650.

Mr. *Hall.* My Lord, I conceive Mr. *Hale* hath not anſwered that I alledged: But now, if there were no other Times mentioned in all the Charge, but only between the 29th of *March* and *June* 1651, then it were ſomewhat; but when the Times are expreſſed before, though that it was in the Year 1651, and then we ſay in the Times beforeſaid; I conceive that in the Times aforeſaid ſhall relate expreſly to that Time in the Year 1651, and then it muſt be within the Act.

Mr. *Hale.* That cannot be; that will make the Charge worſe.

Ld. Preſident. That I conceive you are upon, is this, The very Letter of the Charge: For you ſay, At this Time that is laid he could not be a Traitor, and you join it with a Time in which he might be a Traitor. This (you ſay) they lay in the Indictment, That he did in ſuch a Time of *March*, and afterward; and at that Time there was no Law to prohibit it, and ſo that could not be a Crime againſt him; and this you ſay, no Proof will help it: I take it, Mr. *Hale*, this is the Subſtance. But if this be thus laid, and the Proof doth come in, this is very eſſential in my Judgment, when upon the Matter, if this be, as you ſee it appears upon the face of the Thing, that the Proof muſt go to that Time within the Law; and therefore that will not vitiate at all ſuch an Indictment, if it were ſo as you ſay. But I take it, that this being complicated with more Laws, as I ſaid before, though he were not guilty upon this, yet in the Concluſion he is found guilty of that which is as to other Offences.

Attorn. Gen. I ſhall ſay but this: We all know that a Time is expreſs'd but for Formality; and that Time that is expreſs'd, is not material, ſo it be laid far back enough. But if I ſay it in *June*, and prove it in *June* Twelvemonths, it is time enough for this, as your Lordſhip was ſaying. That which I do ſay is, That I cannot confine this very Act that is ſuppoſed to be, and yet not laid to be againſt that Act of the 2d of *Auguſt* 1650, from this Clauſe, in expreſs Terms, not ſingly. But that which I humbly inſiſt upon is this, That never a one of theſe Offences ſingly tranſgreſs one ſingle Law, but is an Offence againſt ſeveral Laws. I conceive I had done my ſelf and the Commonwealth wrong, had I limited it to any one; for his complying with the *Scots*, and joining with them, and contributing with them, and receiving Intelligence, it is more than againſt that ſingle Act. It is Promotion of his Intereſt, and Subverſion of the Government, and againſt every one of the Laws. And therefore, I conceive, I had not done right to the Place I am intruſted with, if I ſhould have laid it ſingly. But he is indicted, That as a falſe Traitor he hath done theſe Things: that is the Preamble. And then we inſtanced the Particulars, and give a Time; which Time he will acknowledge is not poſitively neceſſary to be true, that that Time muſt be the Day the Fact was committed; but if it be before, it is enough. But he infers, becauſe this ſeems to be an Offence within the Statute of the 2d of *Auguſt* 1650, and is laid between the 29th of *March* 1650, and the 1ſt of *June* 1651, and ſo whether this can relate to that Act: And by Evidence you know it is afterwards. But this being an Offence againſt ſeveral Laws, I cannot charge it to be againſt one Law: But the Art is now, as Mr. *Love* began, to take it aſunder and ſingly, and then it is nothing: And Mr. *Hale* takes it ſingly. It is not againſt this, nor againſt this: but it is againſt every one of them; and not againſt this ſingly, but againſt the reſt of them.

Sir *Tho. Witherington.* My Lord, it cannot be contrary to the Form of the Statute, unleſs it be done after the Time, ſo that the Concluſion ſhews it was laid within the Time. But for the Caſe, as Mr. *Hale* inſtanced in: He puts a Caſe of one Act of Parliament; we are now upon Offences againſt ſeveral Acts of Parliament. In that Caſe, of retaining a Jeſuit; he is a Traitor by the Act of the 29th of *Elizabeth*; ſo that if he lays it between the 28th of the Queen, and the 29th, if the Jury find that he did retain him knowingly on the 10th of *May* 29, then it will not be denied but that it is an Offence againſt the Statute.

Mr. *Hale.* But ſtill we ſay the Indictment is naught in that Caſe, becauſe it takes in a Time which was before the Act came forth; ſo that the Party might do it within the Time expreſs'd in the Indictment, and yet not do it contrary to the Act: And this is our Caſe.

Attorn. Gen. My Lord, you have heard us for that.

Mr. *Hale.* The laſt Thing is concerning Contribution to *Silas Titus*, and *Sterks*, a *Scotchman.* And to that we have the ſame Exception: That that is not made Treaſon by any Act of Parliament: And therefore it is miſ-laid to be done traitorouſly; for the Statute of the 26th of *March* 1650, only prohibits it, and ſo makes it penal, but not Treaſon. But then we ſay again, it is laid very uncertainly too, that is, at the Times before mentioned. If Mr. Attorney of the Dutchy's Conſtructions ſhould ſtand, that *is*, that the Times before mentioned refer to the Time paſt, then he may refer to a Time before the Act. But we conceive the Thing itſelf is not Treaſon by the Act, but only prohibited; and we conceive, under favour, ſtill, that by way of Reduction to any of the former Charges, this ſhall not be made as an Inſtance or an Overt-Act, by way of Reduction to any of the former Charges, becauſe it is charg'd particularly to be traitorouſly done, becauſe there are ſeveral Charges of Treaſon before: And that which Mr. Attorney was pleaſed to obſerve upon another occaſion, That in this Caſe the Charge is againſt ſeveral Acts of Parliament, it is true; but tho' it be againſt ſeveral Acts of Parliament, yet it muſt bind and pinch upon one: For we ſay one Treaſon is not to be made an Inſtance to another, and ſo to be made acceſſary, and depending, and accidental to another. And then we ſay in this Caſe, that this being not a Treaſon in itſelf, and being as uncertain to which of the former Treaſons it is apply'd, it cannot be well laid, nor well apply'd, that is, to the laſt, that he did voluntarily relieve *Silas Titus*, it is not made Treaſon.

Attorn. Gen. It is againſt the Act of the 2d of *Auguſt* 1650, in expreſs words: read the Impeachment.

The Clerk. *And further to carry on and accompliſh the ſaid traitorous and wicked Practice and Deſign, he the ſaid* Chriſtopher Love, *within the Times and at the Places laſt aforeſaid, did traitorouſly and voluntarily relieve the ſaid* Silas Titus, Edward Maſſey, *Col.* Bamfield, *one* Maſon *late of* London *Gentleman, and one* Sterks *late of* London *Gentleman, who then were, and yet are under the power of the* Scotch *Nation in Arms againſt the Parliament and Commonwealth of* England, *with Moneys and Ammunition. Which Treaſons and traitorous and wicked Practices and Deſigns of him the ſaid* Chriſtopher Love, *were and are to the apparent Hazard of the publick Peace of the Commonwealth and Free-State, Parliament and People of* England, *and to the manifold Breach, Contempt, and Violation of the Laws of this Land, and contrary to the Form of divers Statutes and Acts of Parliament in ſuch caſe made and provided.*

Mr. *Hale.* Then we ſay, it is uncertainly alledged, and uncertainly laid; but we take it, it is not within the Words of the Act: we deſire that Act may be read.

The Clerk. *That ſhall from and after the 5th of* Auguſt 1650, *uſe, hold, and maintain any Correſpondence,* &c.

Mr. *Hale.* Then this is not within this Act, becauſe that this is concerning ſending to Perſons that are in *Scotland*; I obſerve not that it is charged that they were in *Scotland.*

Attorn. Gen. Or ſhall abet, aſſiſt, countenance or encourage the Scotch *Nation, or any other Perſon or Perſons adhering to them in their War againſt the Commonwealth.* What think you of relieving, is not that abetting and encouraging?

Mr. *Hale.* It ſhould be laid ſo then. I deſire that part of the Charge may be read again.

The Clerk. *And further to carry on,* &c.

Mr. *Hale.* My Lord, we think this is not fully charged according to the Act.

Attorn. Gen. I will read you another, of the 26th of *March* 1650.

Mr. *Hale.* That makes it not Treaſon.

Attorn. Gen. It comes very near it; but I inſiſt upon it, it is under the other, relieving them with Money, buying of Arms.

Mr. *Hale.* Still the ſame Exception lies upon it, within the Times aforeſaid, which certainly cannot be acknowledged.

Attorn. Gen. We acknowledge the ſame Exception; and the ſame Anſwer lies to it, that of the 26th of *March* 1650; it is, he ſhall ſuffer Death: and upon this it is Treaſon upon both together, we cannot divide them, but muſt expreſs them ſo.

Mr. *Hale.* Under favour, the one makes it Felony, and the other a Treaſon.

Attorn. Gen. But it is a deadly one.

Ld. Preſident. If a Statute Law makes a thing Felony that was not Felony, or recites a thing that is Felony, and ſaith it ſhall be puniſhed with Death, being a Petty Larceny, therein you ſay well; but if the Statute recites that that is Treaſon in itſelf actually, and ſaith that they that do theſe things ſhall ſuffer Death, according to the nature of that Offence that is formerly recited, and limits it ſo in the Recital, if the Recital be Treaſon in the beginning, and then ſay, that that Traitor ſhall ſuffer Death without mercy.

Mr. *Hale.* We have ſhewed our Reaſons in the Caſe, my Lord; it is as much as we can ſay upon this ſudden, concerning this Charge; there are ſome other things that are mentioned here by Mr. *Love*, as how far forth there be ſufficient Witneſſes, admitting the Charge were good; how far forth the Witneſſes are ſufficient in themſelves; and then whether here be two concurring Witneſſes to any one Act, and whether any

any thing be more proved than Miſpriſion of Treaſon, and Concealment of Treaſon: Theſe are things Mr. *Love* takes upon him in Fact to ſay. And now for thoſe, when the Caſe is made, we ſhall be ready to ſpeak to theſe things; for truly it is ſudden and new to me, for theſe Matters came not to my Knowledge till this Morning after Eight o'Clock; that is, concerning the laſt Paper he offers to your Lordſhip, and that is, Exception to Witneſſes, Proof, and Matter of the Proof, whether the bare Concealment (for thus it is ſtated unto us, the *Concealment)* of any thing that is Treaſon, whether that be Treaſon or no in the Party that conceals it; theſe are things that if we were prepared for, we ſhould ſpeak to. Firſt, we conceive by the Statute of *primo & quinto Elizabethæ*, there is a Neceſſity in this Proceeding before your Lordſhip, to have two lawful and ſufficient Witneſſes. Next of all, we think, that if theſe Witneſſes be ſuch as he hath ſtated them to be; which whether they be or no, we know not, for we are utterly unacquainted with the Evidence, yet we ſhould think they are no ſufficient Witneſſes: And then admitting they were ſufficient Witneſſes, yet if ſo be one Witneſs ſpeaks to one Fact, another to another, we conceive theſe are not ſufficient Witneſſes within the Statute, nor ſufficient to convict him. And then if that which they have witneſſed be nothing that amounts to Treaſon, haply committed by others, that makes him not guilty within the Acts. If we had time to underſtand, and digeſt, and conſider, what were the Matters that are alledged, we ſhould be able to ſay ſomewhat to it. My Lord, that which we have ſaid, we have ſaid of a ſudden; and ſo it appears, becauſe we had not that clear Underſtanding of the Charge, as otherwiſe we might have had, and ſo have ſaved much of your time.

Attorn. Gen. For that that hath been ſaid ſuddenly by Mr. *Hale*, I ſhall ſuddenly give it this Anſwer: He hath had more time than I, he hath ſaid from Mr. *Love*, and not from himſelf: He ſaith when the Caſe is made; I think it will appear then, that theſe Exceptions have been made to the Court, that the Witneſſes have not been competent neither in Quality nor Number, they have been ſpoken to. For the Witneſſes, the Exception to the Quality, becauſe they were of the ſame Gang, they had a Hand in the ſame Treaſon, that was the Exception; I think that will not be allowed to be a legal Exception; they are Perſons that (as Mr. *Love* pretended) had a Hand with him in this Fact, and therefore they ſhould not be competent Witneſſes; that I ſhall appeal to Mr. *Hale*'s Judgment, before Conviction, and upon a Proceeding, whether they may not diſcover (and after Conviction) if they be Approvers. For the next, for two Witneſſes; when the Caſe is made, you will find one, two, three, four, five, ſix, and to moſt of them two, three, and four, for ſo I may make bold to ſay, for ſo I read them to you the laſt Day. And then for the laſt Exception, that was for the Concealment of Treaſon, it is far from it, for I know not what a Concealment Mr. *Love* may intend; I am ſure Mr. *Hale* will not think that a Concealment, to run one, two, or three Years, and run on, and ſend Letters; that when he acts along with them, and hath the Meetings at his Houſe continually, moves them to receive Money, and contribute; I think he was the higheſt Actor amongſt them, for the Meetings were continually at his Houſe, the Advices were there reſolved upon Debates, there he gave his Advice one Way, and they another Way: I think he will not think this is but Miſpriſion of Treaſon; and we never did charge it, nor intended it ſo, but went a little higher.

Mr. *Hale.* If that be declared to be inſiſted upon, that the non-revealing of Treaſon, though it be a Month or two, or a Year or two, can be no Treaſon, then we have done with that Queſtion; for that it will reſt ſingly upon the Fact before your Lordſhip, whether there be any thing more proved than ſuch a Concealment, then it is true we are diſcharged of that Queſtion. But then concerning the Proof, if Maſter Attorney will pleaſe to admit, that the Proofs are ſuch as Maſter *Love* hath ſtated in this Paper——

Attorn. Gen. That I ſhall not do before-hand, but to debate upon the Proof, I ſhall crave your Lordſhip's Directions; I have gone over them already, and it hath been Trouble enough to me; if it be your Lordſhip's Pleaſure I muſt go over the Proof again, I ſhall ſubmit to you, but not to him.

Ld. Preſident. Mr. *Hale*, there are no Witneſſes that have been heard, but they have been of the ſaid Confederacy, that was one Exception Mr. *Love* made; it was debated at the producing, and over-ruled, and I believe your Judgment will go well with us, that it was no Exception. Another was, That they have been promiſed Rewards; that was likewiſe moved and over-ruled, the Court was of Opinion, that they may do it; that if there be a Treaſon, and there be many Correſpondents in it, and one out of Remorſe, as ſome of theſe did ſay, that when they had been there they did not like their Ways, but went from them, and came to them no more; if this Man, or any other Man afterwards ſhall come and reveal this, it is in the Power of the State either to reward him with Moneys, and to promiſe him Life too, if he ſhall faithfully do it. And this, we ſay, is a ſtronger Caſe than the Caſe of an Approver, which afterwards when they became Approvers, they muſt confeſs the Fact, and ſay they are guilty of the Fact plainly and openly; and yet then they are good Witneſſes to diſcover this, as it was plotted in Hell, for this was no other, though they had a Vizard upon them, which was no otherwiſe: I ſay, if any one will diſcover ſuch; nay, haply it was offered to Mr. *Love* himſelf, if he would have done it; I believe there were ſome Overtures made to him. But this is Law too, by the Law of this Land, which is the Law of God; for we have no Law practiſed in this Land, but is the Law of God; and ſo did the Lawyers maintain it before the King in *Henry* the Eighth's Time, the Pope's Legates, and chief Archbiſhops and Biſhops of *England*; and did then prove it to them, that there was no Law practiſed in *England* but the Law of God, which our Miniſters are loth to touch, and buſy themſelves to ſtudy, but ſtudy the Ceremonial Laws of the *Jews*, which are *Mortuæ Mortiferæ*, which are not to be practiſed by any other Nation, till they be eſtabliſhed by a Law: And that which is the Law of God in this Land, that hath ſo much preſerved it, theſe they are wilfully ignorant of, and ſay, it is Civil; but I ſay, it is Chriſtian Law. And therefore never diſtinguiſh in a Chriſtian Nation, that the Laws are Moral and Eccleſiaſtical, with that feigned Diſtinction; but all the Laws of this Nation are Chriſtian, and ſtand with Evangelical Truth, as well as with natural Reaſon, and they are founded upon it: And therefore, Maſter *Hale*, we are here now to go on by theſe Laws, which are the Laws of God, and we muſt walk in them, as we would walk to Heaven. And for that you ſpeak of now, Mr. Attorney hath anſwered all the Exceptions every one; and I think for that Matter of Fact, every one of them particularly. Mr. *Love* did take his Exceptions too, and they were over-ruled. Now to come, whether theſe are lawful Witneſſes over again, when it is in Matter of Fact and over-ruled by the Judgment of the Court, Maſter *Hale* will not think that is regular. And then, whether there be two to one Point or not, that is another of your Exceptions; that, I take it (Maſter *Hale)*, is not Matter of Law, but for the Judges to conſider of it: That which ſhould be Matter of Law, is this, Whether that ſingle Proofs, ſome to one, and ſome to another, joined all together do iſſue out all this Treaſon? We want not Precedents for that, for this is a heterogeneal Treaſon; every Particular that theſe Statutes make a Treaſon, they are all of them complicated, he hath gone through them all in his Act, and we muſt paſs through them all in our Judgments: Though every one is particular Treaſon, had it been ſingularly laid by itſelf; yet now being laid as one concatenated Treaſon, they all of them make but one. For the next, for that of Miſpriſion, he is not charged here with Miſpriſion at all, but direct Treaſons; and if it be but Miſpriſion, we ſhall not for Miſpriſion judge him a Traitor upon this Charge. But then, what is in his Judgment Miſpriſion? If this be nothing but a Concealment, I think that the Court upon the Evidence will judge that it is more than a bare Concealment; and whether Mr. *Hale* will think, if I be a Promoter and Concealer from one to another, and have ſo many continued Meetings, whether two or three Years together acting with them, and concealing them, for it is not a bare Concealment, but a complicated Act: For if it were but a bare notion of it, we ſhould have much ado to prove it; but (I think) the Court is ſatisfied, it is more than Notion.

Sir *Tho. Witherington.* I ſhall ſpeak a word to that Mr. *Hale* moved laſt, whether you will be pleaſed to hear any more of Counſel in theſe three Particulars; for, under favour, theſe three Particulars concerning the Witneſſes, concerning their Quality and Number, and the Treaſon itſelf, theſe are Matters of another kind of Nature than all the reſt he inſiſted upon, for the reſt are mere Matters of Law, upon the Formality and Inſufficiency of the Charge: Theſe Queſtions of the Witneſſes are Queſtions that are mix'd; for they depend upon the Matters in Fact, and cannot be otherwiſe ſtated. Now Mr. *Love*, tho' he had no Counſel appeared before, yet he had in his Defence all theſe Objections too; as of the Incompetency of them, becauſe they were *Participes criminis*, and for that I think (under favour of your Lordſhip's Judgment) he had a full and clear Anſwer to it: In Caſe of an Approver, he is *Particeps criminis*, and accuſeth Men that are *Particeps criminis*; yet that Man, even *ex merito juſtitiæ*, he ſhall be pardoned, ſaith our Law: And therefore that Objection that is made againſt the Witneſſes, that they are promiſed Rewards and Pardon, that is no Objection, for in that Caſe the Approver ſhall have his Pardon *ex merito juſtitiæ*. Then for the other Point, that is, whether by two Witneſſes in ſuch a Plot or no, to prove a Treaſonable Act, that is, conſiſting merely upon the Matter of Fact; that I ſhall not take upon me to repeat, you have heard it: But this I ſaid then, and this I humbly offer now, that if there be two Witneſſes, tho' they concur not in the ſame individual Act, yet if they concur in two Acts, concurring to the ſame Treaſon, they prove the ſame Treaſon; if one prove the ſending of Letters, and another the ſending of Money, I take it theſe are two Witneſſes, tho' they ſpeak of two diſtinct Acts: But in our Proof we have gone on to two Witneſſes, three or four in moſt Points. But then for the Miſpriſion of Treaſon, we did apprehend that that which Mr. *Love* himſelf hath confeſſed, is Treaſon itſelf; but Mr. *Love* is pleaſed to make his own Collection upon his own Confeſſion: *For I confeſs my Preſence and Silence after theſe Meetings and Conſultations, but this I take to be Miſpriſion of Treaſon.* To this I replied, we took it to be Treaſon itſelf; for our Books ſay, a Man muſt not ſleep, nor look back, but go preſently to a Magiſtrate to reveal it: But when a Man will not only ſleep upon it, but keep it back, and act in it, this is more than Miſpriſion. But our Charge is for Treaſon itſelf, and truly Treaſon comprehends a Miſpriſion of Treaſon in it; but this Point I think neither will come in Queſtion now: For we ſay and charge, that it is a Treaſon itſelf, not Miſpriſion; and that Collection Mr. *Love* makes, it is his own, but the Judgment is yours, whether it be a Treaſon or not.

Mr. *Hale.* If it be your Lordſhip's Pleaſure, we are ready to ſay what we can in the Shortneſs of Time; but if it be not your Lordſhip's Pleaſure, we ſhall not ſay it.

Attorn. Gen. If your Lordſhip pleaſe to declare what he ſhall ſpeak to.

Mr. *Hale.* Theſe Points, I ſhall only mention them, I cannot argue them now. This is that I conceive; firſt of all, according as the Caſe is ſtated, that is, Whether a Perſon menaced, that he ſhall loſe his Life if he diſcover not a particular Perſon, and that he ſhall have his Life, if he do diſcover him; whether ſuch a Perſon be a competent Witneſs or no?

Attorn. Gen. Hear a Word; I appeal then to you, whether any ſuch Perſon were produced before you.

Mr. *Hale.* Firſt, we only go upon what Suppoſition Mr. *Love* makes.

Mr. *Love.* I humbly crave leave to that effect, to prove that Particular.

Attorn. Gen. No, not now, Sir.

Mr. *Hale.* We conceive ſuch a perſon is not a competent Witneſs: then that is out of the Caſe, it ſhould ſeem, Sir. Truly, then, the Caſe that is put concerning an Approver, comes not to the Queſtion, under favour; for tho' it is true, an Approver at Common Law might be an Accuſer, yet we are not now upon a Proceeding at the Common Law, when we talk of Witneſſes now, but we are upon a Proceeding how far forth warranted

warranted for the Witneſſes, by the Statute of the firſt and fifth of *Edward* VI. So that what is ſaid concerning an Approver comes not to this Queſtion; he that may be a competent Witneſs at Common Law, he is not a competent Witneſs upon thoſe Statutes, for the Words of the Statute are expreſly, *That he ſhall be a lawful and a ſufficient Witneſs.* And if ſo be that ſuch a Caſe were now, it is not to ſample this Caſe that is before you with the Caſe of an Approver, which is a bare Accuſation at Common Law, and where the Jury likewiſe are to have other Evidence: For either the Defendant may wage his Battle, or put himſelf upon his Country; and then it is at the Pleaſure of the Jury, whether they will believe the Approver or no. But by the Act of the firſt and fifth of *Edward* VI. it is expreſly ſaid, *There ſhall be two ſufficient Witneſſes in Caſe of Treaſon:* So that That hath made an Alteration of what was in the Common Law before; one Witneſs was enough before, now two Witneſſes are requiſite: And we conceive, the Words *lawful and ſufficient* conclude ſuch Perſons. If there be not any ſuch, we are not to ſay we know, or know not: But if ſo be any Perſon is drawn to make ſuch a Teſtimony for the Preſervation of his Life, and ſhall make ſuch an Expreſſion, we think, that tho' it is true he is not a Perſon that is attainted, yet he is a Perſon that is thus drawn; and we think he is not ſuch a Witneſs as is intended, eſpecially in ſuch a Caſe as this is, where the Trial of the Fact is before your Lordſhip, which is both Jury and Judge, to try the Fact, and determine the Law; and therefore perhaps here will be a more rigorous Expectation who ſhould be, and who ſhould not be a ſufficient Witneſs, than in caſe it were a bare Trial by Jury: There may be thoſe Exceptions alledged againſt a Witneſs when the Trial is as now it is, that may not be when a Trial is by a Jury; and therefore if ſo be that a Party be thus drawn to teſtify for the Preſervation of his Life, we think that this is not ſuch a lawful and ſufficient Witneſs as is required in ſuch a Caſe. Next of all it is ſaid in the Paper, That they have detected themſelves, being Parties of as deep a Guilt as the Perſon that is accuſed. I will not diſpute that at this time; for it is not the Caſe, whether a Perſon that is a Plotter and Confederate with one that commits Treaſon, may be a Witneſs; but when a Perſon is detected by lawful Authority, before the Charge exhibited, whether ſuch a Perſon who is ſo detected, whoſe Life is in the Hands of the State, be one of theſe competent Witneſſes, we muſt leave it to your Judgment in that: But we think he is not a competent Witneſs; for there is not a bare Accuſation of a Perſon, but (as the Caſe is ſtated to us) by a Perſon that ſhould be examined, and confeſs himſelf guilty of thoſe things whereof Mr. *Love* is impeached, and that before the Charge is exhibited. My Lord, the next Matter is concerning the Plurality of Witneſſes, the Number of them; we think, under Favour, with Submiſſion, that in this Caſe ſuppoſe the Charge had been ſingly upon one Act of Treaſon, we conceive, that in that Caſe there is a Neceſſity of two Perſons to prove that Charge: If the Charge be upon ſeveral Acts of Treaſon, be the Charge ſo; yet if you will bring them within any one of the Acts, you muſt have two Witneſſes to bring them within that Act. For ſuppoſe a Man were indicted of Treaſon heretofore for levying of War, and another Treaſon for adhering to the Enemies, and another Treaſon for counterfeiting of the Coin, or thoſe Kind of things; theſe are ſeveral Treaſons, though they are all put into one Information, and haply may be put, in Caſe of Neceſſity, into one Indictment, as here are ſeveral Acts put into one Charge. But now a Proof of Treaſon within one of the Acts by one Witneſs, and a Proof of a Treaſon within another of the Acts by another Witneſs, will not be eſteemed and accounted a Proof by two Witneſſes; for it muſt be a Proof, not that he is within the Charge, but within that Part of the Charge upon which he is to be arraigned: And here is not a proving each diſtinct Part of the Charge by two Witneſſes, as the Statute requires. And then to come nearer, ſuppoſe the Charge were but upon one Act, as that he held Correſpondence with the *Scots*, and did invite them, *&c.* I conceive that in this Caſe, under Favour, that that particular Act with which you will charge him to be a Traitor within any one Law, muſt be proved by two Witneſſes. The *Star-Chamber* Courſe, I know what it was, that in caſe there were one general Charge, and when it did deſcend to ſeveral Particulars; one Witneſs would ſerve for one, and another to another, and a third to a third, and theſe ſhould make up two Witneſſes to convict the Party: But we are not now in a Proceeding of *Star-Chamber*, that is laid by, it was not altogether ſo regular in all things; and then we are not in a Thing barely criminal, but in a Caſe of Life; and not in the Caſe of Life ordinarily, but in a Caſe wherein a Party is accuſed of Treaſon, wherein the Statute doth provide that there ſhall be two Witneſſes (as I conceive) to ſwear to the ſame thing, by which you would bring him within it; otherwiſe they ſtand as ſingle Witneſſes, every one apart. I have heard of a Caſe (I have not had ſo much time as to look into it) concerning Mr. *Rolph*, indicted at *Wincheſter*; I will not ſo much as repeat over the Caſe upon my Credit to the Court; but I take it, it was thus: He was indicted for ſomewhat about the Perſon of the King; one Witneſs depoſed about the preſenting of a Piſtol, or that he ſaid he would; another about poiſoning, or that he ſaid he would: Theſe two things did conclude in one and the ſame Act; and though they concluded in one and the ſame as Evidences, complicated Evidences to make good one Charge, and either of them had been ſufficient, if proved by two; yet as I am informed (this is the Inconvenience, upon the ſudden we cannot offer it upon the Confidence of our own Knowledge, which a little time would make us wholly decline the mentioning of it, or affirm it upon our Credit; but this I am informed) was not held a Caſe proved by two Witneſſes: And if that be ſo, then I conceive theſe Steps; the firſt will be agreed, that the Proof of ſeveral Charges by ſeveral Witneſſes, againſt ſeveral Acts, will not make a Proof by two Witneſſes; it muſt be a Proof by two Witneſſes againſt one Act. Therefore the Proof of any thing againſt the Act of the 17th of *July*, 1649, and another Proof of a thing done againſt the Act of the 30th of *January*, 1648, and another for a thing done againſt the Act of the 2d of *Auguſt*, 1650; here the Offences are ſeveral, the Treaſons ſeveral, and the Witneſſes to either ſtand ſingly by themſelves. How the Caſe of the Fact is upon the Proof, I cannot tell; that is, whether this falls out to be the Caſe. But again, if the Charge were ſingle, as now upon the Act of the 30th of *January*, 1648, for proclaiming of the King, or promoting the Prince of *Wales*'s Intereſt to be King of *England*; we think, with Submiſſion (which we ſhall leave to your Judgment), that in that Caſe there is a neceſſity of two Witneſſes to ſpeak to one thing; and not one to ſupply one Part, and another to ſupply another: That ſhall be as much as I ſhall ſay concerning that; and I could wiſh that we had had ſo much time as to look into it, to enquire what the Truth of that Caſe was which was tried at *Wincheſter*, as I take it. Now for the other Matter, that is, Whether Miſpriſion of Treaſon, Concealment of Treaſon, be Treaſon; if that be not inſiſted upon.

Attorn. Gen. No, no.

Mr. *Hale.* Under Favour, the Law is, That Concealment of Treaſon is not Treaſon; but if that be not inſiſted upon, then the Queſtion of the Fact is, whether there be any more than a Proof of a Concealment, or of a Miſpriſion of Treaſon? which if ſo be it be not, I can ſay no more.

Attorn. Gen. Truly, my Lord, I did intend to ſpeak to that of Mr. *Love*'s Caſe, and as of his making, but not now of his making, but as he hath made it formerly; ſurely, it is a great deal of Patience and Favour you have afforded him, that for Matter of Fact and Law you have heard it all over again. As for that firſt, of the Competency of the Teſtimony, I ſhall remember his own Diviſion; Firſt, of the Charge; Secondly, of the Witneſſes and the Teſtimony; the Third, concerning himſelf; and the Fourth, his humble Propoſals to the Court. One Part of his Defence was concerning the Witneſſes and Teſtimony, that he made a long Defence to; and if it be not good Evidence, that Parties that are of the ſame Robberies may not accuſe their Fellow-Thieves, I think ſome muſt be unhanged that have been hanged: But that I ſhall not ſpeak to, for I think not that Mr. *Hale*'s Judgment leads him to it; but if they were threatned, and ſhould be made afraid of their Lives, that were ſomewhat, but that is not the Caſe here. The next is for two Witneſſes: I might ſay, that by the Common Law of *England* one Witneſs was enough before the Law of *quinto Edwardi ſexti* was made; for elſe it was not needful to be made. And Mr. *Hale* knows again, that as to Trial, thoſe Laws are repealed. But not to trouble you with theſe things, or to ſay wherein they muſt concur, I did crave the Favour of you to read the Witneſſes as they depoſed, and I did tell you when it was by Hear-ſay, and when upon Knowledge, and when by two, three, and four, to ſeveral Acts of Mr. *Love*'s own acting, two, three, four Witneſſes, I think they are Number enough to accuſe, and detect a Perſon of as high Quality. And for the laſt, for Miſpriſion of Treaſon, Mr. *Love* hath ſaid that which never came into my Thoughts, that ſuch Actings done by Mr. *Love* could be judged Miſpriſion; he that acted with them, conſulted, and debated, and plotted, gave his Judgment one Way, moved to raiſe Money, received Intelligence, all brought to his Houſe, and tranſacted there: I would appeal to Mr. *Hale*'s Judgment, whether this could be Miſpriſion of Treaſon, when a Party acts in it, hath the Meetings at his own Houſe, and hath there Debates of Commiſſions, and Inſtructions, and Letters; I think this goes as far beyond Miſpriſion, as Treaſon is beyond Miſpriſion. But ſeeing theſe are new Caſes before you, you have ſpent enough of your time, I ſhall not ſpend more to argue the Caſes that are not.

Mr. *Love.* I humbly crave Leave, that ſeeing my Counſel ſome of them are rejected by the Court, as not fit to plead before you; and ſeeing another of them, Mr. *Maynard*, the Neceſſity of his Affairs is ſuch, he could not be here this Day to plead here; and ſeeing this worthy Gentleman came here unprepared, whoſe Face I never ſaw till this Morning; therefore I humbly pray there may be more Time and Counſel aſſigned me, with your Favour and Leave, that they may fully debate the Argument before you, thoſe Matters of the Law which are under his Hand, and the Hands of the two worthy Gentlemen rejected by you to plead here, that others may be added to Mr. *Hale* to plead the Matters of Law before you, and that I may have a Copy of the Charge.

Attorn. Gen. I hope we have had Delays enough; it is with the Court, now we have done.

Mr. *Love.* And, Sir, there are Witneſſes here preſent that will prove that which Mr. Attorney-General thought none could prove, to wit, not only general Threats, if they would not confeſs in the general, but Promiſes of Favour, and Threatning of Death if they would not teſtify againſt me in particular: And I have manifold Exceptions touching the Incompetency not only of Number, but Quality. One Witneſs ſaid, he could not in Conſcience, and did not ſwear till he was threatned, nay, fined by you, and drawn out of the Court: Another Witneſs had Money laid to him by *Cobbet*, which was given to his Wife, which did ſeem to conceal the Bribery the more; but he confeſſed himſelf, that the Money was laid down in his Houſe, and given him to make uſe of, and to be the Price of my Blood (Sir) to teſtify againſt me. I have Witneſſes to produce, Major *Adams* ſaid, he ſhould be hanged, if he did not teſtify againſt me; for he had given Information, and had been in Hire for many Months together. Major *Cobbet* and three other Meſſengers have come to him, and offered him Preferment, for four Months together, if he would reveal what he calls a Deſign againſt the Commonwealth; and he hath not revealed this, till he had theſe Promiſes of Preferment, and did not declare againſt me till he was threatned by Death if he did not do it: Therefore I beſeech you, hear what Witneſſes I can bring in, to invalidate the Teſtimonies of theſe Men.

Attorn. Gen. My Lord, it ſeems I muſt be for all. Now Mr. *Love* begins with the Court, that you threatned them, and puniſhed them: I appeal to all here, whether a Witneſs brought into a Court in Matter of Property, and refuſe to take his Oath, whether that Court be not bound in Juſtice to puniſh him; and yet if he ſhall ſee his Error, and ſubmit himſelf to do that which to Juſtice belongs, then (I think) it is Juſtice and Mercy in you to remit him of both: And that is the Caſe of this Gentleman; in Conſcience he could not ſwear againſt him, a

Conſcience

Conſcience well-wrought upon; he could not in Conſcience ſwear againſt him: for him it was done in the Court, and by the Court, and (I think) undeniably juſtified.

Mr. *Love.* He is not under an Oath to this Day, he hath declared it himſelf.

Attorn. Gen. This is to ſatisfy other Men, but it is not ſo regular and orderly to be done: but my Lord and the Court are pleaſed to give you a fair Hearing and Proceedings, that no Exceptions may be taken to it. There was another that was as good as his Word, that he could not find in his Conſcience to ſwear againſt Mr. *Love*, and that was a Miniſter; that Conſcience deſerved to be rectified more than Five Hundred Pounds come to, and perpetual Impriſonment: that Man that cannot find in his Conſcience to judge him that was a godly Perſon (as he thought), and againſt him he muſt not give witneſs, not for Treaſon, not to ſave a Commonwealth; and he hath had your Sentence, and moſt juſtly: I think all that was, was too little, my Lord. Then for the reſt, this is a Diſcourſe to ſatisfy People, the Spectators here; for ſurely theſe are Extravagancies, and total Irregularities; he hath had his time to except, and heard to except, and ſaid all that he hath ſaid now: and ſo there is nothing more to be done, but now for us to reſt in your Judgments what you will do further.

Mr. *Love.* I beſeech you, I acquainted your Lordſhip and the Court, that ſome of the Witneſſes were not well, others I could not get them here preſent, but did make offer to bring Witneſſes to prove againſt Major *Adams*, that he hath confeſſed himſelf he was threatned with Death if he did not inform againſt me; and he ſaid theſe Words, He could not tell whether he ſhould in Conſcience think rather better to be hanged, than to come in againſt me; and he could ſwear only Generals; and could not ſwear that ever I did write or receive Letters. And Mr. *Jaquel* himſelf, ſince he was ſent away from the Court, hath ſaid he was not under an Oath.

Attorn. Gen. What Courſe ſhall we hold? If you will not be regular, let the Court be regular: had you not time for to do it then? Did he not demand Indemnity for them? And rather than he would produce others to hurt themſelves, he would rather die himſelf firſt.

Mr. *Love.* But theſe are not under a Crime; I beſeech you, the Court would be tender in Matters of Blood.

Attorn. Gen. Be tender of Juſtice.

Ld. Preſident. I would you had been ſo too.

Mr. *Love.* This Man declares himſelf he is not under an Oath to this Day; he did but put his Hand upon his Buttons.

Ld. Preſident. Thoſe were your very Words, and very uncivil and indiſcreet; you have not ſpoke at any time yet, but you have hurt yourſelf more than any body elſe hath; and yet your Language is ſo liberal, that no Man ſhall eſcape the Laſh of your Tongue.

Mr. *Love.* I fear no Man, my Lord.

Attorn. Gen. That is a bold Word.

Ld. Preſident. You have as ill Comments as any Man that wears a Cap; your Guiltineſs appears in this you ſay; we have heard all this that you require before: thoſe very Words that you ſay of this Man now particularly, go to them firſt, that he was ſaying, he was not under an Oath: It was ſaid ſo again and again, and again at that time we brought him, and before he was examined, holding up his Hand, we aſked him it, and he ſaid, he did; and put it to him again and again, Are you under an Oath? till at laſt he did conclude and teſtify he was under an Oath. I teſtify this before all the Company here, this is noiſed abroad again by many People, the Care we had of that very Man you ſpeak of; you aſked him three or four times then, and at the laſt, upon the Concluſion, he confeſſed himſelf he was under an Oath: he did not do as you do; you will ſay things are Truth, but you will not ſpeak thoſe Truths before God in a teſtimonial way; though ſome of your Witneſſes that proved it, ſaid it was true in the Preſence of God, what they gave under their Hands: Theſe Men that do thus, are no better than Jeſuits in Reality, though not in Name. You made a Confeſſion of Miſpriſion of Treaſon, you ſaid, but you have confeſſed Treaſon. I will tell you who did the like in the very words almoſt that you did, and that was Father *Garnet*; when he came to ſee the Evidence produced ſo full againſt him by thoſe that were *Participes Criminis*, as you are, himſelf confeſſed when he came to the laſt. Had I thought (ſaid he) that the State had had ſuch clear Proof againſt me, I would have ingenuouſly confeſſed it, and not trifled with them as I have done. So you ſaid, you did not think it would have been proved ſo far as Miſpriſion: But when it was proved ſufficiently in your Apprehenſion, and convicted, and your Counſel had informed you it could not be leſs than Miſpriſion, then you would ingenuouſly confeſs; ſo did *Garnet*. The other Witneſs that was threatned, it was teſtified by a worthy Captain; I ſpeak it again, was it not debated as much as the Wit of Man could? Did you not object That then, that you do now? And did not the Court then ſatisfy you, or at leaſt ſatisfy themſelves that it was not ſo? For I tell you, in that very thing wherein you ſay he was threatned, it was told you, That the Captain that was here then, depoſed what he had done, and how he had done it, and at what time it was delivered; for you were diſcovered long before that, and your Examinations taken long before that. Upon this, now when your Treaſon was diſcovered and declared by ſeveral Witneſſes, and that ſuch a one was in Confederacy; and I think the State might ſafely promiſe him Life, and Reward too; for there is more in the Plot yet, than is yet found out, and that ſome are like to hear of within this Fortnight, that were here, which is a dangerous thing: but this you did declare, and the Court was ſatisfied, that all that was promiſed as a Reward, was for diſcovering of a Plot againſt the State; and that was lawful by the Laws of God and Man. And now you bring Witneſs; you were at firſt demanded, whether you would bring them or no? and you aſked Indemnity for them; and the next time you denied, you would bring none; and now you aſked, What you have to offer to the Court? and after all this time, what come you to do now? To prove That that was acted here in the Court: you ſay we threatned them; true, that we did threaten ſome; and I think we went thus far, that if he would not, we would ſet Five Hundred Pounds Fine upon his Head; but he would none of that, but came in again, and delivered his Knowledge. But you had another of your own Robe too that came in, and he would not teſtify; and why? His Conſcience was tender; his Science was perfect enough to ſpeak againſt you, for he was Confederate with you, and hath confeſſed enough of it: but his Conſcience was tender. No Man can tell here whoſe Conſcience is crazy and tender: Conſcience is a thing betwixt God and Man only; and they that lay nothing upon their Conſciences to prove their Integrity, they had as good ſay nothing before a Judge: For though we have a Law of Conſcience in *England*, yet that Law is judged by Rules: and therefore he, whoever he be, that pretends Conſcience, there are ſo many Conſciences as there are Men; and no Men have Power to judge of it, but God. But, Sir, for that cauſe that he would not for his tender Conſcience we did ſet a Fine of 500*l.* upon him, and ſentenced him to the *Fleet* till he paid it. We call not this terrifying, neither doth the Law; nor any Reward, Favour, or Affection for the Diſcovery of a Traitor, is no illegal Act; this we told you before, but you muſt have it again, and again, and again; ſo that you may delay, no time ſhall be omitted by you.

Mr. *Love.* I have but a few Words more: Your Lordſhip was pleaſed to ſay, that you could juſtify promiſing Rewards to thoſe that would diſcover, and threatning Puniſhments to thoſe that would not; but you ſaid, if I could prove promiſing of Rewards or Threatnings to them that would not teſtify againſt me, they ſhould be heard: now I produce not Witneſſes in general, that they were promiſed Favour, or threatned if they would or would not; but I offer to produce Witneſſes that can witneſs againſt ſome of the particular Witneſſes that ſaid, They ſhould be hang'd, if they did not witneſs againſt me: and this, as your Lordſhip promiſed, I humbly crave.

Attorn. Gen. Truly, he will not want Suggeſtions, he hath had his time to prove it; and one Favour I ſhall beg of the Court, that this your Patience to Mr. *Love*, your juſt Favour toward him, may be no Precedent hereafter; but for this, when we cloſed the Evidence *Saturday* was ſevennight for the Commonwealth, he had till *Wedneſday* following to make his Defence. For his Witneſſes he offered them, you offered to receive them; he ſaid, he would have none; now he comes to offer: we produce you no new Witneſſes, nor offered nothing ſince *Saturday* was ſevennight; if we come to Witneſſes again, we ſhall come to an aſperſing one another; we ſhall make it a pretty endleſs Work: we have done our parts, and followed the Rules of Juſtice; and Mr. *Love* hath had his full Liberty to juſtify, to ſay what he could, and prove what he could for himſelf; if he neglect his own Time, to his own Peril be it; the Court, I hope, will not be guilty of it, to alter the ways of Juſtice.

Mr. *Love.* I could not compel Witneſſes, there was no *Subpœna's*; but they muſt come when they offer themſelves.

Ld. Preſident. You were aſked, and you would produce none.

Mr. *Love.* They were not in a Capacity to come, my Lord.

Attorn. Gen. There is nothing reſting more to be done, but now all being done (if you pleaſe, my Lord, all being done) for the Iſſue of the Fact, all his Exceptions to the Impeachments, which are Matters of Law, we are now humbly craving your Judgment upon this Impeachment between the Keepers of the Liberty of *England*, and Maſter *Love* the Priſoner at the Bar. I now humbly demand your Judgment.

Mr. *Love.* I humbly pray, that ſince I never ſaw the Face of this worthy Gentleman till this Morning, and ſo could have no particular Advice from him, that there might be longer time allowed to this Gentleman, and an Addition of three Gentlemen more, and a Copy of the Charge.

Attorn. Gen. You have had more than ordinary Priſoners have had before, I will aſſure you, Mr. *Love*.

Ld. Preſident. Mr. *Hale*, you have heard a little opened of our Paſſages and Proceedings, which you did not before, but every Man elſe hath lift up his Voice; you have gone over a great deal of the Fact: now for Matter of Law, for that of Miſpriſion, that will reſt, I think, in the Judgment of the Court; there is no Miſpriſion laid, but Treaſon: and I think the Court will find Treaſon upon the Proofs that are before them; they will not need to have any Argument of Miſpriſion, if the Court think there is ſufficient Treaſon laid; then that Argument, we need not deſire more Time for that; and if it be Miſpriſion, that the Court ſhall judge it ſo, then upon the Matter there is no Charge againſt him for us to proceed upon; ſo that by that Charge, I cannot ſee what you can ground your Argument upon.

Mr. *Hale.* The Charge is not only for Treaſon, but for Treaſon and other high Crimes and Miſdemeanours.

Attorn. Gen. But not Miſpriſion.

Mr. *Hale.* Though the Word be not in, we think it will reach it.

Ld. Preſident. It will not indeed.

Attorn. Gen. We inſiſt upon it for the Commonwealth, for the Charge is as it is laid.

Ld. Preſident. For the two next, ſo I told Mr. *Love* before, and he ſpent two Hours at the leaſt in recapitulating the Evidence of the State, not any thing of his own, for he gave no Witneſſes; but he did go over the whole Evidence of the State from Point to Point, and made, I think, himſelf (as he ſaid) the Exceptions that were made againſt them: theſe he went over, though we might have ſhut him up at the firſt. For him to ſum up that which was the Duty of the Court, when he had no Evidence, to ſum up the Evidence of the State, which we might not have let him: but this he did; and it is our part to examine the Evidences, and the Nature of them, and what the Nature of the Thing is, and how many Witneſſes are to every Point; whether there be two Witneſſes to a Point or no, cannot fall under Diſpute of Law, it is Matter of Fact.

Mr. *Hale.* It is true, we are here only to do that Duty which your Lordſhip injoins us to, my Lord. It is true, for us to diſpute whether this Evidence proveth ſuch a thing or no; haply it may not belong to us to do that. But thus far, if your Lordſhip think fit, this may haply be allowable (with ſubmiſſion to the Court), that is, Whether, if the Proofs be admitted, this Man poſitively proves thus, the other Man proves

proves positively thus; whether that these two Proofs do make a Proof of one Act? Haply (if your Lordship shall think so fit) there may be somewhat of Law in that; that is, whether it make a double Testimony within the Statute of *Primo* and *Quinto*. For (with submission to your Lordship) the Statute of *Primo* and *Quinto* is not repealed as to point of Testimony; it is repealed as to the Place from whence the Trial is to come, but not in point of Witnesses; therein it may come in, questionless, if your Lordship shall think fit. But truly, I have not seen one Word of the Evidence from the Beginning to the End: and if so be that any Matter should rise, that the Court should think fit as well as proper for me to offer in the Defence of this Gentleman, I must profess I cannot, unless I had seen the things; for I have not seen one Word.

Ld. President. For seeing the Evidence further than Memory, you, nor no Man else ought to know, tho' we have given you leave to write; and therefore tho' we have given leave to take notice of them, yet that is more than ever any Court did, or we need to have done, but only to trust to their own Memories. But in that you speak of now, for you to have Day to argue, when you are not able to say, nor we neither, that there is any such thing; did you ever hear such a thing, to pray Day to argue, that you do not know positively it is so?

Attorn. Gen. We have spent a great deal of time, and all that can be said, will be to run a round; what is to be done, is your own Consultation among your selves.

Ld. President. Withdraw your Prisoner.

Mr. *Love.* I beseech you, allow me time for Counsel.

The Court adjourns.

The Sixth Day's Proceedings, July *the 5th* 1651.

THERE was but little said this Day besides the Sentence. When Mr. *Love* appeared at the Bar, the Attorney-General spake to the Court to this purpose: That there had been much time spent, and Mr. *Love* had had a fair Trial, and therefore he desired the Court to proceed to Sentence. Upon which the Lord President spake to Mr. *Love* to this effect: That he had heard what the Attorney-General desired in the behalf of the Commonwealth; and therefore demanded of Mr. *Love* what he had to say why Sentence should not be passed upon him? Mr. *Love* answered, That he had somewhat to say, and desired longer Time, and more Counsel to argue those Matters of Law contained in that Paper that he had formerly given in to the Court: But the Court would not yield to him in it. Then Mr. *Love* would have spoken further, but the Lord President told him, he would speak *ad Populum*. Mr. *Love* answered, No, he would speak *ad Magistratum*. But the Court presently overruled him in it, and would not suffer him to speak. Then the Lord President told Mr. *Love*, That he had gone out of his Place and Calling in what he had done. Then speaking something about an Elder, That an Elder was one that was so, either in respect of his Age, or in respect of his Office, with some other things about Presbytery; and when he had done, he commanded the Clerk to read the Sentence, which was in this manner: The Clerk read over the whole Charge, beginning thus: *Whereas* Christopher Love, *the Prisoner at the Bar, stands charged on the behalf of the Keepers of the Liberties of* England, *&c. of High-Treason, and other High Crimes and Offences*, &c. [and so he read on as it is in the Charge; and ending thus] *For all which Treasons and traitorous and wicked Practices of him the said* Christopher Love, *this Court doth adjudge him to suffer the Pains of Death, by having his Head severed from his Body.*

Mr. *Love*, My Lord, I would speak a Word.

Ld. President. You cannot be heard now, Mr. *Love.*

Mr. *Love.* But a Word, my Lord, and 'tis this, in the Words of the Apostle: *I have received the Sentence of Death in my self, that should not trust in my self, but in God, which raiseth the Dead.* And, my Lord, though you have condemned me, yet this I can say, that neither God nor my own Conscience doth condemn me.

Mr. *Love* withdraws, and the Lieutenant of the *Tower* takes him into custody.

Mr. *Love* was ordered for Execution the 15th of *July*, but by the favour of the Parliament it was respited till the 15th of *August*, and from thence to the 22d, during which time, (it is said) such Application was made to *Cromwell*, that he granted him a Pardon; but the Express who brought it from *Cromwell* (then in the North) fell into the hands of some Cavaliers, before he arrived at *London*; and they, considering that Mr. *Love* had been a great Incendiary, and had pursued the King's Friends with great Violence, detained the Express, till the Execution was over, which was on the said 22d of *August*.

Mr. *Love* was then brought from the *Tower* by the Sheriffs of *London* to the Scaffold on *Tower-hill*, about two o'Clock in the Afternoon: The Ministers that accompanied him were Mr. *Ash*, Mr. *Calamy*, and Mr. *Manton*. When he was upon the Scaffold, Sheriff *Tichburn* shewed him the Warrant for his Suffering, telling him, that he took no Pleasure in this Work, but it was a Duty laid upon him.

Mr. *Love.* I believe it, Sir.

Sheriff *Tichburn.* I have done my Duty for you.

Mr. *Love.* The Lord bless you!

Lieutenant of the Tower. The Lord strengthen you in this Hour of your Temptation!

Mr. *Love.* Sir, I bless God my Heart is in Heaven, I am well. Then turning to Sheriff *Tichburn*, said, May I have the Liberty to speak and pray?

Sheriff *Tichburn.* Yes: But I desire you to consider, we have the other [meaning Mr. *Gibbons*] to execute afterwards, and six o'clock is our Hour; but we will give you as much time as we can.

Mr. *Love.* I shall be the briefer. Then he put off his Hat two several times to the People, and spake as followeth:

Beloved Christians,

I AM made this Day a Spectacle unto God, Angels, and Men: And among Men, I am made a Grief to the Godly, a Laughing-stock to the Wicked, and a Gazing-stock to all; yet blessed be God, not a Terror to myself. Altho' there be but little between me and Death; yet this bears up my Heart, there is but little between me and Heaven. It comforted Dr. *Taylor* the Martyr, when he was going to Execution, that there were but two Styles between him and his Father's House: there is a lesser Way between me and my Father's House; but two Steps between me and Glory: it is but lying down upon the Block, and I shall ascend upon a Throne. I am this Day sailing towards the Ocean of Eternity, thro' a rough Passage to my Haven of Rest; thro' a Red Sea to the Promised Land. Methinks I hear God say to me as he did to *Moses*, *Go up to Mount* Nebo, *and die there:* So to me, *Go up to* Tower-hill, *and die there. Isaac* said of himself, that he was old, and yet he knew not the Day of his Death; but I cannot say so, I am young, and yet I know the Day of my Death, and I know the Kind of my Death, and the Place of my Death also. I am put to such a kind of Death as two famous Preachers of the Gospel were put to before me, *John* the Baptist, and *Paul* the Apostle, they were both beheaded; you have mention of the one in Scripture Story, and of the other in Ecclesiastical History. And I read in *Rev.* xx. 4. *The Saints were beheaded for the Word of God, and for the Testimony of Jesus:* But herein is the Disadvantage which I lie under in the Thoughts of many; they judge that I suffer not for the Word of God, or for Conscience, but for meddling with State Matters. To this I shall briefly say, That it is an old Guise of the Devil, to impute the Cause of God's People's Sufferings, to be Contrivements against the State, when in Truth it is their Religion and Conscience they are persecuted for: The Rulers of *Israel* would have put *Jeremy* to Death upon a civil Account, tho' indeed it was only the Truth of his Prophecy that made the Rulers angry with him; and yet upon a civil Account they pretend he must die, because he fell away to the *Chaldeans*, and would have brought in foreign Forces to invade them: The same thing is laid to my Charge, of which I am as innocent as *Jeremy* was. Yea, I find other Instances in Scripture, wherein the Cause of the Saints Sufferings were still imputed to their meddling with State Matters. *Paul*, tho' he did but preach Jesus Christ, yet he must die, if the People might have their Will, under Pretence that he was a Mover of Sedition. Upon a civil Account my Life is pretended to be taken away, whereas indeed it is because I pursue my Covenant, and will not prostitute my Principles and Conscience to the Ambition and Lusts of Men. Beloved, I am this Day making a double Exchange, I am changing a Pulpit for a Scaffold, and a Scaffold for a Throne; and I might add a third, I am changing this numerous Multitude, the Presence of this numerous Multitude on *Tower-hill*, for the innumerable Company of Saints and Angels in Heaven, the Holy Hill of *Sion*; and I am changing a Guard of Soldiers for a Guard of Angels, which will receive me, and carry me into *Abraham*'s Bosom. This Scaffold is the best Pulpit that ever I preach'd in; in my Church-Pulpit, God thro' his Grace made me an Instrument to bring others to Heaven; but in this Pulpit he will bring me to Heaven. These are the last Words that I shall speak in this World, and it may be I shall bring more Glory to God by this one Speech on a Scaffold, than I have done by many Sermons in a Pulpit.

Before I lay down my Neck upon the Block, I shall lay open my Cause unto the People that hear me this Day, that I might not die under all that Obloquy and Reproach that is cast upon me; and in doing it, I shall avoid all Rancor, all Bitterness of Spirit, Animosity and Revenge; God is my Record, whom I serve in the Spirit; I speak the Truth, and lye not; I do not bring a revengeful Heart unto the Scaffold. This Day, before I came here, upon my bended Knees I have begg'd Mercy for them that denied Mercy to me, and I have prayed God to forgive them who would not forgive me; I have forgiven from my Heart the worst Enemy I have in all the World; and this is the worst that I wish to my Accusers and Prosecutors, who have pursued my Blood, that I might meet their Souls in Heaven.

I shall divide my Speech into three Parts: I shall speak something concerning my Charge, and a Word concerning my Accusers and touching my Judges, without any Animosity at all; and then something concerning myself, for my own Vindication, and then a Word of Exhortation, and so I shall commit my Soul to God.

Concerning my Charge, it is black and hideous, many things falsly suggested, hardly a Line of it true, and nothing Capital sufficiently prov'd against me by any one Act that I am conscious to myself I did. The Charge is high and full, but the Proof empty and low; tho' there were eight Witnesses that came in against me, yet none of them did prove that ever I writ any Letter, or directed any Man to write a Letter into *Scotland*, or into foreign Parts; no Man did prove that I sent away any Letter, that I received any Letter, that I collected or gave, or lent any Money to assist or promote the *Scotish* War: This is all that is sworn against me, that I was present where Letters were read, and that I made a Motion for Money to give to *Massey*; so that (Beloved) my Presence at, and Concealment of Letters that were receiv'd and sent from foreign Parts, is that for which I must die.

As concerning my Accusers, I shall not say much; I do forgive them with all my Heart, and I pray God forgive them also. Yet what the Evangelist said concerning Christ's Accusers, I may (without Vanity or Falsehood) say of mine, That they did not agree amongst themselves: One Witness swears one thing, and another the quite contrary; yea, not only did they contradict one another, but sometimes a single Witness contradicted himself. And tho' their Testimony did condemn my Person, yet I have condemned their Testimony. And truly there are many remarkable Circumstances that I might take notice of, either in, or before, or since the Trial, that might be worthy Observation; but I will not insist upon it, only in the general (for I shall name none of my Accusers) some of them have sent to me, to pray me to forgive them the Wrong they have done me: And one of them hath written to me under his own Hand, to pray me to forgive him the Wrong that he hath done me; and told me withal, that that Day I should die a violent Death, his Life would be no Comfort to him, because he was an Instrument in taking away of mine. Others of the Witnesses were some terrified before they would testify, some were hired, some fined before they would bear Witness against me. But I will be off of this. As concerning my Judges, I will not judge them, and yet I will not justify them: I will say but this of them, I believe that what moved *Herod* to cut off *John Baptist*'s Head, that moved them to cut off mine; and that was for his Oath's sake: *Herod*, to avoid Perjury,

would commit Murder; whereas if *John*'s Head had been upon his Shoulders, he would have been guilty of neither.

I have ſomething in the ſecond Place to ſpeak concerning myſelf, and then I ſhall come briefly to a Concluſion. Concerning myſelf, I have gone thro' various Reports; there are many Sons of Slander, whoſe Mouths are as open Sepulchres, in which they would bury my Name, before my Friends can bury my Body; but my Comfort is, there will be a Reſurrection of Names as well as Bodies at the laſt Day: God will not only wipe off all Tears from my Eyes this Day, but he will alſo wipe off all Blots and Reproaches from my Name before many Days be over; and tho' my Body will ſoon rot under Ground, yet my Hope is my Name will not rot above it. I am not ignorant what Calumnies are caſt upon me, and more likely to be after I am dead and gone. The very Night before my intended Execution, the laſt Month, there was an inſulting Letter written to me, to tell me, that after my Death there ſhould be ſomething publiſh'd againſt me to my Shame. I hope you will have ſo much Charity as not to believe Reproaches caſt upon a dead Man, who will be ſilent in the Grave, and not able to ſpeak a Word in his own Juſtification. I am aſperſed both as to my Practice, and as to my Principles. I ſhall begin with the firſt. There are five Aſperſions, as to my Practice, that are laid upon me, That I am a Liar, an Extortioner, an Adulterer, a Murderer, and a turbulent Perſon: Crimes ſcandalous in any Man, but much more abominable in a Miniſter. Now I hope you will believe a dying Man, who dares not look God in the Face with a Lye in his Mouth: I am accus'd of Lying, that what I denied before the High Court of Juſtice, that that afterwards I ſhould confeſs, or elſe was proved againſt me. Now, in the Preſence of God I tell you, as I would confeſs nothing that was criminal, ſo I did deny nothing that was true; and that I may ſeal it to you with my Blood, the ſame Proteſtations I made before the High Court, I ſhall make briefly now. 1. That I never writ Letter to the King, Queen, Church or State of *Scotland*, or to any particular Perſon of the *Scotiſh* Nation, ſince the Wars began, to this Day. 2. That I never received any Letter writ to me, either from the King, or from the Queen, or from the Church or State of *Scotland*, or from any particular Perſon of the *Scotiſh* Nation, ſince the Wars began, to this Day. 3. That I never collected, gave or lent one Penny of Money, either to the King, Queen, Church or State of *Scotland*, or to any particular Perſon to ſend into *Scotland*, to any Perſon of the *Scotiſh* Nation, to this Day. It is true, I did confeſs, tho' it was not prov'd (and haply upon that Ground the Miſtake might ariſe), I did give Money to *Maſſey*, and I did alſo write a Letter to him; but he is of the *Engliſh*, not of the *Scotiſh* Nation. That for which I come here, is only for moving for Money for him, and that not upon a military Account, but merely to relieve his perſonal Neceſſities, and for being preſent where Letters were read from him and others. And altho' Man hath condemned me, yet I am ſo far from thinking that either God or my own Conſcience condemns me, as ſinning in what I am condemn'd for, that both God and my own Conſcience doth acquit me: And what I ſaid at the Bar, when I receiv'd my Sentence, that I ſhall ſay upon the Scaffold, That for thoſe Things for which I am condemned, neither God nor my own Conſcience condemns me.

Again, I am accuſed to be an Extortioner; and this is in the Mouths—I am loth to name them, becauſe I would avoid all Rancor: But I am charged as if I ſhould be a grievous Extortioner, to receive thirty Pounds for the Loan of three hundred Pounds, beſides eight Pounds *per Cent.* for Intereſt, which in the Preſence of God, and of you all, I do declare to you, is a moſt notorious and abominable Falſhood.

I am accuſed likewiſe to be an Adulterer, and this Report is not in the Mouths of mean Men, but in the Mouths of thoſe that ſit at the Stern: As if I were a debauched Perſon, and were guilty of Uncleanneſs. Now I tell you, as *Luther* ſaid of himſelf in another Caſe, that he was not tempted to Covetouſneſs; ſo thro' the Grace of God I can ſay, I have not been tempted in all my Life to Uncleanneſs. It doth not much grieve me, tho' theſe Slanders be caſt upon me: I know my Betters have been worſe accuſed before me: *Athanaſius* was accuſed by two Harlots, that he had committed Folly with them; and yet the Man was chaſte and innocent. *Beza* was charged not only with Drunkenneſs, but with Laſciviouſneſs alſo; and many others have been accuſed with the ſame, if not with worſe Slanders than I have been.

But (that which goeth neareſt my Heart) I am accus'd to be a Murderer alſo; and this is a Charge high indeed; I am charged with the Guilt of all the Blood of *Scotland*; whereas, did I lie under the Guilt of one Drop of Blood, I could not look upon God with ſo chearful a Countenance, and I could not be fill'd with ſo peaceable a Heart and Conſcience as I have at this Day. I bleſs my God, I am free from the Blood of all Men: Thoſe who lay this to my Charge, they do to me as *Nero* did to the Chriſtians: He ſet *Rome* on fire, and then charged the Chriſtians with it: So they put *England* and *Scotland* into a Flame, and yet charge me with the Guilt of that Blood, who have poured forth Tears to God Night and Day, to quench the Burning which theſe Mens Ambitions and Luſts have kindled: And I would fain know of any Man what Act it is that I have done? Or what is it that was proved in the High Court againſt me, that makes me guilty of *Scotland*'s Blood? Did I ever invite the *Scots* to invade *England?* What Man doth lay that to my Charge? Did I ever encourage the *Engliſh* Army to invade *Scotland?* What Action is it that I have done that makes me guilty of that Blood? Indeed this I have done, and this I have, and this I do ſtand to; I have, as a private Man, prayed unto God many a Day, and kept many a Faſt, wherein I have ſought God that there might be an Agreement between the King and the *Scots*, upon the Intereſt of Religion and Terms of the Covenant: Now, by what Conſequence can this be ſtrain'd, to charge me with *Scotland*'s Blood? For my Part, I was but only at one Meeting where the Queſtion was propos'd (Faſts only excepted), what ſhould be thought fit to be done to promote the Agreement between the King and the *Scots?* and that was moved in my Houſe: And to that End, when there were ſome Things there propoſed which they call'd a Commiſſion, or Inſtructions to ſend to *Holland*; as ſoon as ever I heard them, I did declare againſt them. I did declare that it was an Act of high Preſumption for private Perſons to commiſſionate; an Act of notorious Falſhood, to ſay it was in the Name of the *Preſbyterian* Party, when none knew of it (that I know of) but only thoſe few then preſent. Now this is only a political Engine to make the *Preſbyterian* Party odious, who are the beſt Friends to a well-order'd Government, of any ſort of People in the World.

I am accuſed likewiſe to be a Man of a turbulent Spirit, to be an Enemy to the Peace and Quiet of the Nation. Now, as to this, let my Congregation and my Domeſtical Relations judge for me, whether I am not a Man that would fain have lived quiet in the Land: I am, as *Jeremy* was, *born a Man of Contention*; not actively; I contend, I ſtrive with none: But paſſively, many ſtrive and contend with me. God is my Witneſs, my Judgment hath put me upon endeavouring after all honourable and juſt Ways for Peace and Love among the Godly. The Grief of my Heart hath been for the Diviſions, and the Deſire of my Soul for an Union among God's People. But when I ſpeak of an Union, I would not be miſunderſtood, I do not mean a State Union, to engage to the preſent Power, that is againſt my Principles; that is to ſay, *A Confederacy with them that ſay, A Confederacy:* That is rather a Combination, than a Goſpel Union: O join not with them, leſt ye be conſumed in their Sins; they who get Power into their Hands by Policy, and uſe it with Cruelty, will loſe it with Ignominy. It was ſaid of Pope *Boniface*, He did enter into the Popedom like a Fox, reign'd like a Lion, but died like a Dog. Beloved, the Union for which I plead, is a Church Union; to wit, Love among the Godly; for this the Deſires of my Soul have ever been, that thoſe that fear God might walk Hand in Hand in the Fellowſhip of the Goſpel, both in Truth and Love: If this Union be not, I am afraid, through our Diviſions, a Company of looſe Libertines will ariſe, who will endeavour not only to overthrow the Doctrine of Faith, and the Power of Godlineſs, but even good Manners alſo. I remember an Obſervation of holy *Greenham*'s: giving his Judgment upon the State of *England*, ſaith he, *There is great Fear that Popery is coming into* England, *and I fear it too: But* (ſays he) *I fear more the coming in of Atheiſm into* England *than the coming in of Popery*; and truly, that is my Fear alſo. Thus as to my Practice: A Word now as to my Principles.

I am accus'd to be an Apoſtate, to be a Turncoat, to be this, to be that, to be any Thing but what I am: In the general, I will tell you, I bleſs my God, a High-Court, a long Sword, a bloody Scaffold, have not made me in the leaſt to alter my Principles, or to wrong my Conſcience: And that I might diſcover to you my Principles, I hope I ſhall do it with Freedom; I will irritate and provoke none; what I ſhall ſay, ſhall not be an Irritation or Provocation of others, at leaſt not intended by me; but only as a genuine and clear Manifeſtation of my own Principles how they ſtand.

Firſt, then, my Principles, as to Civil and Religious Affairs, I do declare that I die with my Judgment ſet againſt Malignity, I do hate both Name and Thing; I ſtill retain as vehement a Deteſtation of a Malignant Intereſt as ever I did; yet I would not be miſunderſtood: I do not underſtand, nor count the godly Party, our covenanting Brethren in *Scotland*, to be a Malignant Party; nor the *Scots* defending their Nation and Title of their King to be a Malignant Intereſt, but an honeſt and juſtifiable Cauſe.

Secondly, Tho' I am againſt Malignity, yet I am not againſt, but for a regulated Monarchy; a mixt Monarchy, ſuch as ours is, I judge to be the beſt Government in the World: I did, 'tis true, in my Place and Calling, oppoſe the Forces of the late King, but I was never againſt the Office; I am not only againſt Court-Paraſites, who would ſcrew up Monarchy into Tyranny, but againſt thoſe who pull down Monarchy to bring in Anarchy.

Thirdly, I was never for putting the King to death, whoſe Perſon I did promiſe in my Covenant to preſerve: It is true, I did in my Place and Calling oppoſe his Forces, but I did never endeavour to deſtroy his Perſon. There is a Scandal rais'd of me, that in a Sermon at *Windſor* I ſhould have theſe Words, that *It would never be well with* England, *till the King were let Blood in the Neck-Vein*; which Speech I utterly deteſt, profeſſing, as a dying Man, in the Preſence of God and of you all, I never ſpake ſuch Words, as relating to him: Tho' my Judgment was for bringing Malignants, who did ſeduce him and draw him from his Parliament, to condign Puniſhment; yet I deem'd it an ill way to cure the Body-Politick, by cutting off the political Head.

Fourthly, I die with my Judgment abſolutely ſet againſt the Engagement; I pray God forgive them that impoſe and ſubſcribe it, and preſerve thoſe that refuſe it.

Fifthly, I would not in the next Place be look'd upon, now I am a dying Man, as a Man owning this preſent Government; I die with my Judgment againſt it: It is true, in a Caſe of Life, I did petition the preſent Power, and did give them the Titles they take to themſelves, and that others give them; but herein I did not wrong nor thwart my Principles; there are many Inſtances in Scripture to juſtify this: *Huſhai* did give the Title of King to *Abſalom*, tho' *Abſalom* had no Right to that Title; for *David* was the lawful King: And *David* himſelf gave him that Title as well as *Huſhai*. And *Calvin* he gave the Title to the *French* King, calling him *the Moſt Chriſtian King*, yet we know he was a Papiſt: And we give a Title to King *Henry* VIII. and call him *the Defender of the Faith*, and yet he had no Right to that Title; for he was an Oppoſer, not a Defender of the Faith; that Title was given him upon an evil Ground, becauſe he oppoſed the Faith; he oppoſed the Doctrine of *Luther*, therefore the Pope gave him that Title, *The Defender of the Faith*; and yet none did ſcruple to give him that Title that was then commonly given him.

Sixthly, In the next Place (I diſcover my Judgment, I provoke none, only tell you what my own Thoughts are, that ſo after I am dead and gone, I might not be belied, for I dare not now belye my Principles), my Judgment is againſt the Invaſion of the *Scotiſh* Nation by the *Engliſh* Army. They, who gave us a friendly Aſſiſtance, who are joined with us in the

ſame

ſame Covenant, who drew a Sword with us in the ſame Quarrel, ſhould I live a Thouſand Years, I ſhould never draw Sword againſt them; but the *Engliſh* Army have forgot the Brotherly Covenant: So that *Scotland* may ſay as *Edom*, *The Men of my Confederacy, who were at Peace with me, have riſen up and prevailed againſt me:* Becauſe *Scotland* will not be a Commonwealth, they ſhall not be a People; becauſe they will not break Covenant, ſome Men would have them broken; becauſe they will not lay their Conſciences waſte, their Land muſt be laid waſte.

Laſtly, And ſo I have done, (only with a Word of Exhortation) I die cleaving to all thoſe Oaths, Vows, Covenants, and Proteſtations that were impoſed by the two Houſes of Parliament, as owning them, and dying with my Judgment for them; to the Proteſtation, the Vow and Covenant, the Solemn League and Covenant. And this I tell you all, I had rather die a Covenant-keeper, than live a Covenant-breaker.

I am now come to the third and laſt Part of my Speech, and ſo I ſhall have done, and commit my Soul to God who gave it. My Exhortation firſt ſhall be to this great City, unto the godly Miniſtry of it; and unto my own Congregation, from whom Death parts me, which nothing elſe could.

To the City I wiſh an Affluence and Confluence of all Bleſſings upon it; and yet I fear gray Hairs, as the ſad Symptoms of a Declenſion, are here and there upon *London*, and yet ſhe knows it not. O *London*, *London*, God is ſtaining the Pride of all thy Glory. Thy Glory is flying away like a Bird; Contempt of the Miniſtry, Oppoſition againſt the Reformation, general Apoſtacy, Covenant-breaking have brought *London* low, and I fear will yet bring it lower; I tremble to think what Evils are coming upon it: This City, it is the Receptacle of all Errors; that as your Commodities are vented and ſpread from hence into every Corner of the Land, ſo have Hereſies and Blaſphemies had their firſt Riſe from this great and populous City, and from hence are ſpread into all Countries.

To the Inhabitants of this City I commend but theſe few Particulars: Firſt, let me beg you to love your painful and your godly Miniſters: If they be taken away, you are like to have worſe come in their Rooms. I know the *Preſbyterian* Miniſters are the great Eye-ſore, who have formerly been counted the Chariots and Horſemen of *Iſrael:* But I will ſay of *London* (as was ſaid of *Leyden*, *That after* Junius, *an Orthodox Miniſter, was taken away*, Arminius, *that peſtilent Heretick, came in his room*), If your godly Miniſters (and there have been Ten already at one Blow taken from you), if they be taken away, *Arminians*, *Anabaptiſts*, nay *Jeſuits*, are likely to ſupply their rooms, if God in Mercy prevent not. 2. Submit your ſelves to Church-Government; that would lay a Curb and Reſtraint upon your Luſts: It is a golden and eaſy Yoke, to which if you do not ſubmit, God may lay a heavy and an iron Yoke upon your Necks. 3. Take heed of thoſe Doctrines that come under the Notion of *New Light:* Thoſe Doctrines you ought to ſuſpect, whether true, which the Broachers of them ſay are new; for Truth is as old as the Bible. A remarkable Paſſage I would ſuggeſt unto you, in *Deut.* xxxii. *ver.* 17. It is ſaid there, *They choſe them new Gods that were newly come up*; and what were theſe *new Gods?* The next Words tell you, they were old Devils; *for they ſacrificed to Devils, and not to God:* Now their ſacrificing to old Devils is call'd a *ſacrificing* (to deceive the People) *to new Gods, that were newly come up*; yet their new Gods were but old Devils. Why, ſo I ſay, tho' many Things go under the Notion of *New Light*, yet they are but old Darkneſs, old Hereſies rak'd out of the Dunghill, and which were buried in former Ages of the Church, with Contempt and Reproach, many Hundred Years ago. 4. Bewail your great Loſs which you have, in the taking away of ſo many Miniſters out of your City; there are Ten Miniſters (if I miſtake not) that have been taken away and remov'd at one Blow, who were burning and ſhining Lights in their ſeveral Candleſticks, and bright Stars in their ſeveral Orbs; tho' I am not worthy of the World, and therefore am taken out of it; yet as for my ſuffering Brethren, who are now in Bonds and Baniſhment, the World is not worthy of them. 5. Again, in the next Place, take heed of engaging in a War againſt your Brethren of the *Scotiſh* Nation: For my Part, I have oppos'd the Tyranny of a King, but I never oppos'd the Title. ——— Take heed what you do.

I have ſomething in the next Place to ſpeak to the godly Miniſtry of this City: Were it not that I am a dying Man, I would not ſpeak to ſuch reverend and grave Men; I would ſay as *Elihu* did (being but a young Man), *Multitude of Years ſhould teach Wiſdom*, and I would hold my Tongue; but the Words of a dying Man take, whether they be diſcreet or no; or ſo well order'd or manag'd, or no: As to them, I would firſt deſire God to ſhew them Mercy, who have begg'd Mercy for me; now at the Day of my Death I would beg but this of them, that as they have not been aſham'd of my Chain, ſo they would now wax confident by my Bonds, and by my Blood. I know they are maligned and threatned, yet my Prayer for them is that in *Acts* iv. 29. *And now, O Lord, behold their Threatnings, and grant that thy Servants may preach thy Word with all Boldneſs.* Tho' I am but young, yet I will offer my young Experience to my grave Fathers and Brethren, and that is this: Now I am to die, I have abundance of Peace in my own Conſcience, that I have ſet my ſelf againſt the Sins and Apoſtacies of this preſent Age. It is true, my Faithfulneſs hath procur'd me Ill-will from Men, but it hath purchas'd me Peace with God: I have liv'd in Peace, and I ſhall die in Peace: That which I have to beſeech of the Miniſters is this, to beg them to keep up Church-Government; whatever God doth with the Governments of the World, turning Kingdoms upſide down, yet the Government of the Church ſhall ſtand; and of all Governments, I die with this Perſuaſion, that the Preſbyterial Government makes moſt for Purity and Unity throughout the Churches of the Saints. I would beg them therefore to keep up Church-Government, that they would not let their Elderſhips fall, that they would take heed of too general Admiſſions to the Lord's Supper, that they be not too prodigal of the Blood of Chriſt, by too general Admiſſions of Men to the Supper of the Lord, that ſealing Ordinance. And now I am ſpeaking to them, I ſhall ſpeak a Word of them, and ſo I have done: I have heard many Clamours ſince I came to Priſon, as if all the City-Miniſters were engag'd in the Plot (as 'tis call'd) that I am condemn'd for: Now, as a dying Man, I tell you, that all the Miniſters that were preſent at the Meetings, and had a Hand in the Buſineſs for which I am to be put to Death, are either in Priſon, or they are diſcover'd already; and therefore I do here, upon my Death, free the Miniſters of the City, who are not yet in Trouble, nor diſcover'd to the Committee of Examinations; none of them had a Hand in the Buſineſs in which I was engaged; in which my Conſcience tells me, I have not ſinn'd. I have done immediately, for I would fain be at my Father's Houſe.

I have but a Word to ſpeak to my own Congregation; I return Praiſes unto God, and Thankfulneſs to them, for the Love I have had from them; I found them a ſolid, judicious, and many of them a religious People: The Miniſtry of that learned Man, Mr. *Anth. Burgeſs*, did much good amongſt them; tho' I have Cauſe to be humbled, that my weak Miniſtry did but little. They afforded me a great deal of Love, and a liberal Maintenance; and this is all I deſire of them, that they would chooſe a godly, learned, and orthodox Miniſter to ſucceed, ſuch an one as may keep up and carry on Church-Government: It would be a great Comfort to me before I go to Heaven, if I had but this Perſuaſion, that a learned, orthodox, godly Man ſhould fill that Pulpit. And for Encouragement to any godly Miniſter, whoſe Lot may be to ſucceed me, I will ſay this, that he will have as comfortable a Livelihood, and as loving a People, as are any People in *London*, a few only excepted: I had as much Satisfaction among them as ever I had in any Condition in all my Life, and ſhould never have parted from them, had not Death now parted us; to which I do ſubmit with all Chriſtian Meekneſs and Chearfulneſs. I am now drawing to an End of my Speech, and to an End of my Life together; but before I do expire my laſt Breath, I ſhall deſire to juſtify God, and to condemn my ſelf in all that is brought upon me. Here I come to that which you call an untimely End, and a ſhameful Death; but (bleſſed be God) it is my Glory, and it is my Comfort: I ſhall juſtify God, he is righteous, becauſe I have ſinned; he is righteous, tho' he cut me off in the midſt of my Days, and in the midſt of my Miniſtry: I cannot complain that Complaint in *Pſalm* xliv. 12. *Thou ſelleſt thy People for nought, and doſt not increaſe thy Wealth by their Price.* My Blood it ſhall not be ſpilt for nought; I may do more good by my Death, than by my Life, and glorify God more in dying upon a Scaffold, than if I had died of a Diſeaſe upon my Bed. I bleſs my God, I have not the leaſt Trouble upon my Spirit; but I do with as much Quietneſs of Mind lie down (I hope I ſhall) upon the Block, as if I were going to lie down upon my Bed to take my Reſt. If Men hunger after my Fleſh, and thirſt after my Blood, let them have it; it will haſten my Happineſs, and their Ruin, and greaten their Guiltineſs: Tho' I am a Man of an obſcure Family, of mean Parentage, ſo that my Blood is not as the Blood of Nobles, yet I will ſay it is a Chriſtian's Blood, a Miniſter's Blood, yea, it is innocent Blood alſo: My Body, my dead Body, it will be a Morſel, which I believe will hardly be digeſted, and my Blood it will be bad Food for this Infant-Commonwealth (as Mr. *Prideaux* call'd it) to ſuck upon: Mine is not malignant Blood, tho' here I am brought as a grievous and notorious Offender. Now, Beloved, I ſhall not only juſtify God (as I do without a Compliment; for he were very juſt, if my Priſon had been Hell, and this Scaffold the bottomleſs Pit; I have deſerved both; ſo that I do not only juſtify God) but I deſire this Day to magnify God, to magnify the Riches of his glorious Grace, that ſuch an one as I, born in an obſcure Country (in *Wales*) of obſcure Parents, that God ſhould look upon me, and ſingle me out from amongſt all my Kindred, to be an Object of his everlaſting Love; that when as the firſt Fourteen Years of my Life I never heard a Sermon, yet in the Fifteenth Year of my Life God (through his Grace) did convert me. And here I ſpeak it without Vanity (for what ſhould a dying Man be proud of?) tho' I am accuſed of many ſcandalous Evils, yet (I ſpeak to the Praiſe and Glory of my God) for theſe Twenty Years God hath kept me, that I have not fallen into any ſcandalous Sin; I have laboured to keep a good Conſcience from my Youth up, and I magnify his Grace, that he hath not only made me a Chriſtian, but a Miniſter, and judg'd me faithful to put me into the Miniſtry: And tho' the Office be trodden upon and diſgraced, yet it is my Glory that I die a deſpiſed Miniſter; I had rather be a Preacher in a Pulpit, than a Prince upon a Throne; I had rather be an Inſtrument to bring Souls to Heaven, than to have all the Nations bring in Tribute to me: I am not only a Chriſtian and a Preacher, but whatever Men judge, I am a Martyr too, I ſpeak it without Vanity; would I have renounc'd my Covenant, and debauch'd my Conſcience, and ventur'd my Soul, there might have been Hopes of ſaving my Life, that I ſhould not have come to this Place; but bleſſed be my God, I have made the beſt Choice, I have choſen Affliction rather than Sin, and therefore welcome Scaffold, and welcome Ax, and welcome Block, and welcome Death, and welcome All, becauſe it will ſend me to my Father's Houſe: I have great Cauſe to magnify God's Grace, that he hath ſtood by me during mine Impriſonment; It hath been a Time of no little Temptation to me, yet (bleſſed be his Grace) he hath ſtood by me and ſtrengthened me; I magnify his Grace, that tho' now I come to die a violent Death, yet that Death is not a Terror to me; through the Blood of ſprinkling, the Fear of Death is taken out of my Heart; God is not a Terror to me, therefore Death is not dreadful to me; I bleſs my God, I ſpeak it without Vanity, I have formerly had more Fear in the drawing of a Tooth, than now I have at the cutting off my Head: I was for ſome Five or Six Years under a Spirit of Bondage, and did fear Death exceedingly; but when the Fear of Death was upon me, Death was not near me; but now Death is near me, the Fear of it is far from me: And bleſſed be my Saviour that hath the Sting of Death in his own Sides, and ſo makes the Grave a Bed of Reſt to me, and makes Death (the laſt Enemy) to be a Friend, tho' he be a grim Friend. Further, I bleſs my God, that tho' Men have judg'd me to be caſt out of the World, yet that God hath not caſt me out of the Hearts and Prayers of his People; I had rather be caſt out of the World, than caſt out of the Hearts of godly Men. Some think me (it is true) not worthy

worthy to live; and yet others judge I do not deſerve to die: But God will judge all, I will judge no Man.

I have now done, I have no more to ſay, but to deſire the Help of all your Prayers, that God would give me the Continuance and Supply of divine Grace to carry me through this great Work that I am now about: That as I am to do a Work I never did, ſo I may have a Strength I never had: That I may put off this Body with as much Quietneſs and Comfort of Mind, as ever I put off my Clothes to go to Bed: And now I am to commend my Soul to God, and to receive my fatal Blow, I am comforted in this, *Tho' Men kill, they cannot damn me; and tho' they thruſt me out of the World, yet they cannot ſhut me out of Heaven.* I am now going to my long Home, and you are going to your ſhort Homes; but I will tell you, I ſhall be at Home before you; I ſhall be at my Father's Houſe, before you will be at your own Houſes: I am now going to the Heavenly *Jeruſalem*, to the innumerable Company of Angels, to Jeſus the Mediator of the New Covenant, to the Spirits of juſt men made perfect, and to God the Judge of all; *in whoſe Preſence there is Fulneſs of Joy, and at whoſe Right Hand are Pleaſures for evermore.* I conclude with the Speech of the Apoſtle, 2 *Tim.* iv. 6, 7. *I am now to be offer'd up, and the Time of my Departure is at hand; I have finiſh'd my courſe, I have fought the good Fight, I have kept the Faith, henceforth there is a Crown of Righteouſneſs laid up for me; and not for me only, but for all them that love the appearing of our Lord Jeſus Chriſt*, through whoſe Blood, when my Blood is ſhed, I expect Remiſſion of Sins and eternal Salvation. And ſo the Lord bleſs you all!

Then turning to the Sheriff, he ſaid, May I pray?

Sheriff *Tichburn.* Yes, but conſider the Time.

Mr. *Love.* I have done, Sir. Then turning to the People, he ſaid, Beloved, I will but pray a little while with you, to commend my Soul to God, and I have done. After which he pray'd with an audible Voice.

His Prayers being ended, Mr. *Aſh* ſaid, *You make a Chriſtian End, I hope.*

Mr. Love. *Ay, I bleſs God.*

Then turning to Mr. Sheriff *Tichburn*, he ſaid, *I thank you for this Kindneſs, you have expreſs'd a great deal of Kindneſs for me.* Well, I go from a *Block* to the *Boſom* of my Saviour.

Mr. Love. *Where is the Executioner?*

When the Executioner came forward, he ſaid, *Art thou the Officer?*

Executioner. *Yes.*

Mr. *Love.* (Lifting up his Eyes) *O bleſſed Jeſus, that hath kept me from the Hurt of Death! O bleſſed be God! bleſſed be God!*

Then taking leave of the Miniſters, he ſaid, *The Lord be with you all!*

And taking leave of Sheriff *Tichburn*, he kiſſed his Hand; then kneeling down, he made a ſhort Prayer privately.

Riſing up he ſaid, *Bleſſed be God, I am full of Joy and Peace in believing: I lie down with a World of Comfort; as if I were to lie down in my Bed: My Bed is but a ſhort Sleep, and this Death is a long Sleep, where I ſhall reſt in* Abraham's *Boſom, and in the Embraces of the Lord Jeſus.*

And then ſaying, *The Lord bleſs you!* he laid himſelf down upon the Scaffold with his Head over the Block; and, when he ſtretched forth his Hands, the Executioner cut off his Head at one Blow.

XLVIII. *The Trial of Mr.* John Gibbons *, *before the High Court of Juſtice, for* High-Treaſon, July 18, 1651. 3 Car. II.

POTTER and *Gibbons* were both brought to the Bar together.

Potter's Charge was firſt read, unto which he pleaded Guilty, and made a large Narrative of all his Crimes againſt the State: very much was he examined againſt Maſter *Gibbons*, but no hurt at all he did him. After they had done with him, the Charge of Maſter *Gibbons* was read; which when he heard, he ſpake in this manner:

Gibbons. My Lord, this Charge is very new to me; I have been a Priſoner under cloſe Impriſonment for many Weeks together, and never knew before this time what it was, in particular, that was laid to my Charge: And now I do hear my particular Accuſation, it is ſo ſtrange to me, that I do not know what to ſay to it at the firſt hearing; therefore I humbly beſeech your Lordſhip, that I may hear it read again.

* *Attorney-General.* My Lord, Maſter *Gibbons* heard *Pot-*
* Mr. *Prideaux.* *ter*'s Charge read, which was very like to his own; ſo he hath heard it twice already: however, my Lord, he may hear it read again; for he may hear it thrice.

Keble. Come, let him hear it again; he is a young Man, let him have what Favour he may have: mark it well, now you hear it again.

After reading, Maſter *Gibbons* ſpake in this manner:

Gibbons. My Lord, I am brought hither by an Order of this Court, which Order mentions a Charge of Treaſon exhibited againſt me; I ſhould betray the Liberty I am born unto, if I ſhould not deſire a Trial, according to the Fundamental Laws of this Nation, which is by a Jury of my Neighbourhood: the Benefits and Advantages are exceeding great, therefore I do earneſtly crave to have them.

Keble. The State hath thought of another way of Trial, which you muſt have, and ſubmit to; this is beſt for your Advantage, and more honourable than any other you can have, therefore you muſt plead Guilty, or Not Guilty.

Gibbons. My Lord, I ſhall never be ſo prodigal of my Blood, as to throw away my Life by refuſing a Trial before you, though I am not ſatisfied in this new way of Trial; yet I ſhall not refuſe to plead in Confidence of my own Innocency, and in hope of your Tenderneſs in Matters of Blood. But before I plead, and anſwer to my Charge, I have this humble Motion to make.

Here he ſpake very much on the firſt Day of his Trial, moving very much for Counſel; but after he had uſed many Arguments to perſuade the Court to incline to it, and could not have it, he deſired the Court to be the Counſel for him, and take care of his Life, and not ſuffer him by his own Ignorance to weave a Web for his own Ruin and Deſtruction. After much ſaid of this nature, he pleaded Not Guilty: the which being entered in the Book, they proceeded to the Trial.

Attorn. Gen. The Attorney-General began with a long Speech, how Maſter *Gibbons* had plotted and contrived theſe Treaſons; named the Meetings and the Places where he ſaid it began preſently after the late King's Death, under the pretence of getting the King to *Scotland*; but the Truth was, they intended to ſettle him upon this Commonwealth. And further, That he the ſaid *John Gibbons*, as a falſe Traitor, and out of a malicious and wicked Purpoſe and Deſign to raiſe Inſurrections in this Nation, did ſeveral Days and Times in the Years 1648, 49, 50, and 51, and at divers other Times and Places within this Commonwealth, together with *Chriſtopher Love*, *Piercy*, *Jermin*, *Maſſey*, &c. and other their Complices, being falſe Traitors to this Commonwealth, traitorouſly, maliciouſly, complot, contrive and endeavour to raiſe Forces againſt this Commonwealth, ſettled in way of a Free State, without King or Houſe of Lords: and for the Subverſion of the ſame, did raiſe and collect divers great Sums of Money, and did hold Intelligence by Letters, Meſſages and Inſtructions, with *Charles Stuart*, Son of the late King, and with the Queen his Mother, and divers other Perſons, being falſe Traitors to this Commonwealth.

And further, he the ſaid *John Gibbons*, together with *Chriſtopher Love*, *William Drake*, *Piercy*, *Jermin*, &c. and other their Complices, ſince the Death of the late King, ſeveral Days and Times in the Years aforeſaid, within this Commonwealth of *England*, and elſewhere, did traitorouſly and maliciouſly declare, publiſh, and promote *Charles Stuart*, Son of the late King, commonly called the Prince of *Wales*, to be King of *England*, meaning of this Commonwealth.

And further to carry on the ſaid Deſign, he the ſaid *John Gibbons* ſeveral Days and Times in the reſpective Years aforeſaid, together with *Chriſtopher Love*, *William Drake*, *Piercy*, &c. did endeavour to procure the *Scots* to invade this Commonwealth of *England*.

And further, That he the ſaid *John Gibbons* on the 6th of *April* 1650, and on divers other Days and Times between the 29th Day of *March* 1650, and the firſt day of *June* 1651, at *London*, and elſewhere, did give, uſe, and hold Correſpondence with the ſaid *Charles Stuart*, Son of the late King, and the Queen his Mother, *Jermin*, *Piercy*, &c.

And further, to accompliſh the ſaid Deſigns, he the ſaid *John Gibbons*, on the 6th Day of *April* 1651, at the Places afore-mentioned, did hold and give Correſpondence and Intelligence with divers Perſons of the *Scotiſh* Nation, as *Argyle*, *Lowdon*, *Lothian*, &c. Enemies to this Commonwealth, and adhering to the King in the War againſt them.

And further, the ſaid *John Gibbons* did traitorouſly and maliciouſly abet, aſſiſt, countenance, and encourage the *Scotiſh* Nation, and divers other Perſons adhering to them; and did convey great Sums of Money, Arms, and Ammunition into *Scotland*, and elſewhere. All which wicked Practices and Deſigns of him the ſaid *John Gibbons* were againſt this Commonwealth, Parliament, and People; and in manifeſt Contempt of the Laws of this Nation, and Acts of Parliament, in ſuch Caſes made and provided.

[After he had ended, the Witneſſes were called: The firſt was Major *Adams*; the ſecond Colonel *Barton*; the third was Captain *Hatſel*; the fourth Colonel *Bains*; the fifth Major *Alford*; the ſixth Captain *Far*; the ſeventh was Maſter *Jaquel*; the eighth was Major *Huntington*; the ninth Maſter *Harvey*; the tenth was Major *Corbet*. *Adams* being firſt examined, his Teſtimony was to this effect.]

Adams's *Teſtimony.*

That the Correſpondency of *John Gibbons* with the reſt aboveſaid, was to endeavour an Agreement between the King and the *Scots*. The firſt Meeting was at the *Swan* in *Fiſh-Street*, where Maſter *Gibbons* was. At that Place there was only a Conſideration how to carry on the Correſpondency. There was alſo a Petition to be ſent to the King (as I was informed); and the Meeting in this Place was in reference to that alſo. There was Letters written to *Scotland*, and ſome received thence; which Mr. *Gibbons* was privy to.

After Maſter *Drake* went away, we met at Maſter *Love*'s Houſe, where Maſter *Gibbons* met alſo. There were Letters read; and I think Maſter *Gibbons* did hear them, and did confer about them. The Letters ſent to *Jermin*, *Piercy*, &c. at one time or other Maſter *Gibbons* was preſent, and heard them read. This was before *Titus*'s going away.

* Clar. Hiſt. Vol. III. p. 434.

Then

Then after there were Letters ſent from the King, which were read at Maſter *Love*'s Houſe; where Maſter *Gibbons* was preſent, and heard them read. Maſter *Gibbons* brought likewiſe a rough Draught of the Inſtructions that were to go to *Holland*.

Alſo there was a Letter read at Mr. *Love*'s from Alderman *Bunce*, where Maſter *Gibbons* was preſent. Alſo a Letter after *Dunbar* Fight from *Scotland*, relating how Affairs ſtood there, (and that Letter, as I remember, was for Arms and Money) was read at Maſter *Love*'s Houſe; where Maſter *Gibbons* was preſent at the reading of it.

Maſter *Gibbons* was a conſtant Man at all Meetings.

A Letter was ſent from *Maſſey*, read at Maſter *Love*'s, for Arms and Money: Maſter *Gibbons* was preſent. And three or four hundred Pounds agreed to be ſent.

A Letter was written to the Eſtates of *Scotland*, to procure *Maſſey* and the *Engliſh* to be in eſteem.

Maſter *Gibbons* ſometimes acquainted me where we were to meet.

Lieutenant-Colonel Baines's *Teſtimony*.

A little while after the Death of the late King, there was a Meeting at the *Swan* at *Dowgate*, where ſeveral Perſons were: But whether Mr. *Gibbons* was there, I know not. But Captain *Titus* was there, and gave a large Commendation of the young Prince; and moved that a Petition might be drawn up, and ſent to the Prince from the Preſbyterian Party here. There was a Debate upon it; and this Deſign was looked upon as the only viſible Way to preſerve the Preſbyterian Party, and to bring the Prince to the Crown.

Colonel Barton's *Teſtimony*.

A while after the Death of the late King I was going into *Cannon-Street*, and at *Dowgate* I met with *William Drake*, who deſired me to meet him at the *Swan* at *Dowgate*. When I came there, I found Captain *Titus*, Lieutenant-Colonel *Baines*, and divers other Perſons: I believe Mr. *Gibbons* was not there. I came in while they were in diſcourſe, and I could not well hear them. But at their riſing, I aſked Mr. *Drake* what was the Occaſion of their Meeting; and he told me that Captain *Titus* had given a good Report of the Prince, and did deſire that ſome Addreſſes might be made to him, that thereby he might be taken off from his Cavaliering Counſellors.

After a while *William Drake* came to me for 10*l.* which he ſaid was to furniſh a Friend of his which did want 100*l.* He deſired I would not deny him; and becauſe he was a good Cuſtomer to my Houſe, I did lend it him. And after I heard it was for Captain *Titus*. As for the Priſoner, I think he was not at the *Swan* at *Dowgate*; for I did not know him till afterwards.

Major Alford's *Teſtimony*.

At the Meeting at the *Swan* at *Dowgate*, where divers were, Captain *Titus* made a large Narration of the Prince's Deportment, declaring how inclinable he was to caſt off his Cavaliering Adherents, if he were but aſſured there was a People in *England* that ſtuck to their Covenant; he was weary of his other Counſels, and was ready to apply himſelf to the Ends of the Covenant.

A Petition was brought to the *Bear* in *Bread-ſtreet*, where it was read, and debated among us, and agreed to be drawn up; and Captain *Titus* and *Drake* were ſent away with it.

I do not remember that Maſter *Gibbons* was at either of theſe Meetings.

There was Money raiſed for *Titus*: *Drake* had 10*l.* of me; he had it in private. Captain *Titus* had 30*l.* for his Journey. He went over twice, I think; and if ſo, the ſecond time Maſter *Gibbons* was there. The ſecond time I ſaw Maſter *Gibbons*, he brought me to his Chamber; and the third time he and I went with ſome Papers to *Graveſend*, agreed on at Maſter *Love*'s. Theſe Papers were either a Commiſſion, or Inſtructions, or both together in one. But this was the Subſtance, That the Lord *Willoughby*, and others, ſhould go to the Treaty at *Breda*, and to preſs the King concerning this Agreement with *Scotland*.

Maſter *Gibbons* was at Maſter *Love*'s Houſe when the Commiſſion and Inſtructions were agreed upon. He and I went to *Graveſend*; and (I think) he carried the Papers. But of this I am ſure, That he knew the end of our going. We tarried there all Night; and delivered the Papers to Mr. *Maſon*.

I did go to *Calais* when I came back; but I do not know whether the Papers that I brought over (being read at Maſter *Love*'s Houſe) were read all at one time, or not: If they were, then Maſter *Gibbons* was there.

I was preſent when the Letters came, after *Dunbar* Fight, at Mr. *Love*'s. The Letters came from Colonel *Maſſey*: They gave an Account of the Fight there, and of the State of Affairs; and withal, writ for Money and Arms, to be ſent by way of *Holland*. I cannot ſay Mr. *Gibbons* was preſent. There was Money agreed upon there to be raiſed for *Maſſey* and *Titus*. Mr. *Gibbons* was many times at the *Swan* at *Dowgate*; he was conſtant at the Club. But after Mr. *Drake* fled, we did take in other Men into the Club: Mr. *Gibbons* was as little abſent as any Man.

Mr. *Gibbons* did put me upon it, to ſhew Friendſhip to Mr. *Maſon*; and he gave me this Reaſon, That ſo Mr. *Maſon* might repreſent our good Affections to the King: And Mr. *Gibbons* did deſire me to defray the Charges of that Night's Expences at *Graveſend*; where Mr. *Maſon* was telling me, That if I were not allowed it by our Friends, he would do it.

Maſter Harvey's *Teſtimony*.

I came to the Knowledge of this Deſign at ſeveral Meetings and Places. Mr. *Gibbons* told me of 2000*l.* which was to be ſent into *Scotland*; and that *Maſſey* was to land Forces in the *Weſt*: And concerning my Lord General's Soldiers, that many of them were run away: And concerning the Trained Bands of the *North*, he ſaid they waited but for one Blow to be given in *Scotland*. He told me alſo of a Town that was to be delivered.

Major Huntington's *Teſtimony*.

The firſt that made me acquainted with this Deſign was Mr. *Gibbons*; who told me, That if I would come to Mr. *Love*'s Houſe, I ſhould hear the News. I went to Mr. *Love*'s: And when I came there, that which I heard was a Paper ſent from *Maſſey*, *Graves*, and *Titus*, brought by *Drake*, and read by him. Mr. *Gibbons* was there then: There was many more there in Mr. *Love*'s Cloſet; but I cannot ſay well who they were.

[The Teſtimonies of the reſt of the Witneſſes could not be well heard; neither can they be had, the Books being ſo cloſe kept.]

[After all was ended, Mr. *Keble* deſired Maſter *Gibbons* to ſpeak for himſelf.]

Gibbons. My Lord, I have now ſtood here near five Hours, and am both ſpent in my Body and Spirit; and that I am as unable in Body to ſpeak for myſelf, as I am diſabled to make my Defence without the Court grant me Time, a Copy of my Charge, the Depoſitions of the Witneſſes, and aſſign me Counſel. And therefore, before I plead or anſwer to my Charge, I have this humble Motion to make, (I being a Man altogether ignorant and unacquainted with the Laws) That this Court would be pleaſed, as I ſaid before, to aſſign me Counſel to adviſe me in my Chamber, and to plead for me in the Court; and that your Lordſhip and this Court would be pleaſed to give me a Copy of my Charge, and to aſſign me a Solicitor, to ſolicit my Buſineſs for me.

Keble. Mr. *Gibbons*, you muſt proceed to make ſome general Defence for the preſent.

Gibbons. My Lord, I hope you will do as God uſe to do, allow ſome grains of Allowance, that a Man that hath nothing but Weakneſs and Ignorance may help himſelf.

Upon this Motion the Court adjourn'd, and Mr. *Gibbons* was taken away by the Keeper of *Newgate*; and thereafter came a Warrant to bring him to the Bar the Wedneſday following.

In the mean time there were ſeveral Friends that went to mediate and ſpeak for him to the Judge, who did lay out his Simplicity and Innocency, labouring what they could for the ſaving of his Life. The Judge anſwered, That he was not ſo ſimple as he was ſet out by them; and that he doubted not but he was a Servant to greater Perſons, who had employed him: But if he would be ingenuous, and diſcover the Parties that were in that Deſign, he would labour to ſave his Life, and do him good; but if he would not confeſs, he could not help him. Yet ſtill they interceded for him, until at laſt the Judge told one of them, That verily he was perſuaded that he was innocent: But nevertheleſs, if he did not reveal all thoſe whom he knew to have any Knowledge of the Buſineſs beſides himſelf, nothing could be expected but Death. He was extremely deſirous to have a Diſcovery of ſome Perſons of Quality: But Mr. *Gibbons* conſtantly affirmed he knew of none; neither would he accuſe any; for he had rather die than be a means to ſcandal or hazard any good Man. This he conſtantly affirmed with an undaunted Reſolution to the laſt.

Wedneſday, the ſecond Day's Trial, July 23.

MAſter *Gibbons* being brought before the Court, my Lord *Keble* ſpake as followeth:

Keble. Maſter *Gibbons*, the Court out of abundance of Favour to you, have given you time from Friday till now, whereby you may be able to make your Defence: Therefore it is now expected you ſhould proceed, and plead what you have to ſay.

Gibbons. My Lord, the laſt time I was before this honourable Court, after I had deſired a Jury, and was denied it, I did, in Confidence of my own Innocency, and your Tenderneſs in Matters of Blood, ſubmit to a Trial, tho' I was no way ſatisfied in this new Way of Trial: But before I could plead, I made this humble Motion, perceiving the Charge againſt me for High Treaſon, was againſt ſeveral Statutes, Laws, and Acts of Parliament, which I never ſaw, heard, or read them in my Life.

My Life and Eſtate being thus drawn into queſtion, my Lord, it did very much concern me to be well adviſed, there being many Things in the Statutes which made for my Advantage, both in my Plea and Defence: Therefore I did humbly beſeech your Lordſhip and this High Court that I might have Counſel in Law aſſigned me, both to adviſe me in my Chamber, and plead for me in this Court, that ſo I might be able to take all thoſe lawful Advantages which the Statutes and Acts of Parliament afford me; which I was not able to do myſelf, being ignorant of the Laws. This being denied, and I ſeeing I could no way obtain Counſel to preſerve my Life, as I did ſee the State had got great Counſel againſt me, to proſecute me for my Life; I did humbly beſeech your Lordſhip, and this High Court, that you would be ſo far of Counſel for me, a poor Priſoner ſtanding at the Bar, drawn in queſtion before the Juſtice for my Life, that you would not let the learned Counſel of this Commonwealth take any advantage againſt me, through my Ignorance or want of Skill in the Laws; but that if the Statutes and Acts of Parliament, and Laws of the Land, did afford me any Advantage, which I might over-ſlip through my Ignorance, that your Lordſhip and the Court, out of your Bowels of Compaſſion to a poor Priſoner, would ſtand for me, that I might not have any Wrong done, nor Law denied me, which by right was due unto me. Upon theſe Conſiderations, my Lord, I did plead Not Guilty. I do humbly thank your Lordſhip and the Court for the Time you have given me; but am as unable to anſwer or ſpeak for myſelf now, as I was the laſt time I took my leave of this Court, being wholly unfurniſhed, and altogether diſinabled to make my Defence: For when I came back to my Priſon at *Newgate*, with an Expectation of meeting both the Copy of my Charge, and the Depoſition of the Witneſſes, I found all was taken away from my Notary, whom I brought on purpoſe to this Place to help me therein. Seeing myſelf thus totally deprived and cut off from all Helps and Hopes of making my Defence, I could not tell whither to go or ſend, but to your Lordſhip, whom I thought, upon my humble Petition, might have granted both a Copy of my Charge, and the Depoſitions of the Witneſſes: But ſeeing that could not be granted, I am left without all Poſſibilities of pleading, or making any Defence. Therefore I do now again, with all Humility, addreſs myſelf to your Lordſhip and this honourable

Court, and do moſt earneſtly deſire a Copy of the Charge, alſo the Depoſitions of Witneſſes, and Counſel aſſigned me to come to my Chamber, to adviſe me there; alſo Counſel to plead for me before this Court, and a Sollicitor aſſigned me, to follow my Buſineſs. And if God ſhall not incline your Hearts to ſhew this Mercy, I do not look upon myſelf as able to make my Defence, as to ſtand before a Company of armed Men.

Keble. The Court will be very tender of your Blood; and they muſt and will be as tender to preſerve the Blood of the Commonwealth, in execution of Juſtice upon Traitors, that ſeek to deſtroy them. You have had a great deal of Favour, and Time given you; therefore now you muſt make your Defence.

Gibbons. My Lord, if ever Priſoner that came before this Court had reaſon to cry and call for all poſſible Helps and Advantages that may be allowed them, much more have I cauſe to do the ſame; verily believing never until now there was ever any brought before Juſtice ſo unable to help or anſwer for himſelf, as I am. Therefore I humbly beſeech your Lordſhip, and this High Court; and I do withal earneſtly deſire Counſel, a Copy of my Charge, the Depoſitions of the Witneſſes, without which I am never able to plead, or make any Defence for my Life: And the rather am I invited to crave and deſire the ſame, for that I have both heard and ſeen Precedents before mine Eyes of this nature. Major *Rolfe*, that was accuſed for High Treaſon, had Counſel aſſigned him; by whoſe Aſſiſtance he ſaved his Life. Sir *John Gell*, before this Court of Juſtice, had his Brother, Maſter *Gell*, to ſpeak for him. And ſince, Mr. *Love* had Counſel to plead for him in this very Place.

Keble. Mr. *Gibbons*, you will not be denied Counſel, or any thing elſe, that may help you, if there be found Matter of Law. Go on, and make your Defence; and make it appear to the Court that there is Matter of Law, and you ſhall not be denied Counſel, and whatever elſe may do you good.

Gibbons. My Lord, had I the ſeveral Advantages the others have had, to offer ſuch Matters of Law, I ſhould be as ready as any elſe to do it: But being deprived of all theſe Helps by the Officers of the Court, who took away the Book from my Notary, after he had written the Charge; therefore, my Lord, without a Copy of the Charge, and the Depoſitions of the Witneſſes, it will be in vain for me to trouble this honourable Court, when I never had ſight of the Charge, nor Depoſitions of the Witneſſes; the want of which have ſo diſinabled me, (ſeeing I could not have Help of Counſel to adviſe me) that I cannot tell what in the world to ſay myſelf.

Keble. Mr. *Gibbons*, you muſt proceed to plead, or elſe you will incenſe the Court more than you are aware of: For you to ſtand out thus, and plead for that which cannot be granted, will do you no good; therefore I adviſe you no longer to ſtand out, but make your Defence.

Gibbons. My Lord, if I ſhould begin to proceed, and make my Defence, being (as I ſaid already) totally ignorant in all the Laws, and utterly unable both in Memory and Parts to take all juſt and clear Objections againſt the Advantages of the Charge and Evidences; if I ſhould make my Defence when all Means are thus taken away, I ſhould certainly throw away my own Life, and become guilty of ſhedding my own Blood: Therefore I had rather, a hundred times, leave myſelf to the Mercy and Juſtice of the Court, who, I hope, are very ſenſible how much the Life of a Man is worth; and withal conſider the hard Meaſure I had in taking away the Books of thoſe that wrote for me, that ſo I could never have ſight of the Charge, nor Depoſitions of the Witneſſes, which all others have had, nor no Counſel to adviſe me. Thus being left naked and deſtitute of all Helps, I had rather ſubmit to the Mercy of the Court, than ever plead to ſave my Life. My Lord, I am perſuaded I ſtand to be judg'd by a Court, where I ſee the Faces of thoſe that truly fear God; and that they will ſeriouſly weigh and conſider that the Blood of any for whom Chriſt hath died, is exceeding precious in the ſight of God, who will not take any Advantage againſt any for their Ignorance; and that you alſo do remember that all your Judgments will be judged over again at the Tribunal of Chriſt, who will both be a Counſel and Advocate for me, Priſoner now ſtanding at the Bar. Thus hoping that you will reckon the Life and Blood of the meaneſt Perſon, for whom Chriſt hath died, as much worth as the Life of the greateſt, I will rather ſubmit to your Mercy than plead, if I cannot have what I do deſire. But being very unwilling to have any hand to deſtroy myſelf, and ſo become guilty of my own Death, therefore though for want of Help I be not able to make my Defence, yet I ſhall make an Appeal to the Court; which is all I can do. And therefore I deſire you ſeriouſly to weigh and conſider how far ſhort the Evidences come, and how full of Contrarieties and Contradictions. By the Law there ought to be two lawful and ſufficient Witneſſes to make a Man guilty of Treaſon: Theſe Witneſſes muſt agree punctually in their Teſtimony, and the Treaſon they prove muſt be againſt the expreſs Words of the Act. Alſo the Law will not ſuffer thoſe that are guilty and convict of the ſame Crime by their Confeſſions, whereof they accuſe me, to give Evidence againſt me: Theſe Witneſſes therefore cannot be lawful and ſufficient againſt me, they having confeſſed thus much againſt themſelves, and ſo do either witneſs againſt me out of fear of Death, or promiſe of Reward. This I am certainly inform'd will be proved againſt Major *Adams*, and was declared in the Face of the Court at Mr. *Love*'s Trial, concerning the Teſtimony of Major *Adams*, which is the moſt material Witneſs againſt me. I hope your Lordſhip and the Court will look upon it, as not only he hath been offered, received, and taken Money to diſcover the Deſign, and witneſs againſt me; but alſo in regard to whatſoever he ſwears, as that I ſhould bring in the rough Draught of Inſtructions to Mr. *Love*'s: And as to my Preſence at the *Swan* at ſeveral Meetings, was both contradicted, and poſitively ſworn againſt by ſeveral other of the Witneſſes. None but he doth ſay that I was preſent at the reading of any Letters of the Fight at *Dunbar*: Nor none but *Adams* ſaith I was preſent at Mr. *Love*'s Houſe, when any Moneys was debated: Nor none but *Adams* ſaith I was a conſtant Man at Meetings; that ever I invited any to a Meeting. I hope your Lordſhip and the Court will conſider, that though there are ten Witneſſes produced againſt me, beſides ſeveral Queſtions aſked Captain *Potter* at the Bar concerning me, yet many of them neither ſaid nor ſwore any thing that touched me at all; and of thoſe that do reach me in their Teſtimony, not any two did agree in proving the ſame Fact. As concerning the particular Teſtimony of Mr. *Harvey*, unto which no one Witneſs but himſelf either ſaid or ſwore the leaſt Tittle of it to be true; being ſtruck with Wonder, and amazed to hear theſe Things given in againſt me, which my Heart never thought, nor my Tongue never ſpake; I do both before your Lordſhip and this High-Court, and Preſence of all the People, lay it before the righteous God to plead my Cauſe, and judge between me, a Priſoner at the Bar, and Mr. *Harvey*, that falſly accuſed me. I did further deſire, that this Appeal might be ſet upon record, and meet me before the Tribunal-Seat of Chriſt, and that both your Lordſhip, and them that ſit in this honourable Court, might follow this my Appeal to the Judgment-Seat, and there witneſs it before the Preſence of the Lord againſt me when I am pleading for Mercy, if ever I ſpake or heard of theſe Things which he hath accuſed me of. My Lord, I ſhall go further, and did offer unto the Court, That if in all *England* they could find a Man that would ſay any of theſe Things Mr. *Harvey* accuſed me of, then I ſaid more particularly, if any whom I had moſt frequently convers'd withal, or any of thoſe that kept me Company, would ſay they ever heard me ſay any of theſe Words, the next Time I came before this honourable Court, I would come and plead guilty. And I do now ſay, if it pleaſe your Lordſhip and the Court to give me Time, I ſhall be able to produce Witneſſes, I ſhall make it appear Mr. *Harvey* is as unfit to be a Witneſs in any Court of Record, as he was unfit to be a Juſtice of Peace in *Eſſex*, where he was indicted for many and notorious Offences. If I might have Time, I ſhould produce Witneſſes that Mr. *Harvey* was the original Reporter of ſome of thoſe Things he accuſed me of. And concerning Major *Corbet*'s Teſtimony, I know little in it, but that I ſhall call God to witneſs I knew not *Maſon*. I did then in the Face of the Court declare how much he had wronged me; for that I had acquainted the Committee who examined me, that I both knew *Maſon*, and told them the Place, and how I came to know him. Beſides, there is a Copy of my Examination abroad that doth confirm the ſame, That *Corbet* came to me more like a Murderer than a Chriſtian; and becauſe I did call God to witneſs againſt theſe Untruths he charged me withal, he did in effect judge my Soul to the Devil, and my Body to the Gallows, and ſo he left me. For which unchriſtian Carriage of his, I both complained to Mr. *Price*, Clerk to the Warden in the *Fleet*, my Keeper, and ſome others. My Lord, I am charged with being a Sollicitor, and repreſented as a Man that had nothing elſe to do but follow ſuch Buſineſſes as here I am accuſed of; which is a Life ſo unlike an *Engliſhman*, and ſo ill-becoming a Chriſtian, that I have all the Days of my Life walked a contrary Courſe: If it were neceſſary, Multitudes of Witneſſes will teſtify the ſame for me. I was entertained by my Maſter to wait upon him in his Chamber: After he was gone to the Houſe, I had conſtant Occaſions to go into the City, either to lay out, pay, or receive Money. So much Experience had I gained, as I entred upon a Merchant's Trade, dealt with many and ſeveral merchantable Commodities; having a Wife and Children then living, that was the Trade I reſolved to follow. My Wife dying, I went over to *France* ſome little Time after with my Maſter, and carried many merchantable Commodities with me, where I found Liberty to increaſe my Experience. My Maſter returning to *England*, where he ſtaid not a Year, but went back again into *France*, I was left behind to wait upon my Lady. My Employment in my Lady's Service is ſufficiently known to be ſuch as daily led me to go into the City. The 19th of *July* 1650, my Lady went from the City; there was a Neceſſity one Man ſhe muſt leave behind in *London*, which fell to my Portion. And my Buſineſs called me daily into the City; ſometimes to go to Counſel, ſometimes to ſhew Bills of Exchange, ſometimes to pay Moneys, ſometimes to lay out Money, and buy ſeveral Things which both my Maſter and Lady did daily ſend for to me: There was ſome Letters that came conſtantly every Week from my Lady, ſome out of *France*, to one Mr. *Charboner*'s, whoſe Houſe was in *Tower-Street*. I miſſing theſe Letters often on the Monday, went on the Tueſday for them, which was the Day we met at the Club, which was the main reaſon of my being ſo conſtantly there. Where I met for no other end than to ſee the Faces of my Friends, and to diſcourſe of the News of the Town. Moſt of whatever I heard there diſcourſed on, I found in the printed Books: Nothing do I know was ever ſaid or done there prejudicial to the State. But ſince it is looked upon as a Crime, I would I had never come there. Concerning my Maſter, were it neceſſary, I would here make a Declaration that he never left me to do any Buſineſs but to wait upon his Lady, and to provide, buy, and ſend thoſe Things into *France* that were neceſſary for him. For Letters, I never received any from him, but ſuch as might have looked all the World in the Face: Neither, think I, I need ſay much to clear this, for that the State have ſeen moſt of thoſe Letters that my Maſter ſent, before they ever came to my Hands. My Lords, this is all I can ſay, being unwilling to trouble the Court any longer; but muſt declare how much I am amazed to be indicted by ſo high a Charge of Treaſon, as I dare ſay never looked any ſuch Man as I am, in my Condition, in the Face till now; and do fully perſuade myſelf that your Lordſhip will rather pity my Ignorance and ſad Condition, than look upon me as a Man either fit for Plots, or any ſuch Matter I am charged with. I do proteſt, that if I would make a Declaration of every Act I have done, of every Word I have ſaid, of every Line I have written, I never knew it came up to the Border of Treaſon, whatever is laid to my Charge. And whereas Major *Adams* charges me of being at ſeveral Meetings preſently after the late King's Death, I did not ſee them in nine Months after the Death of the King; And after that, I came acquainted with *Alford*, and all that he lays to my charge, is going down to *Graveſend*, but he did not ſay whether he or I carried the Commiſſions or Letters he ſpeaks of. It is hard for me to remember what the Diſcourſe was a year and half ſince; but I dare ſay

he

he doth moſt falſly charge me that I ſhould bid him ſhew Kindneſs to *Maſon*, that ſo he might repreſent the Preſbyterian Party conſiderable to the King; and that I ſhould bid him diſburſe ſome Money, and pay all the Charges, and if it was not paid him by the Company again, I would; this, to the beſt of my remembrance, is all falſe. Capt. *Far* (who is another of the Witneſſes, who went along with me, and *Alford)* did declare it in the face of the Court, that he knew no ſuch thing, and that Major *Alford* was the Man that invited him to *Graveſend*; and ſo I do proteſt he did me, or elſe I had never gone.

For Letters, I do not remember that ever I touched any; nor did Major *Alford* in the leaſt ſwear poſitively I did; only he ſaith, either he or I did deliver them. *Alford* doth not ſwear that ever I wrote, that ever I ſaw them open'd, or ever heard them read. All this, my Lord, was done above a Year and a half ago; and I hope if there ſhall be any thing found done amiſs in that Journey, the Acts will clear me; for that it is ſaid, If a Man be not indicted within a Year, he is not to be arraigned or queſtioned. All that Major *Huntingdon* ſays, is, He ſaw me at Maſter *Love*'s when the Inſtructions were read, but whether I heard them, he could not ſwear; but he ſaw me go out of one Room into another: And ſince he ſays, I met him in the ſtreet, and aſked him if he would not go to Mr. *Love*'s to hear News; and when we came there, after Prayer half an hour, *Will. Drake* pulled a Letter out of his pocket, neither ſwore he what it was, nor that I heard it read. My Lord, upon the whole, I do ſay, among all the ten Witneſſes, there is not one that doth ſay or ſwear that ever I wrote Letter, ſent Letter, or received Letter; that ever I collected Money, paid Money, or received Money; or that ever I diſcourſed any thing prejudicial to the State; not any one Witneſs doth lay any one thing to my Charge done for more than this Year and half, beſides Major *Adams:* and all that ever he ſwears, is, being preſent at Letters read; he neither ſays I heard them, or ever diſcourſed any thing concerning them. So, my Lord, except it be one ſingle Witneſs, there is nothing laid to my charge done this Year and a half: ſo, my Lord, the utmoſt that the whole Proof againſt me doth amount unto, is but hearing of Letters read at the ſecond hand; and all this but in the utmoſt were but Miſpriſion of Treaſon, if fully proved; but being but one ſingle Witneſs to ſwear this, I cannot imagine it will ever hurt me. For *Potter*, *Jaquel*, *Far*, or *Alford*, (who knew as much by me as *Adams)* did not ſay any ſuch thing; and all that *Adams* did ſay, is but hearing of Letters, he doth not ſay that ever I ſent Means to the King: tho' I never did this, yet I have weakened my ſelf, and opened my Purſe to help the State. About the time the King and *Scots* were agreed, I furniſhed my Brother with a conſiderable Sum of Money, and ſent him into *Ireland* to do the State Service, where he gained a Command under my Lord, and did very good Service for the State. My Lord, had I ever ſuch a Mind to the War in *Scotland*, I could have ſent my Brother thither, and not into *Ireland*. Thus, my Lord, I have gone as far as I can, in making my Appeal to the Court; being utterly unable to make any Defence, I do hope there will be no advantage taken by my Ignorance, but you will be pleaſed to take my Condition into your Conſideration, and yet grant me both Time and Counſel, and give me a Copy of my Charge, and the Depoſitions of the Witneſſes, which is no more Favour than was allowed to the Archbiſhop of *Canterbury*, and Deputy of *Ireland*, I crave leave of your Lordſhip and the Court, that I may not ſuffer for want of Experience, nor that my Ignorance may be made uſe of to work my Ruin and Deſtruction. From my Youth I have ſtudied the Scripture, but never have ſtudied the Laws in my Life; and therefore all that I have to help my ſelf with, is from the Scripture, where I find that Ignorance hath conſtantly the Plea at the Bar of Heaven, and ſo I am certain ſhould have at the Bars of all the Courts of Juſtice. *Abimelech* that committed a very great Sin in taking another Man's Wife from him, he pleaded his Integrity, and God did ſpare him, becauſe he knew it not. God hath always been wonderful tender of the Life of a Man, and that in the time of the moſt ſtricteſt Laws; ſo much care did he take to preſerve the Life of Man, that he provided Cities of Refuge to fly unto, if any killed a Man by accident, or unawares. Murder is a great crying Sin, yet were it done unawares, God made a City of Refuge to fly unto, that the Man might be ſafe, and out of Danger of the Revenger. My Lord, whatſoever I have done amiſs, I do profeſs it is out of Ignorance; I never knew I broke any of the Acts of Parliament, nor that I offended the Laws of *England:* and therefore I hope my Ignorance ſhall have the Plea at your Bar, as I am ſure it ſhall have at the Bar of God. I have often heard that the Law of *England* is the Law of Mercy, and that there is no Law in the world looks with more Tenderneſs and Compaſſion upon a Man's Life; therefore I ſay as *David* concerning the Sword of *Goliah*, *There is none like that, give it me.* The ſame I do ſay this day, no Law is like to our *Engliſh* Laws, therefore let me enjoy them: I know the Benefits and Advantages thereby is wonderful great. I do verily believe I am before a Court that are fully perſuaded that the ſtrict beholding Eye of God looks upon them, and beholds all your Intentions, and the Thoughts of your Heart towards me, and ſees whether you do deny me any Help or Advantage that may ſave my Life. Therefore I earneſtly beſeech your Lordſhip, and this Honourable Court, to look upon the Laws of *England*, and ſee whether there be not ſome Helps, ſome City of Refuge to fly unto, where I may be out of danger of all that I am here charged with. My Lord, this is the firſt time that ever I was brought upon a Stage, the firſt time that ever my Name was heard of, or I known to be an Offender againſt the State: And whatſoever ſhall now be found in me amiſs, I deſire there may be a favourable Conſtruction made of it, and not to be ſtrained beyond what my Intention was, who have always abhorred from my very Soul all Deſigns that have tended to Blood. I have always ſtood firm to the Cauſe of Liberty and Religion, and all the Intereſts thereof: theſe are the Principles I firſt took up, theſe are the Principles I have always held; from which Principles I never yet departed. I have always had a bleeding Heart when the Church hath been in a ſuffering Condition; I have never been of a bitter Spirit, but have always carried a moſt Tender and Chriſtian Reſpect towards thoſe that were of an unblamable Life and Converſation: And where I thought there was Truth of Grace, however contrary to me in Judgment, yet I have loved them, and embraced them as Chriſtians. I have always lived peaceably, never no Diſturber of the Church or State, either by writing, or printing Books, or any thing elſe. May it pleaſe your Lordſhip, it is my Deſire you ſhould do as God did, when the Cry of *Sodom* came up before him; *I will go down*, ſaith he, *and ſee whether they have done altogether according to the Cry which is come up to me; if not, I will know:* The Lord that knows all things, knew before what *Sodom* had done; but after the manner of Men he came down, to teach all Courts of what they ſhould do before they proceed to Judgment. My Lord, here hath been a great Charge againſt me, a great Cry come up unto your Ears; I deſire you to do as God did, that is, to know whether it be according to the Cry, that you would ſeriouſly weigh all that the Witneſſes have ſaid, gather all the Circumſtances together, and ſee the utmoſt that it doth amount unto; and then I am ſure you will ſee the Evidences to come ſo infinite ſhort of what the Charge and Cry hath been againſt me, that you will find Arguments to incline to Mercy: and if I might not be quitted, yet at leaſt you will let me have thoſe Helps and Advantages that the Laws afford me, and God hath commanded you to give me; that you will not keep any thing from me, that I, according to Juſtice, have demanded, and for the want of which ſee me deſtroyed before your faces. Therefore I do once more with all earneſtneſs deſire you will not deny me a Copy of my Charge, alſo the Depoſitions of the Witneſſes, and aſſign me Counſel to come to my Chamber, and plead for me at the Bar, without which you take from me all thoſe Helps that ſhould enable me to make my Defence; without which it is impoſſible for me to go any further, and muſt declare that I want all the material things that ſhould help me to ſave my Life, when I ſee before my Eyes all poſſible Advantages to undo me. My Lord, I am able to ſay no more; if this my juſt Requeſt ſhall be denied, I have gone as far as I can without them, both to clear my Innocency, and vindicate my ſelf from that which is laid to my charge; and am moſt confident, if you would let me have what you cannot juſtly deny me, a Copy of my Charge, and the Depoſitions of the Witneſſes, I ſhould ſtand as clear in the eyes of the Law, in the eyes of your Lordſhip, and all this Court, as I am clear in the eyes of God, and my own Conſcience, from what is unjuſtly charged upon me. And thus much I have done, and am able to do no more; therefore if you do deny me, I ſhall be abundantly ſatisfied, howſoever it ſhall pleaſe God to ſuffer you to deal with me. Concerning the Witneſſes, I have little further to ſay, but deſire that the Lord would forgive them, as I do freely; I would not change Conditions with them, tho' I were ſure to die in Fire flaming, or in the Mouth of Lions, even in the worſt Condition that could be imagined. I both pity and deſire to mourn for them, who have ſo deſperately wounded their own Souls and Conſciences to deſtroy my Life. And the Lord grant, that not one Drop of my Blood, which they have endeavoured to ſhed, may ſtand betwixt them and Mercy, when they are upon their dying Beds a crying for it. And this is the worſt hurt I wiſh them for all the wrong they have done me. Now the Lord of Heaven direct your Lordſhip, and this honourable Court, that you may not ſuffer the Witneſſes Teſtimonies to be ſtrained, for me to loſe my Life upon Circumſtances, or what is ſuppoſed to be, or in Conſcience thought, but according to clear Proof and Evidence. Do that which may give you Comfort upon a dying Bed, and no more than you dare look God in the face withal, and anſwer to me his poor Servant, who am innocent, at the Bar of the Lord Jeſus Chriſt, where I ſhall have free liberty to ſpeak, and you muſt and ſhall hear me. The Lord of Heaven direct you, that you do no more than what the Law will allow; and that what you do, may be according to the Mind of God, and moſt for his Glory, and the Good of me a helpleſs Priſoner at the Bar. And ſo let it go which way it will, I ſhall ſubmit with abundance of Content and Satisfaction, and with a quiet Spirit ſay, *The Will of the Lord be done.*

Thus having ended his Speech, the Court adjourned until Friday next; and ſo Mr. *Gibbons* was carried back by his Keeper, and ordered to be brought before them again on Friday after.

Friday, about Twelve o'clock, Mr. *Gibbons* was brought to the Bar.

Keble. COME, Mr. *Gibbons*, what have you to ſay?

Gibbons. My Lord, I have not much to ſay, being totally diſenabled, and cut off from thoſe Means that might help me to ſave my Life; which the laſt time I was here, I fully declared and as earneſtly deſired both a Copy of my Charge, and the Depoſitions of the Witneſſes, and Counſel aſſigned me: this I pleaded for, until your Lordſhip told me the Court would be incenſed, if I did not proceed to my Defence. Which made me dare to go no further, but rather chooſe to ſubmit to the Mercy of the Court, and make an Appeal to their Juſtice; where I deſired that you would ſeriouſly weigh and conſider how wonderful ſhort the whole Evidences come; there was not any two agreeing: *Adams*, the material Witneſs, moſt what he ſaid, was diſapproved by the other ſeveral Witneſſes that came after. I hope the Court is very ſenſible how little is laid to my charge by Major *Adams*, after ſo great an Inquiſition, as he daily ſet upon me, inviting of me to his Houſe in the City, to his Houſe in the Country, going from one Shop to another, where he thought I did come; to *Aldermanbury* Church, and all other places where he did hope to find me: after all this ſifting, and trying, what was it he got out? nothing but the hearing of Letters read, which none but himſelf ſwears. My Lord, all that I have to ſay, is to deſire both your Lordſhip, and this Court, to conſider with what great Aggravation the Attorney-General did multiply, and aggravate againſt me beyond all that ever the Witneſſes ſaid, leaving out all what might ſerve for my Advantage. My Lord, how the Attorney-General could bring Major *Alford* and Major *Adams* together, and ſo make them double

Witneſſes

Witneſſes againſt me; that is not poſſible for me or any Man elſe to underſtand. Firſt, what *Adams* ſays, is concerning of my bringing in of the rough Draught of Inſtructions, which I wholly deny, and ſo do all the Witneſſes that came after him, to the beſt of my remembrance: and ſome of them ſweat poſitively that *Drake* brought it in; none but himſelf ſays that I brought it in. To teſtify unto this, Major *Alford* ſays nothing: but all that he ſays, is, That I went down to *Graveſend* with him, and did not ſay or ſwear that I either carried the Inſtructions, or delivered them, or that ever I heard them read: all that he can ſay, is, that I went with them, but whether he or I delivered them, that he cannot tell. He ſpeaks of ſome Diſcourſe concerning ſhewing of Kindneſs to *Maſon*; it being a Year and half ago, I am not able to charge myſelf with what I ſaid then, but dare ſay he hath falſly accuſed me. What Major *Alford* ſays more, is only that I ſhould bring them to *Maſon*'s Chamber in the *Strand*, delivered not, nor ſays that we had any Diſcourſe at all, but took our leaves, and came away preſently. Another time, ſaid *Alford*, I brought *Maſon* to *Titus* to Mr. *Whitarr*'s a Bookſeller's, and that *Maſon* and *Titus* went up to the Chamber, where they had private Diſcourſe together: he did not ſay, that I went up to the Chamber, or heard, or knew any thing what their Diſcourſe was. Now, my Lord, I hope by this time both your Lordſhip and the Court are ſatisfied what ſlender Teſtimony there is againſt me. Firſt, my Lord, I was never heard of till I came to *Graveſend* with Major *Alford*; only ſomething that Major *Adams* ſaith of me, meeting at the *Swan*, which all the other Witneſſes do acquit and clear me from. Now, my Lord, to what Major *Alford* ſaith, is nothing but giving a Viſit to *Titus* and *Maſon*, which I hope will never be thought any Crime; for that neither of them both were declared Enemies to the State, and therefore certainly it could be no hurt for me to ſee them. And beſides, whatever Major *Alford* charges me withal, is a Year and half ſince, therefore am acquitted by your own Acts. So that it cannot enter into my Thoughts, by what Act of Parliament or Law you can paſs any Sentence againſt me: for all that ever is laid to my charge done within this Year, is nothing but hearing of Letters read: which not any one but Major *Adams* ſays, and he neither ſaith what theſe Letters were, and that I ever diſcourſed, or ſaid any thing concerning them. Thus, my Lord, you ſee there is but one ſingle Witneſs throughout. My Lord, I waited upon a Gentleman that led me to two or three Meetings, by which means I gained a nearer Acquaintance, which now proves part of my Unhappineſs, ſeeing it is become a Crime to meet Friends at the Club, and other Places, and hear Letters, and other News read, which is all that I am charged with. My Lord, I hope I am before a Court that doth conſider, that all thoſe Days Works will be judged over again; therefore I cannot imagine that any Court of Juſtice in the world will proceed to Sentence upon ſo ſlender a Teſtimony that lies before you, but that you will rather allow me thoſe Helps that may enable me to end the Difference that is betwixt the State and me: that is, to let me have a Copy of my Charge, the Depoſition of the Witneſſes, and Counſel aſſigned me; without which, it is as impoſſible to defend myſelf, as for a little Child to encounter an armed Man with a drawn Sword in his hand. My Lord, I have no more to ſay, but ſhall ſubmit to God, whatſoever comes; and as I ſaid before, ſo I ſay again, I do freely forgive the Witneſſes, but do deſire that the Court will not proceed upon ſo ſlight and ſlender Teſtimonies, which never can, nor will hold water in the ſight of God, or Law.

Keble. Mr. *Gibbons*, moſt of what you have ſaid now, you ſaid before, only you made ſome little addition. The Court hath debated your Buſineſs and Life, with as much care as if you were the greateſt Nobleman in *England*; and upon the Debate, they are perſuaded in their Conſciences that you deſerve to be ſentenced.

Attorn. Gen. My Lord, Mr. *Gibbons* pleads for his Life, and I for Juſtice in the behalf of the Commonwealth, therefore I deſire you will proceed to Sentence according to the Judgment of the Court.

Whereupon Sentence was read. After that, all the whole Charge was read, and Mr. *Gibbons* ſentenced as a falſe Traitor, to return to that place from whence he came, ſo to ſuffer Death, by having his Head ſever'd from his Body.

After Sentence, *Keble* ſpake in this manner.

Mr. *Gibbons*, you have nothing to do, but to prepare yourſelf for God; you have a great Acquaintance among the Miniſters, you ſhould do very well to ſend for them, and reveal what you know, and ſo do the State what good you can before you die. Have you any thing more to ſay?

But Mr. *Gibbons* ſaid not one word more, but took his leave of the Court, humbly bowing to them; and after that, he bowed to the Attorney-General, and took his leave of him, and ſo came down the Stairs with abundance of Cheerfulneſs, ſpeaking to his Friends, and ſhaking them by the hands. And in this manner he went along the Hall, until he took Coach to go to Priſon.

He was afterwards Executed, in purſuance of the Sentence on *Tower-Hill*, the ſame Day with Mr. *Love*, the 22d of *Auguſt*.

Being come upon the Scaffold, he ſpoke in the following manner.

Gentlemen,

I AM brought here to the Stage, where I am made a ſpectacle to God, to Angels, and to Men; an object of pity and compaſſion to my Friends, where they ſee before their eyes a Man in the prime of his years and in the flower of his youth cut off as an untimely fruit, and as a Tree that burdeneth the ground, therefore they are ſorry; but this is no new thing, it is God's ordinary way to ſuffer men to be caſt out, that he may receive them to Mercy; the poor blind man was thrown out, but he was received to Jeſus Chriſt; the three Children were thrown into the Furnace, but they were received to God; that was the way that he delivered them: Do not ſtand wondering at God's proceedings, whatſoever the Men be, yet I bleſs God to eternity; I take it well at his hands, though it ſeem ſtrange: It is God's ordinary way, and if it be, Chriſtians ſhould not ſhun any extremity, if it bring them to Jeſus Chriſt, and therefore I bleſs God, I come to this Scaffold, to this place, with as much willingneſs as ever Bridegroom did to receive his Bride: I know the paſſage of blood is but ſhort, and the way to the Crown; though my Head be ſevered from my Body, yet my Soul to all eternity ſhall be joined to the Lord Jeſus Chriſt; and I in the preſence of you all, deſire you to witneſs, that I from my ſoul deſire that the preſent Power and Court that is ſet up, have done themſelves no more hurt than they have done me; for I am aſſured that all that ever their Sentence hath done, hath put me in the way that I am going; from Earth to Heaven, from Friends, and Comfort, and Creature-relations, that of neceſſity ere-long muſt be left; and it were a great deal of folly to deſire that that we cannot keep; I am going to receive the end of my Faith, the reward of my Hope, the comfort of my Prayers, and of all the Prayers and Tears of God's People; where I ſhall enjoy the Society of all Believers, the ſight of God, the fellowſhip of the Saints, and embrace God to all eternity; theſe things none can take from me: Therefore why ſhould I deſire to keep theſe things that the Providence of God calls for? and therefore I need not ſtand grumbling and repining at God's Will: And I freely ſubmit.

I come not hither to tell a long Story, or to make a diſcovery of my Sins; the Lord knows (upon the examination of my heart) how many thouſands and hundred millions of Sins I have, and I deſire to pour out Floods of Tears for them; and I deſire that through the Merit of Chriſt, the atonement might be made to God for them. From my childhood I muſt needs ſay, I have been ſuch; I have ſeen a Father buried in the grave, and a Siſter, and a Wife, and a Child laid in the grave; but all that ever I could do to this day, could never put my Sins into the grave, with all my endeavours and all the afflictions and mercies I have had: It is an infinite comfort, though I enjoy nothing elſe; after this day I ſhall aſſuredly never ſin any more, nor grieve the Spirit of God any more, nor diſhonour God any more; I profeſs, though I ſhould not come to Heaven, it is a comfort to me that I ſhall not ſin and grieve the Spirit of God any more; Bleſſed be God to all eternity, I ſhall be out of the power of ſin.

This is not all, but further, ſince I can remember that I ſet my face towards God; from my childhood I have hedged in my way with thorns, that I might go the ſtricteſt and ſtraiteſt way, my way to bring me to the Lord Jeſus Chriſt; it is a wonderful Comfort, and bleſſed be God for this day's work; I profeſs I would not change my condition for ten thouſand worlds: I bleſs God I find the reward and benefit of the Prayers of good People in a wonderful manner; they have more cauſe to go home and ſeek days of rejoicing and days of praiſe, than to mourn and repine.

In the Biſhop's time I was one that was a Mourner, that lamented the Time and the State, and deſired to ſhed tears when the Church was under Affliction.

And truly, I further declare, that I have always been and gone upon Goſpel Principles; I have always deſired to apply particular Promiſes to my particular Condition: I know ten thouſand generals will do me no good, only particular Faith and application will do me good and ſtrengthen and ſupport me this day: I have always engaged upon pure Principles of religion to the beſt of my knowledge, and the utmoſt of my endeavours; I have always engaged upon thoſe Principles, from thoſe I never departed; and in thoſe Principles by God's Grace this day I ſhall die and come to ſeal with my Blood; I always owned the ways of God, when they were moſt perſecuted; I think an hundred, nay (I may ſay) a thouſand can tell, that I did never dare to ſave my Life, or my Skin, or any thing, to quit Religion, though it were never ſo much clouded, and deſpiſed, and diſdained; I do now this day rather a thouſand times willingly lay my Neck on the Block; believe it, I am a dying man, I chuſe it, and had rather have it, than enjoy the moſt glorious life and liberty with thoſe that are Betrayers of the Truth of God and a good Conſcience; O Sirs, believe it, carry it from a dying man: In the time of afflictions a good Conſcience will ſtand you in more ſtead, and more comfort, than a thouſand worlds: I bleſs God more that he now ſmiles on me, than if all the Emperors and Princes of the World did own me.

I have never been without a trembling heart, ſince the Spouſe of Chriſt was clothed in mourning; I always thought it my duty, and the leaſt I could do, to be in tears when the Church rolled in blood; and the Lord grant that every Chriſtian Soul may make it his work: It is the great breaking of my heart, that I could never get my heart to break enough, to ſee the Church of Chriſt in miſery: Though God have called, and Chriſt have called, and there was never ſuch calling; it wounds my Soul that I could never mourn more for the Church's afflictions, and the Lord keep all that fear the Lord and his Name, keep thoſe from days of rejoicing and thankſgiving for the death of thoſe that God owns, and will wipe all Tears from their Eyes, and thoſe God accounts their blood precious: Have a care of being of the Number of thoſe that rejoice over the heaps of the carcaſes of God's people.

I am now at the laſt brought to ſuffer death as an enemy to the STATE, though my Conſcience tells me I am a friend to the Lord Jeſus Chriſt, His Church, and Members; and though the *Jews* heretofore told *Pilate*, if he did let the Lord Chriſt go, he was no friend to *Cæſar*: Muſt I not ſay truly, my Conſcience bids me ſay it in the caſe I am in, whoſoever deſires to keep the Lord Jeſus, to keep Integrity of heart, and Innocency of life, and deſires to walk in an unſpotted life and converſation, whoſoever deſires to let theſe old broached Hereſies go, and draw their ſword for Chriſt, are not theſe declared to be Enemies to the STATE, and are againſt them that deſire to keep a good Conſcience; and if there be no Law of God to condemn us, (as the *Jews* ſaid) There is a Law found out, and by that Law he ought to die.

I will not make a diſcourſe of the manner of my Trial; ten thouſand Men, and Angels, yea God himſelf can witneſs the hard meaſure I had.

I am in Charity with all the World, the Lord of Heaven forgive them; I ſay nothing myſelf, only I will tell you what a Gentleman ſaid that

was

was an Eye-witness at my Trial, that knows all the Actions and Laws as well as any Man in the Place; He professed that he saw so much, that he would not have a hand in my Sentence for all the Gold that could lie in *Westminster-Hall*. I must say for mine own part, and in my Conscience I believe it, if they do not repent, the Lord will call them to an account for this Day's Work, I believe they have gone against God, and his Laws, and the Laws of Nations; I believe so, I speak not this from a bitter Spirit; the Lord of Heaven forgive all them that ever had a hand in it, as now I desire Mercy when I shall come before the Lord; I look upon them as a Company of poor Instruments that the Lord knows how to deal with, and will call to account; it will be time enough when they come to lie upon their dying beds: The Lord grant that my Blood may not stand between them and Mercy when they put up their Prayers, that nothing concerning me may stand in the way of all the Mercy that their Souls shall stand in need of: Truly, if you will believe me, I would not leave this Scaffold to enjoy all the Pleasures that this World can give, I would not change my Condition with them; not with my Witnesses, not with my Judges I would not change my Condition; my Conscience tells me, and so I speak, I forgive them, the Lord of Heaven lay not this great Sin to their Charge; let all the People of God so pray; they will one Day see what it is to lose a good Conscience; and that it is better a great deal to have the Light of God's Countenance, than to have a Conscience upon the Rack: They will one Day see, that there is nothing to be feared but Sin and Wrath; and what a Comfort and Happiness the Peace of a good Conscience is, the Lord shew it you.

I am brought here to die for Treason; for complotting against the State: and this is such a Treason as is proclaimed to all the World; such a Plot as was never before: blessed be God, I am of another mind; I should appear sadly before God, if my Conscience told me what hath been represented: But I must needs declare my Opinion without Offence to any; it is a pretended Plot, to beget a greater Plot: God grant that it be not so; a Plot, I fear, to destroy all Church-Government, and the Faithful of the Lord and the Godly: For other Plots I understand none; I profess in the Presence of God, I know of no Plot, or had a hand in any Plot: I would not for ten thousand Worlds be guilty of the Blood of any Man: I am sensible how many thousands, and ten thousand thousands of Sins I have committed, as the number of Minutes of one hundred thousand thousands of Days; that I am sensible of, and desire to bring them before the Lord to stone them to death, and to pour out Floods of Tears for them before this that I am to die: But I am put now to appeal to the righteous God, whither I am going, to stand before the Bar of an impartial Judge, that knows the Intents and Thoughts of my Heart, and what all my Endeavours have been, I never had any other Thought than the Honour of the Gospel and Religion, and to bring these precious things into the Channels that the Lord would have them in. This was my Desire.

Not long since I told a Gentleman (now in Heaven) that so great is the Wound that it breaks my Heart, to see the wonderful Scorn and Contempt that lies on the Face of Religion in the Eyes of Papists, Turks and Heathens, and all reformed Nations, that I profess I have sometimes wish'd to have swim'd out of my Chamber in Tears, and said to the Gentleman, that it was a Mercy if ever the Lord would find a Means to wash away the Stain of Scorn and Contempt of the Gospel, though it were with the Blood of his Ministers and faithful Servants: Who knows what this Day's Work may do? who knows what God hath for this Land? Let none despise the Day of small things; if it be Clay and Spittle, if God take it in his Hand, it shall cure the Blind: What do we know what the Blood of two Men may do to fill up the Measure of Blood? what the Blood of two Men may do towards all the Prayers and Endeavours of God's People? therefore be not troubled. But I pray give me leave: whatsoever is written concerning me, or the blessed Servant of God who is gone before me, and now singing Hallelujahs to all Eternity, this Day's Work will be written in Heaven, it will be written by the Lord Jesus: Suffering for God and Religion, confident I am you will find it so. I can look in the Face of God (excepting my Weakness and Failings) that in all this Business I had no ill Intention: you are to believe a dying Man: I am sensible what it is to die to God, to the Ocean of Eternity; to go to stand at his Bar: Believe me, believe me; I profess before God, Angels and Men, I know not what I die for this Day: whatever Reports do say, believe the Words of a dying Man: I am confident the *Odium* of this Day's Work (were an Angel of Heaven to write a Book) will never be washt off: that this Day's Work will lie upon some: the Lord grant they may see their Sin, and repent in time.

But let me say a little further: I confess I cannot but wonder, how the Men now in Power can look any Christian in the Face, my Conscience tells me, that it is the Original of all Plots, that hath torn the Nation asunder, and the Kingdom, and the Liberty, and the Profits asunder: whatsoever belongs to Christians and rational Men, is all torn from us; Have they not thrown the three Kingdoms into that Misery, that I am confident all the Enemies of the Church could not have done the like? but rather how shall they be able to look the great God in the Face, when he shall make Inquisition for Blood? To whose Door shall all the Blood of *England*, and *Scotland*, and *Ireland* return? Who knows not, that within these three Years there was the most glorious promising Morning that ever looked *England* in the Face? how comes it to pass that we have such Days of Trouble and Misery? God knows who hath had a hand and been Instruments in it. He knows that these are the Plotters with a witness: These are the *Egyptians* that all the People of God groan under: and all ——

Then the People interrupted him, and some said He is going to die with a Lye in his Mouth, Mr. Sheriff. *When they were quiet he went on thus.*

I must needs say, that the Blood that was shed in Queen *Mary*'s Days was a delightful Sight and Persecution, and it was a pleasant Sight to Antichrist in the Bishops Time, and there have been many delightful Sights of late that I will not speak of, because it gives Offence; but the most joyful sight that ever Antichrist saw, he beholds this day in the blood of the faithful Ministers and Servants of God; and now I come upon the Scaffold to fight this bloody Field, the Lord grant I may be enabled to overcome it.

I confess, I believe it is a sad sight to the People of God, to see all their Prayers, Fastings, and Tears come to this, to see the piercing Sword thrust into their Bowels; but I desire them to take heed of repining and murmuring: look who stands on the top of the ladder, and not on the next step; see God ordering and contriving all; look not at the hammer, but God; God is the best contriver, he knows what is best for you, and us, and blessed be his Name: I am come hither to witness of his Glory, there is none knows what Glory a suffering condition brings to God, and to his Saints, how many flowers it adds to their Garland, we should see as many run to it, as now shun it. When Christ shall come, and all shall call to the Mountains and Rocks to fall on them and cover them, what a blessed sight will it be for Christ to put forth his hand to them! If they saw but the infinite Reward Christ hath for them in Heaven, it would be sufficient to invite them to come in and suffer for the Lord; nay we may be ashamed we have done no more, nor looked after the gaining of that precious eternal Mansion, where we shall see God, and be in the arms of Jesus Christ, where we shall suffer no more, but enjoy an infinite weight of Beatitude and Glory.

Let the word of a dying man prevail; for the Lord's sake hold to the Truth, part not from the Truth; it were better that Heaven should fall, and the World be on fire, than that God should be dishonoured. The least Error is as a barrel of gun-powder that will blow up the Church and Kingdom; Error draws a Sword against Christ and his Truth; take heed of Error, lest you fall into a gulf that you can never come out of. Ask your own experience, how many Ministers and Professors have fallen into Error, and have gone away with guilt upon their Conscience, and a blot upon their Names: Error is like a chain, if the Soul would go to Christ, it cannot: Error is as a partition, under what gloss soever it come: though in the habit of a Saint or Angel, it is dangerous poison; be like *Athanasius*, own the Truth, though all the World were against it; or as *Martin Luther*, who set himself against all the power and force of Antichrist: own the Truth, though eminent Ministers and Professors that seem eminent in Faith and Grace fall from it, as many do.

I shall now suddenly conclude; I am very unwilling in my condition to speak any thing that may be offensive to any, I have only this to say, and I have done; whatsoever chargeth me neareſt, I am confident the Lord will one day clear my innocence; he hath written down the actions and proceedings, and he will one day shew it, and vindicate my name in the sight of all; there will be a Resurrection, and all Men shall be called to an account for all the Reproaches that have been cast upon the faithful of the Lord.

All the Churches of Christ are now in the furnace; the Church of *Scotland*, *England*, and *Ireland*; the Lord grant that all may mourn, and never dare to keep a joyful day, till the Church of Christ be delivered; for God calls, and Christ calls, and the Church calls; and I had rather be (and let all that fear God chuse rather to lie) in the Den of Dragons, than to be of the number of those that rejoice when the Churches of God are in Sorrow. The Sun shined upon *Sodom* a little while, but presently a shower of fire and brimstone came and destroyed them all; so the prosperity and flourishing state of the wicked is like that: the children of God may sit in darkness for a while, but they shall have light to eternity: wicked Men may rejoice for a moment, but there is an eternal night that will follow, that shall never be blown over: A child of God had rather that all the Lions in the Wilderness should roar, than to have God angry. What were it for a Man, though like *Alexander*, he had prosperity, and had as much peace and glory as *Pompey*, and did ride in as much state as *Cæsar*, when he is under the frowns of God that hates wicked Men, as much as he is hated of wicked Men? The Bush may burn, but it shall never be consumed; the Church hath been 5600 Years under burning, and persecution, and flame, but the Church shall remain to the end of the World.

Thus I have endeavoured to declare myself and my Conscience, though with much brokenness and distemper: and now I am to take my leave of the World, I have only this word to say, that you bear me witness, that whatsoever may be charged on me, or may be said after my death, I am confident God will own me for an innocent person; I never to the best of my remembrance had a hand or a heart, I had rather die a thousand deaths than ever to have a hand in the blood of any of God's People; and now God hath brought me hither and not Men, it is his hand; I again desire to forgive all the World, every Man's Person; the Lord grant that they may have mercy, and I desire, as now I desire Mercy, the Lord to forgive all their sins. I know all things are under God's Dealing and Commission, and this condition had never come to me if God had not seen it good; and though the Ax be so near, if I had more to do for God, and for his Church and People, he would do with the Ax, as he did with that of *Abraham*, God would take hold of it, and could, and blessed be his Name that he takes the ordering of it to himself, therefore I have a quiet Spirit, I have no discontent in the World: and now not to speak of Death, alas that is nothing; but of eternity that my Soul is now lanching into: I am now to enter into Eternity, where to stand with a naked Soul before God, whose Eyes are ten thousand times brighter than the Sun, that cannot endure to behold iniquity: I am now going to God, that will be as a consuming fire, and as armed thunder against me, if I did not see his infinite mercy, and my blessed Saviour standing between me and the Lord, presenting all that I do: if I had all the righteousness of all the Angels in Heaven this day to go to God the Father, woe, and ten thousand woes to me, if I had not interest in the Lord Jesus Christ; if I had the sin of all the Persons that are here, and that have been ever since the Creation, if I come and stand clothed this day with the Righteousness of the Lord Jesus, I am confident I should have pardon for them all, as for one; there lies my strength and my hope, and my happiness. All my Righteousness, and all my Prayers, and all my Performances, are but as filthy

filthy Rags; and should God draw out the best Sabbath that ever I kept, and the best Prayer that ever I made, and the best Syllable of that Prayer, it would be a Sin; I have Scarlet Sins, Sins of all sorts and ranks, I desire you that you would all mourn and help me this Day. Blessed be the Lord of Heaven for the Benefit and Support of the Prayers of God's People; I am persuaded that there was never any Man in my Condition, that went to Heaven upon the Wings of so many Prayers: Be ye all content, and go home and rejoice before the Lord, be certain that you keep a Day of Thanksgiving for this Day's Work, and our Souls shall bless God to Eternity for this Day's Work; there is not one Drop of Blood could be spared, if it could, it should have been kept; God knows how to answer your Prayers and Tears, though we must not be heard, he hath summoned us to come to the Arm of his Mercy, why do I stay from God longer? I bless God I am coming.

Now I shall only desire as *Samson* when he made his last Request, only this once help me; my call to you all is, that you would pray and mourn for me, this once help me; after a little while your Prayers will do me no good, nor your Tears will do me no good; therefore now for the Lord's sake help me off the Scaffold, lift up a Prayer to God for me, let there be some Compassion, you know not what Fightings may be in me; but I bless God, I hope to walk triumphantly to God presently, but do you act your Parts, your Strength, and your Interest, whatever your Prayers and Tears can do, help me, I beseech you now, for I shall never more need your Help.

And now is Christ taking notice what was cast into the Church's Treasure, he looked upon the Widow's two Mites, Christ is looking this Day who helps me a poor Creature, and supports me, and saith Christ, Is there none will help him? O pray help me to commend all my Conditions to God, that he would rebuke Satan, and make me die sincerely as a Christian, that I may willingly lie down on the Block, as I would to lie down on a Feather-bed after I am weary, that I may be willing to come to him; pray for me, that all the Graces that my Soul wants they may be strengthened.

Most glorious God, I now into thy Hands commend my Spirit, and all that is in me; O blessed God, I never was in want but thou didest relieve me, I was never in Distress but thou helpedst me, never, never, and I am confident thou wilt not leave me, till thou see my Soul in Heaven. O blessed Saviour! thou wentest up and down on the Earth, thou knowest what it is to suffer, what it is to be betrayed, what it is to be scorned and tempted; blessed Saviour, thou savest me when I was running from thee; wilt thou leave me now I come to thee? Lord Jesus, I commend all into thy Hands, hoping that after this Day I shall never suffer more, nor never pray more.

His Prayer being ended, he put off his Doublet, and askt for his Friend Dr. *Bastwick*, and embraced him: after that he embraced his Uncle, and others of his Friends on the Scaffold; then laying his Head on the Block, Dr. *Bastwick* came to him, and wish'd him to take off his Rings, which accordingly he did, by raising himself upon his Knees, and gave them to his Uncle; which done, he laid his Head on the Block, and holding up his left Hand, the Executioner at one Blow and a small Rase severed his Head from his Body.

XLIX. *The Case of Capt.* John Streater * *on an* Habeas Corpus, *at the Upper Bench in* Westminster-Hall, *November*, &c. 1653. Mich. & Hil. 5 Car. II.

The *Habeas Corpus* was read.

By the Keepers of the Liberty of England *by Authority of Parliament. To the Keeper of the Prison of the* Gate-House *in the Liberty of* Westminster, *in the County of* Middlesex, *or to his Deputy, These, Greeting. We command you that the Body of* John Streater, *in the Prison under your Custody detained, as it is said, together with the Day and Cause of his taking and detaining, by whatsoever Name the said* John *is called therein, you have before us in the Upper Bench at* Westminster, *Wednesday next, after the Morrow of St.* Martin; *to undergo and receive those things which our said Court of Upper Bench shall then and there order concerning him in this part. And this you must not omit at your peril. And have you then this Writ. Witness* Henry Rolle *at* Westminster, *the 12th of* Novemb. *in the Year of our Lord* 1653.

By the Court. *Ex.* Broughton.

Capt. *Streater*. My Lord, I desire that this Writ with the Return may be filed.

† *Judge*. What say you, Mr. *Prideaux?*

Prid. Nothing.

Judge. Let it be filed. Have you any Counsel?

Capt. *Streater*. Yes, my Lord.

Judge. What do you say to it?

Capt. *Streater*. I desire to have a Copy of the Return, and that I may be bailed.

Judg. It cannot be: you are committed by the Parliament, and you must shew Cause first.

Capt. *Streater*. I am ready: I desire to speak to it now, both I and my Counsel.

Mr. *Twisden*. I was a Counsel for the first part of the Return, but not for this.

Judge. What say you?

Mr. *Freeman*. I desire he may have a Copy of the Return.

Judge. Do so, and let him be here again on Friday next: let it be so.

Capt. *Streater*. I desire, my Lord, I may not be put to the trouble to sue for a new *Habeas Corpus*.

[And then Mr. *Streater* not being permitted to speak any more, he was taken away by the Marshal of the Court of the Upper Bench, and carried to the Prison of the Upper Bench in *Southwark*.]

Colonel *Barksted* then appeared upon Lieut. Col. *Lilburne*'s *Habeas Corpus*, and gave this following Reason for his not bringing the Body of Lieut. Col. *Lilburne*. ‡

'According to my Orders, my Lord, and the Return of the *Habeas Corpus*, I brought the Body of Lieut. Col. *John Lilburne* on Monday to the Court; at which time I was ordered to attend the Court again with him here as this Day. But this Morning I received an Order from the Council of State to the contrary: And here it is, my Lord.'

Clerk. *Wednesday*, Novemb. 23.

Whereas the Body of Mr. John Lilburne, *by an Order of Parliament, was committed to the Tower for the Peace of the Nation; and whereas there was an Order to the bringing of him forth thence to the Upper Bench this day: It is ordered by the Council of State, that they do not bring him, but that he there abide the Pleasure of the House.*

Mr. Lilb. *Couns.* My Lord, on Monday it was agreed that they should bring him again on Wednesday; and I have no Instruction from my Client, for I have no Access to him, nor he to me.

Judge. Well, pray advise with your Client.

Mr. Lilb. *Couns.* My Lord, I desire to have an *Alias Habeas Corpus*.

Baxt. I have only learned, my Lord, to obey Orders, and I shall obey them.

Judge. You do well. The Council of State have a Reason for what they do in this Business.

Mr. Lilb. *Couns.* My Lord, when must we attend at Court?

Judge. On Saturday.

The Return of the *Habeas Corpus* for Captain *Streater* being filed, the Cause of Imprisonment shewn in the Return was grounded upon two Warrants: first from the Council of State.

THESE are to will and require you to take the Body of Streater, *and him you shall safely keep Prisoner in your Prison of the* Gate-House; *he being committed for publishing of seditious Pamphlets against the State: Of which you are not to fail. And for so doing this shall be your sufficient Warrant. Given at the Council of State sitting at* White-hall, *the 12th Day of* September, 1653.

S. Moyer.
R. Tichburn *Presid.*
R. Lawrence.
John Hewson.

To the Keeper of the *Gate-House*.

The second Warrant was signed by the Speaker, by Order of the Parliament.

BY virtue of an Order of Parliament, bearing date this present 21st Day of November, *These are to will and require you to receive and take into your custody the Body of* John Streater, *and him to keep and retain in safe custody, until he shall be delivered by Order of Parliament. Whereof you are not to fail, as you will answer the contrary at your peril. Given under my Hand this 21st of* November, 1653.

To the Keeper of the *Gatehouse, Westminster.* Francis Rous *Speaker.*

Upon the reading thereof in Court, this Rule following was ordered to be entered.

Wednesday next after eight Days of St. Martin, 1653. *The* Gate-House, Westminster.

THE Defendant was this day brought into this Court, by virtue of a Writ of Habeas Corpus, *to undergo,* &c. *under the Custody of the Keeper of the Prison of the* Gate-House. *And it is ordered by the Court, that the* Habeas Corpus *and the Return thereof be filed, and that the said* Streater *have Copies of the said Writ and Return, and that the said* Streater *be committed to the Custody of the Marshal of this Court, and that he have the Body of the said* Streater *in Court upon Friday next, upon the Motion of Mr.* Freeman.

By the Court.

The second Appearance of Captain Streater, *on Friday the 23d of* November 1653, *by virtue of an* Habeas Corpus, *and the Rule aforesaid of the Court of Upper Bench of the 21st present.*

CAptain *Streater* being at the Bar, the Clerk read the Return, which was only the Keeper's Answer to the *Habeas Corpus*, which requireth him to shew cause why the Prisoner is detained in Prison. He in the Return citeth the Warrant, Order, or Mittimus for Commitment, and certifieth that is the Cause contained in them, and none other.

The Return being read, the Judge asked Captain *Streater* what he had to say to the Return, and who was his Counsel.

Capt. *Streater*. Mr. *Norbury*, Mr. *Freeman*, and Mr. *Twisden*, are Counsel with me.

Judge. What say you?

Mr. *Twisden*. I was a Counsel for the first part, but not for the second, for publishing scandalous Pamphlets. If there be no more in it, he may be bailed.

Judge. No, there is no more in it. What say you, Mr. *Freeman?*

Mr. *Freeman*. My Lord, as to the second part of the Return, it is in these words: *These are to will and require you to take into your Custody the Body of* John Streater, *and him safely keep, till he shall be delivered by order of Parliament.* My Lord, every Return ought to have these two things in it; the Cause and how long he shall be a Prisoner: and so you have it in *Magna Charta*, p. 54. My Lord, all Acts of Parliament against the Laws of the Land, are in themselves void. The Law is above the Parliament.

Judge.

* Style's *Reports*, 397. † *Lord Chief Justice* Roll. ‡ Style's *Reports*, 397.

Judge. Good Sir, do not ſtand to repeat theſe things before us.

Mr. *Freeman.* My Lord, I do know it; they may paſs their Acts according to Law, but not againſt Law. The Lord *Dyer* hath it ſo in his Reports.

Judge. When we are in examination of a Priſoner, will you come and overthrow the Acts of Parliament?

Mr. *Freeman.* My Lord, I refer it to your Lordſhip's Judgment, whether this Gentleman ought to be kept in Priſon without Cauſe ſhewn.

Judge. What ſay you, Mr. *Norbury?*

Mr. *Norbury.* My Lord, we muſt look to ſee if the Return be true: If it be not, we have an Action of the Caſe againſt them that made it falſe. And tho' we will not ſay that is falſe, yet here is no Offence recited at all: And, my Lord, all the Acts are the Acts of this preſent Parliament; and we look on them to be, or ought to be, for the Liberty of the People.

Judge. What have you to ſay to the ſecond part of the Return?

As to the firſt part of the Return, Mr. *Prideaux* ſaid he ſhould ſay nothing unto it; therefore the Judges adviſe Captain *Streater* to ſpeak to the ſecond part of the Return.

[Now for that the Argument that Captain *Streater* had prepared to ſhew the Inſufficiency of the firſt part of the Return, may be of great uſe, and fit for publick View, it is thought fit to be inſerted here; and after it, his Argument upon the ſecond part of the Return, the which he delivered with an audible Voice at the Bar: With the Attorney-General's Plea thereto, and the Judges Judgment thereupon.]

Captain Streater's *Argument to the firſt Part of the Return.*

MY Lord, I being brought to this Bar by virtue of a *Habeas Corpus*, which requireth (by virtue of the Law, which is the Supreme Authority of *England*, and only Authority of Parliaments, and all Courts of Judicature) the Cauſe ought to be ſhewn why I am detained a Priſoner upon the Return. The firſt Part mentioneth a Cauſe, tho' not a lawful Cauſe: the ſecond Part ſheweth no Cauſe.

My Lord, the Intent in Law of an *Habeas Corpus*, is to relieve Priſoners, notwithſtanding ſpecial Commands for Impriſonment, as appeareth by the Act of Parliament the 17th of the late King, intitled, *An Act for the aboliſhing the Star-Chamber, and regulating the Council-Table:* which ordaineth, that notwithſtanding ſpecial Commands for Impriſonment, the Party ſo impriſoned ſhall by a *Habeas Corpus* be brought before the Judges of one Bench or other. And if the Cauſe of his Commitment be legal, he ſhall be remanded to the Priſon from whence he came; if no Cauſe (that is to ſay, no lawful Cauſe) appear, then the Priſoner is to be ſet at liberty; if it be doubtful, then the Priſoner is to be bailed.

My Lord, with theſe agree the learned Arguments of Sir *Edward Coke*, Sir *Edward Littleton*, and Mr. *Selden*; together with the Reſolves of the Commons in Parliament (1628) thereupon.

And the ſecond Part of *Inſtitutes*, fol. 52. *The Warrant or Mittimus ought to contain a lawful Cauſe.*

The Writ of *Habeas Corpus* is the Water of Life, to revive from the Death of Impriſonment.

Sir *Edward Coke* in his third general Reaſon why a *Habeas Corpus* is to remove the Body, notwithſtanding of ſpecial Commands, ſaith, That *Impriſonment is accounted in Law a Civil Death, where a Man is deprived of Society, of Wife, Houſe, Country, Friends; and liveth with wicked and wretched Men.*

The Writ of *Habeas Corpus*, and the Benefit thereof by Law (which is the undeniable Right of every *Engliſhman)* is called *The High Point, the only Point.* Nay the Commons of Parliament of the 4th of the late King, in the Conference with the Lords, ſay that they had redeemed the Body of Liberty, by clearing this Point: that is to ſay, That in caſe one be committed by virtue of ſpecial Command, he ſhall have the Benefit of the Writ of *Habeas Corpus* to bring his Body, with the Cauſe, before the Judges of either Bench; where if it be found a lawful Cauſe, he ſhall be remanded; if no Cauſe, delivered; if it be doubtful, then to be bailed.

My Lord, I ſhall make it evidently appear, when I come to make my Exceptions, that there is no lawful Cauſe ſhewn in the Return to the *Habeas Corpus* why I ſhould be a Priſoner.

With your Lordſhip's Favour, I ſhall ſpeak one Word or two of the Law of *England*; I ſhall make uſe of it anon. It may not improperly be ſaid, it is written by the Finger of God: it is not unlike (in that where indeed the Perfection of it lieth) unto the Laws of the Eternal Lawgiver; which is, it is as well binding to the Lawgiver, as to thoſe that are to give obedience unto it.

Anno 42 *Edw.* 3. chap. 3. *No Man ſhall be proceeded againſt, but according to the old Law of the Land: There ſhall be nothing done to the contrary, if it be, it ſhall be void.*

If this ſerve not my turn, I am ſure there be enough that ſpeak the Language I would have them, that ſay, Be it ſo and ſo enacted, and not otherwiſe.

Firſt, I obſerve here they command Law.

Secondly, That they command, that none ſhall command otherwiſe but by Law.

God himſelf bindeth himſelf by his Laws: he is as well bound, as he bindeth thoſe ſeveral Beings he gives Laws unto, let them be Eternal, Moral or Natural. If he maketh a Promiſe, he performeth it: he muſt not, he doth not but perform it. If he create a World, and willeth it to continue, he muſt ſupport it in its Beauty and Strength, and by his Providence ſupport the ſeveral Beings in it.

My Lord, Law is Supreme; none ought to command contrary to Law. It is not, that he or they are ſuperiour that command, that therefore they ſhould be obeyed; no, it ought to be diligently enquired by the Inferiors, whether Superiors command Law, or not; if not, they are not to be obeyed. For that this is not a Rule amongſt Men, is the Reaſon ſo much of Abſoluteneſs and Tyranny is ſo much on foot in the World.

Camerarius mentioneth a Story of *Henry* II. of *France*, his committing to Priſon an *Italian* Lackey, and ſhewing no Cauſe of his Commitment. The Judges viſiting the Priſoner, commanded that he ſhould be delivered. The King again committed him, and commanded that he ſhould be executed. The Judges notwithſtanding the ſecond time opened the Priſon-Doors for him, for that the Law warranted them for ſo doing.

Henry III. of *England*, commanded *Ralph Nevil* (Lord Keeper or Lord Chancellor) to deliver the Great Seal. He refuſed it, becauſe it was to be diſpoſed of by the Common-Council, or Parliament of the Kingdom. This is atteſted by *Matthew Paris*, and *Matthew* of *Weſtminſter.*

Thomas late Lord *Strafford*'s Plea, That *what he did, was in Obedience to his Superiour, the King his Maſter*, could not protect him from condign Puniſhment, for that he had tranſgreſſed the Law.

Plutarch ſaith, the *Spartans* were happy in their King *Ageſilaus*, who had ſuch a reverend Eſteem of Law, that he gave Obedience to a ſmall Scrool of Parchment, which was the Summons of his Country for his Appearance.

That which will make us happy, muſt be our Laws; not Men, Councils, or Courts. *Ariſtotle* ſaid, That it is better to govern by good Laws than good Men.

My Lord, our Laws are good; they are (as to the intent) the only preſerving Laws in the World: they are the Strong-holds, the Bulwarks to the weakeſt.

Edw. 6. *fol.* 36. The Law is called, *The Inheritance of every Subject.* It is the Inheritance of Inheritances; and without which Inheritance, we have no Inheritance: we ſhould be but as Tenants at Will, to be turned out of Life, Liberty and Eſtate, at pleaſure.

My Lord, withal, the Law ſignifieth nothing at all, if there be not a way to obtain the Benefit thereof; the which ſhould be as certain and unalterable as the Law itſelf. And therefore I think that the Statute of 42 *Edw.* 3. *chap.* 3. is meant a Proceeding by Record, when it ſaith, That *no Man ſhall be proceeded againſt, taken or impriſoned, but according to the old Law of the Land.* The ſame Opinion may paſs of the 29th *chap.* of *Magna Charta*, which is but an Expoſition of the good old Law of the Land.

Mr. *Selden*, in his Argument at the Conference of the Lords and Commons, 1628, ſaith, *The Law is of no Benefit, if that the way be not open to obtain the Benefit of the Law.*

In all which, Proceedings by Diſcretion are juſtly reproved; for they are of evil Conſequence, as witneſs *Empſon* and *Dudley* in *Henry* the Seventh's Days, by whom *the Subjects were grieved*, my Author ſaith.

My Lord, juſt Proceedings are as neceſſary as juſt Judgments.

It is Juſtice that ſaveth and defendeth a Nation, that maketh it happy, fruitful and proſperous.

The Frontiers of a Nation may be guarded with Men at Arms, but it will not be preſerved thereby: it muſt be Juſtice in the midſt of it: *If there be but a Man that executeth Juſtice and true Judgment*, he ſhall ſave the City.

There may be good Reaſons given for it. Injuſtice diſcontents a People; and uſually the Foundations of Changes are laid upon the Diſcontent of the People.

My Lord, I ſpeak not this as reflecting on this Court, or out of Fear of Injuſtice at this Time or Place; no, but only as laying a ſure Foundation for my Exceptions.

If the Law be Supreme, and not to be varied from in the leaſt Tittle, then it is a ſufficient Sanctuary. Unleſs this be granted, all my Exceptions will profit me nothing.

I ought not to be remanded, becauſe it cannot but appear I have been proceeded againſt not according to the Law of the Land, which is my Right; and if my Right, every Man's Right; and if not my Right, it is no Man's Right.

42 *Edw.* 3. chap. 3. *None ſhall be proceeded againſt, but by Preſentment, or things of Record, according to the old Law of the Land.*

It is not the Law of our Kings, but the Conſent of our Forefathers: Theſe are our Privileges, and the preſent Power hath declared they will be tender of them.

The Writ is by Authority of Parliament.

This Privilege of an *Habeas Corpus* putteth the Difference between the Villain and the Freeman.

My Lord, I ſhall now make my Exceptions to the Return.

Firſt, The Return is too general, and ſheweth not lawful Cauſe why I ſhould be impriſoned.

I doubt not but to make it appear; and if ſo, I ought to be ſet at liberty without Bail.

The Act of the 17th of the late King provideth, That *if no Cauſe be ſhewn* (that is to be underſtood, a lawful Cauſe) *then the Priſoner ſhall be diſcharged.*

A Priſoner is not diſcharged, if he be bailed, for that he is a Priſoner to his Bail; and if bailed, then it is to be ſuppoſed a Cauſe, though ſuch upon which he may be bailed.

The Cauſe of Impriſonment ſhewn in the firſt Part of the Return, is for *a Seditious Pamphlet againſt the State:* It doth not name wherein it is ſeditious; it doth not name what Books or Pamphlets.

2 *Part Inſtit. fol.* 591. on the Statute of 1 *Edw.* 2. Sir *Edward Coke* ſaith, That the *Mittimus or Warrant muſt contain the Cauſe, though not ſo certainly as the Indictment ought; yet with ſo much convenient Certainty, as that it may appear judicially what the Offence is*; as for ſtealing a Horſe, or the like. And this is according to Reaſon, which is the Mother of Law; which hath had good Authority at this Bar, and now hath, and I hope ſhall have.

As by Variety of Natures, and Forms, and Names, ſeveral Beaſts are diſtinguiſhed; ſo Variety of Titles do diſtinguiſh Books or Pamphlets. And for that there is or hath been as many ſeveral ſorts of Books or Pamphlets diſtinguiſhable by their Title or Name, and Matter or Subject, wherein they are ſeditious, as there are ſeveral ſorts of Beaſts diſtinguiſhable either by their Nature, Name or Form: therefore if it be needful, if a Man ſteal a Horſe, that the Warrant or *Mittimus* ſhall

ſay,

say, the Imprisonment is for stealing a Horse, and not for stealing of a Cow, the same will hold good for a Cow, Ox, or any other Creature or Thing.

If so, it had been as needful for the Return to express what Pamphlets or Books, either by Title or Name, Matter or Subject; for that there are, or have been as many several sorts of seditious Pamphlets (so accounted) within these few Years, of several Titles, as there are several sorts of Beasts in the World. And therefore seeing the Return doth not shew for which of them I am imprisoned, it must be presumed, there is not Cause for my Imprisonment. Generals are nothing in Law.

Again, my Lord: Sir *Edward Coke*, 4 *Part Instit. fol.* 39. *chap.* 1. *High Court of Parliament*, there in these words, saith, That by order of Law, a Man cannot be attainted of High-Treason, unless the Offence be in Law High-Treason. He ought not to be attainted by general Words of High-Treason by Authority of Parliament, (as sometime hath been) but the High-Treason ought to be specially express'd.

This is so plain, it need not be pressed further.

Likewise the Resolution of the Commons in Parliament, the 4th of the late King, resolveth, That notwithstanding special Commands for Imprisonment, if there be not lawful Cause of Imprisonment shewed upon the Return of a *Habeas Corpus*, that then the Prisoner shall be acquitted.

I have plainly made it appear, that there is no lawful Cause; yet notwithstanding I shall back it with Reasons that shall carry sufficient Authority with them, to prove my Assertion, That there is not lawful Cause, and to prove that my Imprisonment hath not been according to the Law of the Land, as is provided in the Act of the 17th of the late King, 42 *Edw.* 3. *chap.* 3. 25 *Edw.* 3. *chap.* 4. and *Magna Charta*, *chap.* 29. All which command but the Law, or are rather but Expositions of the Law.

And seeing the Parliament hath left this Court open for any to be relieved, I pray to be relieved.

My Lord, I ought to be proceeded against by due Course of Law.

The Act of the 20th of *September*, 1640, provideth, if it be for treasonable and seditious Pamphlets, the Party shall suffer such Penalties as are by the Law of the Land provided. By which it appeareth, that they intended no otherwise a Man should be proceeded against in this case, but by due Course of Law; which is to be by Presentment before Justice, or Thing of Record; as 42 *Edw.* 3. *chap.* 3. at which time it is usual the Accusers and the Accused are face to face, and there they the Accusers do aver, that that is the Man that hath so and so offended; else how shall it be known that this or that is the Man meant by the Accusers.

Besides, my Lord, *Anno* 10 *Eliz. chap.* 6. it is provided, That two Witnesses be as well at the Indictment as the Arraignment.

Indictment is an Accusation against a Man; and it is upon Accusation the *Mittimus* is made for Commitment. It is fit a Man at his Commitment do know his Accusation and Accuser; if he do not, he cannot make his Defence. It is not fit he should be deprived of any Advantage of that kind.

Festus (Acts xxv. 27.) saith, *It seemeth not reasonable that he should send* Paul *to* Augustus Cæsar, *without shewing Cause of his Imprisonment.* There was Cause, but not a lawful Cause; for he saith, *He might have been acquitted, if he had not appealed to* Cæsar.

If it should be objected, That a Privy-Council may, for several secret Reasons of State (if they please) commit Men, and shew no Cause, or at least not so particular as the Law requireth; Sir *Edward Coke*, 2 *Part Inst. fol.* 199. sufficiently answereth that, and saith, That *the Law admitteth not of Matters of Pleasure.*

My Lord, that good Maxim, That *the Safety of the People is the supreme Law*, hath been misinterpreted by some that would have it thus: That if any by their Endeavours do threaten Disturbance to a Government, and that they conceive it safe to take away those Disturbers Lives, or their Liberties, in order to prevent those Mischiefs they apprehend they may be instrumental in: if they cannot do it by Law, then they may repair to extraordinary Courses.

Mr. *Sadler*, in his Book, intitled, *The Rights of the Kingdom, and Customs of our Ancestors*, reporteth, That the old *Saxons* had a Maxim, That *high or extraordinary Justice is Injustice.*

My Lord, an Injustice doth a Nation or State more Mischief and Hurt, than all its private and open Enemies can do.

Now having proved that there is no lawful Cause shewn in the Return why I am detained a Prisoner, I shall present your Lordship with my second Exception, which is, That there is not alledged the Time nor Place where the Crime was committed, that is the pretended Cause of my Commitment.

My Lord, I shall not insist upon Matter of Fact to any other end, than to shew the Insufficiency of the Return.

And that the Law intendeth that Cause, nay, lawful Cause should be shewn of Commitment, in the Warrant or *Mittimus*, upon the first committing, the Cause of Commitment, may the better prepare his Defence; the which the Law intendeth not to deprive a Person of: the which he should be deprived of by such Returns.

I shall shew your Lordship wherein first it may be alledged that I did commit a Crime at *London* such a time, when I was at *York*.

Mirrour, Chap. 3. Sect. 23. *One that is appealed of Maim, may plead that he was sick at that time.*

My Lord, many times such Circumstances are the Standards to measure the Truth or Falshood of an Accusation.

I shall first offer something to prove, that the Place where the Cause of Commitment was committed, ought to have been shewn in the Return.

Page 621 *Fitz-Herbert*, *Natura Brevium*, of a Writ of Mainprise, it is in the Beginning of the Writ thus; *The King to the Sheriff*, &c. *of the part of* A. *taken and detained in our Goal at* G. *for certain Larcenary of a Horse at* S.

Now, my Lord, here is the place alledged.

Sir *Edward Coke*, 2 *Part Instit. fol.* 37. saith, That *Appeals ought to contain, 1st, The Fact: 2dly, The Year: 3dly, The Day: 4thly, The Hour of the Day: 5thly, The Place where the Fact was done.*

Here are many Certainties, but the Certainty of Time and Place are not to be omitted; they are two Essentials.

So that if Time and Place be not shewn, when and where the Crime was done, that is alledged to be the Cause of Imprisonment, it may be concluded that there is no Cause if it was done at no Time, nor no Place.

Another Reason why the Time when the Crime was committed, that is the Cause of Commitment, ought to be shewn in the Return, is this: If it were granted that it was so, that I did publish seditious Pamphlets or Books; it may be done seven Years since, for ought that appeareth in the Return.

That the Time when the Fact was done, ought to be shewn, appeareth evidently by the Provision that is made in the Act of the 20th of *September* 1649, intitled, *An Act for preventing of scandalous and seditious Books and Pamphlets. Provided always, and be it enacted, That no Person or Persons shall be molested and impeached for any of the Offences mentioned in this Act, unless he or they be thereof accused within six Months after his or their Offence so committed or done.*

Then 13 *Eliz. chap.* 1. it is provided, That *none shall be sued, troubled or molested for any of the Offences contained in that Act, unless they were accused thereof within six Months, if the Party or Parties were not out of the Realm.*

Now for ought there appeareth in the Return the pretended Cause of Imprisonment was committed seven Years since; and it may be as legally presumed to be six or seven Years since, as four Months since. And if so, then I am clear by virtue of those Acts I mentioned: they concern seditious and treasonable Books or Pamphlets. In a doubtful Cause, it is better to acquit the Guilty, than to condemn the Innocent.

My third Exception is, That the Conclusion of the Return ought to be according to Law, and have these Words; *To be delivered by due Course of Law.*

By which is to be understood *speedily*, at the next Goal-delivery. It is not by the Return said by what I shall be delivered, nor when, whether ever or never delivered; it seemeth to intend a perpetual Imprisonment, the which is utterly against the Law of the Land.

2 *Part. Instit. fol.* 315. *chap.* 9. on the Stat. *Gloucest. Expedition ought to be used, to prevent long Imprisonment. Imprisonment should be but till the next coming of the Justice. And* (saith he) *it is the Mercifulness of the Law of* England, *that it willeth that none be ruined by long Imprisonment.*

And therefore the afore-mentioned Writ of Mainprise (cited in *Fitz-Herbert's Natura Brevium*) seemeth to take up a Complaint, That the People are not only grieved with wrong Imprisonment, but more especially with long Imprisonment, in these Words; *And him by such Mainprise from the Goal aforesaid hast delayed to deliver, to the no small Loss and Grievance of him the said* R. *and manifest Peril of his Life.*

Brooks's 9 Report in *Powler's* Case, and in the end of the Writ, hath these Words; *That the Subject be not detained so long in Prison, as till the Justice shall come in Eyre.*

By all which appeareth, that the Law relieveth against long or perpetual Imprisonment, as also against Imprisonment without lawful Cause, notwithstanding that it be by special Command.

My Lord, my Life nor Liberty cannot be taken away, but by Law; nor given unto me but by Law. It is a good Maxim, *If we keep the Law, the Law will keep us.*

It would be sad if a Man should be necessitated to plead his Cause by the making of Friends, when the Law shall not be sufficient to plead in his defence, and when Life and Liberty shall be disposed of at pleasure.

It is provided against in 2 *Edw.* 3. *chap.* 2. *of Charters of Pardon*; where it is ordained and enacted, *That such Charters shall not be granted, but only where the King may do it by his Oath*; that is to say, where a Man slayeth another in his own Defence, or by Misfortune: This the Law warranteth to be done.

Now having proved, that there is no lawful Cause shewn in the Return why I should be a Prisoner, together with the Insufficiency of the Return: if so, it is my Privilege by Law to be discharged and acquitted.

And the present Power hath declared to be tender of our Rights and Privileges: We have no Rights, Privileges or Properties, but what we are instated in by the Law: if so, then it is my Right not to be deprived of what the Law doth allow me. Your Lordship is a Judge of the Law.

Captain John Streater's *Argument to the second Part of the Return.*

My Lord,

AS to the second Part of the Return, that mentioneth an Order of Parliament, I make this Exception, *That it doth not mention any Cause at all of my Imprisonment.* And seeing it doth not shew Cause, it is of less Strength than the former Part of the Return, wherein is Cause shewn, though not a lawful Cause.

And therefore there may be no more, but only the bare reading of it to shew the Insufficiency of that part of the Return.

But here, if it should be objected, That it is grounded upon an Order of Parliament, and that the Parliament are not bound to shew a cause:

Truly, I am of Opinion that the Parliament would not own any one that should so argue, it being so perfectly repugnant to their Honour, it being condemned in Parliament within our Memory, as unjust, illegal, unreasonable, and perfectly contrary to Law; and Law is the only Scepter of Senates, Parliaments, Councils, Empires, Kings, Princes, Governours and Magistrates.

The late Parliament in their Declaration upon declaring *England* a Free-State, (*March* 17. 1648.) say, That *their only Authority is by the Law.*

Again, they say that they are sensible of the *Excellency and the Equality of the Law of* England: Also, That they should uphold the true approved Rules of the Law of *England*; and that the good old Laws and Courts of Justice, and the Custom of *England*, are the Badges of our Freedom, Rights and Privileges.

And this Parliament hath declared, That they will be tender of our Rights and Privileges; the which we enjoy by our Laws.

29 *Chap.* Magna Charta; *None ſhall be taken or impriſoned, but by a legal Proceeding, according to the old Law of the Land.*

The words, *None ſhall be taken*, imply, that none ſhall take or impriſon any contrary to Law.

And it cannot be denied, but the Law intendeth the Protection of innocent Perſons in Freedom: And there being no Cauſe ſhewn in the Return, let the Command come from whence it will, the Law will warrant a Diſcharge.

If it be by Order of Parliament, if the Order ſhew not Cauſe of Impriſonment, not a Cauſe only, but a lawful Cauſe.

Parliaments ever made Laws, but the Judges of the Law judged by thoſe Laws.

Who will queſtion but that the Warrant of a Juſtice of Peace, ſhewing lawful Cauſe of Impriſonment, is of greater Force in Law, than an Order of Parliament ſhewing no Cauſe of Impriſonment?

But, my Lord, the Parliament is here; it is their Authority that I apply myſelf unto; there is nothing can be done here but by their Authority; that is to ſay, the Law.

And therefore the Law, and ſeveral Acts of Parliament, as that of the 17th of the late King, and divers others ſay, That I ſhall be diſcharged.

Shall an Order of Parliament over-rule Laws, Statutes, Cuſtoms, Uſages and Reaſon?

No, my Lord, doubtleſs the Parliament's Intention in ordering that I ſhould not be delivered but by Order of Parliament, is, That I ſhould be delivered by Order of Law, as I here expect now, and do not queſtion in the leaſt.

Order of Law may be reckoned as the comelieſt of all the Parliament's Orders.

Surely none will alledge, that the Parliament intendeth to ſtop the Proceedings of Law that may relieve me; or that this Order of Parliament is ſuperior to Authority of Parliament that is judicially in this Court.

My Lord, the Inferior muſt give way to the Superior. The ſame Reaſon that the Commons in Parliament, of the 4th of the late King, judged of the Invalidity of the Record in *James Dameſtris* and *Cæſar*'s Caſe; for that it was not argued or debated, it was not of Weight to be a ſufficient Record: The ſame Reaſon, I ſay, may be given for an Order of Parliament not to be in force againſt an Act of Parliament.

An Order of Parliament hath but the ſame Proportion with an Act of Parliament, that a verbal Command hath with a Command by Record; for that there are not the Debates, Deliberations, and three Times of reading of an Order of Parliament, as is at the eſtabliſhing an Act of Parliament.

My Lord, beſides, any rational Man will think that the Wiſdom and Prudence of the Parliament is ſuch, that they will not lay up ſuch a Portion for their Succeſſors and Children, as a Record that ſhall be a Law or Precedent to After-Ages, that ſhall be in effect, *That* J. S. *was remanded to Priſon, by the virtue of an Order of Parliament, when no Cauſe is ſhewn in the one part of the Return, nor lawful Cauſe in the other.*

When the ſupreme Authority of Parliament, the Law, and Acts of Parliament that contain Law, ſay expreſly, That *if no Cauſe* (or lawful Cauſe) *be ſhewn in the Return for Impriſonment, that then the Priſoner ſhall be ſet at liberty.*

And *Anno* 20 *Edw.* III. *cap.* 1. That *if Commands come to the contrary, Judges ſhall not ceaſe to do even Law and Right.*

Beſides, Sir *Edward Coke*, in the 4th Part of his *Inſtitutes*, *cap.* 10. *High Court of Parliament*, intimateth that an Act of Parliament is not pleadable in a Court of Record, but by Record, or under the Seal. And Mr. *Sadler*, in his Book, entitled, *The Rights of the Kingdom, and Cuſtoms of our Anceſtors*, ſaith as much. Then much leſs an Order of Parliament, that is not recorded upon the Rarliament-Rolls itſelf.

My Lord, it is not to be imagined, neither do I think, that the Parliament expected that their Order (the inferior part of their Power) ſhall take place of the ſuperior Part of that Power, the Law and Acts of Parliament that command Law, which is judicially here, as I ſaid before.

My Lord, all Acts of Parliament that are unrepealed are their own: They are not theirs, when they diſown them by repealing. Until then they are with *not otherwiſe* in force, and are Law.

My Lord, a Parliament, as they command Law, may be called the Wiſdom and Reaſon of the Nation.

Anno 4 *Hen.* VII. *cap.* 12. The Law is called the *Policy of the Nation.* Indeed it is ſo: Juſtice is the beſt Policy, as I ſaid before.

None can demonſtrate what Juſtice is, without the Law be as the golden Mete-Wand, that Sir *Edward Coke* cautions Parliaments to leave all Cauſes to be meaſured by, 4 *Part. Inſtit. fol.* 41.

Upon the Queſtion of *Henry* VIII. to the Judges, *Whether a Man might be attainted of High Treaſon in Parliament, and not to call him to his Anſwer?* the Judges Anſwer was, *That an inferior Court could not in Law or Juſtice do ſo:* And their Opinion was, *That the higher the Court is, the more juſt they ought to be.*

It is not to be ſuppoſed that a Parliament will act contrary to their Wiſdom and Policy, which is the Law: or that they would have their inferior Power take place of their ſuperior Power.

Neither will the Parliament plead againſt me with their Power, no ſurely, but by Law, legally; elſe they would have nailed up my Priſon-Doors with armed Men, and never have ſuffered me to come to this Bar. And if that they had not intended that I ſhould have been acquitted, they doubtleſs would have ſhewn Cauſe. I know there can be no lawful Cauſe of Impriſonment ſhewn againſt me.

My Lord, *Job*'s Friends, they tell *Job*, that becauſe he was guilty, in their Opinion, in the ſight of God of Sin, *Job* xxii. 4. *Will he* (meaning God) *reprove thee for fear of thee? Will he enter with thee into Judgment?* As much as to ſay, That God would cut him off from amongſt Men, becauſe he was ſinful, and God powerful. But ſaith *Job*, (*Chap.* xxiii. 3.) *O that I knew where I might find him, that I might come to his Seat! I would order my Cauſe before him, and fill my Mouth with Arguments. I would know the Words which he would anſwer me, and underſtand what he would ſay unto me. WILL HE PLEAD AGAINST ME WITH HIS GREAT POWER? NO; but he would put Strength in me. There the Righteous might diſpute with him,* &c. And, *Chap.* xxxviii. *ver.* 22. God ſaith, *Gird up thy Loins like a Man, for I will demand of thee, &c.* And here God declareth his Power and Wiſdom viſibly in the Creation of Creatures great in Magnitude, as the *Leviathan*; ſweet in Influence, as the *Pleiades*; Swiftneſs and Courage of the Horſe in the Day of Battle; and ſo of the whole Creation. That this great and glorious Eternal God, that gave a Being to all Beings by one only Conception of his Mind; he willed them to be, and they were: This God, you ſhall find, pleaded with *Job* by and by, in *Chap.* xlii. *ver.* 4, *Hear, I beſeech thee, and I will ſpeak; I will demand of thee, and declare thou unto me.*

My Lord, will the Parliament plead againſt me with their Power, that is to ſay, what they may do? Surely they will not; but rather ſtrengthen me, by affording me the Benefit of the Law at this Time and Place; which is the utmoſt of what I do expect, and the which they ought to do. By the which I ſhall arrive at my Liberty, which is my Right by Law, in regard there appeareth no Cauſe in the one part of the Return, nor lawful Cauſe in the other.

My Lord, I have ſeen the Copy of an Order of Parliament, bearing Date the 21ſt of *November* preſent, that ſaith, *That* John Streater *be and do ſtand committed to the Priſon of the* Gate-Houſe, Weſtminſter, *in order to a Trial; and that Mr. Speaker do iſſue a Warrant accordingly.*

Without doubt this is the Trial intended by the Parliament, here at this Place, to try whether there be Cauſe of Impriſonment, or not.

The Innocent need no other Trial.

The Cauſe that is already ſhewn in the firſt part of the Return, is to be ſuppoſed true, and all the Cauſe that was to be ſhewn, and none other; for that the ſecond part mentioneth no Cauſe at all. And if there had been lawful Cauſe ſhewn, it is not to be denied but it had been of force.

By all which it appeareth, that they intended me the Benefit of the Law; which ſpeaketh this Language, That *the Innocent ſhall be acquitted.*

My Lord, an Order of Parliament is but as the firſt Thoughts of a Man, by which he intendeth this or that.

An Act of Parliament, and the Law, is like the ſecond, third, and fourth Thoughts of a Man, wherein he altereth his firſt Reſolutions, formed by his firſt Thoughts, unto more ſafe and better Reſolutions.

And it is not contradictory to himſelf at all, nor never a whit below him.

My Lord, here are the Parliament's ſecond, third, and fourth Thoughts judicially in this Court: It is Law digeſted by Councils, Debates, Time and Practice, into Safety and Conveniency. The which is for their Honour to act by: The Benefit thereof I pray.

My Lord, the Return ſaith, *I ſhall not be delivered but by Order of Parliament.* The Order of Parliament ſaith not ſuch a Word, but to be committed *in order to a Trial*; at which I am.

My Lord, the Return ſaith, *I ſhall be committed Priſoner to the* Gate-Houſe *by Order of Parliament.*

The Authority of Parliament, the Law judicially in this Court, hath committed me Priſoner to the Marſhal of this Court; ſhall this be called a Contradiction to the Order of Parliament? No, ſurely it will not ſtand ſo in the Opinion of this Court.

Neither can it be called a Contradiction to the Order of Parliament, if I ſhould be diſcharged of my Impriſonment; becauſe the Authority of Parliament, the Law, ſaith, *If there be no Cauſe of Impriſonment, I ſhall be diſcharged.*

The Law intendeth but three Things only to defend, in which all elſe is comprehended: They are Life, Liberty, and Eſtate.

Liberty is the chief: Not a Liberty to do what one liſts, either in obeying, or in commanding; but a juſt preſerving Liberty, that ſhall be for the Good of Society.

It was this that our Forefathers and we have contended for by Arms: And being victorious, will the Parliament deprive us of the Benefit of the Law, which is the Ornament of our Trjumph?

No, my Lord, they have declared to the contrary that they will not.

Something of the like nature may be concluded from the Anſwer of the Council of State to my Keeper: The Keeper of the *Gate-Houſe*, when he deſired of them to know their Pleaſure, whether he ſhould allow the Writ of *Habeas Corpus*, or not, in regard I was a Priſoner by their Command; their Anſwer was, They would leave it unto him. As much as to ſay, They intended not to deprive me of the Benefit of the Law.

My Lord Chief Juſtice *Hyde* is not now on this Bench, who once was, and to his Shame did deliver in effect this Judgment, That for ſeveral Reaſons of State, the King may do or act contrary to Law.

My Lord, I have power to kill this Gentleman next me, but not by Law.

It did better become Mr. Attorney-General *Heath*, in his pleading for a corrupt Intereſt (in the Cauſe of Sir *John Heningham*, and others) at this Bar, to alledge, That the King may act above and contrary to the Law; than Mr. Attorney-General *Prideaux*, that is to plead in behalf of a State, that ſome ſuppoſe are laying a Foundation of the Kingdom of Chriſt. If he ſhould, it would be the grandeſt Inconſiſtency that poſſibly could be, to what they have declared, namely, Tenderneſs of our juſt Rights and Privileges.

The which Declaration hath invited a national Expectation thereof: The which ſhould be a ſufficient Law to them to do nothing that might deprive any Individual, though the moſt inferior and inconſiderable Part or Perſon of the Whole; becauſe they were comprehended in the Whole, unto which the Promiſes were made.

My Lord, upon the Agreement of ſharing the *Roman* Empire made between *Octavius*, *Antonius* and *Pompeius Sextus*, it fell out that they agreed to feaſt aboard of *Pompeius*'s Admiral-Galley, lying at an Anchor off the Head of Mount *Miſena:* And when they were all aboard and merry, *Menas* the Pirate came and whiſpered *Pompeius* in the Ear; *Come*, ſaith he, *ſhall I cut Cable, weigh Anchor, and ſet Sail, and not only make thee Lord of* Sicily *and* Sardinia, *but of the whole Empire alſo? No*, ſaith noble *Pompeius*; *I have not learned to break Faith, although it were to the gaining of an Empire.* When he had invited them to a Banquet, they ſhould not be deprived of what they expected by Impriſon-

ment, or Loss of their Shares of the Empire: Such Advice and such Practices do better become Pirates and Thieves, than Persons of Virtue and Honour; the which was in his power to have done.

My Lord, seeing, as I say, that the Parliament did at the first declare that they would be tender of our Rights and Privileges; and seeing it is our Privilege to have the Benefit of the Law; and seeing the Law saith, *That if there be no Cause, there shall be no Imprisonment*; and in regard there is no Cause shewn, why I should be a Prisoner: I do aver that the Parliament cannot have greater Dishonour put upon them, than for any one to alledge that they intended Imprisonment to me, if there should no Cause in Law appear.

My Lord, if there be any thing else alledged to be against me than what appeareth upon the Return and the Record, the Law requireth you not to take notice of it.

And seeing there is no Cause, there ought to be no Imprisonment: If it should, it would be Injustice.

Justice is one of the Attributes of God, that by his Dispensations he would have administred to Men.

The Administration of Injustice is a perfect Fighting against God.

I believe the Parliament would not be found Fighters against God.

My Lord, the Philosopher saith, *Where just Law ruleth, there God may be said to rule.*

If you judge justly, you have no Cause to fear.

I expect it, as you will answer the contrary at the dreadful Day of Judgment.

Judge. What have you to say, Mr. Attorney-General?

Prideaux. That which I have to say is not to argue, but to acquaint the Court he is committed by an Order of Parliament, which is not to give an Account to the Court. It is their Pleasure to commit him till he be cleared by an Order of the same Power. And I hope, my Lord, you will not dispute it: For I know it is fresh in your Memory, where Orders of the like Nature have been made by the Parliament. He is to remain Prisoner by the Authority that put him there.

Judge. Yea, as in the Case of *Lilburne*, *Chetwin*, and others, which after made their Address to the Parliament; which if this Gentleman do, I make no Question but they will do according to Law and Justice by him, and no otherwise, since he is committed by them; and they only know the Cause of his Commitment.

Sir Thomas Witherington, *Serjeant at Law for the Commonwealth.*

There has been two Counsels have spoke something in Behalf of the Gentleman at the Bar: One of them pleaded this, That there was an Order of Parliament, but not an Act of Parliament. My Lord, an Order hath force as well as an Act. As for Mr. *Norbury*, he said, Part of the Return was true, and Part was not true. If it be not true, he has an Action of the Case against the Keeper. Again, whereas he says, That all Acts of Parliament were made for the Liberty of the People: Truly so they are; but not to give leave to Licentiousness.

Judge. Mr. *Streater*, one must be above another, and the Inferior must submit to the Superior; and in all Justice, an inferior Court cannot controul what the Parliament does. If the Parliament should do one thing, and we do the contrary here, things would run round. We must submit to the Legislative Power: For if we should free you, and they commit you again; why here would be no End: And there must be an End in all Things.

Where you say we are not to imprison you without Cause shewn: It is true, we are not: But if there be any that do disturb the Peace of the Nation, we are to settle things in Peace and Quietness; for the Cause of the Law is to quiet the Nation.

The second Thing that hath been objected against the Return, was by Mr. *Freeman:* He says, The Parliament hath not Power to alter the Laws. Why, they have the Legislative Power, and may alter and order in such sort as they please; they may daily. If they find any Thing that is fit to be reformed, they may alter and reform them, and make Laws new. It is strange a Counsellor should say this.

Another Objection was, That there was no Cause express'd. It's true, here there is not. We are Judges of the Law, and we may call inferior Courts to an Account why they do imprison this or that Man against the known Laws of the Land; and they must shew Cause to any Man. In this Case, if the Cause should come before us, we cannot examine it, whether it be true or unjust: They have the Legislative Power.

Now whereas you say, It is but an Order of Parliament, and has not been three times read in the House: How can you tell but that it has been three Times read? Indeed they used to read it thrice when the King and House of Lords and Commons sat; and so it may be now, for aught we know. But if it were but once read, we cannot call it into Question, but must conceive it was on just grounds: And it may be they thought it not fitting to express a Case in Matter of State; for if they should express the Cause, and we not able to judge of it, there would be nothing done in it. Therefore, Gentlemen, we can do no more in it, and yet I hope we shall do according to Justice, that the People may not be oppress'd. If it had been a Cause we could have meddled in, something might have been done; but now we see no Cause it should be repealed.

Justice *Garmond.* God made Man, and gave him a Law to live by; and the Laws of *England* are grounded on the Laws of God: And in the Laws of *England* every Man is concerned. And now the Parliament of *England* is grounded on the whole Body of the Nation. Now if one Power were not above another, Things would go in a Circle to and fro, and have no End: Now this will bring them to an End, since the whole Law of the Nation is grounded on the Parliament Laws.

Judge *Nichols.* I am of the same Opinion, every Thing must be done in Order: And *God is the God of Order*; and therefore every Thing ought to be done in Order, and not in Confusion. Now what the Parliament does, we cannot dispute or judge of: Their Laws are to bind all People; and we are to believe they had Cause for what they did. And for that you say an Order should be read three Times; when I was a Parliament-Man, divers Acts passed with one time reading. In the next Place, you did distinguish between an Order and an Act of Parliament. Why, their Power is a Law, and we cannot dispute any such thing. And whereas you affirm it was once pleaded here, *That the King was above the Law, and might do what he pleased against the Law*; that it was so here, I do not remember: But the Parliament does not so.

Prid. I humbly pray he may be remanded to the *Gate-House* again.

Judge *Nichols.* There is a *Primum Mobile*, or things would come into Confusion. The Parliament has the greatest Power.

Capt. *Streater.* I desire I might be bailed; I shall be a Prisoner nevertheless: The Law accounteth one a Prisoner, though he be bailed: And if not bailed, I may be a Prisoner a hundred Years.

Prid. My Lord, pray let him be sent to the *Gate-House.*

Capt. *Streater.* I desire then I may be a Prisoner to this Court. I am a wounded Man, and have done Service for my Country, and deserve not to be shut up in a close Hole. Besides, I have been a Prisoner three Days contrary to the Order of Parliament, by Order of Law, to the Marshal of this Court; when the Order of Parliament saith, *I shall be a Prisoner to the* Gate-House: And if the Law can warrant the Court for the doing of the one, doubtless it will for the doing of the other. I am sure it is my Right by Law.

Judge. No, no; no such Matter.

Prid. My Lord, I heard this Man say he has been wounded, and that he was for the Parliament; but I am informed he was cashiered. He cited the Order of Parliament, and that they did not publish the Cause wherefore: But I will speak it publickly, it is in order to his Trial.

Capt. *Streater.* My Lord, he speaks falsly; I laid down my Commission myself.

Judge. We are to judge honourably of the Supreme Power.

Capt. *Streater.* You said but now, my Lord, you could judge of nothing but what was before you upon Record.

Judge. Let him be sent again to the *Gate-House*; he was committed there. And, Gentleman, you should do well to apply yourself to the Parliament in the mean time; for while we are possest otherwise, it must be our Office that you must be sent back according to the Order of Parliament.

Capt. *Streater.* I never petitioned in my Life; I shall not now begin.

Prid. When the Cause is done, you may leave him as you found him.

Judge. You had your *Habeas Corpus.*

Capt. *Streater.* I could wish I had the Benefit of it, as is my Right by Law. I desire that Notice may be taken, that the same Judgment and the same Plea were adjudged illegal, arbitrary, and perfectly repugnant to Law, the just Rights and Liberty of the People in Parliament, the 4th of the late King, 1628, as in the Case of Sir *John Heningham*, Sir *Humphry Hampden*, and others, at this Bar.

Judge. The King was Plaintiff against them, and he was but a Feoffee in Trust: The Parliament is Plaintiff against you, and they are a Legislative Power.

The Prisoner was carried back to the *Gate-House.*

The Proceedings upon the Habeas Corpus *in* Hilary-*Term.*

IN the Vacation between *Michaelmas* and *Hilary*-Term, the Parliament dissolving, Mr. *Streater* resolved to apply himself again to the Law; he conceiving that the Order of Parliament was void, inasmuch as the Parliament was dissolved. And accordingly, on *Monday* 23 *January*, 1653, being the first Sitting of the Judges in *Hilary*-Term, he had Mr. *Dormer* of Counsel, who moved the Court for an *Habeas Corpus*. It was granted, and made returnable on *Thursday* the 26th next following. At which time, the Keeper sent the Body of Mr. *Streater*, with a Return of the *Habeas Corpus* not signed: Which being in Court, was refused to be received.

Mr. *Streater.* My Lord, I am here brought to this Bar, by Virtue of an *Habeas Corpus:* I desire that the Writ with the Return may be read.

Ld. Ch. Just. Let it be read.

Mr. *Broughton.* My Lord, the Return is not signed.

Ld. Ch. Just. If the Return be not signed, we cannot take Notice of it.

Mr. *Streater.* My Lord, I desire that another Day may be appointed by Rule of the Court.

Ld. Ch. Just. We cannot do so; we cannot take Notice of you, whether you are the Person or not, if the Return be not under your Keeper's Hand.

Mr. *Streater.* My Lord, I desire I may have an *Alias Habeas Corpus.*

Ld. Ch. Just. We cannot deny you that.

[The *Alias Habeas Corpus* was made returnable on *Monday* the 31st of *January*, 1653.

Mr. *Streater.* My Lord, I desire that I may by Rule of Court have assigned of Counsel (with me) Mr. *Twisden*, Mr. *Freeman*, Mr. *Wilde*, Mr. *Norbury*, and Mr. *Dormer*..

Ld. Ch. Just. Let them be assigned.

Monday the 31st of *January*, 1653, Mr. *Streater* was again brought before the Court of Upper Bench, by Virtue of his *Habeas Corpus.*

Mr. *Streater.* My Lord, I am brought hither by Virtue of an *Alias Habeas Corpus.* I desire that the Writ, with the Return, may be read.

The Clerk reads the Return.

OLiver *Lord Protector of the Commonwealth of* England, Scotland *and* Ireland, *&c. To the Keeper of the Prison of the* Gate-House, Westminster, *in the County of* Middlesex, *or his Deputys there, Greeting. We command you, as formerly we have commanded you, that the Body of* John Streater, *Gent. in Prison under your Custody detained, together with the Day and Cause of his taking and detaining, by whatsoever Name the said* John

John *is called therein, you have before us at the Upper Bench in* Weſtminſter, *upon* Monday *next after the Fifteen Days of* St. Hilary *next to come; to undergo and receive thoſe things which our Court of Upper Bench aforeſaid of him ſhall conſider of in this Behalf. And this you muſt not omit on any wiſe, and upon Peril that will follow thereupon. Witneſs* Henry Rolle, *at* Weſtminſter, *the 26th Day of* January, 1653.

And the Return of this Writ appears in a certain Schedule hereunto annexed, and the Anſwer of *Aquila Wykes*, Keeper of the *Gate-Houſe* Priſon in *Weſtminſter*.

TO his Highneſs the Lord Protector of the Commonwealth of England, Scotland, *and* Ireland, *and the Dominions thereof, in the Upper Bench at* Weſtminſter, *at the Day and Place in the Writ to this Schedule annexed named; do certify, That before the coming of the ſaid Writ to me directed, that is to ſay, the 12th Day of* September, 1653, John Streater *in the Writ named was committed to my Cuſtody, and there detained by Virtue of a Warrant from the later Council of State, the Tenour of which Warrant followeth in theſe Words:*

'THESE are to will and require you to receive into your Cuſtody the Body of *John Streater*, and him you ſhall ſafely keep Priſoner in the Priſon of the *Gate-Houſe*, he being committed for publiſhing ſeditious Pamphlets againſt the State. Of which you are not to fail: And for ſo doing, this ſhall be your ſufficient Warrant. Given at the Council of State at *Whitehall*, this 12th Day of *September*, 1653.'

Rob. Tichburn Preſid.
H. Lawrence.
Sa. Moyer.
J. Hewſon.
Ch. Howard.

To the Keeper of the Gate-Houſe.

And the ſaid John Streater *is alſo detained by Virtue of a Warrant under the Hand of the Speaker of the Parliament;' the Tenour of which Warrant follows in theſe Words:*

'BY Virtue of an Order of Parliament bearing Date this preſent 21ſt Day of *November*, 'Theſe are to will and require you to receive and take into your Cuſtody the Body of *John Streater*, and him to keep and retain in ſafe Cuſtody, until he ſhall be delivered by Order of Parliament. Whereof you are not to fail, as you will anſwer the contrary at your Peril. Given under my Hand the 21ſt Day of *November*, 1653.'

Francis Rous Speaker.

And the ſaid John Streater *is alſo detained by Rule of the Upper-Bench Court; the Tenour of which Rule follows in theſe Words:*

'THE Keepers, *&c.* againſt *John Streater*. *Friday* in fifteen Days of St. *Martin*, 1653. The Defendant was this Day brought in Court by Virtue of a Rule of this Court, under the Cuſtody of the Marſhal of this Court: And it is ordered, That the ſaid Marſhal do deliver the Body of the ſaid *Streater* to the Keeper of the Priſon of the *Gate-Houſe* in *Weſtminſter*, to remain under his Cuſtody according to the Order of Parliament, upon the Motion of Mr. Attorney-General.'

By the Court.

And theſe are the Cauſes of the detaining the ſaid John Streater, *whoſe Body before the Protector aforeſaid I have ready accordingly, at the Day and Place in the ſaid Writ contained, as I am within commanded.*

Aquila Wykes, *Keeper of the* Gate-Houſe.

Ld. Ch. Juſt. Mr. Attorney, what ſay you to it? The Priſoner hath been here many times.

Attorn. Gen. My Lord, I heard not of it.

Mr. *Streater*. My Lord, I ſent him Notice the ſame Day the Writ was granted.

Attorn. Gen. My Lord, he ſent me a Man that ſaid he lived in *Fleet-ſtreet*, I do not know where.

Ld. Ch. Juſt. How cometh it that you did not ſend him other Notice?

Mr. *Streater*. My Lord, I beſeech your Lordſhip that I may not be intercepted by ſuch Pretences, and that I may not ſuffer any Delay for want of ſuch Formalities. My Lord, Mr. Attorney-General hath appeared often enough in this Caſe; he cannot with Credit pretend he is unprovided to ſpeak to it.

Ld. Ch. Juſt. Let the Priſoner be here again on *Friday*.

[Mr. *Streater* was again ſent back to the *Gate-Houſe*, and was on *Friday* the 3d of *February*, 1653, brought by Rule upon the *Alias Habeas Corpus*.]

Mr. *Twiſden*. My Lord, I deſire that the Priſoner may be bailed.

Mr. *Wylde*. I deſire that the Writ and Return may be filed.

Ld. Ch. Juſt. Mr. *Atkin*, what have you to ſay why it may not be filed?

Mr. *Atkin*. Nothing, my Lord.

Ld. Ch. Juſt. Let it be filed, and let the Priſoner be here on *Thurſday* next.

Mr. *Streater*. My Lord, I deſire that I may have aſſigned of Counſel with me, Mr. *Latch* and Mr. *Windham*.

Ld. Ch. Juſt. Let it be ſo.

[The Priſoner was carried by the Marſhal of the Upper-Bench into the Upper-Bench Priſon, *Southwark*; and on *Tueſday* the 7th of *February*, 1653, was again brought into Court, under the Cuſtody of the Marſhal of the Court.]

Mr. *Twiſden*. I deſire that the Priſoner may be bailed. He is committed by two Orders; the one from the Council of State, the other from the Speaker of Parliament, by Virtue of an Order of Parliament. The Order of Parliament is out of Doors, the Parliament being diſſolved.

Mr. Attorney-General began thus:

My Lord, this Gentleman the Priſoner ſtands committed by Order of Parliament: And whereas in his Behalf the Counſel aſſigned for him have alledg'd, That the Order of Parliament is void, by reaſon (as they ſay) the Parliament is diſſolved:

My Lord, Parliaments cannot be diſſolved; the Parliament are the ſame Power that is in being now.

And Parliaments were to be once a Year, as by the Statute of the 4th of *Edward* III. at which Time he may be relieved. In the North Parts, the Aſſizes can be held but once a Year.

But grant that the Meaning of Parliament was to deliver him themſelves, and not that they meant the Parliament to be on the 3d of *September*, 1654; yet for that they ordered that he ſhould not be delivered but by Order of Parliament, I conceive he can be delivered no otherwiſe than by an Order of Parliament, nor by any other but a Parliament.

Poſſibly when that the Parliament conſiſted of King, Lords, and Commons, an Order of one or two Houſes, without a threefold Conſent, had not been binding: But now the Power that was in the Lords and King is joined in the Commons, and therefore is of greater force.

And it is not material whether they ſhew Cauſe or not; there may be good Cauſe: And it cannot be preſumed that the Parliament would commit a Man, and have no Cauſe at all for ſo doing.

But without Queſtion, a Parliament may commit Men, and ſhew no Cauſe.

But ſuppoſe his Commitment be in order to a Trial in Parliament, will this Court take upon them to judge in the Cauſe? Or can they by *Habeas Corpus* bring the Body of the Priſoner and the Cauſe before them, out of Parliament?

The Lord of *Strafford* was tried in Parliament: I believe this Court would not in ſuch a Caſe remove the Trial before them, nor indeed can they. Upon the Return it appeareth, he is committed by Order of Parliament, and to be delivered by Order of Parliament: If they had intended he ſhould have been delivered otherwiſe, they would have either ſaid nothing, or have ordered he ſhould be delivered according to Law.

When Kings die, it is true, that Commiſſions do ceaſe; but when Parliaments do diſſolve, their Acts do not ceaſe. Beſides, a Parliament is the Supreme Court, and they do conſtitute other Courts; and therefore it is not for other Courts to queſtion the Proceedings of a Parliament.

It will not be expected of me to ſhew that the Parliament had ſufficient Matter or Cauſe of Impriſonment.

To this the Judges anſwered, No, no: If he had any Thing more to ſpeak to the Order of Parliament, that was it that was to be ſpoken unto.

Mr. Attorney. My Lord, this Gentleman might make his Application for his Liberty to the preſent Authority elſewhere; and I doubt not but it would be granted him: For now Parliamentary Authority is in one Perſon.

My Lord, I doubt not but the Court will be cautious in meddling in this Caſe, but will rather remand him to Priſon: Firſt, for that it may be that the Proceedings againſt him are not yet ripe; it may be yet under Examination. Secondly, for that this is the firſt Precedent of the like Nature, and it being of ſo great and high Concernment.

Mr. *Twiſden*. My Lord, a Parliament may determine, and Parliaments do determine; and when they do, their Orders alſo determine with them. It is true, that Acts of Parliament do continue; but this is but an Order of Parliament, and not an Act of Parliament.

My Lord, we muſt come hither to be relieved; this is the Place, this is the Court appointed for relief in this Caſe: We expect it, and, my Lord, deſire that the Priſoner may be bailed.

Beſides, my Lord, this is not an Order of Parliament upon Return, but a Warrant of the Speaker.

Mr. *Windham*, of Counſel with the Priſoner.

My Lord, it is true, we find Writs of Error returnable in Parliament, as in *Flowerdew*'s Caſe, and in *Baſſet*'s Caſe of Error given in this Court of *King*'s-*Bench* againſt *Baſſet*, in a Judgment for the King: *Rot. Parl.* 25 *R.* II. *num.* 24. This is after Trial of Law, and not before.

As to the Caſe of the Lord *Strafford*, we know not but that by Law he ought to have been appeach'd here.

As to the Order, it is determined by Law.

Mr. *Wylde*, of Counſel with the Priſoner.

My Lord, the Order cannot be a Bar but that the Priſoner may be bailed.

Beſides, the Order is void, for that the Parliament diſcontinueth; and it is ordained, *That he or they that ſhall ſay the Parliament continueth, ſhall be guilty of an high Offence.*

An Act or Order of Parliament is not a Judgment of Parliament.

We are here *coram Protectore.*

Capt. *Streater*. My Lord, I ſhould not at all undertake at this Time, having ſo many learned Counſel aſſigned, who attend my Cauſe, and who have ſufficiently urged enough Law to warrant the Court for my Diſcharge, but that the Attorney-General hath both laſt Term and this Term endeavoured to aſperſe me, to diſcourage the Court, ſo as to delay or deny me Juſtice: As the laſt Term, by ſuggeſting to the Court that I was a dangerous Perſon, and ſtood accuſed in Parliament for high Miſdemeanours; and ſaid that they were ſuch, and ſo dangerous, that they for many ſecret Reaſons of State thought it convenient not to diſcover them. And this Term, by ſaying, the laſt Day of Hearing, that I was a ſtubborn refractory Perſon, and would not make my Application to the preſent Authority, where he aſſured me that I might have my Liberty for aſking for it; and that my Endeavours were to ſtrike at the very Power of Parliament.

My Lord, as to what great and high Matters or Things that were by him ſuggeſted to this Court to be in Parliament, certainly it would have appeared upon the Return: They have not been intercepted, as to Time, in the making of their Return to the *Habeas Corpus*; they have alſo had Time to make ſeveral Returns; and laſtly, to amend the Returns by Rule of Court. Without Queſtion, my Lord, if they had had other Cauſe, they would have made it appear. However, your Lordſhip can take no notice of any Thing but what appeareth upon Record.

My

My Lord, as to the other that Mr. Attorney urgeth, That I am a ſtubborn Perſon, and refuſe to make my Application to the preſent Authority; I deny it: my Actions give another Teſtimony of me, in this applying myſelf to the preſent Authority in this manner, and at this place, by Law; this is the proper and only ſuperior Court for Relief, in caſe of falſe or long Impriſonment: it ever was in this Court ſettled by Law, the Supreme Authority of this Nation, and the only Authority of thoſe that will take upon them Supreme Power. The Lord Protector hath ſworn to govern this Nation according to its Laws, Statutes and Cuſtoms: and here I make my Application to the preſent Authority judicially in this Court. The Writ of *Habeas Corpus* is in the name of the Lord Protector: by which it appeareth, that thoſe Suggeſtions are falſe, and that I own the preſent Authority in its proper Channel, and own its true Baſis, by applying myſelf to the preſent Authority here in this Court.

My Lord, I ſhould have inſiſted upon the whole Matter now before you; but I ſee that there hath been enough urged by my Counſel, to ſhew the Invalidity of the Order of Parliament, the only Buſineſs where all ſticketh.

My Lord, I ſhall not ſpend time to anſwer Mr. Attorney-General, for that the Subſtance of his Argument is but of little weight, and not worthy of any Anſwer.

Here followeth the Argument that Mr. *Streater* had prepared to have inſiſted upon in this place: but for that he perceived the Opinion of the Court was, that the Order of Parliament was not in force now, he omitted to urge it further. But for general Satisfaction, it is here preſented the Reader Word for Word, according to his Copy.

I AM brought here by virtue of an *Habeas Corpus*, which doth require that Cauſe to be ſhewn why I am detained a Priſoner; not who committed me to Priſon.

Upon the Return, there is in the firſt part a Cauſe, but not a lawful Cauſe: in the ſecond part of the Return, no Cauſe at all.

My Lord, the Intent in Law of an *Habeas Corpus* is to relieve Priſoners, notwithſtanding of ſpecial Commands for Impriſonment: as appeareth by an Act of Parliament in the 17th of the late King, intitled, *An Act for aboliſhing of the Star-Chamber, and for regulating the Council-Table*; which ordaineth, 'That notwithſtanding of ſpecial Commands for 'Impriſonment, the Party ſo impriſoned ſhall by an *Habeas Corpus* be 'brought before the Judges of one Bench or other: and if the Cauſe 'of his Commitment be legal, he ſhall be remanded; if no Cauſe, '(that is to ſay, no lawful Cauſe) he ſhall be ſet at Liberty: and if it 'be doubtful, then the Priſoner ſhall be bailed.'

This Act reciteth ſeveral Acts, as that of 17 *R.* II. *chap.* 31. 42 *Edw.* III. *chap.* 3. 28 *Edw.* III. *chap.* 9. *Magna Charta*, *chap.* 29. and the *Petition of Right*. Theſe Acts declare, that this is the Intent and Meaning of the aforementioned.

My Lord, with theſe agree the learned Arguments of Sir *Edward Coke*, Sir *Edward Littleton*, and Mr. *Selden*; together with the Reſolution of the Commons in Parliament 1628 thereupon, in theſe words.

Die Jovis, 3 Aprilis, 4 Caroli Regis.

'Reſolved upon the Queſtion, That no Freeman ought to be detained 'or kept in Priſon, or otherwiſe reſtrained, by the Command of the 'King, or the Privy-Council, or any other, unleſs ſome Cauſe of the 'Commitment, Detainer, or Reſtraint, be expreſſed, for which by Law 'he ought to be committed, detained, or reſtrained.

'That the Writ of *Habeas Corpus* may not be denied, but ought to be 'granted to every Man that is committed or detained in Priſon, or otherwiſe reſtrained, tho' it be by a Command of the King, the Privy-'Council, or any other, he praying the ſame.

'That if a Freeman be committed or detained in Priſon, or otherwiſe 'reſtrained, by the Command of the King, the Privy-Council, or any 'other, no Cauſe of ſuch Commitment, Detainer, or Reſtraint, being 'expreſs'd for which by Law he ought to be committed, detained or re-'ſtrained, and the ſame be returned upon an *Habeas Corpus* granted for 'the ſaid Party; then he ought to be delivered or bailed.'

2 *Part Inſtit.* fol. 52. *The Warrant or Mittimus ought to contain lawful Cauſe.*

Sir *Edward Coke*, in his firſt general Reaſon why a *Habeas Corpus* is to remove the Body notwithſtanding of ſpecial Commands, ſaith, 'That 'Impriſonment in Law is counted a Civil Death, when Men are taken 'from their Houſe, Wife, Children, Country, Friends, and familiar Ac-'quaintance, to live with wicked and wretched Men.'

Mirrour, Chap. 2. Sect. 9. ſaith of Priſoners and Priſons thus: 'A 'Goal is nothing elſe but a common Priſon: and as a Leper, or a Man 'who hath a diſeaſed Body, is not to be ſuffered to dwell or remain 'amongſt Men who are ſound, *&c.* therefore mortal Offenders ought 'to be ſeparated from the Society of People, to the end the Innocent be 'not infected with their Offences'

Now, my Lord, if it be ſo, it was of abſolute neceſſity for the Law to provide againſt long Impriſonment as well as wrong Impriſonment, notwithſtanding any ſpecial Commands.

The Writ of *Habeas Corpus*, and the Benefit by Law, is the undeniable Right of every *Engliſhman*; it is called *the high Point*, *the only Point*. Nay, the Commons in Parliament, of the 4th of the late King, in their Conference with the Lords, ſay, That *they had recovered the Body of Liberty*, by clearing of this Point. In this is the only difference between Slaves and Freemen, Villains and Freemen.

My Lord, the Law of *England* doth ſettle a Freedom in the People of *England*, in their Life, Liberty, and Eſtate: it doth relieve againſt any thing that ſhall by any be done to their detriment, either in one or other.

Mirrour, Chap. 2. Sect. 18. of Appeals of Impriſonment thus: *Darling* here appealeth *Weloc*, for that whereas the ſaid *Darling*, &c. the ſaid *Weloc* came and arreſted the ſaid *Darling*, brought him to ſuch a place on ſuch a day, and put him into the Stocks or in Irons, or in other Pain or Incloſure: Such a day, *this Felony he did felonioufly*.

My Lord, here we ſee the Law ever did allow of a Remedy to be had againſt falſe Impriſonment.

Here is no Cauſe of Impriſonment at all ſhewn, in either one part of the Return or other; therefore I ought to be ſet at liberty without Bail, as is expreſly provided in the Act of the 17th of the late King, in theſe words: 'If there appear no Cauſe of Impriſonment upon the Return, 'then the Priſoner ſhall be ſet at liberty, and not bailed.'

My Lord, he that is bailed is ſtill a Priſoner; for he is a Priſoner unto his Bail. If bailed, it is to be preſumed a Cauſe, though ſuch upon which he may be bailed.

The following Clauſes of this Act explain the Meaning to be ſo, in theſe Words: 'If the Cauſe be doubtful, then the Priſoner ſhall be bailed.'

My Lord, if it ſhould be objected, That the greateſt and only Cauſe of my Impriſonment is an Order of Parliament, or a Warrant grounded upon an Order of Parliament, that ſaith I ſhall not be delivered but by Order of Parliament; I have ſeen a Copy of the Order of Parliament, wherein there is not any ſuch word mentioned; but it only ſaith this, *That Mr. Speaker do iſſue forth a Warrant* (according to the Order) *for my Impriſonment*, &c.

But for that your Lordſhip is not to take notice of any thing but what appeareth before you upon Record, I ſhall make no uſe of that; I ſhall not need.

Firſt, for that the Order itſelf is out of doors, the Parliament being diſſolved.

Sir *Edward Coke*, 4 *Part Inſtit.* fol. 23. Chap. *High Court of Parliament*, ſaith, That *an Ordinance of Parliament bindeth not in Succeſſion*: then much leſs an Order of Parliament.

Beſides, if Orders of Parliament were binding in Succeſſion, there would be no need of Acts of Parliament.

And more eſpecially ſuch Orders are not binding, that there is no Reaſon or Law in them, but are oppoſite to Reaſon and Law.

Nay, but an Act of Parliament could not make ſuch a Return to be good or allowable, as this, that ſhall mention no Cauſe for which a Priſoner is committed: it is againſt Reaſon a Man ſhould be committed for nothing; and if there appear no Cauſe upon the Return, this Court is to preſume there is no Cauſe, and therefore ought to deliver the Priſoner, and cannot but look upon ſuch Returns as unreaſonable, and againſt Law.

The Doctor and Student, pag. 4. Chap. 2. ſaith, That *ſuch Statutes, Ordinances and Preſcriptions, as are not according to Reaſon, or are againſt Reaſon, they are not Statutes, Ordinances, or Preſcriptions, but are things void in Law.*

Again, my Lord, a Parliament cannot over-rule juſt Proceedings in or by this Court, that are according to Law and Juſtice: but a Parliament may over-rule Proceedings in this Court that have Error, or are not according to Law and Juſtice.

My Lord, we underſtand Parliaments to be Legiſlative Powers, and therefore not to be the Executive: it is not for Law-makers to be Juſtices of the Peace; a Sheriff cannot be a Juſtice where he is Sheriff. There is a Maxim, *That Law-makers muſt ſuppoſe all Men to be evil, and therefore they make Laws againſt ſuch Offences in all Perſons: But Judges of the Law muſt ſuppoſe all Men good, until Conviction.*

If ſo, my Lord, a Parliament are not competent Judges who and who not ſhall be Priſoners. But here are the Judges, before whom I am; here is the Place where I am, that a Cauſe of that nature ſhould be determined.

My Lord, I dare confidently aver, That if ever it had entred into the Conſideration of our former preceding Parliaments, that a ſucceeding Parliament would ever do ſuch a Thing as commit a Man for no Cauſe at all, they would have provided againſt it by an Act of Parliament, in Teſtimony of their abhorring of ſo great an Abſurdity as it is.

Anno 1 *H.* IV. *Chap.* 14. It is provided, That *Appeals are not in any wiſe to be purſued in Parliament.* No man can imagine it to be lawful in any inferior Power to a Parliament.

If ſo, it cannot be lawful in a ſuperior Power.

Upon the Queſtion to the Judges by *Henry* VIII. 'Whether a Man 'that was forth-coming, might be attainted of High-Treaſon by Par-'liament?' Their Anſwer was, 'That an inferior Court could not do 'ſo;' they thought a Parliament would not: Their Opinion was, 'That 'the higher a Court is, the more juſt they ought to be, to give example 'to inferior Courts.'

4 Part Inſt. fol. 37. Chap. *High Court of Parliament: If it be neceſſary for inferior Powers to ſhew cauſe of Commitment, it is as abſolutely neceſſary that a ſuperior Court ſhould.*

From whence it may be concluded, That were the Parliament in being, yet I might by Law be relieved by this Court.

1. For that the Law doth warrant my Diſcharge, in caſe no Cauſe of Impriſonment appear in the Return; as by the 17th of the late King, who had then the Executive Power in his Hands, as Supreme Magiſtrate: And the ſame Reaſon why that it ſhould be limited and bounded when it was diſtinct from the Legiſlative and Judicial, may be given, why it ſhould be limited when they are all joined in one; which is, That it may not extend to grieve any contrary to Reaſon and Law.

2. That none ought to be taken or arreſted, but by ſuch againſt whom a Remedy may be had in caſe of falſe Impriſonment.

It was Sir *John Markham*'s Opinion, That *the King could not arreſt, becauſe a Remedy could not be had againſt him in caſe of falſe Impriſonment.* Much leſs a Remedy be had againſt a Parliament, that may poſſibly arreſt or commit Men upon falſe Suggeſtions.

Again, my Lord, if it had been an Act of Parliament that had provided I ſhould be a Priſoner in general words, and had provided I ſhould not have had the Benefit of an *Habeas Corpus*, I conceive I might have been relieved by an *Habeas Corpus*. This I ſuppoſe, if in caſe an Act could be made againſt Law and Reaſon, as ſuch an Act as ſhould deprive me of a common Benefit that is due unto all, and to every Individual, throughout the whole Nation.

Parliaments ever made it their Work, (as in duty they ought) to keep parallel to Law and Reaſon: they ever did make Laws agreeable to both. But the Judges of the Law, in open Courts of Judicature, did judge by thoſe Laws: Nay, Parliaments ever did adviſe with the Judges of the Law. The Judges of the Law were as the Watchmen or Centinels to the juſt Liberty of the People; and our Laws the Bulwarks of Defence.

Mr. *Waller*, in a Speech in Parliament at a Conference of both Houſes, the 6th of *July*, 1641, ſaith, *That out of Parliaments all our Courts of*

of Juſtice are governed and directed by the Judges of the Law; and in Parliaments, the Lords and Commons were aſſiſted by them: otherwiſe (ſaith he) *it might be ſtiled* Parliamentum indoctorum.

And further he ſaith, *That Judges that delay Juſtice, or give falſe Judgment, or Opinions that are contrary to Law, that they are no other than Conſpirators againſt the Commonwealth.*

My Lord, Mr. Attorney-General hath not omitted to poſſeſs this Court with ſtrange Apprehenſions of the Dangerouſneſs of me, both in what he urged in this Court the laſt Term, of Dangerouſneſs, and this Term, of Stubbornneſs: ſo that as much as in him lay, by his falſe Suggeſtions, to prevent me of my Right by Law; as in the Words of your Lordſhip, deſiring that I might be remanded till my Stomach came down.

My Lord, you ſit here to raiſe the Spirits, Minds, and Stomachs of Men, by doing of them Right by Law, to encourage them to Improvements and Induſtry, by defending them in Life, Liberty and Eſtate, as the Law requireth and intendeth.

My Lord, Articles were exhibited againſt Sir *Robert Berkley*, one of the Juſtices of the *King*'s-*Bench*, and others. The Subſtance of the firſt Article againſt Sir *Robert Berkley* was, *That he did traitorouſly and wickedly endeavour to ſubvert the Fundamental Laws and Eſtabliſhed Government of* England, *by traitorous Words, Opinions and Judgments.*

The tenth Article: That *the ſaid Sir* Robert Berkley *being one of the Juſtices of the Court of* King's-Bench, *and duly ſworn as aforeſaid, in* Trinity-Term 1637, *deferred to diſcharge or bail* Alexander Jennings, *Priſoner in the* Fleet, *brought by an* Habeas Corpus *to the Bar of the ſaid Court; the Return of his Commitment being, That he was committed by two ſeveral Warrants of the Lords of the Council, dated the 5th of* November, 1636, *the firſt being only read in Court, expreſſing no Cauſe; the other for not paying Meſſengers Fees: he was remanded in* Michaelmas-Term. *After, the ſaid* Jennings *being brought by another* Habeas Corpus *before him, and the ſame Return, yet the ſaid Sir* Robert Berkley *refuſed to diſcharge him*, &c.

My Lord, I hope this Court, nay, I doubt not but that you will eye the future, and judge according to Law and Reaſon, not by Diſcretion.

My Lord, ſuch Advice followed, as Mr. Attorney gave, is the ordinary Cauſe of Changes in States and Commonwealths.

1. Injuſtice brings the Judgments of God upon a Nation.

2. Injuſtice diſcontents a People, and Diſcontents are the ordinary Foundations that Changes are laid upon.

It was but the other day the Lord Protector took an Oath to govern according to the Laws, Statutes and Cuſtoms of this Nation: and now his Attorney-General would have Matters ruled by Diſcretion in this Court, contrary to Law and Reaſon, to pull Men's Stomachs down.

My Lord, I make my Application to the preſent Authority in its proper Channel, where of right I ought to be relieved here in this Caſe of mine by an *Habeas Corpus*.

My Lord, I do aver, that my Life, Liberty, or Eſtate, cannot be taken away, or given unto me, but where the Law doth it.

My Lord, God himſelf ruleth by Law, Eternal, Moral and Natural; and they have Certainty in them; and he ruleth not otherwiſe, or contrary to them. And can it be imagined, that there is a Mortal living, that will think it a Diminution to his Honour, if Men chooſe the Law for their Sanctuary, rather than their changeable Affections, and mutable Will and Pleaſure?

There is a Maxim, 'That the Law delighteth in Certainty, and it 'doth abandon Incertainty, as the Mother of all Debate and Confuſion, 'than which there is nothing more odious in Law.'

My Lord, another Reaſon why I make my Application to the preſent Authority this way rather than any other, is, that the Record in this Caſe will be of ſingular Uſe and Benefit, not only to the preſent, but to future Ages; the which I do in duty, in regard a Man ought to prefer the Good of his Country before a private Good.

The contrary will tend to the ſubverting of our *Engliſh* Liberties. Our Foreſathers left us a Law, by which we might demand Juſtice, and not be neceſſitated to make uſe of Friends to beg Juſtice.

Mirrour, Chap. 3. Sect. 6. *Of Exceptions to the Power of a Judge*, thus it is: *Sir, I demand the Hearing and Sight of your Commiſſion, by which you claim Juriſdiction over me.*

Anno 13. Edw. I. Chap. 3. *When any is impleaded before any Juſtices, and doth alledge an Exception, praying that the Juſtices will allow it; which if they will not allow*, &c. *he ſhall require the Juſtices to put to their Seal*, &c.

My Lord, this Law of *England* is a Law of Freedom, and a Law for Freemen, and not for Slaves: it is a Law that ſettleth a Right in its Subjects.

Now, my Lord, having preſented your Lordſhip with what the Law accounteth of Impriſonment, as in the Writ of Mainpriſe,

Whereas thou A. *haſt delayed to deliver* B. *to the no ſmall Grievance of him the ſaid* B. *and manifeſt Peril of his Life.*

And, page 162. *Fitz-Herbert*'s *Natura Brevium*; of the Writ *de Homine replegiando*. The King, *Whereas* A. *hath complained to us*, &c. *We command you that he be replevy'd*, &c. *that we may hear no more a Clamour for want of Juſtice.*

Seeing the Law relieveth as well againſt long Impriſonment as wrong Impriſonment; and ſeeing that there is no lawful Cauſe of Impriſonment ſhewn in the firſt part of the Return, nor Cauſe at all in the ſecond; although it be grounded upon an Order of Parliament, it is void in a two-fold Conſideration. Firſt, For that the Parliament is diſſolved. Secondly, For that it is againſt Law and Reaſon: And alſo conſidering that this Court is the higheſt Court of Judicature that can relieve in this Caſe; and it being contrary to Reaſon, that a Legiſlative Power ſhould be an Executive Power, for they will be Parties to judge by their own Law, they will vindicate their own Commands, and will take upon themſelves to give their Senſe, poſſibly different from the Letter of their own Commands.

And therefore it is ſafer for the Judges of the Law to judge by the Letter of the Law, and not otherwiſe.

Mr. *Robert Brook*, Serjeant at Law, in his reading upon the 16th Chapter of *Magna Charta*, ſaith, *If a Man hath Judgment to be hanged, and if the Sheriff do behead him, it is Murder.*

The Letter of the Law is duly to be obſerved, and not to be varied from upon any Pretences of Matters of State whatſoever.

All which conſidered, I pray to be diſcharged, as the Law hath provided: Your Lordſhip is Judge of the Law.

Mr. Attorney. My Lord, for aught we know, this is a Judgment in Parliament.

If it be not, yet it hath the ſame Stamp that an Act hath; that is to ſay, Parliamentary Authority.

If this Order be not good, the Priſoner hath an Action of falſe Impriſonment againſt the Jaylor. If the Order die by the Diſſolution of the Parliament, the Jaylor ought to have ſet the Priſon-doors open unto the Priſoner at the Time of the Diſſolution of the Parliament.

Mr. *Twiſden*. My Lord, they have not returned an Order of Parliament, but a Warrant from the Speaker of Parliament.

Chief Juſtice *Rolle*. Mr. Attorney, what if the Parliament by Order do appoint a Committee, the Parliament diſſolved; doth the Committee continue by virtue of that Order, or not?

Mr. Attorney. I think the Perſons are diſſolved: But although it be ſaid by Order of Parliament, I think that it is not much material whether the word Act, Order or Ordinance be uſed. My Lord, it is by Parliament.

Lord Chief Juſtice *Rolle*. By your Favour, Mr. Attorney, it is the word Order, Act or Ordinance, we muſt take notice of. How ſhall we know how to judge, but by the Word or Letter to direct us?

Judge *Aſke*. Mr. Attorney, if an Order of Parliament ſhall be in force after the Diſſolution of a Parliament, and there be an Order made for the Commitment of one or more, as in the Caſe now under Conſideration; I pray which way ſhall the Subjects be relieved, if not this way, in caſe we ſhould live to ſee a Parliament but once in one Age, as in the latter end of the Reign of King *James*, and as in the Reign of the late King?

Lord Chief Juſtice *Rolle*. This Court is the proper Court to relieve in this Caſe; this Court is a ſtanding Court, and the Law doth adjourn it from time to time; but a Parliament is a new Court, they appear, and are always ſummoned by new Writs.

Mr. Attorney. The Priſoner knoweth he might have his Liberty for aſking for.

Ld. Ch. Juſt. *Rolle*. A Man is not bound to do that. Well, let the Priſoner be remanded until *Saturday*; and then we ſhall deliver our Opinions: It is a weighty Buſineſs. And, Gentleman, in the mean time you may make your Application otherways for your Liberty.

Mr. *Streater*. My Lord, the Law hath provided no other way, and I am bound to take notice of the way the Law hath appointed.

Our Foreſathers knew no other way.

My Lord, I deſire that I may have the Liberty to go to my Counſel with my Keeper: Both the laſt Term, and this, I have not at all adviſed with my Counſel.

Ld. Ch. Juſt. *Rolle*. That will not be denied you.

Mr. *Wylde*. My Lord, it was moved this Term, and it was denied, being oppoſed by the other ſide, but it was before the Writ was filed. And I ſuppoſe that the Court may grant that Liberty to the Priſoner under the Cuſtody of their own Marſhal.

Saturday, February 11.

THE Priſoner was brought again to the Bar, under the Cuſtody the Marſhal of the Court.

Ld. Ch. Juſt. *Rolle*. Sir, have you your Counſel here?

Mr. *Streater*. Yea, my Lord.

Ld. Ch. Juſt. *Rolle*. Where are they?

Mr. *Windham*. I am of Counſel for the Priſoner.

Mr. *Streater*. My Lord, here is alſo Mr. *Wylde*, Mr. *Freeman*, Mr. *Norbury*.

Ld. Ch. Juſt. *Rolle*. Deputy-Marſhal, go into the *Chancery*, and acquaint Mr. Attorney-General that we are going to deliver our Opinions in *Streater*'s Caſe: And if he pleaſe to be preſent, he may; or if he hath any thing more to urge.

Mr. Pain, *Deputy-Marſhal*. My Lord, I have been with Mr. Attorney-General; and he ſaith he will be here immediately.

[After a little ſpace of Time, Mr. Attorney cometh into the Court.]

Ld. Ch. Juſt. *Rolle*. Mr. Attorney, here is Mr. *Streater* again by Rule of Court. He hath been a long time in Priſon; and I ſee here is nothing come againſt him that is material.

Mr. Serjeant Twiſden, *of Counſel for the Priſoner*. My Lord, we deſire that he may be bailed.

Ld. Ch. Juſt. *Rolle*. What, have you any thing more to ſay, Mr. Attorney?

Mr. Attorney. My Lord, I thought I ſhould have heard of him; but I did not. The Court muſt do Juſtice: He is committed by Order of Parliament.

My Lord, if you will undo an Order of Parliament, he is to be delivered: But I hope the Court will not.

Mr. *Windham*. The Order of Parliament is undone by the Parliament's being diſſolved.

Mr. Attorney. Commiſſions of Sewers are granted by Parliament, and they do continue after the Parliament is diſſolved. Goal-Delivery is but once a Year in the North-Parts: And I ſuppoſe the next Parliament will be ſitting before he hath been a Year in Priſon; at which time he may be tried, or delivered: And although this be called an Order of Parliament, yet it was acted by Parliament.

Ld. Ch. Juſt. *Rolle*. But all that the Parliament acteth are not Acts of Parliament.

The firſt part of the Return is too general: It mentioneth not what Books, nor whoſe Books, or where they were, or when publiſhed.

The ſecond Part of the Return is grounded upon an Order of Parliament: We are to take notice when a Parliament ſitteth, and alſo when it is diſſolved: or when it endeth or determineth. Diſcontinuance is a Determination.

A Writ of Error many times is made returnable in the next Parliament; but that lieth after Trial at Law. The Word *Order* is a proper Phraſe to that which is not an Act.

An Order of Parliament is not binding in Succeſſion: How ſhall the next Parliament take Notice of a former Parliament's Order?

Committees that are appointed by Order of Parliament do ceaſe upon the diſſolving of the Parliament. I have been of the Parliament: I ever found Parliaments of the ſame Opinion.

We muſt look to the firſt Impriſonment, and no farther: If you had returned other Cauſe, we ſhould have taken Notice of it.

We do not reverſe the Order of Parliament; that is reverſed by the Parliament's being diſſolved: And it being diſſolved, there is no viſible Way how the Priſoner ſhall be relieved, though there may be a probable Way.

Judge *Aſk.* I am of the ſame Opinion; and that it could not be, that the Order of Parliament, by ſaying he ſhould not be delivered but by Order of Parliament, but that they meant by the ſame Parliament, and not by a ſucceſſive Parliament. If it ſhould be taken to be by Order of the next Parliament, where ſhall be the Liberty of the Subjects? Or how ſhall they be relieved in long Interval of Parliament? As in the Reign of King *James*, and the Reign of King *Charles*, we had not Parliaments in many Years together; and although it be ſo, that the Parliament, by the Statute of the 4th of *Edw.* III. ſhould be once a Year, or oftner, if Need be. Beſides, here is no Succeſſion of Parliament, but a Diſſolution. Another Parliament muſt be another Seſſion; and therefore an Order cannot be in Force until another Seſſion. If they had made an Act of Parliament, or paſſed a Judgment of Parliament, it had been another Caſe.

Upon the Conſideration of the whole Matter, the Judges Opinion was, that the Priſoner ought to be diſcharged, and this Rule entered.

Saturday *next, after eight Days of the* Purification, 1653.

The Lord Protector againſt *John Streater*, Gent.

THE *Defendant was brought into Court by the Marſhal, upon* Habeas Corpus; *and by the Court diſcharged of his Impriſonment, by the Motion of Mr. Serjeant* Twiſden. By the Court.

Ld. Ch. Juſt. *Rolle.* Sir, you will do well to carry yourſelf conformably to the preſent Power, and walk inoffenſively.

Mr. *Streater.* My Lord, I ever have been, and, I hope, ſhall be, a Subject to Government, ſo as the Law requireth me to be: It is not my Duty to be otherwiſe ſubject.

POSTSCRIPT.

IF you obſerve the Tenor of the Writ of *Habeas Corpus*, as it is obſerved by Mr. *Streater* in his laſt Argument, that the Writ doth only require that Cauſe be ſhewn why the Party is impriſoned, not who did commit the Party to Priſon: If any Cauſe lawful was returned, then the Party is to continue ſtill in Priſon; but without Cauſe no Commitment, from what Power ſoever, can or ought, in Law or Reaſon, to be binding. That it is the Cauſe only for which a Priſoner is committed, that cutteth the Priſoner off from the Benefit of a *Habeas Corpus*, and not the Will, Pleaſure, or Power of thoſe in Power. Here take Sir *Edward Coke*'s Nine General Reaſons, why a *Habeas Corpus* is to relieve againſt illegal or long Impriſonment.

The Firſt General Reaſon.

The Firſt General Reaſon is drawn *à re ipſa*, from Impriſonment, *ex viſceribus cauſæ*, be it thoſe or other Impriſonments, which are divided into three Parts.

1. No Man can be impriſoned at the Will and Pleaſure of any, but he that is bound, and a Villain; for that Impriſonment at Will is *Tailes luy haut & baſe*, are *propria quarto modo* to Villains.

2. But if Freemen of *England* might be impriſoned at the Will and Pleaſure of the King, or any other's Command, then were they in worſe Caſe than Bondmen and Villains: For the Lord of a Villain cannot command another to impriſon his Villain without Cauſe, as of Diſobedience, or refuſing to ſerve; as it is agreed in our Books.

3. Impriſonment is accounted in Law a Civil Death: *Perdit Domum, Familiam, Vicinos, Patriam*; his Houſe, his Family, his Wife, his Children, his Neighbours, his Country, and to live among wretched wicked Men.

If a Man be threatned to be killed, he may avoid a Feoffment of Lands, Gifts of Goods, *&c.* So it is, if he be threatned to be impriſoned, he ſhall do the like; for that is a Civil Death.

The Second General Reaſon.

The Second General Reaſon is, *A minore ad majus*; *pœna corporalis eſt majus qualibet pecuniaria*: But the King himſelf cannot impoſe a Fine upon any Man.

But it muſt be done judicially by his Judges, *per Juſticiar' in Cur'*, *non per Regem in Camera.* And ſo it hath been reſolved by all the Judges of *England.*

The Third General Reaſon.

The Third General Reaſon is drawn from the Number and Diverſity of Remedies, which the Law giveth againſt Impriſonment, *viz. Brevia de homine replegiando, de Odio & Atia, de Habeas Corpus, & Brev' de Manucaptione.*

The former of theſe are antiquated; but the Writ *de Odio & Atia* is revived, for that was given by the Statute of *Magna Charta*, *Cap.* 26. And therefore though it were repealed by the Statute of 28 *Edw.* III. *Cap.* 9. yet it is revived by the Statute of 43 *Edw.* III. *Cap.* 1. by which it is provided, That all Statutes made againſt *Magna Charta* are void. Now the Law would never have given ſo many Remedies, if the Freemen of *England* might have been impriſoned at Free-will and Pleaſure.

The Fourth General Reaſon.

The Fourth General Reaſon is drawn from the Extent and Univerſality of the pretended Power to impriſon; for it ſhould not extend only to the Commons of the Realm, and their Poſterity, but to the Nobility, and the Realm, and their Succeſſors; to all Perſons, of what Condition, or Sex, or Age ſoever; to all Judges, Officers, *&c.* whoſe Attendance are neceſſary, without Exception of any Perſon.

The Fifth General Reaſon.

The Fifth General Reaſon is drawn from the Indefiniteneſs of Time: The pretended Power being limited to no Time, it may be perpetual during Life.

The Sixth General Reaſon.

The Sixth General Reaſon is drawn *à Dedecore*, from the Loſs and Diſhonour of the *Engliſh* Nation, in two Reſpects: 1. For their Valour and Power, ſo famous through the whole World. 2. For their Induſtry: For who will endeavour to employ himſelf in any Profeſſion, either of War, Liberal Science, or Merchandize, if he be but Tenant at Will of his Liberty? And no Tenant at Will will ſupport or improve any thing, becauſe he hath no certain Eſtate. And thus it ſhould be both *Dedecus & Damnum* to the *Engliſh* Nation: And it ſhould be no Honour to the King, to be a King of Slaves.

The Seventh General Reaſon.

The Seventh General Reaſon is drawn *ab Utili & Inutili*: For that appeareth by the Statute of 36 *Edw.* III. that the Execution of the Statute of *Magna Charta*, 5 *Edw.* III. 25 *Edw.* III. and 28 *Edw.* III. are adjudged in Parliament to be for the common Profit of the King, and of his People: And therefore the pretended Power being againſt the Profit of the King, and of his People, can be no Part of his Prerogative.

The Eighth General Reaſon.

The Eighth General Reaſon is drawn *à Tuto*: For it is ſafe for the King to expreſs the Cauſe of the Commitment, and dangerous for him to omit it. For if any be committed without expreſſing the Cauſe, though he eſcape, albeit the Truth be it were for Treaſon or Felony; but if the Cauſe be expreſſed to be for Suſpicion of Treaſon or Felony, then if he eſcape, albeit the Truth be it were Treaſon or Felony, yet the Eſcape is neither Felony nor Treaſon; but if the Cauſe be expreſſed to be for Suſpicion of Treaſon or Felony, then if he eſcape, albeit he be innocent, it is Treaſon or Felony.

The Laſt General Reaſon.

The Laſt General Reaſon is drawn from Authorities, 16 *H.* VI. *Means de Fait*, 182. by the whole Court: The King in his Preſence cannot command one to be arreſted, but an Action of falſe Impriſonment lies againſt him that arreſteth. 22 *H.* VII. 4. *Newton.* 1 *H.* VII. 4. The Opinion of *Markham*, Chief Juſtice to *Edward* the Fourth; and the Reaſon, becauſe the Party hath no Remedy.

Forteſcue, Cap. 8. *Proprio ore nullus regum uſus eſt, &c.* to commit any Man.

4 *El. Plo. Com.* 236. The common Law hath ſo admeaſured the King's Prerogative, as he cannot prejudice any Man in his Inheritance: And the greateſt Inheritance a Man hath, is the Liberty of his Perſon; all other are acceſſary to it.

L. *The Trial of* John Gerhard, Peter Vowell, *and* Somerset Fox, *before the High Court of Juſtice for* High-Treaſon, *in conſpiring to* Murder *the* Lord Protector, the 30*th of* June, 1654. 6 Car. II.

Friday, 30 *June*, 1654.

THE High Court of Juſtice met this Day in the Painted-Chamber.

Mr. *Bond* prayed with them about Half an Hour.

The Court then ſat, and preſently adjourned to the Court of Chancery prepared for their Sitting: The Lord Commiſſioner *Liſle* was Preſident, Mr. *Phelps* Clerk, Serjeant *Glyn*, Mr. *Prideaux*, and Mr. *Ellis*, Counſel for the Commonwealth.

The Court was called (each Member by Name), and the Ordinance impowering them read. The Priſoners to be tried were,

Mr. *John Gerhard*, Gentleman.

Mr. *Peter Vowell*, Schoolmaſter of *Iſlington.*

And *Somerſet Fox.*

Somerſet Fox was firſt called to the Bar, and an Indictment of High-Treaſon read againſt him, for joining in a traitorous Deſign to have murdered his Highneſs the Lord Protector, and divers of his Council, proclaimed *Charles Stuart* King, ſeized on the preſent Guards and Forces, involved the Nation in a bloody War, *&c.*

Somerſet Fox did ingenuouſly confeſs the Charge againſt him upon the main to be true, and that he is guilty.

Then Mr. *John Gerhard* and Mr. *Peter Vowell* were brought to the Bar, and an Indictment to the ſame Purpoſe as that againſt *Somerſet Fox*, read againſt them.

They pleaded Not Guilty, and denied every thing.

Vowell ſaid, that he required a Jury of Twelve of his Equals, it being a Law confirmed by *Magna Charta*; and according to the ſixth Article of the Government by the Lord Protector alſo, that Law being not repealed, and therefore that he might be tried by his Peers.

The

The Lord Preſident told him, That the Members of the Court were his Peers, not his Superiors but his Equals, and that they were preſent near twice twelve, as he ſaw: And that they are to proceed by the Power of an Ordinance before them.

It was alſo told him by Serjeant *Glyn*, that he had owned the Juriſdiction of the Court in pleading *Not Guilty*.

Vowell ſaid he was a Man ignorant in the Law, and deſired advantage might not be taken of his weakneſs.

The Attorney-General *Prideaux* ſaid, none deſired to take any Advantage of any Thing, wiſhed they had not brought themſelves into theſe Troubles; that they were there in the Name of the Lord Protector of the Commonwealth of *England* to accuſe the Priſoners at the Bar, and to bring in their Proof, and the Priſoners were to defend themſelves as well as they could; and when both ſides were heard, it was to be left to the Court to determine, and to judge between them.

And it was declared that the Plot was to this Effect:

That the Plot was to ſeize on the Lord Protector and murder him, and ſome of the Council and others, and Proclaim and bring in *Charles Stuart*, Son of the late King, to be King, which Bloody Deſign was to be effected thus:

That the firſt hatching of the Plot was in *England* by Mr. *Hinſhaw*, who was one of the chief Plotters, and others; Mr. *Hinſhaw* went over from *England* to *France* to acquaint *Charles Stuart* (whom they called their King) with the Deſign, and Mr. *John Gerhard* about that time went over to *France* alſo, who had told Mr. *Hinſhaw* that he would do nothing in it until he had firſt had Approbation from *Charles Stuart*. Mr. *Wiſeman* was alſo then in *France* with them.

Addreſs was made to Prince *Rupert*, and the Deſign made known to him, deſiring him to communicate it to (him they called) the King, who accordingly did, and brought Mr. *Hinſhaw* to him; but *Charles Stuart* at the firſt delivered his Judgment in the Thing, that he was at preſent unſatisfied at that Time to go on in that Deſign for three Reaſons.

1. Becauſe it would be diſhonourable to him in the Eſteem of other Princes, in Caſe ſuch a Thing ſhould be known, and ſhould not be effected, to come in in ſuch a Way.

2. Becauſe it did not ſeem to him to be feaſible, but unlikely to be effected.

3. Becauſe it was not at that Time ſeaſonable.

But Prince *Rupert* afterwards did much encourage and perſuade, That the Deſign might be carried on, and promiſed all Aſſiſtance.

Mr. *Hinſhaw* and Mr. *Wiſeman* returned into *England*, Mr. *Gerhard* ſtayed there a while longer, but ſome Weeks after came back alſo; Mr. *Hinſhaw* declared to his Confederates here in *England* what Overtures had been with *Charles Stuart*, and that Prince *Rupert* had engaged to ſend ten thouſand *Scots*, *Engliſh* and *French*, and the Duke of *York* to come with them to land in *Suſſex*, and other Places, and that there would be Forces enough ready to aſſiſt and join with them.

Mr. *Hudſon* the Miniſter was thought on, to have Letters of Credence from *Charles Stuart*, who ſent a Letter to him; and that which he deſired in Caſe the Plot had taken, was to be made the Maſter of *Sutton*'s Hoſpital, which Mr. *Hinſhaw* promiſed him.

One Maſter *Philips*, alſo, and others were treated with about it, and Maſter *Gerhard* returning from *France*, the Plot was reſolved to be carried on, which was to be effected thus:

1. They were to ſeize on the Lord Protector, and murder him; and to do this Work, they ſhould take the Opportunity of his going to *Hampton-Court*, which he uſed to do every *Saturday* with a ſmall number ſlenderly armed; and thoſe that were to do this were Maſter *Hinſhaw* and Mr. *John Gerhard*, with thirty Horſe. Mr. *John Gerhard* to bring twenty-five Horſe, and Mr. *Hinſhaw* five, which each of them was to engage. Mr. *Gerhard* was ſomething cautious not to diſcover who they were he engaged, before an Oath of Secrecy was given, but twenty-five he had undertaken for.

Mr. *Hinſhaw*'s five were himſelf, Mr. *Tuedore* the Apothecary, Mr. *Wiſeman*, Col. *Aldridge*, and another, and then to ſeize on the Tower of *London*, and to go on with their Work.

2. If that failed, to ſeize on all the Guards about *Weſtminſter*, which they thought two thouſand five hundred ſufficient to do, and carry on their Work here about *London*; and for that purpoſe Mr. *Hinſhaw*, Mr. *Gerhard* and others viewed the *Meuſe*, and the reſt, and was heard to ſay, What a pity it was that ſo ſlender Guards ſhould not be ſeized on! and that when the Soldiers were at Nine-pins in the *Meuſe*, it was but ſhooting off a Piſtol, and preſently to fall on.

3. The laſt Way to have it effected to be thus: That when the Foot Regiments that are for the Guards about *London* were muſtering in *Tuttle-Fields*, as they uſed ſeveral times to do, to come into *Tuttle-Fields* and meet them there as of their own Party, and when they have laid down their Arms to ſeize upon them, and have others to be ready at the ſame Time every where to perfect the Work. And for this Purpoſe, if they acted this Way,

Col. *Finch* with a Party of two hundred was to fall into *London*, and do the Work in the City.

Major *John Gerhard* to fall on *Whitehall*.

Col. *Hinſhaw* to fall on the *Meuſe*.

Col. *Daniel* with two hundred to fall on St. *James*'s.

Another to fall into *Southwark*.

And one *Billingſly*, a Butcher at *Smithfield* Bars, with a Party to fall upon *Iſlington*; and it was preſſed that the Opportunity might not be neglected.

And that the Work might be the more feaſible, they conſidered how as many of the Soldiery as might be, might be engaged in the Buſineſs. And the Papiſts (who had a great hand in the Deſign) gave Information of two Soldiers of the Army, that uſed ſometimes to come and hear Maſs; and theſe two they ſent a Papiſt Woman to, who engaged them, and their direction was, to give Intelligence at Mr. *Hudſon*'s Houſe, where Mr. *Hinſhaw* and others of them frequented.

Maſter *Vowell* was cautious, being a ſolid Man, for his Work was not to bear Arms, but as a Privy-Counſellor to them, and he was to engage Mr. *Billingſly* the Butcher with a Party to ſeize the Lord Protector's Houſe at *Iſlington*, and him Mr. *Vowell* recommended to be a very fit Man for that Work.

And they had this Art, to endeavour to make the Lord Protector odious to the People, in turning the Deſign upon him by a Libel, which was ſcattered up and down *London*, that his Highneſs and the Army had a Deſign to maſſacre all but their Friends in all Parts of *England*; and this Libel was written by Mr. *Fenſhaw*, which was got printed by one in *Newgate-Market*, and Mr. *Vowell* had one of them.

When the Deſign was diſcovered, and Mr. *Gerhard* and ſome others apprehended, Mr. *Vowell* being at Mr. *Hudſon*'s Houſe, it was ſaid by him, That the Deſign might ſtill go on, tho' ſome were diſcovered; Mr. *Hinſhaw* and Mr. *Wiſeman* came to him to *Iſlington* to his Houſe, from whence they went to drink their Morning's Draught. Mr. *Vowell* ſaid, There were enough to do the Work ſtill; Mr. *Wiſeman* ſaid, There were many Horſe to fall on; Mr. *Vowell* ſaid, It might be eaſily done.

One *Wharton* in *Black-Friers* was to proclaim *Charles Stuart* King, and Col. *Finch* was to ſeize on the Lord Mayor, and make him to proclaim him; *Somerſet Fox* and others were to raiſe Apprentices to join in the Deſign; but the Lord Protector going by Water diſappointed them.

Mr. *Vowell* then ſaid to the Court, That they were not his Peers becauſe they were his Judges, and therefore deſired a Jury of Twelve of his Equals.

Mr. *Prideaux* anſwered, that ſo a Jury are the Judges, though they be the Priſoners Peers.

The Witneſſes againſt the Priſoners at the Bar were called for.

John Wiſeman was ſworn, and being required to give Evidence what he had to ſay touching the Priſoners at the Bar, avouched the Charge againſt them, and ſaid,

That he was with Mr. *Hinſhaw* in *France*, who did communicate by Prince *Rupert* to *Charles Stuart* the Deſign, as is before expreſt.

That he ſaw Mr. *John Gerhard* oftentimes with Mr. *Hinſhaw* while he was in *France*, and that he told him in *England*, That there was a Plot to fall on the Lord Protector, and to bring in *Charles Stuart* to be King, and to the reſt of that Deſign as is before expreſt. And about three Weeks after he met Mr. *Hinſhaw* and Mr. *John Gerhard*, and they went to *James*'s, and the *Meuſe*, *Whitehall*, and other Places.

That Mr. *John Gerhard* told one Mr. *Minors* of the Buſineſs, and how they were to fall on my Lord Protector, and ſo as before is expreſt.

Then Mr. *Gerhard* interrupted him, ſaying, *How ſhould this be done with a Company of Geeſe?*

To whom Mr. *Prideaux* anſwered, *That he knew beſt how it ſhould be done, and wiſh'd he had ne'er known it, nor gone about it.*

Mr. *Wiſeman* went on in his Evidence, and ſaid, That Mr. *John Gerhard* being at Mr. *Hudſon*'s Houſe, did there ſpeak about the Plot to fall on the Lord Protector, &c.

That he had a diſpute with Mr. *Hinſhaw* (whom the ſaid *Wiſeman* calleth Brother by ſome Relation), That ſuch a Time, and ſo and ſo, would be ſeaſonable *(mentioning ſome Particulars)*.

That another Day he heard Mr. *John Gerhard* ſay, That he was to command the Party, and had a Piſtol that would diſcharge three ſeveral Times, Mr. *Hinſhaw* and ſeveral other Perſons being then by; and that he doubted not but it would be ſeaſonable. That there were to be about thirty Perſons to fall on the Lord Protector; that his Brother *Hinſhaw* ſaid he was to bring five, and Mr. *Gerhard* twenty-five to do the Work, and named the five aforeſaid that his Brother *Hinſhaw* was to bring; and that his Brother *Hinſhaw* told him that Mr. *John Gerhard* was to ſurprize the Lord Protector's Perſon.

And when the Plot was diſcovered, he heard his Brother *Hinſhaw* ſay, That they that were taken were all of *Gerhard*'s Party, and none of his, and that there was a Libel printed to turn the Plot on the Lord Protector, as is before expreſt; and that his Brother *Hinſhaw* and Mr. *Vowell* had ſome of the Papers.

That on *Wedneſday* after it was diſcovered he was at Mr. *Vowell*'s Houſe at *Iſlington*, and his Brother *Hinſhaw* was there, and they went to the *King's-Head* to drink; and there his Brother *Hinſhaw* ſaid, that the Buſineſs might go on for all it was diſcovered, many Regiments in ſeveral Parts being ready to riſe, enough to carry on the Work.

Mr. John Gerhard *and Mr.* Peter Vowell, *the Priſoners at the Bar, ſtill denied all, and ſaid it was not true what he ſaid.*

Then Mr. *Edward Hudſon* a Miniſter that was blind, was ſworn, who ſaid that Mr. *Hinſhaw* deſired him to write two or three Words to the *Scotch* King, and that Mr. *Hinſhaw* related all the Buſineſs to him of the Deſign, and the three Objections by *Charles Stuart*, and P. *Rupert*'s Anſwer afterwards, and the three Ways to effect it; very much agreeing with the Particulars aforementioned.

When he came to Particulars touching the Priſoners at the Bar, he ſaid that Mr. *Vowell* was his intimate Friend, one that he had been much beholden to, and might have periſhed had not he relieved him. That Mr. *Hinſhaw* ſought to engage Mr. *Vowell*, but he anſwered that *he thought himſelf to be unfit*; That he ſaid *he did not reliſh it:* What Mr. *Hinſhaw* and he did agree, he knows not. What he heard was from Mr. *Hinſhaw*, That he did meet accidentally, that he did ſuſpect Mr. *Vowell* to act, but was not ſure of it; That he did ſuppoſe they had concluded, but was not ſure of any Thing. That Mr. *Vowell* ſaid *he was himſelf unfit to engage, but he would engage a Friend if he could:* That Mr. *Vowell* ſaid *there was a great many Horſes at* Iſlington, *which might be ſurprized, that he would try what he could do*; but whether he did any thing or not, he knows not.

Mr. Hudſon *denied ſome things he confeſſed upon Oath before Col.* Goff, *Juſtice of the Peace.*

Col. *Goff* was ſworn. He teſtified that the Examination (which was produced in the Court) was all written from Mr. *Hudſon*'s own Mouth, and after it was written, it was read to him, to the End that if there had been any Miſtake it might be altered, and was all by him owned upon his Oath, that it was freely teſtified, and nothing in it extorted from him.

Mr.

Mr. Hudſon *ſaid that he was preſſed, and that he then ſaid theſe Words:* Do not thus afflict an old diſtreſſed Man, that hath nothing but Afflictions upon him.

To which Col. Goff *anſwered, That at firſt Mr.* Hudſon *denied all, and would confeſs nothing until he heard the whole Buſineſs confeſſed by another, and that all that was preſſed to him was to diſcharge his Conſcience in ſpeaking the Truth; and that when he heard another to confeſs the Plot ſo fully, he deſired to be heard again, and then did freely confeſs, according to the Examination.*

In the ſaid Examination Mr. *Hudſon* declareth the whole Plot, and the Proceedings in *France*, *Charles Stuart*'s Objections, P. *Rupert*'s Encouragement, the three ways to effect it, and all the Particulars of the Deſign as aforeſaid, *&c.*

And how Mr. *Vowell* ſpake with Mr. *Hinſhaw*, Mr. *Wiſeman*, and the two Soldiers; that Mr. *Hinſhaw* ſaid there were many Cavaliers in Town in the Plot, but would never ſpeak to two together; that ſome reliſhed it well, others doubted. And ſome agreed to ſeize on the Lord Protector and the Guards, go with Drums and Colours to *White-Hall*, and the reſt of the Particulars, for bringing in *Charles Stuart*, &c.

In the ſaid Examination he alſo ſaid, that Mr. *Hinſhaw* ſaid that they would ſet up Major Gen. *Brown* to be at the Head of them, by a Letter which they hoped to get from *Charles Stuart*, and believed that he would accept of it, he being a Friend to the King, as they called him.

That it was propounded to Mr. *Vowell*, who did conſent to do ſomething in it, and did afterwards meet ſome ſix times at Mr. *Hudſon*'s Houſe.

That Mr. *Vowell* engaged *Billingſly* the Butcher aforeſaid to be a conſiderable Man, diſcourſed with him of the Number of Horſe, and *Billingſly* ſaid to him that the Horſes at Graſs might be eaſily ſeized.

That *Hinſhaw* told him and *Vowell*, after *Gerhard* was taken, that none of his Party was taken, and that the Plot might go on, that the *French*, *Engliſh*, and *Iriſh* from P. *Rupert* were to land at *Rye*, and other Places in *Suſſex*.

The Lord Preſident aſked Mr. Hudſon *whether he did own it; to whom he anſwered, That they were together, and ſuch and ſuch Things were ſpoken; but how far Mr.* Vowell *conſented, he knows not.*

Then Mr. *Robert Dale* was ſworn, who declared againſt Mr. *Vowell* the Priſoner at the Bar, that Mr. *Vowell* came to his Houſe, and aſked him *what Arms he had*; he told him *two Piſtols*; he ſaid he *would buy them of him*; he aſked *for what Uſe*; he ſaid *that he would tell him hereafter.*

That he came with Mr. *Hinſhaw* and Mr. *Wiſeman* ſeveral times to his Houſe, who did declare that they had a Deſign to fall on the Lord Protector (*and ſo in all the Particulars agreeing with the reſt touching the whole Buſineſs of the Deſign how it ſhould have been done, as hath been before expreſt*).

And that Sir *Gilbert Pickering*, Mr. *Strickland*, and two or three more of the Council were named that ſhould be cut off.

That they invited him to aſſiſt them, and would have engaged him to fall on in the ſeizing of them at *Iſlington*, and they ſaid there was one to head them, which they ſhould know afterwards, and he ſaid that Mr. *Vowell* heard theſe things. And that at another time Mr. *Hinſhaw*, Mr. *Wiſeman*, and Mr. *Plunket* met with Mr. *Vowell.*

And his Examination was read.

That Mr. *Vowell* aſked him whether he had any Arms to accommodate Friends, he ſaid two Piſtols (*and the reſt of the Diſcourſe as now he had ſpoken before the Court*); only the Examination mentioned a third Perſon of the Council, *viz.* Maj. Gen. *Lambert* alſo to be cut off. That they were provided of an Head, and bid him therefore be ſure to riſe when he had notice. Then Mr. *Hinſhaw* ſeeing two Men paſſing along by where he was, ſuppoſing them to be Soldiers, ſaid they ſhould be killed, and he ſaid that *Plunket* would give notice when they ſhould be ready upon the Deſign to fall on; and that he was engaged to get as many as he could to aſſiſt in the Work: That *Vowell* brought *Hinſhaw* to his Houſe.

John Hipwell, one of the two Soldiers in the Plot, being ſworn, ſaid, that a Papiſt Woman brought him to Mr. *Hudſon*'s Houſe where he met with them, and one told him, *That he had ſomething to diſcover to him, if he could join in it.*

That he was examined how ſtrong the Guards were, and that Regiment of which he was, and ſaid, the Regiment were 1200: He was aſked what Ammunition, and other ſuch-like Queſtions, to all which he gave anſwer.

After ſome Diſcourſe he told him, *That it was to fall on the Lord Protector, and on the Guards*, &c. and ſo told him the whole Deſign (*which he related to the ſame purpoſe as thoſe before*).

That he was bid to enquire what Cavaliers were in the Regiment, and among the Soldiery, and drink with them, and do what he could to divide the Soldiery, and to make what Party he could for this Work, and that when the Time ſhould be for Action, the Word ſhould be *FALL ON.*

The next Morning hearing ſome were taken Priſoners, there was much Sorrow.

Then Col. *Aldridge* was ſworn, who ſaid, That Mr. *Hinſhaw* revealed there was a Deſign to have fallen on the Lord Protector, and brought in *Charles Stuart* to be King, and related the Particulars much to the purpoſe as is before expreſt, and that *Hinſhaw* aſked him *if he would be one*; That he made ſome Queries about it; but Mr. *Hinſhaw* told him, *They had great Hopes of accompliſhing it, and that there was an Officer of their own in the* Tower *that ſhould free the Priſoners, and put Swords in their Hands, and that all ſhould be done upon an Inſtant, and that then they ſhould have Money enough.*

Then Mr. John Gerhard *was cauſed to withdraw awhile.*

Mr. *Charles Gerhard* was next called for, to ſee what he could ſay touching the Plot, who declared, That Mr. *Hinſhaw* had been in *France* with *Charles Stuart*, and his Brother *John* alſo, and Mr. *Wiſeman* had been there; and made a Narrative of all the Proceedings there, agreeing with the reſt before; and ſpake alſo of ſeveral Meetings at *Ludgate-Hill* and *Covent-Garden*; how he met Col. *Finch* at the Piazza, who told him of the Deſign to kill the Lord Protector, to ſeize on the Guards, the *Lord Mayor*, &c. proclaim *Charles Stuart* King; and the reſt of that Story of their Deſign, in which he agreed with the former. And that he declared to him, That they were liſting apace, and they had many joined hereabouts. That Col. *Deane* had liſted all that Day: That he himſelf had liſted ſome: That Col. *Finch* had a Party to join with him in the City. That another time he had further Diſcourſe again with him about it; that they were to meet the next Day, and then it was alſo ſaid, That *Finch* was to command a Party, and that his Brother *John Gerhard* alſo was to command a Party, and that his Brother *John* was then by, and heard this Diſcourſe; and that it was ſaid there was ready about *London* to ſeize on ſeveral Parts, in all, about two or three thouſand: That Col. *Finch* was to ſeize on the Lord Mayor, Col. *Dean* on *James*'s, Col. *Haines* on Col. *Ingolſbie* in *Southwark* (and ſo named other Particulars like what is mentioned before): Told him alſo the Management of the Deſign in *France (agreeing with what is mentioned before)*, and ſaid, He had a Commiſſion from the King (as he called him). And he ſpake alſo of their meeting at *Bell-Savage* at *Ludgate-Hill*, where mention was made of his Brother *John Gerhard*; and that *Somerſet Fox* was there, and engaged in the Deſign, and his was to get in all the Apprentices he could to join in it. That at another time *Hinſhaw* ſaid, *they had liſted two or three thouſand.*

Then Mr. *John Gerhard* was called to the Bar again, where he appeared with the other two. Mr. *Charles Gerhard* was then ſworn, and upon his Oath gave in Evidence, after his Brother was brought to the Bar, That the Deſign was to fall on the Lord Protector, &c. (*he gave a ſhort Narrative as before*) and further ſaid, that his Brother *John Gerhard* had been in *France*. *John Gerhard* Priſoner at the Bar ſaid *he confeſt it, that he was in* France *when they were there, and was ſometimes in their Company, but denied that he knew any thing of any Plot.*

Mr. *Charles Gerhard* being deſired to go on further, ſaid, That Mr. *Hinſhaw* was ſeveral times at his Lodgings, near *Eſſex* Houſe, and his Brother with him, and talked with him of the Deſign, which his Brother ſcrupled; but he told him, that if it could be accompliſhed, the King (as he called him) would like well of it. That his Brother met Mr. *Hinſhaw* at *Covent-Garden*, at Mr. *Jones*'s Houſe in *Roſe-Street*, who had Pen and Ink before him, and talked of the Numbers and other Particulars, his Brother *John* then in the Room (*and he named the Particulars as before*). But his Brother did not reliſh it, and was preſſed by them, nor did he know that he conſented to act.

Mr. *Prideaux* told Mr. *Charles Gerhard*, that *he did well to be as ſparing as he could againſt a Brother, only be careful to ſpeak the Truth, though with the faireſt Interpretation, becauſe Conſcience is nearer than a Brother.* The *Lord Preſident* alſo ſaid, that *he was not to look upon either the Greatneſs of Men, or the Relation of a Brother in this thing, but to look upon his Conſcience, and to look up to his God.*

John Man was ſworn, who declared the Deſign in general, (*as the reſt all agreeing*) and that Mr. *John Gerhard* and others had conſulted about it.

That being aſked if he would engage in it, he anſwered, Yes: That afterwards he went to *Bell-Savage*; but when he came there, there were *Somerſet Fox* and others, and they ſaid he could not have Admiſſion, for ſeveral were apprehended about it, and they knew not what to do.

William Dod was ſworn, who gave in Evidence, That on *Thurſday* Morning in *Whitſun* Week, *Somerſet Fox* told him, that there was a Deſign (*as aforeſaid, giving him an Account of the whole*), but he told him that it was to be kept ſecret. And that they were to meet about Two o'Clock in the Morning about it. That at *Bell-Savage* he met with *Somerſet Fox*, and his Couſin *Fox* the next Day again, and had the like Diſcourſe.

Francis Fox being ſworn, gave in the like Evidence againſt his Couſin *Somerſet Fox*, and that he was invited to join with them, but could not tell what to do.

John Wharton was ſworn, who ſaid, he keeps a Victualling-Houſe in *Black-Friers*, and that a Gentleman, a Stranger, came to him, and aſked him, *if he would ſerve the King*, and fell in Diſcourſe about his Calling; that he told him *he had marry'd a poor Widow:* And that the Gentleman told him, that *if the Deſign went on, he might have Money enough*, and ſaid that *he would find him better Employment.* The Gentleman's Name, he ſaid, was *Hinſhaw*, as he heard afterward. And that he told him *he would not be long before he came again.* He ſaid that he did believe that they had deſigned to ſeize on the Lord Protector, and all the Horſe Guards. But for his Part, he was, when they ſhould give him Notice of it, only to proclaim the King; that was all that he was to do.

Mr. *Barnes* was ſworn, who ſpake of the Deſign in general, much after the ſame manner as thoſe before.

Mr. *Minors* was the laſt Witneſs ſworn, who gave Evidence, that Major *Hinſhaw* told him of the Deſign near *Covent-Garden*, and one Mr. *Harriſon*, *Tuedor*, and others, were mentioned. That he aſked him if he would join in it. That afterward he met with *Hinſhaw* in the Palace-Yard at *Weſtminſter*, who told him of the Deſign as before. And that Major *John Gerhard* would command a Party, and that the Buſineſs was then in good Forwardneſs, but Major *John Gerhard* thought it could not yet be accompliſhed.

And that when Mr. *Hinſhaw* heard Mr. *John Gerhard* was taken, he ſaid that he might thank himſelf; for had not he delayed it, the Buſineſs might have been done two Days before.

The Priſoners at the Bar were then aſked what they had to ſay for themſelves.

Mr. *John Gerhard* ſaid he was falſely accuſed, and that the Witneſſes did not ſpeak Truth, and denied that he had any thing to do in the Plot, or knew of it.

Mr. *Vowell* did require of the Court to be allowed Pen, Ink and Paper, the Copy of his Charge, and Counſel to adviſe him what Defence to make for himſelf. And he pleaded *Magna Charta* again, as before, and the ſixth Article of the Government of the Lord Protector.

Serjeant *Glyn* declared, that an Ordinance being declared Law until the Parliament ſhall repeal it, is to give the ſame Authority to it, which is to an Act of Parliament, every Act being a Law no longer. That the Laws of old of *Treaſon* againſt the *King* are of force (were this new Ordinance not in being): For it means the *Supreme Governour*; though it names only a *King*, it hath been made uſe of for *Treaſon* againſt a

Queen.

Queen, and so is to be touching a *Lord Protector*, or any other *Supreme Governour*.

Mr. *Ellis*, Counsel of the Commonwealth, produced in Court the Government of the *Lord Protector*, in which that very Article, in the Conclusion of it, hath a Proviso to the 30th Article.

The Attorney-General *Prideaux* declared, that the Charge having been so fully proved against them, yet they could not but take notice of the ingenuous Confession of *Somerset Fox*; but were sorry to see such Obstinacy in the other two, after such a barbarous and bloody Design; that they should shew no Signs of Repentance: And therefore in behalf of the Commonwealth prayed for Justice from the Court against them.

The Court adjourned into the *Painted Chamber*, and Ordered that they should have Pen, Ink and Paper, and any Friend to come to them that they should desire in the Presence of the Lieutenant of the *Tower*.

The Court adjourned until *Thursday* next in the Afternoon.

When Mr. *Gerhard*, *Vowell*, and *Fox* were again brought before the Court, and were demanded what they had more to say for themselves, *Gerhard* and *Vowell* denied the Fact, notwithstanding what had been proved against them; after which the Lord President *Liste* made a short Speech to convince them of the desperate Wickedness of their Design, and how fully the Charge had been proved, and what Punishments the Law hath provided in such Cases; after which the Sentence of the Court was read severally to all three to this effect: *That upon mature Consideration of the Treasons and Murders plotted and contrived by them against his Highness the Lord Protector, and the Commonwealth, and raising a bloody War in the same, the Court did adjudge them to be hanged by the Neck, until they be dead.*

Mr. *Gerhard* desired the Execution might be alter'd, and that he might be Beheaded, or Shot to Death; and presented a Petition to the *Lord Protector* for that Propose.

The *Protector* was pleased to Reprieve *Somerset Fox*, because of his ingenuous Confession, but the other two were Executed the *Monday* following, *July* 10. *Vowell* was executed in the Morning upon a Gallows erected at *Charing Cross*; he spake little of the Crime for which he suffer'd; but his main Discourse was to proclaim his Zeal for the Old Way of Religion, and to the Cause of the late King and his Family; after half an Hour's hanging he was cut down, and convey'd away in a Coach.

About Four in the Afternoon of the same Day, Mr. *John Gerhard* was brought to the Scaffold on *Tower-Hill*; his Behaviour was sprightly, the Substance of his Discourse Cavalier-like, boasting himself of the Profession of Religion which was established by Queen *Elizabeth*, King *James*, and King *Charles*, to which Family he declared his Affection. * He acknowledged himself guilty of former Sins, for which he had deserved Death heretofore; but as touching the Crime for which he was to die, he spent not many Words, only he confess'd, that he knew of the Plot. At length he submitted his Neck to the Executioner, who at one Blow sever'd his Head from his Body.

* See the Relation of the Death (and Dying Speech) of Mr. *Vowel* and *Gerhard*, in *State Trials*, Vol. VIII. p. 359, 360, 361.

LI. *The Proceedings of the Commissioners of* Berks, *for ejecting Scandalous and Insufficient Ministers, against* John Pordage *of* Bradfield, *in the same County, begun the* 18*th of* September 1654. 6 Car. II. *Wrote by Himself.*

I Was first warned by this subsequent Summons, to appear before the Commissioners:

Monday, the 18th of *September*, 1654.

Berks, ss. *By the Commissioners appointed by an Ordinance of his Highness the Lord Protector and his Council, for ejecting of Scandalous Ministers.*

WHereas several scandalous Articles have been exhibited against Dr. *John Pordage* of *Bradfield*, in the said County of *Berks*; which said Articles lying now before the said Commissioners, it is thereupon ordered by the said Commissioners, that the said Dr. *Pordage* do make his Personal Appearance before the said Commissioners, on *Thursday* the 5th Day of *October* next, at the *Bear* in *Speenhamland*, by *Newbury*, at Nine of the Clock in the Morning, to answer the said Articles exhibited against him: Whereof he is not to fail. Given under our Hands and Seals in *Reading*, the Day and Year above said.

Chr. Whichcot. *Ri. Fincher.* *William Natkine.*
Sam. Wightwick *William Strowde.* *William Cooke.*

Accordingly at the Time prefixed I appeared, about Nine of the Clock in the Morning, in the Place above expressed; where I waited till betwixt Three and Four of the Clock before I was called in. Then came the Door-keeper to tell me that the Commissioners called for me.

I presently obeyed, and followed their Servant, with two Friends that accompanied me. Then the Door-keeper commanded my two Friends to go forth of the Room. I told him they were to be there. He replied, That he was ordered by the Commissioners to let none in but myself; and therefore they should be put out: And so began in an uncivil manner, by Violence, to thrust them forth. Whereupon I applied myself to the Commissioners, telling them these two were my Friends; and that I brought them as Eye-witnesses of the Proceedings; and that it was no reason that I should be alone. To which it was answered, They must depart, it being resolved upon by them to have none but myself there present. Then the Door-keeper began with Violence to pull them forth, crying out, Do you not hear the sense of the Commissioners? I turning towards them again, said, I desire none present but these my two Friends. It was replied, it should not be so. Upon this I was necessitated to ask them, against my Will, what they were, whether a public Court of Justice, yea or no? For if they were, I demanded the Liberty of a Subject, that their Doors might be opened, for all to come in that would; that so their Proceedings might be open. Moreover, I shewed how this was the Custom of all Committees above, and of all such Courts of Judicature. Whereupon the Doors were opened, and the People came in; Mr. *Wightwick* openly averring that I should fare the worse for it. Thus was I necessitated to contend for this just and reasonable Privilege; for which my Cause was unjustly threaten'd.

The Commissioners then sitting were these, with one or two more; Mr. *Fettiplace* Chairman, Mr. *Samuel Wightwick*, Mr. *Samuel Dunch*, Major *Fincher*, Major *Allin*, Mr. *Cox*, Mr. *Strowde*, Mr. *Angell Bell*. The Ministers were these, with some other, Mr. *Hewes*, Mr. *Tickle*.

But to proceed: As I stood silent before them, Mr. *Dunch* turned to me, and with much seeming Bitterness and Passion spake thus: Dare you deny Christ to be God? And again, How dare you deny the Godhead of Christ? To whom I replied, I came to know my Charge which was exhibited against me; and that I hoped he had not judged my Cause before it was heard.

Hereupon the Chairman commanded *Langley* the Clerk to read these following Articles in open Court.

Articles against Dr. Pordage *of* Bradfield.

1. THAT the Fiery Deity of Christ mingles and mixes itself with our Flesh.
2. That the Imputative Righteousness of Christ is a Sapless Righteousness.
3. That the Discoveries of the Sinfulness of Sin, the Terrors of the Law, the Death of Christ, the Free-Grace of God, are fleshly and flashy Discoveries.
4. That the Liberty and Freedom spoken of, purchased by the Blood of Christ, and applied by the clinging and cleaving of the Soul to, is not a Liberty or Freedom from the Guilt of Sin, the Curse of the Law, the Wrath of God; but the Fiery Deity of Christ in the Centre of our Souls.
5. That by Male and Female, *Gen.* i. we are to understand by Male the Deity, by the Female the Humanity; and that these two became one Flesh. These things were delivered without any Limitation whatsoever.
6. That Gifts and Graces of the Spirit are but Flesh.
7. That Christ is a Type, and but a Type.
8. That Christ is not God.
9. That Christ is not *Jehovah*.

Tickle witnesseth.

After these Articles were read the Chairman demanded my Answer. To whom I replied, That I had been acquitted from all these, four Years since, by the Committee of Plundered Ministers, and that after a full hearing and Debate; therefore I desired that (according to Law) they would pass by these old ones. But if they had any that were new, I told them I was ready and willing to receive and answer them. I further replied, I hoped they would give me the Liberty of a Felon, who, after Trial and Acquitment, cannot be questioned for the same thing again. To which Mr. *Dunch* replied, with much seeming Fierceness, You are worse than a Felon, for aught I know. Which Language coming from a Judge to the Defendant before Trial, let all sober Persons judge of, who are acquainted with the Rules of Civility, Morality, or Christianity.

Here Mr. *Hewes* the Minister interposed, affirming, That a Felon might be acquitted at one Assizes, and hang for the same thing at the next: Of which he gave an Instance in a Story not worth the relating. To which I replied only this, That it could not be for the same he was acquitted of before. But I seeing that he had gone *ultra crepidam*, beyond his Office, and beyond Reason, said no more to him; though he was very bitter and pragmatical, speaking oft as Judge, although he was but an Assistant, and that only in reference to Ignorance and Insufficiency.

But afterward, applying myself to the Chairman, I further urged, That these Articles were not within the Cognizance of the Commissioners, in that I had been discharged from them, by those who had full Power and Authority to do it.

After this, all were commanded to withdraw; and about an Hour after I was called in again, and asked for my Discharge. I answered, I came now only to know my Charge; and that I had not my Discharge there, but should bring it when they would appoint me.

Then they declared, That notwithstanding my Discharge in another Court, yet it was the Judgment of the Commissioners, that they had Power to take Cognizance of the Articles exhibited: Whence they made this Order, *viz.*

Berks, ſſ. *By the Commiſſioners for ejecting of Scandalous Miniſters*, &c. October 5, 1654, *at the* Bear *in* Speenham-land.

DR. *John Pordage*, Rector of *Bradfield*, in this County, hath in Obedience to our Warrant, dated the 18th of *September* laſt, to him directed, this Day attended, and pleadeth that he hath been already diſcharged from the Articles that are exhibited to us againſt him, by the Parliament and the late Committee of this County, and therefore not again to be queſtioned or proceeded againſt for the ſame by theſe Commiſſioners. But the ſaid Doctor hath produced no ſuch Diſcharge.

Reſolved, upon the Queſtion, That by virtue of the Ordinance of his Highneſs the Lord Protector and his Council, for ejecting of ſcandalous, ignorant, and inſufficient Miniſters and School-Maſters, the ſaid Commiſſioners have power to queſtion the ſaid Doctor upon the ſaid Articles; and that notwithſtanding his Plea, as aforeſaid, of a former Diſcharge.

And it is thereupon ordered, That the ſaid Doctor do give his poſitive Anſwer to the ſaid Articles unto us on this Day fortnight, being the 19th Inſtant, at this Place: Whereof he is not to fail.

Now this was the Subſtance of the Things which were tranſacted the firſt Day of my Appearance; which I have here preſented in Truth and Righteouſneſs to the impartial Reader.

My ſecond Appearance before them was the 19th of *October*, at the ſame Place.

The Commiſſioners then ſitting were theſe: Mr. *Wightwick* Chairman, Mr. *Dunch*, Mr. *Evelyn*, Mr. *Bell*, Mr. *Mills*. The Miniſters, Mr. *Woodbridge*, Mr. *Fowler*, Mr. *Hewes*, with ſome others.

The firſt Thing they demanded, was my Anſwer to the Articles exhibited againſt me. But I deſired them to receive my Diſcharge, which I hoped would be inſtead of a full and ſatisfactory Anſwer. So I produced it; and it was received by them, and delivered unto the Clerk; who, after it was read, took a Copy of it, and then returned it to me again.

The Tenor of it was as followeth:

At the Committee for Plundered Miniſters, March 27, 1651.

UPON hearing the Cauſe, in preſence of Parties and Counſel on both ſides, concerning Dr. *Pordage*, Miniſter of *Bradfield*, in the County of *Berks*; and upon reading the Papers and Examinations depending againſt him before this Committee, and full hearing what could be ſaid by both Parties; this Committee hath taken the ſaid Cauſe into ſerious Conſideration and Debate: And do thereupon order that the ſaid Cauſe be diſmiſſed. And the ſame is hereby diſmiſſed.

Gilb. Millington.

Afterward they aſked me how they ſhould know that it was a true Copy. I returned Anſwer, I received it from their Clerk there preſent, who knew it to be true: And beſides, I had a Friend by, who being with me when I received it, could atteſt the Truth of it by Oath. Then they waved my Diſcharge, and called for my particular Anſwer to the Articles, alledging, that notwithſtanding the Diſcharge, the Commiſſioners had judg'd the Articles under their Cognizance. So that after I had preſſed my Diſcharge with as much Earneſtneſs as in Modeſty I could, they ſtill haſtily calling for my further Anſwer, I was neceſſitated to give in this which followeth:

My Anſwer to the Articles exhibited againſt me, conſiſts in theſe Particulars.

Partic. 1. I Humbly conceive that none of the Articles exhibited againſt me are comprehended in the Act, intitled, *An Act againſt ſeveral Atheiſtical, Blaſphemous, and Execrable Opinions, derogatory to the Honour of God, and deſtructive to human Society*; without the Senſe and Meaning of the Words expreſſed in the Act be ſtretched and wreſted beyond the literal Scope and Drift of the Act. And this is not my Judgment only, but the Judgment of ſome pious and judicious Lawyers of this Land. Which Thing, in all Humility, I leave to your ſerious Conſiderations.

Partic. 2. I humbly conceive that the fore-mentioned Act cannot take into Cognizance thoſe Articles exhibited againſt me; becauſe they are acknowledged by the Accuſers to have been uttered a Year before this Act had a Birth in the World. Now can any Guilt be legally imputed from any Law, before the original Being of it? This ſeemeth contrary to Reaſon. Now thoſe Articles were charged upon me *Aug.* 16, 1649, and this Act made and publiſhed *Aug.* 9, 1650.

Moreover, theſe Articles are not puniſhable by that Act; becauſe, according to the Concluſion of the ſaid Act, no Perſon is to be impeached, moleſted, troubled, or puniſhed, for any Offence mentioned in that Act, unleſs he be for the ſame Offence accuſed, preſented, indicted, or convicted within ſix Months after ſuch Offence committed. Now it is ſix Years ſince ſome, and four ſince any of theſe Expreſſions were pretended to be uttered by me.

Partic. 3. I humbly conceive that the fore-mentioned Act cannot take into Cognizance the Articles exhibited againſt me; becauſe, upon Examination of Witneſſes on both Sides, I was cleared by the Vote of the Honourable Committee of *Berks*, who had full Power, by an Act of Parliament, to put out and to put in Miniſters in this County.

Partic. 4. I humbly conceive that the fore-mentioned Act cannot take into Cognizance the Articles exhibited againſt me; becauſe, after Examination of Witneſſes, and after a full Hearing, I have been diſmiſſed and acquitted from all Guilt and Offence charged upon me from them, by the Honourable Committee of Plundered Miniſters, who had full Power to put out, and to keep and put in Miniſters. Now the judicious Lawyer ſaith, That theſe Articles having had their original Dependence before two Committees of Parliament, who had an abſolute Power, by Act and Ordinance of Parliament, to put out and put in Miniſters, and they having cleared and acquitted me from the pretended Guilt of ſuch Articles, it is not according to the Liberty of the Subject, or Tenor of the Law, that it ſhould be within the Cognizance of this Act, or of this Committee; it being againſt that fundamental Maxim of *Magna Charta*, *Nemo bis punietur pro uno delicto.*

Moreover, it ſeemeth contrary to the ſixth Article in the *Inſtrument of Government*, publiſhed by his Highneſs the Lord Protector's ſpecial Command; in which it is expreſſed, *That the Laws ſhall not be altered, ſuſpended, abrogated, or repealed, but by Conſent of Parliament, ſave as it is expreſſed in the thirtieth Article.* Therefore my former legal Diſcharge, according to the former Acts and Ordinances of Parliament, is ſtill in force, and holds good, not being abrogated by the Government, or by any thing expreſſed or included in the ſaid thirtieth Article of Parliament.

I ſhall now proceed to anſwer each Article in particular.

Art. 1. *That Chriſt is not God: That Chriſt is not* Jehova.

1 *Part. Anſw.* I do acknowledge that ſuch Expreſſions were uttered by me: But I hope the bare Expreſſion of ſuch Negations doth not make me come within the Guilt of the Act; for it muſt be known what Words preceded ſuch Expreſſions, and what followed. To ſay in Preaching, *There is no God*, doth not make the Preacher guilty of Atheiſm, if the Words going before be but annexed, *The Fool hath ſaid in his Heart, there is no God.* So do but annex the ſubſequent Words to the former Expreſſions, That Chriſt is not God, *viz.* the Father; That Chriſt is not *Jehovah*; *Jehovah* taken ſtrictly for the Perſon of the Father, the firſt Perſon of the glorious Trinity: I ſay, add but theſe Words, and there is nothing blaſphemous or culpable in ſuch Expreſſions.

2 *Part. Anſw.* Though I do acknowledge that ſuch Expreſſions fell from me, yet I never avowedly uttered or maintained ſuch Propoſitions; for they were only uttered by way of Diſpute, and that upon this occaſion: Mr. *Daniel Blagrave*, then being Chairman of the Committee, demanded of Mr. *Tickle* what Blaſphemy was. He anſwered, Evil-ſpeaking againſt God the Father. I replied, A lame Definition of Blaſphemy. Had Mr. *Tickle* ſaid Evil-ſpeaking againſt God, which is a Word implying the Trinity in Unity, then there had been no occaſion given of Conteſt; for the ground of theſe Expreſſions aroſe from the Weakneſs of his Definition of Blaſphemy, in that he ſaid Blaſphemy was Evil-ſpeaking againſt God the Father. To which I replied, His Definition of Blaſphemy doth not reach that of which he accuſed me; for that which he charged me with, is not Blaſphemy againſt God the Father, but againſt Chriſt, God the Son. And I have uttered no Evil-ſpeakings againſt God the Son, but ſeemingly to my Accuſer, in ſaying, That his Imputative Righteouſneſs would prove a Sapleſs Righteouſneſs to all thoſe that had not the Fiery Deity of Chriſt in the Centre of their Souls, burning up their Luſts and Corruptions. Mr. *Tickle* then replied to the Committee, Pray take notice that the Doctor denieth that Chriſt is God, which I prove out of *John* i. 1. To which I replied, Chriſt was not God the Father, but God the Son. Chriſt is *Jehovah*, and ſo called the Lord our Righteouſneſs, ſaid Mr. *Tickle*. To which I replied, Chriſt is not *Jehovah*, if you take *Jehovah* for the Perſon of the Father. And this is the Truth, as the whole Committee of *Berks* then preſent can teſtify; by whoſe Vote I was then cleared of all theſe unworthy Aſperſions, and diſmiſſed; and ſince, upon Proof of Witneſſes, acquitted and diſmiſſed; and that after a full Hearing by the Committee of Plundered Miniſters.

3 *Part. Anſw.* I do humbly conceive, that although the former Act did expreſly adjudge and condemn Evil-ſpeakings, or Blaſphemy againſt Chriſt, yet my delivering ſuch Expreſſions in an extemporary Diſpute, *viz.* That Chriſt was not God, or *Jehovah*, did not make me obnoxious to the Guilt and Penalty of that Act; becauſe *p.* 980 & 981, they only are condemned as guilty, who ſhall avowedly profeſs, maintain, or publiſh in Word or Writing, ſuch or ſuch execrable Opinions: which I never did. Nay, I profeſs avowedly the contrary, and do declare in the Sincerity of my Heart, That the Thought never entered into my Heart, to deny the God-head or Deity of Chriſt; but I have avowedly in Words maintained, and publiſhed by Preaching, That Chriſt is God, out of that Text, *John* i. 14, *The Word was made Fleſh*, &c. From whence I did maintain and publiſh, That Chriſt was God, coequal, coeternal, and coeſſential with the Father, contrary to all thoſe blaſphemous and execrable Opinions, that deny Chriſt to be God. So that now I hope the mere uttering ſuch Expreſſions, by way of Diſpute, before a judicious and underſtanding Committee, doth not make me a Tranſgreſſor, according to the true Senſe and Meaning of this Act.

Artic. 2. *That the imputative Righteouſneſs of Chriſt is a ſapleſs Righteouſneſs.*

Anſw. I thus deliver the Truth: As I was paraphraſing on that Portion of Scripture mentioned in *Dan.* ix. 24. of everlaſting Righteouſneſs, I did ſay Words to this effect: *That the imputative Righteouſneſs of another was a ſapleſs Righteouſneſs to all thoſe that had no Right or Intereſt in it.* I ſhall deſire a little to explain myſelf on this Propoſition, that the imputative Righteouſneſs of Chriſt in this ſenſe will prove a ſapleſs Righteouſneſs: For he that hath not the Spirit of Chriſt dwelling in his Heart by Faith, notwithſtanding all this Application of Chriſt and his Merits, yet to him it is but a ſapleſs Righteouſneſs: ſo ſaith the Scripture, *He that hath not the Spirit of Chriſt, is none of his*, notwithſtanding his Application of the imputative Righteouſneſs of Chriſt to himſelf: But here I do not deny the imputative Righteouſneſs of Chriſt, nor his active and paſſive Obedience to be the material Cauſe of his Juſtification; yea, I own and acknowledge Chriſt's Righteouſneſs to be the Soul's Righteouſneſs in point of Juſtification, when it is apply'd upon a true ground, according to the true Senſe of the Spirit in the Scriptures.

Artic. 3. *That they ſhould look to the fiery Nature of Chriſt's Deity in the Centre of their Souls, burning up the Droſs and Chaff of their Luſts and Corruptions.*

Anſw. For the Explanation of this Article, we muſt conſider theſe are Scripture-Metaphors, and Chriſt is often clothed with a Garment of Fire, according

according to that of *Paul*, Heb. xii, 29. *Our God is a consuming Fire*; and in another Place, *Christ shall come in flaming Fire.* None, or few, understand these Scriptures, or the like, of elemental material Fire; but either of the Fire of his divine Love to burn up our Lusts and Corruptions, or the Fire of his divine Justice or Wrath in destroying Sin and Sinners.

Artic. 4. *That the fiery Deity of Christ mingles and mixeth itself with our Flesh.*

Answ. I was then speaking of the mystical Union betwixt Christ and his Church: And in the Illustration of this Union, I apply'd that Expression out of the 5th of the *Canticles*, *He mingleth his Wine and his Milk together:* So in this Union, Christ's divine Nature mingleth itself with our Humanity, his Spirit with our Flesh. This Expression Mr. *Tickle* was pleased to charge with Blasphemy; asking me what I meant by Flesh. I answered in Conference, By Flesh I understand not the sinful and fleshly Part of the Soul, that lusteth against the Spirit; for with this there can be no Union. 2. By Flesh I mean not the outward elementary Flesh of the Body; but by Flesh I understand our pure Humanity, the pure regenerated Part of the Soul, the converted Part of our Spirit: And thus the Spirit of Christ and regenerated Part are really in Union one with the other, according to the Apostle's Phrase, *We are made Partakers of the divine Nature.* And against this Answer he had nothing to reply.

Artic. 5. *That Christ was a Type, and but a Type.*

This was in Conference: He asked me whether Christ was a Type or no. I answered, Christ was a Type, so expressed 1 *Tim.* ii. 21. How was Christ a Type, replied Mr. *Pendarvis?* I answered, His Life and Conversation was a Type, that is, a Pattern and Example for us Christians to square our Lives and Conversations by. Who denies this? said he. Why, I affirm no more, said I, than that Christ is a Type. Is he but a Type, reply'd Mr. *Pendarvis?* I answered, Why lie you thus upon the catch? I say Christ is a Type; but I will not affirm Christ is but a Type. And this they both confess in their Answers.

Artic. 6. *That the Gifts and Graces of the Spirit are but Flesh.*

I confess I said the common Gifts and Graces of the Spirit were but Flesh; but this I opened after this Manner, That they were but fleshly, weak, and carnal in point of Justification, in point of Trust and Confidence in regard of Salvation and Life eternal; and no otherwise, as their own Witnesses on Examination confessed before the Honourable Committee of *Berks*.

To conclude: As for these Articles, especially all the latter, I look not upon them as under the Cognizance of the Act; yet for your Satisfaction I have transcribed my former Answers, and do here present them again to your Consideration, by which you may clearly see my Innocency in reference to the horrid Opinions for which I am accused.

John Pordage.

This being read by the Clerk, we were all commanded to withdraw. About an Hour or two after, I was called in again; and they told me, if I would, I should have an Order to fetch in my Witnesses to prove what they could on my Behalf in Reference to that Charge. I reply'd, That I hoped my Discharge and Answer were sufficient, and that they would not put me to the Trouble and Charge of traversing this Business *(viva voce)* by my Witnesses again; in that besides my Discharge I had brought all their Depositions delivered by Oath to the Committee of Plundered Ministers; which I desired might be then read before them, because the Witness could but say, *viva voce*, what was there wrote down.

Hereupon I delivered them to be read; and so being handed to the Clerk, the Commissioners asked me how they should know them to be true. I reply'd, the Clerk delivered them as a true Copy, and I would affirm on my Oath, that they had not been altered since I had them. But notwithstanding this, they rejected them, alledging that they would not take Notice of any written Depositions taken out of another Court; but that I must again bring in the former Witnesses, to testify what they could by Word of Mouth: So that all the Reasons and Arguments I could use, could not prevail with them to free me from the Charge and Trouble of bringing in my Witnesses again; for which the Clerk was then commanded to draw me up an Order.

Berks. *By the Commissioners for ejecting of Scandalous Ministers,* Octob. 19. 1654. *At the* Bear *in* Speenhamland.

DR. *Pordage* of *Bradfield* hath this Day again attended, and hath exhibited an Answer in writing to the Articles exhibited against him. Ordered, That the said Doctor do attend again before us on this Day fortnight at this Place; at which Time he is to give Answer to the additional Articles now exhibited against him, and to produce his Witnesses, if he have any, for Proof of his Defence; and Summons are to issue out for that Purpose, if he desire the same.

Then they told me they had a new Charge of Articles against me; which were these that follow, then openly read by the Clerk.

Articles against Dr. Pordage, *Parson of* Bradfield, *to prove his Ignorance and Insufficiency for the Ministry.*

1. IMprimis, One Mistress *Lewyn* being with child, and near the Time of Travail, sent for Dr. *Pordage*'s Mother to be her Midwife; but he would not suffer her to go, saying, they would not be guilty of such a beast-like Life, meaning Mistress *Lewyn*'s being with Child by her Husband.

2. The said Dr. *Pordage* coming to the House of Mrs. *Lewyn*, in his Discourse with Mrs. *Lewyn*, blamed her for having Children by her Husband, and argued with her the Unlawfulness of having Children by her Husband.

3. In his Discourses to Mrs. *Lewyn* concerning the same Subject, endeavoured to maintain the Unlawfulness of their having Children, and said that *Adam* was made Male and Female in himself, and had he not fallen, he had brought forth Children himself; and seemed to maintain and prove the same by Scripture, and otherwise.

4. In his Discourses with Mrs. *Lewyn*, which was about the Time that one *Everard* was with him in his House at *Bradfield*, who was generally reputed to be a Conjurer, he asked Mr. *Lewyn* whether he would not be afraid if he should see his own Picture or Shape; intimating that he himself had used to see his.

5. The said Dr. *Pordage* hath had for some Weeks together in his House the said *Everard*, and one *Tawny* who stiled himself King of the *Jews*, who had been questioned (as it is generally reported) for holding dangerous and unsound Opinions; as, That there is no Hell, and the like.

A True Copy,
Mat. Langley *Regist.* *Joseph Cook.*

After these were read, I desired the Court in the first Place to finish the first Paper of Articles; urging, that if they were sufficient, they might save both them and me much Trouble. But this they denied, though I much urged it: Whereupon they commanded this subsequent Order to be drawn up, *viz.*

Berks, ff. *By the Committee for ejecting of Scandalous, Ignorant, and Insufficient Ministers and School-Masters in this County,* Octob. 19. 1654.

ORdered, That Mr. *John Tickle*, Mr. *John Pendarvis*, Mr. *Francis Pordage*, *John Higgs*, *Gifford Luinton*, *Richard Luinton*, *Mary Pocock*, and *Roger Stevens*, do make their personal Appearance before the said Commissioners on *Thursday* the second Day of *November* next, by Eight of the Clock in the Morning, at the *Bear* in *Speenhamland* by *Newbury*, to testify their Knowledge of all such Matters as should be propounded unto them concerning Dr. *John Pordage* of *Bradfield* in this County; whereof they are not to fail. Given under our Hands and Seals, the Day and Year above-mention'd.

Samuel Wightwick. *Samuel Dunch.*
Ar. Evelyn. *Angell. Bell.*
Ed. Mills.

But this I must speak on the Behalf of Mr. *Wightwick* and Mr. *Evelyn*, that by their Presence Things were transacted that Day with much more seeming Modesty and Calmness than at other Times; the Ministers then containing themselves within the Limits of due Silence, which gave me some Hopes that the latter Part of my Trial might be transacted in some Moderation, Equity, and Civility. But these two sitting no more after that Day, there broke forth much Confusion, Rashness, and Incivility in their Carriage; some Ministers (who were bitter Enemies against me) acting the Part of Commissioners, and seeming to have great Influence upon all their Proceedings, being suffered to break forth into uncivil Scoffs and Railings against me in the open Court, as it will afterward appear.

But thus much for my second Day's Appearance, here represented according to the Line of Truth and Equity.

On the second of *November* I appeared before them again at the same Place, according to their last Order, at which Time Major *Fincher* was Chairman; besides whom there were present, Mr. *Dunch*, Mr. *Stroud*, Mr. *Cook*, Mr. *Bell*, with two or three more Commissioners: The Ministers were Mr. *Fowler*, Mr. *Woodbridge*, Mr. *Hughes*, Mr. *Tickle*, &c.

The first Thing they demanded of me, was to give in my Answer to the second Charge of Articles exhibited the last Day against me. I reply'd, that my Answer was ready; but I desired that they would keep to their own Order, and first hear my Witnesses, and so finish my first Charge, that we might not run into Confusion. But they would not hearken to this rational Request, importuning me for my Answer, resolving to hear nothing till I had given it in: So being necessitated to yield to their Command, I gave in this subsequent Answer.

My Answer to the second Article exhibited against me, is as followeth.

IN the first Place, I shall take liberty to reply to the Title of the Articles; which is, to prove my Ignorance and Insufficiency for the Ministry, by the Articles produced.

1 *Part. Answ.* I do here humbly desire, that Ignorance and Insufficiency for the Ministry may be preserved as distinct Heads from Scandal and Heresy, according as it is intended by the Authors of the Ordinance: For certainly it is against the Judgment of the Lord Protector, and the Intendment of his Council, who made the Ordinance, to confound that which may be called Scandal or Heresy, and Insufficiency together. We see it is usual this Day among us, for knowing and learned Ministers to differ in their Judgments, both in Doctrine, Worship, and Things indifferent; who yet thereupon are not accounted ignorant and insufficient for the Ministry. So that altho' these Articles could be proved true, they are to be referred either to Scandal or Heresy, and not to Ignorance and Insufficiency.

2 *Part. Answ.* If Ignorance and Insufficiency for the Ministry be taken for the Want of an inward special Gift, as it is qualified with human Arts and Sciences, attained by much Pains and Industry, in relation to Academical Learning: Or if Ignorance and Insufficiency for the Ministry are taken for the Want of inward Abilities, qualified with spiritual Gifts, as with those of Prayer, Utterance and Preaching: Or if Ignorance and Insufficiency be taken for the Want of a saving Principle of Grace, manifesting itself in Convictions of Sin, Legal Terrors or Evangelical Illuminations into the Free Grace and Love of the Father, or into the meritorious Death of Christ for the Redemption of lost Sinners: Or if it be taken for those Effects flowing from such a saving Principle of Life, as that of saving Faith, true Repentance, Pardon of Sin, Peace of Conscience, a holy Life in all universal Obedience to the holy Will and righteous Commands of God: Then I humbly conceive, that mere Ignorance and Insufficiency, without the Pretensions of Heresy and Scandal, will be found a Bed too short, and a Covering too narrow for my Ejection out of the Work of the Ministry, according to the true Intent of the Ordinance.

3 *Part. Anſw.* Hence my humble Deſire to you for Time to come, is, that you would not make your Ephah of Ignorance and Inſufficiency ſo ſmall, that Hereſy and Scandal may not ſtand diſtinct in it; and that you would not make your Shekel of Ignorance and Inſufficiency ſo great, as to ſwallow up Hereſy and Scandal into the boundleſs and endleſs Extent of it: For what is this but to falſify the Balances of Juſtice and Equity by a deceitful Weight, in not preſerving Inſufficiency as a diſtinct Head from Scandal and Hereſy; which in Time may prove very prejudicial to that Liberty of Conſcience, which of late Years hath been, and is ſtill preſerved and aſſerted by the Rulers of the Nation?

In the Second Place, to the Articles themſelves I thus reply.

Anſw. 1. As to the four firſt, I know not how or what poſitively and directly to anſwer to them, till I ſee them firſt proved by Oath, and that by ſuch Perſons who are without juſt Exceptions; and then I ſhall be capable of returning a more full and complete Anſwer.

Anſw. 2. Neither do I ſee, that ſeemingly to maintain and argue, by way of Diſpute only, the Unlawfulneſs of Mrs. *Lewyn*'s having Children by her Huſband, for the ſifting forth of Truth from Error, could it be proved that I did ſo, could argue or evince my Ignorance and Inſufficiency for the Miniſtry: For this, tho' it were evinced to be my Crime, cannot in Juſtice and Equity be referred to that Head of Inſufficiency, but to Scandal; except Ignorance and Inſufficiency be reſolved into the boundleſs Liberty of the Wills of the Judges, that what they deem ignorant and inſufficient, muſt be ignorant and inſufficient, whether Ignorance and Inſufficiency be real in ſuch a Subject or not.

As to the Fifth Article, which concerns my giving Entertainment in my Houſe to one *Everard*, reputed a Conjurer, and to one *Tawny*, reported to hold unſound Opinions, I thus anſwer:

As to the firſt Part of it, I confeſs that one *Everard*, about four Years ſince, was received into my Houſe at *Bradfield*, for the Space of almoſt three Weeks, and no longer; and that after this Manner: He came in Harveſt-Time with a new Pair of Harveſt-Gloves on his Hands, to ſhew his Willingneſs and Readineſs to work; and aſking to ſpeak with me, told me, That if I pleaſed to employ him in Harveſt-work, he came to offer his Service. Hereupon I entertained him as a Workman. And thus you ſee both the Manner of his Coming, and the Cauſe of his Entertainment.

Whereas it is ſaid he was generally reputed a Conjurer:

Anſw. 1. I anſwer, I never heard any the leaſt Intimation from any, that he was ever ſuſpected to be a Conjurer, till after his Departure from my Family: If he was a Conjurer before he came, it was more than I knew, or had heard of; but after his Departure, I confeſs there aroſe a general Report up and down the Country, that he was a Conjurer. But from that Time to this, I have never ſeen him, nor known what is become of him.

Anſw. 2. After his Abſence, I do further affirm, That I was ſtrongly inclined to believe, according to the general Rumour, that he was a Conjurer. Hereupon I was in a great Strait in my own Spirit, whether I ſhould proſecute him or not; my Zeal for God's Glory, and my Obedience to the Command of God, that ſaith, *Suffer not a Witch to live*, giving me ſome Impulſions to do it. But after ſerious Debate and Conſideration within myſelf, I reſolved this Caſe or Scruple of Conſcience thus: That my own Perſuaſions and Jealouſies, tho' they had ſome Ground of Probability, yet not being certain, afforded me not a ſufficient Ground of proſecuting him as a Conjurer, or of ſwearing poſitively he was ſuch. Now I leave it to your ſerious Conſiderations, whether this Tenderneſs of Conſcience keeping me from proſecuting of him, or ſwearing againſt him, for fear of that heinous Sin of Perjury, makes me either ignorant or inſufficient for the Miniſtry.

As to the Second Part of the Fifth Article, which concerns my Entertainment of one *Tawny*, reputed (as it is there expreſſed) to be one that holds unſound Opinions:

Anſw. I anſwer, It is well known, as I invite none, ſo I turn away none that come to viſit me, tho' their Principles in Matter of Doctrine, Worſhip, and Diſcipline, be different from mine. I will here ſhew you briefly my Grounds and Ends: My Grounds are theſe: I look upon it as my Duty, according to the Goſpel of Chriſt, to entertain all Strangers that be in want and neceſſity, profeſſing the Name of Chriſt. If Enemies hunger, we are to feed them; if they are naked, we muſt clothe them: and as for Strangers, we are to lodge and entertain them, *Heb.* xiii. 2. And as in the Practice of this I break no Law of God, ſo no Law of Man. And you may remember, that in the 37th Article of Government it is expreſſed, That all ſuch as profeſs Faith in God by Jeſus Chriſt, tho' differing in Judgment from the Doctrine, Worſhip, or Diſcipline publickly profeſſed, ſo as they abuſe not this Liberty to the Civil Injury of others, nor to the actual Diſturbance of the public Peace, ſhall be protected; and then ſurely their hungry Bellies may be fed, their Backs clothed, their Wants ſupply'd, and their Perſons lodged and entertained.

And further, my Ends are theſe, which are Pure and Evangelical, That I may prove all Things, and hold faſt that which is good: that I may try the Spirits, for many falſe Spirits are gone forth into the World. Now how are they to be proved and try'd? Not by carnal Weapons, as by Penalties, Mulcts, Impriſonments, and other external Puniſhments; but by convincing of them with ſound Doctrine, Chriſtian Diſcourſe, ſpiritual Arguments, and by the Example of a good Converſation. And thus God's Glory and the Good of others are my only Ends, in giving Entertainment to all Strangers that come in Civility to viſit me.

Now the Cauſe of many Strangers coming to me as Gueſts from all Quarters of this Land, ariſeth from theſe lying printed Pamphlets, which have hardly a Word of Truth in them; theſe draw all ſeeking inquiring Minds to viſit me, for divers Ends beſt known to themſelves: Let it but be proved that ever I gave Entertainment to any common Swearer, or to any open Drunkard, Sabbath-Breaker, or to any known profane Perſon, and I ſhall judge myſelf obnoxious to your Cenſure; but all that I give free Entertainment to, appear clothed under ſome Shew of Godlineſs or other; but if they have not the Power, it will be their own Miſery.

In a Word, the Strength of this Article doth but amount to thus much, That as Chriſt was ſuppoſed to be a Friend of Publicans and Sinners, ſo am I ſuppoſed to be a Friend to all People that profeſs Religion, and walk orderly, be their Opinion in Matter of Doctrine or Diſcipline never ſo much differing from mine own, or from thoſe commonly received: yet this doth not argue my Ignorance or Inſufficiency for the Miniſtry; but if in it any Thing be culpable, it is to be referred to the Head of Scandal. But here being no Law of Prohibition, I cannot ſee any Tranſgreſſion in it, either againſt the Law of God or Man.

To conclude, I cannot give a more direct Anſwer to theſe Articles, being Matter of Fact, till I ſee them proved, and each Article referred to its proper Place, either of Scandal or Hereſy, or Ignorance and Inſufficiency.

John Pordage.

This being read, we proceeded to the Proof of the firſt Charge of Articles atteſted by Mr. *Tickle*, one of the Aſſiſtants, whom I deſired to ſee ſworn in the open Court; alledging that I was altogether ignorant whether he had ſworn or not; but the Clerk affirmed that he had done it already: But after much Diſpute, it was granted that I ſhould hear him ſworn in the open Court. Then I craved Liberty to croſs-examine him openly, and began to put my Interrogatories to him; but this juſt Privilege they peremptorily denied me, tho' I uſed many Reaſons and Arguments to ſhew the Equity and Reaſonableneſs of it. Then they commanded me to write down my Interrogatories, which ſhould be propoſed and anſwered in private, without my Preſence, according to their fixed Reſolution. Then all being commanded to withdraw, I wrote down my Interrogatories; and when I gave them in, I deſired they might be aſked in the open Court: but it was deny'd. Then I requeſted that I myſelf might be preſent at the Croſs-Examination, tho' all the reſt withdrew; urging, that altho' I had given in my Interrogatories, yet there might be many neceſſary Circumſtances and Queſtions emergent in the Examination, which I could not then give in in Writing, nor make uſe of without I was preſent, which yet might ſerve very much to clear the Truth: but notwithſtanding this, and more which was then ſaid, I could not prevail, but was commanded to withdraw.

After this I was called in again, and as I thought to receive Mr. *Tickle*'s Anſwers to my Interrogatories; which, though I preſſed it with much Earneſtneſs, was deny'd, they reſolving, as it ſeemed to me by their Anſwer, to keep them private till Publication: which appeared to me very partial Dealing, in regard I could not know how the Queſtions were anſwered, againſt the Time of making my Defence by negative Witneſſes.

But afterward importuning the Court to examine my Witneſſes according to their own Order, I was interrupted by their commanding of the Clerk to read a third Charge of Articles exhibited againſt me by Mr. *Fowler*, an Aſſiſtant Miniſter to the Commiſſioners; whoſe Zeal moving ſwifter than the Clerk's ſlow reading of the Articles, cauſed him to take them out of his Hands, and to read them himſelf, with much Courage and Reſolution. The Articles were theſe that follow:

Further Additional Articles exhibited againſt Dr. Pordage, *by Mr.* Fowler, *Miniſter of* St. Mary's, *in* Reading.

1. THAT the Righteouſneſs of Jeſus Chriſt was a poor, vain, ſapleſs Righteouſneſs.

2. That Jeſus Chriſt was not perfect, alledging that Text to confirm it, becauſe he cry'd out, *My God, my God, why*, &c.

3. That the Blood of Chriſt was not meritorious of any Man's Salvation.

4. That it was a poor Thing to live upon the Blood of Chriſt; and fetching it over again, in a contemptuous kind of Speaking, *Pſh*, ſaid he, *thou art a Babe, thou knoweſt Nothing; to live upon the Blood of Chriſt, is a poor Thing.*

5. That one ſpeaking to him of the glorious Perſons in Trinity, he reply'd, *Perſons in Trinity! Piſh, there is no ſuch Thing.* And again, *There is no ſuch Thing as Perſons in Trinity.*

6. That it was a Weakneſs to be troubled for Sin.

7. That he might ſay any Thing to the Men of the World.

8. That he aſſerted he knew nothing to the contrary, but that a Man might company with more than one Woman; being taxed with keeping carnal Company with a Woman in *London*.

9. That he hath very frequent and familiar Converſe with Angels.

10. That a great Dragon came into his Chamber with a Tail of eight Yards long, four great Teeth, and did ſpit Fire at him: and that he contended with the Dragon.

11. That his own Angel came and ſtood by him while he was expoſtulating with the Dragon; and the Angel came in his own Shape and Faſhion, the ſame Clothes, Bands and Cuffs, the ſame Bandſtrings, and that his Angel ſtood by him and upheld him.

12. That Mrs. *Pordage* and Mrs. *Flavel* had their Angels ſtanding by them alſo, Mrs. *Pordage* ſinging ſweetly, and keeping Time upon her Breaſt; and that his Children ſaw the Spirits coming into the Houſe, and ſaid, Look there, Father: And that the Spirits did often come into the Chamber, and drew the Curtains when they were in Bed.

13. That the ſaid Mr. *Pordage* confeſſed, that a ſtrong Enchantment was upon him, and that the Devil did appear to him in the Shape of *Everard*, and in the Shape of a fiery Dragon; and the whole Roof of the Houſe was full of Spirits.

14. That Mrs. *Margaret Pendar* acquainted with this Doctrine of Spirits, and pretended to be converted by Viſions of Angels, doth think that ſhe was bewitched by them of *Bradfield*.

Her Confeſſion.

SHE was taken ill upon *Wedneſday* in the Afternoon, in *July* 1653. About Nine of the Clock the ſame Night, there appeared the Viſion of a Man ſtanding at her Bed's-Feet: on *Thurſday* the next Day he had a Book in his Hand, and ſtood by her all that Day and ſaid nothing.

nothing. On *Friday* it spake audibly unto her, saying, Why art thou so discomforted? I answered, *A wounded Conscience who can bear?* He replied, He that hath wounded thee, will make thee whole. I spake much of my own Unworthiness; he answered, There was worth in Christ, and he hath paid a Ransom for me. Then he told me, that that Book in his Hand was the Book of the Lamb, and that my Name was written in it. I saw the Book, a broad Book with a Parchment-Cover; and I saw Writing in it, and then was I lifted up with a great deal of Joy. And about Four of the Clock the same *Friday*, the dark Angel came and stood by the other Vision, with a Knife in his Hand, and said, Thou hast had a great deal of Joy; and offering her the Knife, bid her dispatch herself, and she should enter into that eternal Rest her Soul so much thirsted after. Upon this she trembled, the Bed shook, and my Mistress held me.

The same *Friday* I had Visions presented upon the Wall; I saw the World, and the Resurrection of the Dead, and the Son of Man appearing in the Clouds of Heaven.

She saw clearly the Vision of a Friend of hers in *London*, in her Chamber at *Southcot*; her Friend was much inclined this way: she much wondred at it, and told Mrs. *Pordage* of it; who answered, Alas! so do we see abundance of those we never knew before, when once they come into our way.

On *Saturday* Dr. *Pordage* came to her, being sent for, and prayed in a very strange Language, she did not understand well what he said; she heard him say, Lord; but nothing of Jesus Christ, but the Abyss and bottomless Eternity.

She heard a great Noise of Drums and Trumpets. She asked the Doctor what the rattling of Drums and Trumpets meant? He answered, It was an Alarm to the spiritual War.

One of the Nights she saw the Vision of young Mr. *Daniel Blagrave*, which came to her Bed-side; she took him by the Hand, and it felt cold. She asked the Doctor what it meant? He answered, The Coldness of the Hand did signify his beginning to be cold to Vanity.

She asked Dr. *Pordage* what the Visions meant? He answered, They durst not reveal one another's Visions; he did not question but God would discover himself, and reveal wonderful things to me.

She was from *Wednesday* Noon till *Monday* Noon, and did not eat one piece of Bread, but sometimes a little Water and Sugar; and she saith she was not sick at all, after the first two Hours: and when she was about to eat, she heard a Voice come to her; *We are not to live upon Bread, but upon every Word of God:* And upon that Voice she did not eat.

She saith, that she hath oftentimes seen at *London* Flashes of Light in her Chamber, and at last heard a Voice which put her into a very great Fear and Sweat, saying, Thou hast married a Lump of Clay; but thou must return to thy first Husband, who is thy Saviour, and thou must go to *Joppa*.

And upon this she was convinced that these Visions were of the Devil, because the Voice was clean contrary to the Scriptures. She saith, that she hath heard it reported at *Southcot*, That ere long Dr. *Pordage* should have Power from him to bestow saving Graces on whom he pleased: as also, that Marriage was the way of Beasts.

Francis Knight of *Wallingford* saith,

That discoursing with some of *Blewberry*, that use to go to Dr. *Pordage*'s, they spake very much against the Lawfulness of Marriage; he wondered at it, and ask'd them whence they now came? They answered, We came just now from the Doctor's from *Bradfield*.

16. Doctor *Pordage*'s Chamber at *Bradfield* hath sometimes been almost filled with Spirits.

17. That Doctor *Pordage* preached, That Water-Baptism was not the Ordinance of Jesus Christ.

18. That about *Michaelmas* in the Year 1653, he was commanded by his Angel, or from Heaven, to give off preaching, and take no more Tithes; but since he conceives he hath had a Dispensation.

19. That in *July* last, 1654, he was to be taken up into Heaven; and it is said by some, he hath been there, and dismissed again about his Business.

20. That in the midst of these Visions he is scandalously covetous.

21. That he cursed the People at *Bradfield* in his Pulpit, and their Posterity for ever in this World, and in the World to come.

22. That he preached at *Bradfield*, and afterward did labour to defend it pertinaciously: That the little Horn in *Dan.* vii. 8. was Christ; and being told that the little Horn made War with the Saints, yet he persisted to say it was Christ; and endeavoured to make his Hearers believe that he was falsely charged.

23. That he saith Goodwife *Pocock* singeth the highest Hymns very sweetly; that she knoweth not a word when she begins, but is taken with a burning about her Heart; and when she hath done, she cannot repeat a word of it, if it were to gain the World.

24. That Goodwife *Pocock* lately came to Colonel *Evelyn*, and told him, she had a Word to him from God, *viz.* Have nothing to do with that just Man.

25. And that on or about the tenth of this Month Dr. *Pordage* sent to invite Mr. *Snelling*, and his Wife and Children, to come to the Doctor that Day; and the same Day Mr. *Snelling* and his Wife did go to the Doctor's House; and when he came, Mr. *Snelling* desired to know wherefore he sent for him? Dr. *Pordage* told him, to go with him and meet his Bridegroom. And then Mr. *Snelling* told the Doctor he knew not what he meant, and so departed. And the next Morning Mr. *Francis Pordage* met with Mr. *Snelling*, and told him he had lost his Part in Heaven, being he did not wait upon the Doctor at that time.

26. That Dr. *Pordage* sent his Man *Bolt*, in a very rude and uncivil manner to fetch Mrs. *Forster* to his House; that she being frighted at the Message, and enquiring to what End she was sent for, the said *Bolt* answered, She should there see the Heavens opened, and the Colours flying in the Air, and hear the Drums beat, and the Trumpets sound.

27. That Mr. *Forster* going to the Doctor's House, he told him at his first coming in, that he should see such things, as if he were Emperor of a thousand Worlds, he would give them all to see it. After asking him for his Wife, and he answering, She was not well, and could not come, the Doctor called to them to send forth a winged Messenger to fetch her, for she must come.

28. That two Days after, one Goodwife *Pocock* coming from thence to Mr. *Forster*'s House, and they enquiring of her, what was the cause of those Behaviours in the Doctor's Family? She answered, They had a foul Spirit sent amongst them, and the Doctor had fought many Hours with the black Power, and had overcome it; for which she should ever think him a bright Man: That all his Family had been strangely acted, the Power taking them, some in their Legs, and others in their Arms, and that then they spake very glorious Things.

29. That Mrs. *Flavel* was in a Trance, and when she came out of it, spake many precious things which she had seen in that Trance; what was the Philosopher's Stone, that so many Learned Men had sought after, which she knew to be the Divinity in the Humanity: and many other things to the same effect.

Further Articles preferred against Dr. John Pordage, *Minister of* Bradfield *Parish, by some of the Inhabitants of the same Parish.*

1. THAT Dr. *Pordage*, about eight Years past, did carry Mrs. *Flavel* behind him on horseback on the Road to *London*, and about *Hounslow* did enquire for a private House, and was directed to one Goodman *Loader*'s a Smith, who lives in *Hessen* Parish, half a Mile out of the Road between *Hounslow* and *Brentford*; and when he came, asked if his Friend behind, *being sick*, might have Entertainment? 'Twas answered, Yes. Then the *Doctor left her there, but never owned she was with Child, till she was in Travail.*

2. Mrs. *Flavel* in a short time fell in travail, and then desired no Company might be called in; yet the Woman of the House, Goodman *Loader*'s Wife, called in three or four.

And Mrs. *Flavel* was then brought to bed of a Daughter, having then no Husband that the World knew of, Mr. *Flavel* being dead.

3. That Dr. *Pordage* came to that House, and christened that Child, and named it *Hannah*; and the Doctor came often to visit her there, and always alone by himself.

4. That the Child being put to nurse in the same Parish, the Doctor moved Mrs. *Flavel* to *Kensington*, and paid the Smith for her being at his House: That a little while after the Nurse went to *Kensington* to enquire for Mrs. *Flavel* to pay her some Money; but she was removed: and the Nurse saying, she left a Child with her, the Company smiled, and said, They thought she was such a Woman.

After this the Nurse's Husband wrote a Letter to the Doctor to *Bradfield*, that he was twenty Weeks Pay behind, and could not forbear; whereupon he was paid: and shortly after sent for the Child away from the Nurse's.

5. That a little while after, this Mrs. *Flavel* came again to the Doctor's Family, and a little Child called *Hannah*, it was also brought thither; and Mrs. *Flavel* took the care of it ever since. And Mrs. *Flavel*, being by Neighbours asked whose Child it was? said, a dear Friend of hers: but none could ever hear in the House whose Child it was. And some telling Mrs. *Flavel* that the Child was so like her, that they should take it to be hers, had she not said the contrary; she answered as before, 'Twas a dear Friend of hers, but never named whose.

6. That this Child, who was called *Hannah*, this last Summer they changed her Name, and called her *Ruth:* they have also changed all their Names: The Doctor is called Father *Abraham*, his Wife is also called *Deborah*, and old Goodwife *Pocock* is called *Rahab*, and so the rest.

7. That Goodman *Loader*'s Son being a Soldier, saw Mrs. *Flavel* in *Bradfield* Street, and spake to her, but she took no notice of it. Afterward Mrs. *Flavel* coming to his Father's House, his Mother in Discourse asked, Whether she lived at *Bradfield?* Mrs. *Flavel* answered, She knew no such Place. I will call my Son in, who saw you there. Mrs. *Flavel* said, People be given to lying, and would not have him called; and presently called for her Horse, and went away, though before she had resolved to stay all night: and never since was there, except since the Doctor hath been questioned.

31. That Doctor *Pordage* is extreme covetous, and hath exacted five Shillings at a time to marry one Man, or else told him he would not marry him. The Man told him, He could not justly demand so much: The Doctor answered, Without five Shillings he would not marry them; and took five Shillings.

32. That his Preaching doth not tend to Edification.

33. That he is a very ignorant and insufficient Man for the Work of the Ministry.

September 9, 1650.

34. I came into *Bradfield* Parsonage in the Evening, and there I heard a very mournful Cry, as if it had been one in extreme Pains; but what it was I know not; for it continued all the time I was at the Door, which was well near a Quarter of an Hour; and so it continued when I went away. And then the 10th Day in the Morning I came unto Mr. *Francis Pordage* at the Parsonage of *Stanford Dingley*; and he enquired of me what I did think of the Noise that I heard? I told him I could not tell. Then he related to me, that the Lord was about a great Work in this Kingdom, and to this Nation; and the Cause of this Cry was one in travail: and the Pain was so extreme, that had I staid there a little longer, I might have heard it as far as the Town; but now she was delivered of a Man-child, and the Travail was at an end, and that he and others were Eye-Witnesses to it.

The Testimony of Richard Seward.

35. That in Dr. *Pordage*'s House in *Bradfield*, lately the New *Jerusalem* hath been seen to come down from Heaven, all of precious Stones; and in the New *Jerusalem* was a Globe, which Globe was Eternity; and in that Eternity were all the Saints.

36. That at the Doctor's House the Face of God hath been seen; not as *Moses* saw him, but the very Face, as one Man may see another's.

37. That one being in the ſaid Doctor's Houſe in a Trance, the ſaid Doctor's Daughter being by her, ſaid, That ſhe ſaw two Angels all in white, with Crowns over her Head.

The Examination of Goodman Seward *concerning Mr.* Pordage.

THIS Deponent ſaith, That Mr. *Pordage* did affirm Marriage to be a very wicked thing, contrary to the Word of God. Goodman *Seward* telling the aforeſaid Mr. *Pordage*, that a Friend of his had buried his Wife, and intended to marry again; Mr. *Pordage* replied, That it was a very wicked Act, and wondered at it. The Deponent replied, That he took Marriage to be an Ordinance of God. Then demanding if his Wife ſhould have died, what he ſhould have done? He replied, Would you be ſo wicked as to marry? This the above-mentioned Deponent will aver with his Oath.

A true Copy examined by
Matth. Langley *Regiſt.*

After he had done, it ſeemed not enough to him to have read ſuch a horrid, ſcandalous, confuſed Charge to the People againſt me; but he proceeded to ſpeak to them, deſiring them to take Notice what a ſtrange Perſon I was, repreſenting me to be guilty of Blaſphemy, Deviliſm, and of Looſeneſs in my Converſation; promiſing to prove that Charge of Articles, or to be counted a Slanderer. After which prevaricating Speech he ſuddenly departed.

After, I further urged the Commiſſioners to hear the Teſtimony of my Witneſſes, in Reference to the firſt Charge of Articles, that ſo it might be diſpatched, that ſo I might be freed from the Trouble of anſwering ſo many together, which would unavoidably bring Confuſion and Diſorder to mine and their Proceedings. I further ſhewed, that according to their Appointment, my Witneſſes were preſent and ready, deſiring them to conſider that I had been at Trouble and Charges in bringing them; and that I muſt unavoidably be at more, if they would not then hear them: Notwithſtanding this, they denied to hear them at that time, calling for two Witneſſes which they had ſummoned to atteſt my ſecond Charge of Articles. Here I deſired, that as my Charges had been openly read to the People, ſo the Examination of the Witneſſes might be open, that ſo the People might as well hear the Proof as the Accuſation: But this could not be granted. Then I requeſted that I might be preſent; this was alſo denied: So two Witneſſes were privately examined to the ſecond Charge, whoſe Examination concluded that Day's Tranſactions, in reference to me; and I received an Order to appear before them again the 22d of *November*, at the *Bear* in *Reading*.

Berks. *By the Commiſſioners for ejecting of Scandalous Miniſters*, November 2, 1654, *at the* Bear *in* Speenhamland.

ORdered, That Dr. *Pordage* of *Bradfield* (now preſent) do appear again before us on *Monday* the 22d Inſtant, at the *Bear* in *Reading*, and that he then give in his Anſwer to the further additional Articles now exhibited againſt him. And it is further ordered, that the ſaid Doctor do then produce his Witneſſes, and bring in his Interrogatories in Writing, upon which he will examine the Witneſſes in his Defence, or croſs-examine them, produced for Proof of the ſeveral Charges againſt him.

On the Day prefixed I appeared at the appointed Place; the Commiſſioners then ſitting being Mr. *Dunch*, Chairman; Major *Fincher*, Mr. *Trapham*, Mr. *Stroud*, Mr. *Cook*, Mr. *Nutkins*. The Miniſters, Mr. *Fowler*, Mr. *Lee*, Mr. *Woodbridge*, Mr. *Tickle*, Mr. *Hewes*, with two more.

Juſt as they were going to Dinner, I was called in, and aſked for my Anſwer to the laſt Charge of Articles: I told them it was ready, but I ſhould be very long in delivering it; but if they thought fit, I would give it in before Dinner. At this, one Mr. *Trapham*, a Chirurgeon and Commiſſioner, began to be very rough, preſſing me to give in my Anſwer, and to leave it with them. I replied, That it was in my Power whether I would give it in in Writing only, or by Word of Mouth, and that I reſolved of the laſt. So I was commanded to withdraw.

After Dinner, being called in again, I read this Anſwer following, and then delivered it to them in Writing.

My Anſwer to the third Charge of Articles, I preſent in this Form following:

I Shall firſt preſent ſomething by way of general Preface, and ſo deſcend to Particulars.

In the firſt Place, then, I look upon the firſt Articles charged upon me by young Mr. *Tickle*, to be as the caſting of my innocent Perſon, with *Daniel*, into the Lion's Den: But thoſe Articles, as the Mouths of the Lions, I conceive, were ſtopped, ſo that they could not hurt me, becauſe the Authority and juſt Proceedings of two former Committees, authorized by Acts and Ordinances of Parliament, with ſome other legal Privileges, had ſufficiently muzzled the Mouths of thoſe Lioniſh Articles.

And as for the ſecond, ſubſcribed by an unknown Name, I believe there hath not been, nor cannot be any thing proved, which may render me obnoxious to any legal Guilt.

As for my third Charge brought forth by Mr. *Fowler*, who is both my Accuſer and my Judge; I look upon it as the Deſign of the evil One, to caſt me, with the three Children, into the hot fiercy Furnace of unparalleled Wrath and Envy: For I know it will one Day appear, that theſe Articles were raked together from a Spirit of Bitterneſs and Spleen, which ſeem to me as the Furnace heated ſeven times hotter by the Fire of Wrath, to burn up and conſume my Name, Liberty, Eſtate, and Poſterity.

But be it known unto you, O you Judges and Commiſſioners! I am not ſollicitous what the Event may be; I know the God whom I ſerve in the Integrity of my Heart, who is *Jehovah*, the true and only God, is able to deliver me from this hot fiery Furnace, and to puniſh thoſe who caſt me in: But however God as yet may order and diſpoſe of me, in reference to the Execution of my Enemies Intents, I believe my ſtrict and holy Converſation, with my holding forth what God in the Riches of his Grace beſtowed upon me, will clearly demonſtrate that I am no ſuch Perſon, as the falſe and unworthy Aſperſions of theſe Articles repreſent me to be.

As to the particular Articles (which are raked together in much Confuſion, without reducing of them to their particular Heads, of Scandal or Inſufficiency, many of them being incapable juſtly to be referred to either) I thus begin my Anſwers.

Art. 1. *THAT the Righteouſneſs of Chriſt was a poor, vain, ſapleſs Righteouſneſs.*

1 *Part. Anſw.* This Article was in my former Charge, and I was cleared of it by two Committees, who had Power legally to acquit me, even as they did.

2 *Part. Anſw.* I do cordially acknowledge, That Chriſt's Righteouſneſs is not a poor and ſapleſs Righteouſneſs, but very precious, being the material Cauſe and ſpotleſs Robe of a Chriſtian's Juſtification; and that every Saint ought to be found in this Righteouſneſs of Chriſt in point of Juſtification, and not in his own Self-righteouſneſs.

3 *Part. Anſw.* I deny that ever I ſpake ſuch Words, without ſome Limitation; which Limitation, if annexed, would free me from any Guilt reſulting from ſuch Expreſſions: And though any one ſhould ſwear I ſpake thoſe Words, yet that could not render me juſtly guilty, it not being declared what preceded, or what followed in the Series of my Diſcourſe; and I have many Witneſſes ſufficiently known, and pious, who being conſtant Hearers of me, have teſtified by Oath, and will upon Occaſion again, that the Scope of my Miniſtry drives not againſt the due Application of Chriſt's Righteouſneſs to the Souls of Believers, but againſt the miſapplying it to thoſe who have not the Spirit of Chriſt living in their Hearts, purifying their Conſciences, and ſubduing their Luſts.

Art. 2. *That Jeſus Chriſt was not perfect*; alledging that Scripture to confirm it, *My God, my God, why haſt thou*, &c.

1 *Part. Anſ.* I do nakedly, without any Veils, profeſs that I ever did, and ſtill do look upon Chriſt as a moſt perfect Copy and Pattern to ſquare our Lives and Converſations by; yea, and to be a perfect Mediator, in reference to that Work he undertook for the Redemption of the World, being free from the leaſt Tincture either of original or actual Sin: And truly the Thought of any ſuch thing never lodged in my Heart.

2 *Part. Anſw.* But ſuppoſe I uttered ſuch Expreſſions as theſe, yet the Manner of it will ſufficiently free me from that Guilt my Accuſer may hope, and believe I am obnoxious to by it: I confeſs I uttered theſe or the like Words, yet it was only by way of relating what I heard in a Sermon of Mr. *Erbery*'s in *Somerſet-Houſe*, who at that time endeavoured to enumerate Chriſt's (ſuppoſed) Imperfections, whereof he made his crying out upon the Croſs, in thoſe Expreſſions, one. Now I leave it to your Conſiderations, whether my relating to ſome that are wiſe and knowing, what I heard from another, with much Grief to my Soul, makes me any way culpable or guilty.

Art. 3. *That the Blood of Chriſt was not meritorious of any Man's Salvation.*

Anſw. I call Heaven and Earth to witneſs, that ſuch Thoughts never entred into my Soul; nor did ſuch Words ever come out of my Mouth: For my Judgment ever hath been, and ſtill is, that the Blood of Chriſt is ſatisfying, reconciling, cleanſing Blood; that it is interceding, redeeming, meriting Blood, in relation to all thoſe who through Faith and Patience come to inherit eternal Life.

Art. 4. *That it was a poor thing to live upon the Blood of Chriſt; and fetching it over again in a contemptuous kind of ſpeaking, Piſh, ſaid he, thou art a Babe, thou knoweſt nothing; to live upon the Blood of Chriſt, is a poor thing.*

1 *Part. Anſw.* I acknowledge that about four Years ſince ſuch Expreſſions were uttered by me to one Mrs. *Grip*; but without any ſuch Intent as may be ſuppoſed by my Accuſers, and not with that circumſtantial Aggravation of repeating it in a contemptuous Manner; which is but a Suppoſition of my Adverſary, and cannot be atteſted by an Oath, without this Witneſs pretends infallibly to know my Thoughts and Purpoſes.

2 *Part. Anſw.* Again, this being ſpoken to a particular Perſon, on a particular Occaſion, might be true, if the Circumſtances of the Diſcourſe were accordingly added; though as here preſented it ſeems very monſtrous.

3 *Part. Anſw.* Therefore to make things clear, I ſhall here inſert ſome particular Circumſtances, which may preſent this Article, though in a new yet true Face. I coming to Mrs. *Grip*'s Houſe, ſhe took me into a private Room to have ſome Conference with me alone; where ſhe brake forth into a violent Paſſion of Tears, weeping, and wringing her Hands, and pouring forth bitter Complaints and Invectives againſt Mr. *Fowler*, as that he was a graceleſs Man, a Lyar, a Slanderer, not worthy to come up into a Pulpit, or to have the Name of a Miniſter of Chriſt, with other ſuch bitter Expreſſions. The Cauſe of which was, as ſhe then told me, Mr. *Fowler*'s reporting about, That ſhe then lived in Adultery. And after her Paſſion was ſomewhat allayed, ſhe brake forth into theſe or ſuch-like Expreſſions of high Aſſurance; Chriſt hath loved me, and died for me, and juſtified me by his Blood, from all Guilt of Sin; I am an elect Perſon, a juſtified Perſon; and what is this *Fowler* to charge Sin upon me? Theſe and other Expreſſions fell from her to this Purpoſe: From ſome of which I feared ſhe was drenched with Antinomianiſm, and told her more than once, it was a poor thing to live upon the Blood of Chriſt, and to look ſo much upon that, except ſhe had the Nature of Chriſt, and the Spirit of Chriſt; aſking her, where was the Meekneſs of Chriſt, and the Patience of Chriſt, to ſuffer as an innocent Lamb quietly? But ſtill ſhe crying out, ſhe lived on the Blood of Chriſt; I told her, it was a poor Thing to be thus exalted with Notions of the Blood of Chriſt, without mentioning Sanctification, and thoſe holy Graces which flow from Chriſt's Nature dwelling in the Soul. Now by theſe Expreſſions of mine, my Scope was to make Mrs. *Grip* ſee the Neceſſity of Sanctification, and of a pure

a pure and holy Life, and not to make void the bleſſed Effect of the Blood of Chriſt, applied according to the Mind of God, and the true Meaning of the Scripture. And now having related the Circumſtances as near as I can remember, I believe a ſober and knowing Chriſtian will not judge me either ſcandalous or ignorant for theſe Expreſſions.

Art. 5. *That one ſpeaking to me of the glorious Perſons of the Trinity, I replied, Piſh, there is no ſuch Thing as Perſons in the Trinity.*

1 *Part. Anſw.* I do here profeſs and avow from the Sincerity of my Heart, that I believe the Trinity of Perſons as an Article of my Faith, *viz.* That there are three Perſons diſtinct from each other; the Perſon of the Father, the Perſon of the Son, the Perſon of the Holy Ghoſt, yet not ſo as to prejudice the Unity in Eſſence; and I ſo believe the Unity, as not to confound the Trinity of Perſons.

2 *Part. Anſw.* I never uttered ſuch Expreſſions in that Way, as to give any juſt Ground of Suſpicion of my denying the Trinity. But I remember, about four Years ſince, being before the Committee of *Berks*, Mr. *Fowler*, or Mr. *Gilbert*, I remember not which, deſired the Committee to give them Liberty to aſk me two or three Queſtions: Amongſt the reſt, they aſked me whether there were three Perſons in the Deity. I anſwered them, I believed the Trinity as it is recorded in 1 *John* v. 7. *There are Three that bear Record in Heaven, the Father, the Word, and the Holy Ghoſt.* Thus you ſee I believe the Trinity. But do you believe the Trinity of Perſons? ſaid they. I replied, I find not the Term *Perſons* in the Text; but to put you out of doubt, I do not ſtumble at the Word *Perſon.* And this afterward I told to the above-mentioned Mrs. *Grip* in a private Conference ſome Years ſince; to whom I affirmed, that I found no ſuch Expreſſions as Perſons in Trinity in the Scripture; and that the Word *Trinity* being a School-Term, was very difficult to be apprehended by common Capacities. But I never ſpake thus to prejudice the true Notion of the Perſons in the Sacred Trinity, which I do cordially believe; but only to ſhew that ordinary Chriſtians ſhould not be too curious in prying into that deep Myſtery of the Three Perſons in the Trinity, but rather content themſelves with what the Scripture plainly affirms of the Father, Son, and Holy Ghoſt, as diſtinct, yet one. But to conclude this Anſwer, pray conſider what hard Meaſure it is, thus to pick a broken Sentence out of a long Diſcourſe, and ſo to accuſe one without relating the Circumſtances which might ſerve to clear what otherwiſe may ſeem very ſtrange to prejudiced Perſons.

Art. 6. *That it is a Weakneſs to be troubled for Sin.*

Anſ. I do not remember that any ſuch Expreſſion as this ever dropped from my Mouth, either publicly or privately; and I am perſuaded that no one dare aſſert it with an Oath: Which if they did, would not make much to the Purpoſe; for with a charitable Qualification it may be thus made forth, That it is a Weakneſs for one to be troubled for Sin, who hath the Aſſurance of God's Love, his Sin pardoned, his Perſon juſtified, ſanctified, and his Will converted from, and crucified to Sin: For ſuch a one ſhould be triumphing in the Power of Faith and Love, enjoying ſweet heavenly Communion with God, and ſaying, *O Death, where is thy Sting? And there is no Condemnation to them that are in Chriſt Jeſus, who walk not after the Fleſh, but after the Spirit.* Whereas Trouble for Sin thus pardoned and mortified, may be an Engine of Satan to make a Soul queſtion God's Love, and to bring it out of a bleſſed ſpiritual Enjoyment of God, into a ſlaviſh Fear and Diſturbance.

Art. 7. *That he might ſay any Thing to the Men of the World.*

1 *Part. Anſ.* I anſwer, To the beſt of my Remembrance, I never uttered any ſuch unchriſtian Maxim, much leſs ever held it as my Judgment; and I confidently believe there is no one on the Earth that dare Witneſs it with an Oath.

2 *Part. Anſ.* I know very well that Mr. *Fowler* hath been, if not the Author, yet the Reporter of my holding this monſtrous Tenet; for he hath confidently averred, and often inſinuated into ſome of the Gentry of this County, and into his own Proſelytes, that I am a Familiſt; and that it is my Principle to ſay or unſay any Thing that may make to my own Advantage. Which God knows is a ſad Scandal, and a monſtrous Untruth; and clearly appears, to thoſe who know the Integrity of my Principles and Converſation, to be a Blur caſt upon me from the Contrivance of ſubtile *Machiavellian* Policy, to prejudice all I ſay or anſwer to thoſe horrid Things objected againſt me: For if this be once ſettled in thoſe who are my Judges, it is vain for me to anſwer, deny, or avow any Thing. But the Lord forgive my Adverſary for this his unchriſtian Dealing, and grant he may repent of it before he comes to give up his laſt Account before the great Tribunal of Chriſt!

Art. 8. *That I aſſerted I knew nothing to the contrary, but that a Man might company with more than one Woman; being taxed for keeping carnal Company with a Woman in* London.

Anſw. I never kept ſcandalous Company with any Woman in *London*; neither was I ever taxed for any ſuch thing, except once by Mrs. *Grip*, who I believe is the Witneſs againſt me; and that upon this Occaſion:

At the Time I had my former Conference with her, the Heat of her Paſſion being over, ſhe told me that I was alſo taxed for keeping of carnal Company with a Woman in *London.* I replied, I am a Man born to all kind of Sufferings; and told her, that ſhe ſaw and knew the manner of my Converſation; aſking her whether ſhe believed it. And ſhe anſwered, No, truly. And then I ſolemnly proteſted the contrary. And this is all the Taxing I ever had from any one. At which time I was earneſt with Mrs. *Grip* to diſcover to me from whom ſhe heard it: But ſhe put me off, telling me ſhe did not believe it, and that ſhe would tell me ſome other Time. But from that long Diſcourſe I had with her, fearing, as I ſaid before, ſhe was deeply tinctured with the Principles of Antinomianiſm, and not knowing whether ſhe might not be tainted with ſome Notions of Rantiſm, which at that Time were every where frequently diſcourſed of, I took this Occaſion to try her; telling her (as near as I remember) that there were ſome that affirmed they knew nothing to the contrary, but that a Man might company with more than one Woman. But to ſpeak the Truth, ſhe let it fall, without ſeeming to approve of any ſuch Thing. And this I ſolemnly avow to be the Truth, as near as I can remember. And I believe Mrs. *Grip* dare not ſwear that I maintained any ſuch Thing as my Judgment, or produced one Scripture or Argument to defend it.

I profeſs to the whole World, in the Preſence of that Eye that ſeeth through all Hearts, that all ſuch looſe Principles, which turn the Grace of God into Wantonneſs, and that run oppoſite to the Laws of Morality, Civility, Modeſty, and Sobriety, or that any ways indulge Wantonneſs and Laſciviouſneſs, are as inconſiſtent with my Principles as Heaven and Hell, Light and Darkneſs, are oppoſite one to another; which will one Day clearly appear to the World, whatever I am now thought of.

Art. 9. *That he hath frequent and familiar Converſe with Angels.*

Anſ. As this Article is preſented in general Terms, without expreſſing whether the Communion be viſible or inviſible, I do not ſee how it can touch me, tho' my Enemies were my Judges; becauſe every true Chriſtian hath frequent Communion or Converſe with Angels, as you may ſee ſolidly and clearly proved from Scripture by the Lord *Lawrence*, one very learned and pious, now Preſident of the Lord Protector's Council, in his Book, entitled, *Our Communion and War with Angels.*

Art. 10, 11, 12, 13. *Concerning the Viſion of a Dragon, and the Apparition of Spirits.*

Anſw. 1. I may deny theſe four Articles as they are taken together, and expreſſed in thoſe Terms, and in that Manner in which they are ſet down in my Accuſation; for I believe none dare ſwear the Meaſures and Teeth of the Dragon with the Appearance of my own Angel, *&c.* without the Crime of Perjury.

Anſw. 2. I will not confeſs any Apparitions in particular till they be proved, leſt I ſhould ſeem to accuſe myſelf; they being brought in as a Crime againſt me, and as Inſtruments to condemn me.

Yet in general I acknowledge, that ſome four Years ſince there were many ſtrange and wonderful Apparitions ſeen in my Houſe. But what can theſe in Juſtice amount to, though atteſted by Oath, and confeſſed particularly by myſelf, when brought before thoſe who profeſs themſelves Chriſtians, and acquainted with the Hiſtory of the Holy Scriptures? Pray was not *Job* a pious, ſincere, and eminent righteous Man? Yet how was he ſcared with Dreams, and terrified through Viſions! *Chap.* vii. *ver.* 14. Did not *Zechariah* the Prophet (*Zech.* iii.) ſee Satan ſtanding at the Right-hand of *Joſhua* to reſiſt him? Did not *John* (*Rev.* xii.) in a Viſion behold a great red Dragon, that made War againſt *Michael* and the Holy Angels? And was not Chriſt himſelf tempted of the Devil by Voice and Viſions? *Matth.* iv. 6, 8. *Now the Servant is not greater than the Lord*, John xv. 20. and therefore not exempted from the like Attempts of the Devil. I beſeech you conſider, whether this Earth be not the Place where the Devil walks up and down, ſeeking whom he may devour? How then can *Bradfield*, or any other Place, be exempted from his appearing, when God permits? And may not all this be for the manifeſting of his Glory, Goodneſs, and Power? And who can tell whoſe Family may be next expoſed, by God's Permiſſion, to be tried and proved by the Repreſentations of *Satan?* And I deſire you ſeriouſly to conſider how any ſuch Apparitions, raiſed by the Devil, and permitted by God for his own Glory, argue me either ſcandalous, ignorant, or inſufficient? Surely it rather argues that he hath bleſt me with a ſtrong Faith, in that he permitted ſuch great Trials, and made me inſtrumental to overcome them by Prayer and Faſting. If it can be proved that I ever ſo much as looked toward the unlawful Art of Black Magick, or that any evil Spirits were raiſed up by any Compact of mine, explicite or implicite, or that thoſe of evil Apparitions were ſubdued and overcome by any other Means than by God's Bleſſing upon our Faſting and Prayers; I ſhall judge myſelf worthy of Puniſhment. But otherwiſe it is hard Meaſure to be proſecuted and prejudiced for the Malice of the Devil towards me, inflicting what I was paſſive in, and could not help; eſpecially by thoſe who profeſs the Chriſtian Religion, and know that the God of Heaven rules over all, permitting and diſpoſing of whatever comes to paſs.

Art. 14. *That Mrs.* Margaret Pendar *doth think ſhe was bewitched by them of* Bradfield.

1 *Part. Anſw.* Here is a long and tedious Relation, in which Truth and Untruths are mixed together: The whole Structure of which Relation, ſo far as it concerns me, depends upon this weak Baſis and Foundation, That ſhe thinks ſhe was bewitched by them of *Bradfield.* But what a ſad Thing is this, for my Accuſer to impeach me for that which might endanger, if true, my Eſtate and Life, upon the Thoughts of a diſcompoſed Maid! Becauſe ſhe thinks I ſent thoſe Viſions, therefore I muſt be thus arraigned. But, for my Part, I do not believe ſhe dare ſay ſo, much leſs ſwear it, having no Ground at all for it.

2 *Part. Anſw.* I ſhall briefly relate ſome Circumſtances which concern this Buſineſs, and may ſerve ſomething to clear it up. Before theſe Viſions of hers, I had never ſeen her, as I know of, nor exchanged ſo much as a Word with her. In the Time of her Viſions, Mr. *Daniel Blagrave*, whoſe Servant then ſhe was, came for me himſelf, to fetch me to his Houſe to viſit her. To which Motion I yielded, being ſuitable to the Law of Chriſtian Charity. And when I came, I had no Conference with her but in the preſence of Maſter and Miſtreſs *Blagrave*, with others that were then preſent. And from this Viſit there aroſe a Rumour that I was a Conjurer, and a Sorcerer: Which Report was ſpread abroad by two that carry the Name of Miniſters of Chriſt, Mr. *Fowler* and Mr. *Ford.* The laſt of which ſo exceeded the Bounds of Charity and Chriſtian Moderation, as in his Sermon, at the Aſſizes, to call me a horrid Blaſphemer, aſſerting that the Devil was as viſibly familiar in my Family as my own Servants; and ſo excited the Magiſtrates to perſecute me.

3 *Part. Anſw.* As for thoſe Untruths which are mixed in the Relation, I ſhall not trouble myſelf to anſwer them; for I know when they come to be ſworn to, and to be croſs-examined, they will appear to be the fulfilling of that wicked Maxim, *Calumniare audaciter, aliquid hærebit*; Calumniate

lumniate and aſperſe boldly, ſomething will ſtick. Which being a Piece of Jeſuitical Policy, hath been practiſed by my Accuſer in this confuſed Rhapſody of Articles.

Articles of one Francis Knight *of* Wallingford.

Art. 1. *THAT ſome of* Blewberry, *who ſpake againſt Marriage, ſaid they came then from my Houſe.*

Anſw. I hope I have enough to do to anſwer for my ſelf; what need the Aſſertions of others be alledged as Articles againſt me? They ſpeak againſt Marriage, having lately been at my Houſe, therefore I muſt be guilty of it: Surely this Conſequence is neither according to natural, artificial, nor divine Reaſon.

Art. 2. *That my Chamber hath been filled with Spirits.*

Anſw. I hope none will be ſo unadviſed as to ſwear to this Article, being Spirits are immaterial, and cannot take up place, or fill a Room.

Art. 3. *That I preached that Water-Baptiſm was not an Ordinance of Jeſus Chriſt.*

Anſw. It was never ſo preached by me. All that I then affirmed was this: That Water-Baptiſm could not be proved to be the Ordinance of Chriſt, by way of Eminency ſo called, from that Text of Scripture, *Matth.* xxviii. 19. *Go teach all Nations, baptizing them in the Name of the Father, Son, and Holy Ghoſt:* For that Baptiſm may very well be underſtood of the Baptiſm of the Spirit, which by the Diſciples was inſtrumentally adminiſtered to all Converts. Yet I denied not Water-Baptiſm to be a Goſpel-Ordinance, inſtituted by *John*, as the chief Inſtrument under God, from whom he received his Commiſſion. And that this was the Sum of what I then preached, I can prove by Oath.

Art. 4. *That about* 1653, *I was commanded by my Angel, or from Heaven, to give off Preaching, and to take no more Tithes; but that ſince I have had a Diſpenſation.*

Anſw. I believe no one, that hath the Fear of God before his Eyes, dare atteſt this Article by Oath, which is here ſtated. This is Anſwer enough to ſuch a Thing, which is merely brought in as an *Odium* by my Accuſer, the more to prejudice me.

Art. 5. *That in* July 1654, *I was taken up into Heaven*, &c.

Anſw. If *Paul* were now upon the Earth, he were in danger to be accuſed by my Accuſer, for his Rapture into Heaven or Paradiſe. But this concerning me will prove but ſome idle Dream, created by ſomebody's Fancy to make People wonder at me.

Art. 6. *That I curſed the People of* Bradfield *in my Pulpit, and their Poſterity for ever*, &c.

Anſw. This Article was one of thoſe heard and examined four Years ſince by the Committee of Plundered Miniſters, from which I was acquitted by them; theſe Witneſſes, *viz. Richard Luinton, John Hambleton, Mary Pocock, Richard Holmes*, with four more, atteſting by Oath that I did not curſe the People of *Bradfield*, ſo as is expreſſed in the Article. The Teſtimony of theſe Witneſſes was this: That they being preſent *September* 29, the Doctor expreſſed himſelf thus: Bradfield *is a Place partly made famous, partly infamous, by reaſon of the falſe and lying Reports that are abroad: But I ſay, Curſed be the Tongue and Mouth that ſhall ſay, That what is done by the Power of God, is done by the Power of the Devil.* What one, Pariſhioner is here curſed by me, except any one's Conſcience accuſeth him of the Guilt of that forementioned Blaſphemy?

Art. 7. *Concerning the little Horn mentioned* Dan. vii. *to be Chriſt.*

This Article was four Years ſince exhibited againſt me, from which I was diſcharged by the Committee; *Richard Higs, John Higs*, and *Richard Luinton*, atteſting on Oath that I paraphraſing on the Seventh of *Daniel*, and ſpeaking on the little Horn, ſaid, That ſome Interpreters would have the little Horn in the Letter to be meant of *Antiochus Epiphanes*, a bloody and perſecuting Tyrant; others think the little Horn to be the *Turk*, who is a great Perſecuter of Chriſtians: But in the Myſtery, in regard of its Power, we will apply it to the Power of Chriſt in a Chriſtian, who is often in Scripture reſembled to the Horn of *David*, and to the Horn of Salvation; and that upon three Conſiderations:

Conſid. 1. In regard that Chriſt's Power in the Soul doth appear to be a little Horn, a ſmall deſpiſed Inſtrument to Senſe and Reaſon; for Fleſh and Blood look on it as a poor Inſtrument, in regard of bringing down the Strength of Sin in us.

Conſid. 2. In regard of Sin and Satan, who laughs the Power of Chriſt in the Soul to ſcorn, yet before him his accurſed Kingdom muſt fall.

Conſid. 3. In regard its Birth and Beginning in the Soul is at the firſt a very little Grain of Muſtard-ſeed, yet in due time it will deſtroy the Kingdom of Sin, and ſet up the Kingdom of Holineſs in us.

Having thus drawn away the Veil from this Article, I hope it appears with a more tolerable and innocent Face.

Art. 8. *Concerning Goodwife* Pocock's *ſinging Hymns and Spiritual Songs.*

Anſw. She acknowledgeth it as her Gift beſtowed by God, being according to the Gifts of Chriſtians in the primitive Time. But this doth not directly concern me.

Art. 9. *Concerning the ſame Perſon's coming to Colonel* Evelyn's, *and ſaying ſhe had a Word from God*, viz. *Have nothing to do with that juſt Man.*

Anſw. She owneth theſe Words, and looks upon me as a juſt Man, and a true Chriſtian; and believeth that Colonel *Evelyn* will one Day know ſhe gave good Counſel upon good Grounds.

Art. 10. *Concerning Mr.* Snelling *and his Wife coming to my Houſe*, &c.

Anſw. This Article hath as little of Truth as Senſe or Force to prejudice me; and I believe none will be found to ſwear it: However, I think it not worthy of a larger Anſwer.

Art. 11, 12. *Concerning the ſending of my Man* Bolt *in an uncivil manner for Mr.* Forſter, *with his ſpeaking of ſtrange things there to be ſeen, and of my telling Mr.* Forſter *he ſhould ſee very wonderful Things*, &c.

1 *Part. Anſw.* Theſe Articles were heard, and I acquitted four Years ſince by the Committee of Plundered Miniſters, and are of ſo little Conſequence, that they might well have been omitted, but that my Accuſer thinks he hath never enough againſt me.

2 *Part. Anſw.* I believe Mr. *Forſter* dares not ſwear to theſe Particulars, ſome of which are very untrue.

3 *Part. Anſw.* The forementioned *Robert Bolt* aſſerted on Oath that I ſent him not with any Meſſage, but that it was his Miſtreſs that ſent him to deſire Mr. *Forſter* and his Wife to come to my Houſe.

Art. 13. *Concerning Goodwife* Pocock's *coming to Mr.* Forſter's, *and ſaying, The Doctor had fought with, and overcome an evil Spirit; and that the Family had been ſtrangely acted, the Power taking ſome of them in one part, ſome in another; and that they ſpake glorious things.*

1 *Part. Anſw.* This was another of the Articles heard, diſcuſſed, and I acquitted by the forementioned Committee, becauſe nothing material could be made of it.

2 *Part. Anſw.* The ſaid *Mary Pocock* atteſted on Oath ſhe ſaw no Apparitions in my Houſe, being croſs-examined concerning that Particular. And though ſhe did ſay, God gave extraordinary Power to ſuſtain both our Spirits and Bodies in an extraordinary Trial, what Hurt was there in that? Why ſhould it be brought as an Article againſt me?

Art. 14. *That Mrs.* Flavel *was in a Trance, and in it ſaw the Philoſopher's Stone, which ſhe knew to be the Divinity in the Humanity.*

Anſw. Not to ſpeak any thing concerning the myſtical Writings of the deep Hermetick Philoſophers, or what the Judgment of ſome of them is, concerning this Secret, I myſelf being not here accuſed to have ſeen it, or to have affirmed it was the Divinity in the Humanity; all that I ſhall anſwer is this, I wonder that this is brought in as an Article againſt me, to prove me Scandalous, Ignorant, or Inſufficient; it not directly proving any thing againſt me, being affirmed of another, and being one of thoſe Articles I was diſcharged of by the Committee for Plundered Miniſters.

Art. 15. *Touching* Seward's *Depoſitions of the Birth of a Child, and one being in Travail.*

Anſw. 1. This was one of the Articles of which I was acquitted by the forementioned Committee.

Anſw. 2. Mrs. *Elizabeth Pordage* and *Mary Pocock* aſſerted on Oath, That there was no Woman in Travail, nor any Child born, nor any other Cry heard, but of thoſe at Prayer; which was alſo witneſſed on Oath by Mr. *Francis Pordage.*

Art. 16. *That in my Houſe the* New Jeruſalem *hath been ſeen to come down from Heaven, and that in it was a Globe, in which Globe was Eternity, and in that Eternity all the Saints.*

Anſw. As to the Subſtance of this Article; If God hath favoured any with ſuch a Viſion, ſurely they would be no more aſhamed to own it, when called to it, than *John* was, when he wrote, *Rev.* xxi. 1. That he ſaw the Holy City, New *Jeruſalem*, come down from God out of Heaven; where he alſo deſcribes it by all the moſt precious Stones in the Creation. But in reference to my Family, I believe none dare atteſt they heard this ſpoken by any of them, which I believe will prove but ſome groundleſs Imagination.

Art. 17. *That in my Houſe God hath been ſeen Face to Face*, &c.

Anſw. As this Article is ſtated, I ſhall give no other Anſwer but this, That I ſhall wait to ſee who dare ſwear to it, or what Proof can be brought of it.

Now I am come to the Articles exhibited againſt me by ſome of *Bradfield* Pariſh.

And as to thoſe which concern Mrs. *Flavel*, I ſhall anſwer,

1. Somewhat in general touching their Import and Nature.
2. By way of Negation.
3. By way of Acknowledgment or Affirmation.

Anſw. Gen. This Charge of Articles hath no legal Reference of Charge at all to me, but is merely ſcandalous, importing but a Libel, nothing of Fact really criminous being laid to my Charge; which will more clearly appear, when the erroneous Circumſtances of it are detected: by which alſo the Subtilty and Envy of my Adverſaries will be diſcovered, who poſitively alledge nothing againſt me that may bear any Action of Damage at the Common Law, by which they might ſuffer for their injurious Dealing; yet by plauſible prevaricating Circumſtances would ſeem to make me highly criminous and guilty.

Now I ſhall anſwer negatively to many erroneous prejudicing Circumſtances, which are by Deſign heaped together, to put a plauſible Face upon an envious Libel or illegal Charge.

1 *Circ.* It's ſaid, it was ſome eight Years ſince I brought one Mrs. *Flavel* to Goodman *Loader*'s, &c.

Anſw. neg. Which is an Error, tho' one of the ſmalleſt, brought in to prejudice the more, for it was ſome nine Years ſince.

2 *Circ.* It's further ſaid, this was carrying her to *London.*

Anſw. neg. Which I deny; for it was coming from *London*, where ſhe had for ſome time been.

3 *Circ.* That I aſked whether my Friend behind me, being ſick, might have Entertainment, *&c.*

Anſw. neg. This I alſo deny; ſhe was not then ſick, neither did I uſe any ſuch Expreſſions.

4 *Circ.* That I never mentioned ſhe was with child.

Anſw. neg. Tho' I did not, it not concerning me to do it, yet ſhe herſelf did not deny it.

5 *Circ.* That in a ſhort time ſhe fell in Travail.

Anſw. neg. A ſhort time may ſeem to imply ſome few Days, or Weeks, being brought in as an aggravating Circumſtance; whereas it was ſome four or five Months after.

6 *Circ.* That ſhe had no Huſband then, as the World knew of.

Anſw. neg. She owned then to the People where ſhe was, and doth ſtill, that ſhe had had a ſecond Huſband, which ſome in the World knew of very well, whoſe Teſtimonies ſhe can and will produce when ſhe hath ſufficient Occaſion offered by a legal Call thereto: who is alſo able and ready to give a ſufficient account, when occaſion ſerves, of her not openly aſſuming her ſecond Huſband's Name, her Eſtate then ſtanding as it did; which having concealed for that time

time she was in Law, she thought good ever since to be called by her first Husband's Name. But this subtile Dealing of her Adversaries by libelling Scandals, without positively asserting she was not married, makes her incapable of recovering any Damage of those who now enviously, yet indirectly, asperse her: which the Commissioners ought to take notice of, who should not receive such Libels, which tend to the blasting of one's Credit and good Name, which all sober Christians ought (for the Gospel sake) to value; and yet absolutely prove nothing of such criminous Fact, which they design seemingly to prove, nor yet give give sufficient ground of calling them to an account for such evil malicious Scandals. But this not directly concerning me, I shall omit much which might be spoken of it.

7 *Circ.* That I came often to visit her.

Answ. neg. This is not true: it was rather seldom, being but three times in three quarters of a Year, and that in Term-time, upon urgent Occasions at Law.

8 *Circ.* That I removed her to *Kensington*.

Answ. neg. This is false, for I knew not when she removed thither.

9 *Circ.* That I paid the Smith for her being at his House.

Answ. neg. This is another Untruth; I never paid him a Penny, neither did I ever agree with him for her being there.

10 *Circ.* That the Nurse's Husband wrote a Letter to me at *Bradfield*, for Money for the Child's nursing.

Answ. neg. This is a mere Lye; for no such Letter was wrote, neither did I ever agree to pay for the nursing of it, as the Nurse and her Husband can witness.

11 *Circ.* That shortly after he sent for the Child away.

Answ. neg. This I also deny, it containing two Untruths in it: For first, the Child was not shortly after sent for away, neither did I send for it at all, for it was fetch'd away by the Mother herself.

12 *Circ.* That a little while after the said Little-one was brought into my Family.

Answ. neg. This is also false.

13 *Circ.* As to the seventh Article of this libelling Charge, in which many Circumstances are produced to scandal the Gentlewoman, as tho' she had told a great Untruth; it deserves no other Answer but this, That it is compacted of many Lies, nothing being there true that really tends to prejudice her, as I believe will appear by the Event.

Thus in this short Relation, wherein there is some Truth, pray take notice how many Untruths and mere Lies are mixed with it, to put a beautiful Face upon an envious and unchristian Design: And is not this to bear false witness against one's Neighbour? May not any one's Innocency and Integrity be in this manner undeservedly clouded, aspersed, and wounded? Which I leave to the serious Consideration of the Judges.

As to my affirmative Answer, what I acknowledge is this:

Answ. Affirm. ABout nine Years since I brought behind me from *London* the fore-mentioned Mrs. *Flavel*, who had been of ancient and near Acquaintance with me and my Family, to one Goodman *Loader*'s a Smith in *Hessen*, where some four or five months she was brought to bed of a Daughter, which she owned to the People where she then was, to be by a second Husband, even as she still acknowledgeth. And further, that I visited her three times in the space of three quarters of a Year, at Term-time, being then engaged in a Law-Suit that concerned her; that one of those times I christned her Child, and called it *Hannah:* That afterward her Occasions not requiring so much Privacy, she came to live with her ancient Acquaintance at my House, where also for some Years her Daughter hath been with her.

Now to take away any thing that may seem to reflect upon me in this my Acknowledgment, pray consider these subsequent Particulars.

1. THAT I and Mrs. *Pordage* being of a very near and long Acquaintance with her, it was but a Friend's Courtesy, for me upon her desire to carry her to this House behind me.

2. That she had sufficient ground to retire into some such Place in the Country: first, in that the City-Air was offensive to her Health: secondly, in that by the Counsel of able Lawyers she was advised to retire into some private place, she being then in Law-Engagements, and continually subject to Arrests, by the Entanglement of her first Husband's Estate; her Brother-in-Law, who was her Adversary, then threatning to seize on her if she were above-ground.

3. In reference to my Engagement in her Law-Business, I think it material briefly to relate the Ground and Occasion of it. In the time of her Widowhood, her Brother-in-Law began a Suit with her in the Common Law, which fearing he should there be overthrown, he removed to the Chancery: now she being very unfit and incapable to manage this herself, she earnestly desired me, as an ancient and trusty Friend, to undertake it. Upon this I went to Judge *Rolle* and Mr. *Chute* with her, who looking into her Evidences, and into the Will of her late deceased Husband, found that for want of one Clause in it she was liable to many Suits and Arrests, and to great Entanglements, and that her Interest could not be established, but by much difficulty; and at length this was the Result of the Counsel, That she must let all her Estate, which was under Mortgage, be forfeited into the hand of some faithful Friend, and so sell it away. Hence I through much Importunity laid down some hundred Pounds, rescued the Mortgage, and so became interested in a Suit at Chancery, which lasted three Years.

Now from this may further appear sufficient ground why I brought her to that private House: secondly, why I came to her in the time of her Retirement, I then receiving Money from her to follow her Suit: thirdly, why I came alone, it being then her Interest to be concealed, being subject to Arrests.

I shall now proceed to add some few Circumstances more, which may serve to clear me before all sober Persons.

1. AT my coming, I told the People my Name, and that I dwelt at *Reading*, and that I was Minister of St. *Lawrence* Church, knowing the Gentlewoman to be sober and pious. Now had I been as my Enemies enviously pretend, I might have concealed my Name, Quality, and Place of Residence.

2. We discovered to them that the Gentlewoman had an Estate in the Bulwark at *London*, and Rents there to receive, which they might enquire after (as they did) for their Security: Now this was not the way to cover a Work of Darkness.

3. She sometimes went to *London* to the Lawyers, whilst she was there, some belonging to that Family accompanying her; who found, that as she had related, she was in great Troubles at Law, and were convinced that she returned on that account.

Now in reference to most of those Particulars, in which I have contradicted, and deny'd the alledged Circumstances, and further vindicated myself, they are exactly agreeing with what I have in writing confessed and acknowledged by *Loader* himself, from whom this Charge is pretended to be received, and by the Nurse of the Child, subscribed by them both before Witnesses; which Acknowledgment I shall produce when I see occasion.

And by this I hope it may appear to moderate, sober, and judicious Men, that this libelling Charge, drawn up so falsly, enviously, and yet so subtilly, calling from the dead a Business past some nine or ten Years since; (which tho' it were criminous, as it is not, were invalid legally to prejudice, by the Act of Oblivion, or general Pardon, as all other things pretended to be spoken or acted by me before 1651, according to the Judgment of judicious Men, which I leave to the Commissioners to consider of) I say, that this is but the Effect of the evil and wicked Policy of my Accuser, brought forth to prejudice and overcloud that pure and innocent Principle, which I profess and faithfully live to; and the better to cover that evil Design they have against my Person and Livelihood.

And now I appeal unto you the Commissioners, and to all that are pious and sober-minded, whether my Enemies do not deal very unreasonably, enviously, and unbeseeming Christians, from this Business, so long since past, in which nothing criminous is positively objected against me, to draw such horrid Conclusions, as commonly to report that I now live in base Lust and Wantonness, notwithstanding my commending of and owning the Virgin-Life; I say, whether this be not exceeding hard Measure, and ungodly Dealing, let all judge. But I see the Design of the Devil in it, which my Enemies may be ignorant of, which is to overcloud and darken by monstrous Lies and Scandals, which are the Smoke of the bottomless Pit, that Life of Purity, Chastity, Mortification, Self-denial, and heavenly Enjoyment, which God hath favoured me to live in, and so to affright all from my Acquaintance, which otherwise might very much prejudice and overthrow his Kingdom. For the old Serpent knows very well, as also my near Friends and Acquaintance, that for these four Years, even since the time of my great Trials, by the extraordinary Temptations and Representations of the Devil, that I have been abstracted more than ordinary from all outward things, giving myself up wholly to Prayer, Watchfulness, Mortification, and constant Self-denial, in dying to all earthly Pleasures, even to things permitted and accounted lawful; as finding many things which ordinarily are embraced, to be great Hindrances of the Soul's Progress to God, and great Burdens to a Spirit which hath tasted much of that Tree of Life which groweth in the midst of the Paradise of God, and great Clogs to a Soul that sees through the Veil of the sensitive Nature into the spiritual Glory of Eternity. But what I have enjoyed and experimented in this time of my extraordinary Mortification and Self-denial, in the Death of the Animal Man, and rising of Christ's Image in me, is not seasonable now to declare; yet for the Glory of my God, and the undeceiving of those who strangely mistake me, this much in all humility I must say, That did my Accuser and my Enemies know what I have enjoyed in this Way of the Cross, of the secret hidden Treasures of Eternity, and of the Out-goings of divine Goodness; were they but acquainted with these Discoveries of celestial Glory, Instillations of the heavenly Dew, and secret Touches of the Holy Ghost; did they but know those bright Irradiations of Eternal Light, those strong Motions of Divine Life, and pleasant Streams of Eternal Love, together with those deep Sufferings in bearing Christ's Cross, which I and many in my Family have in this time experienced; they durst not thus condemn me, and judge me as an Evil-doer, and one that lives in the Lusts of the Flesh. But my God hath taught me to bless whilst they curse, to pray for them whilst they design to ruin me, and to love them whilst they hate me; and to say with Christ, *Father forgive them, for they know not what they do.*

This I thought fit in all humility to annex to that libelling Charge concerning Mrs. *Flavel*, from which I have undeservedly suffered so much, by the Malice of the Devil. And now I shall proceed to answer the remaining Articles, one of which is intermixed with the former seven that concern Mrs. *Flavel*; which is this.

Artic. *That we have changed our Names.*

Answ. 'Tis well known that we own and subscribe our Names in our Civil Converse with the World, as this and my former Answers testify; I shall therefore wait to see, whether any one dare swear to this Article: And tho' we did in our own private Family call one another by Scripture-Names, yet I conceive it did not concern the Civil Magistrate to take Cognizance of such a thing, it being not practised to make any Disturbance or Confusion in the State.

Artic. 8. *That I am extremely covetous, taking five Shillings at a time to marry one.*

Answ. I wonder my Accuser should let this Article pass, whose Consequence is so much against Reason, as to argue me extremely covetous for one such poor inconsiderable Act done six or seven Years since: and

I appeal to the Inhabitants of *Reading*, and Mr. *Fowler*'s own Conſcience, whether he hath not taken ten Shillings oftner than five for marrying.

Artic. 9. *That my Preaching doth not tend to Edification.*

Anſw. I can bring thoſe that are knowing and ſpiritual, and ſober Chriſtians, who will aſſert that my Preaching doth tend to Edification, and to the building up of Souls in the true Knowledge and Love of Chriſt; and I believe theſe my Accuſers will be found to be like thoſe of *Chorazin* and *Bethſaida*, of whom Chriſt ſaid, That *if the mighty Works which were done amongſt them had been done in* Sodom *and* Gomorrah, *they had repented long ſince in Duſt and Aſhes.* And was Chriſt's Miniſtry ineffectual, becauſe they did not believe, but remained in the Hardneſs and Impenitency of their Hearts? Neither doth it follow that my Preaching doth not tend to Edification, becauſe thoſe that bring this Article, through their Unbelief, are not edified by it: for there are many, that come from Places round about, that are edified, ſtrengthned, and refreſhed by it; and there are many that have been enlightned, convicted, and converted by it, who ſtill receive quickning Growth and Comfort under it, confeſſing that God is in it of a Truth, as finding it inſtrumentally effectual to the pulling down of the Kingdom of Sin and Satan, and to the erecting the Kingdom of Chriſt in their Hearts; for which I bleſs God, and praiſe his Grace, by which it is what it is.

Art. 10. *That I am very ignorant and inſufficient for the Work of the Miniſtry.*

Anſw. I believe thoſe that exhibit this Article againſt me, upon trial will be found very ignorant and inſufficient to judge of it; and as to thoſe that are to be my Judges, I hope they will not make their own Wills the Rule of Ignorance and Inſufficiency, but proceed according to the Canons of pure Reaſon, or ſupernatural Revelation, in giving Judgment concerning this Particular: the Event of which I leave to God.

Now to conclude: Tho' in reference to this, and the two laſt Charges of Articles, I ſtand free from any Guilt in the Sight of God, and I hope, by my Anſwers to them, in the Sight of all judicious and ſober Men: yet to leave any inexcuſable, that may deſign, whether by Law, or without Law, abſolutely to condemn me; I crave the Benefit and Privilege of the Act of general Pardon in reference to all thoſe things that are pretended to be ſpoken or acted by me before the Year 1651; as moſt of theſe are, that ſeem to be of any moment and conſequence.

John Pordage.

After this was read, not knowing but that the Commiſſioners retained their former Reſolution of examining their Witneſſes in private, I preſſed them to an open Examination, for the Satisfaction of all Parties, and for the more full Diſcovery of the Truth; alledging, that I hoped they would not deal worſe with me than the *Jews* did with Chriſt, and the Ethnick *Romans* with *Paul*, who ſuffered them to hear their Accuſers face to face. So after ſome diſpute it was granted, and agreed upon.

But before I proceed to give you an account of the Depoſitions taken *pro* and *con*, I muſt inform you, that the 22d of *November* was the time of my fourth Appearance, which continued three Days; all which three Days were wholly ſpent in taking the Depoſitions of my Accuſers Witneſſes, to make good the firſt and laſt Charge: And when they had ended their Examinations on the 24th, being Friday, late at Night they called upon me to produce my Witneſſes, if I had any. I anſwered them, I had Witneſſes, but they were not then preſent, neither had I received any Summons for their Appearance; whereupon I deſired a Summons to call in my Witneſſes, which they after much Debate, and many Outcries againſt me for not having them ready, granted; together with an Order, by which I was to appear at the *Bear* in *Speenhamland* at *Newbury* the 30th of that Month, which was juſt a Week after, to make Proof of my Defence by Witneſſes. I ſeeing they had preſcribed ſo ſhort a time for making my Defence, alledged that it was impoſſible for me to be ready with my Witneſſes ſo ſoon, and deſired a fortnight's time; which, though I urged it with many Reaſons, could not be granted me.

But I was afterwards prevented by a vehement Cold, in reference to my appearing at *Newbury* on the Day preſcribed: whereupon I ſent three Friends to atteſt my Inability to appear on that Day before them; who likewiſe preſented the Commiſſioners with a Letter from me, in which I gave them an account of my great Diſtemper. Whereupon the Truth of my extraordinary Weakneſs being atteſted by thoſe I ſent, this Order with a new Summons was granted by the Commiſſioners.

Berks. *By the Commiſſioners for ejecting of Scandalous Miniſters*, November 30, 1654.

WHEREAS Dr. *Pordage* was required this day to appear before us in the Cauſe depending concerning him; and it is now atteſted that the ſaid Doctor is ſick, and cannot, without further danger of his Health, this day appear: It is therefore ordered, that he ſhall have further day given till the ſeventh of *December* next, at the *Bear* in *Reading*; which Day is to be peremptory unto him.

According to which Order I appeared at *Reading* the ſeventh of *December*, with my Witneſſes; where two Days were ſpent in Examination, (now this was my fifth and laſt time of Appearance) the Tranſactions of which cannot diſtinctly be ſet down by themſelves, in regard of my joining the Depoſitions then taken, with thoſe of the adverſe Party, according to this ſubſequent Method.

Now then I ſhall proceed to the Merits of the Cauſe, *ſecundum Allegata & Probata.*

Here then I muſt preſent you with the Depoſitions of the Witneſſes, and firſt with thoſe that concern the firſt Charge of Articles; in reference to which, Mr. *Tickle* gave Evidence by Oath againſt me, firſt at *Newbury* the fifth of *October*, and again at *Reading* the 22d of *November*, being the Day in which my Anſwer was read.

Now to the firſt Article;

John Tickle Miniſter of *Abingdon*, ſworn at *Newbury* the fifth of *October*, depoſed, That I delivered in the Pulpit, That the fiery Deity of Chriſt mingleth and mixeth itſelf with our Fleſh.

On farther Examination upon Oath at *Reading*, *November* 2. Mr. *Tickle* affirmed, That he charged Blaſphemy on the former Expreſſion, and that I repeated my Senſe to be thus, *viz.* That I did not mean with our Corruption, but with our Fleſh; holding my Hand over the Pulpit.

The ſaid Mr. *Tickle* being croſs-examined touching this Article, upon this Interrogatory, *viz.* Whether he did ſwear poſitively to this Article, as thus delivered by me in the very ſame Terms, and Order, without any addition or diminution; or only ſo, according to his beſt Remembrance; thus replied, That the Sum and Subſtance of that Article was clearly and fully delivered by me, and as far as he could remember in theſe words, or words to that purpoſe.

The ſame Perſon being ſworn again, and further examined at the *Bear* in *Reading*, *November* 22. after ſome Expoſtulation with me, in which he grew ſomewhat paſſionate, further ſaid, That after I had held up my Hand, as he had formerly depoſed, I ſaid I did not mean our Fleſh, but with the Soul of Chriſt; and that this was delivered without any the leaſt Limitation as to the Senſe of it.

'Now theſe laſt Depoſitions were taken by the Court from Mr. *Tickle* 'occaſionally, (after he had anſwered the croſs Interrogatories by writing) 'when Mr. *Tickle* was ſometimes raiſed into ſeeming Paſſion againſt me, 'from accidental Diſcourſes that fell in upon Examination.'

But I ſhall here diſcover my own Meaning, and bring in the intended Evidence of my Witneſſes in reference to this Article. My Meaning then (notwithſtanding Mr. *Tickle*'s raſh Allegations) was this; By Fleſh I meant the pure regenerated Part of the Soul, with which the Spirit of Chriſt is united, according to that of the Apoſtle, *Eph.* v. 30. *For we are Members of his Body, of his Fleſh*, &c.

'My Evidence was this; there were preſent three Witneſſes, *viz.* 'Mr. *Francis Pordage* Miniſter, Mrs. *Mary Pocock*, and one *Robert Bolt*, 'who offered to atteſt upon Oath, That they being preſent at the Com-'mittee of Plundered Miniſters, about *March* 27, 1651, heard me upon 'the Interpretation of this Article, *That the fiery Deity of Chriſt mingles 'itſelf with our Fleſh*, explain myſelf thus; That by Fleſh I underſtand 'not the ſinful and fleſhly Part of the Soul, that luſteth againſt the 'Spirit, for in this there can be no Union, for theſe are contrary; nei-'ther by Fleſh did I underſtand the outward elementiſh Fleſh of the 'Body, but by Fleſh I underſtood the pure regenerated Part of the Soul.

'But this Teſtimony they rejected, and would not receive it as Evi-'dence, denying to examine the Witneſſes, in regard they were not pre-'ſent at *Ilſley*, where Mr. *Tickle* alledged this was ſpoken. But I believe 'the judicious Reader will find this Teſtimony to be more pertinent to 'the clearing of the Truth, in reference to my Senſe in the former Pro-'poſition, than what Mr. *Tickle* hath uncertainly, according to his beſt 'Remembrance, aſſerted.'

To the ſecond Article;

Mr. *Tickle* ſaith, That I delivered, *That the Imputative Righteouſneſs of Chriſt is a ſapleſs Righteouſneſs.*

And being further examined by Interrogatories, he anſwered to the firſt of them, That this was fully and roundly delivered in my Sermon at *Ilſley*.

But to the ſecond Interrogatory, which was this, Whether it was with a Limitation, or without? he thus anſwers, That he doth not remember any Addition therein, unleſs it were in oppoſition to the Righteouſneſs, which (as he ſaid) I called ſapleſs.

Being further examined, *Nov.* 22. the ſame Deponent ſaid, That I did not deliver any ſuch Limitation, as I made in my Anſwer thereunto, and that there was no ſuch word as *except* ſpoken, nor any thing like it.

Roger Stevens, ſworn to the ſame Article, depoſed, That I delivered in a Sermon at *Ilſley*, *That the Righteouſneſs of Chriſt was a ſapleſs Righteouſneſs.*

And that he doth not remember any thing to the contrary, but that the ſame was an intire Sentence, and only ſo. And that to his Apprehenſion the Drift of my Sermon was to take away the Strength and Efficacy of the Righteouſneſs of Chriſt.

And this Deponent further ſaid, That in the aforeſaid Sermon at *Ilſley* I delivered theſe Words, *That you are not to look to this*, (meaning, as the Deponent apprehended, Chriſt's Righteouſneſs) *but to the fiery Deity burning in the Center of our Souls, conſuming and deſtroying Sin there.* Which ſaid Words did not immediately follow the Words that I uſed, when I ſaid the Righteouſneſs of Chriſt was ſapleſs; but the ſame were further off in my Sermon, *to his beſt Remembrance.*

Now I ſhall preſent the Depoſitions of my own Witneſſes touching the ſecond Article.

Mrs. *Mary Pocock* being ſworn and examined *December* 7. was aſked by me whether ſhe heard me deliver the ſecond Article at the Sermon at *Ilſley*, *viz.* That the imputative Righteouſneſs of Chriſt was ſapleſs; ſhe replied, ſhe was then preſent at the Sermon, and did hear theſe Words delivered. Then being further aſked, Whether delivered with a Limitation, or without a Limitation? ſhe anſwered, that it was with a Limitation. Then ſhe was further aſked, What that Limitation was? ſhe reanſwered, That it was with this Limitation, *Except the fiery Deity of Chriſt be in the Center of our Souls, burning up our Luſts and Corruptions.* And being further aſked, Whether theſe laſt Words were ſpoken together with the other Words, to make up one Sentence? ſhe ſaid, Yes, in theſe expreſs Words, *viz. That the Righteouſneſs of Chriſt was ſapleſs, except the fiery Deity of Chriſt be in the Center of our Souls, burning up our Luſts and Corruptions.*

After this I brought three Witneſſes more to be ſworn touching this Article.

'Their Evidence was this, which every one in particular intended 'to give in, in Writing, after this manner, *viz.* I do confeſs I was pre-'ſent before the Committee of Plundered Miniſters, the 27th of *March*, '1651; where I did hear the Doctor, upon his Examination touching 'that Article, *That the imputative Righteouſneſs of Chriſt is a ſapleſs 'Righteouſneſs*, deliver himſelf to this purpoſe; That to him that 'hath not the Spirit of Chriſt indwelling in his Heart by Faith, not-'withſtanding all his Application of Chriſt and his Merits, it is but a

'ſapleſs

'sapleſs Righteouſneſs: So ſaith the Scripture. *He that hath not the Spirit of Chriſt is none of his.*

'But this Teſtimony and Evidence the Commiſſioners rejected, and would not ſuffer the Witneſſes to depoſe it upon Oath.

'In the next place, I certified the Commiſſioners, that I had preſent divers knowing Chriſtians that were conſtant Hearers of me, who were ready to depoſe on Oath what the Scope of my Miniſtry was, and what they had frequently heard me hold forth in it, touching Chriſt's imputative Righteouſneſs.'

But the Commiſſioners rejected this Teſtimony alſo, and would not hear the Evidence of theſe intended Witneſſes; ſaying, that it was not to the purpoſe, but merely dilatory. To which I reply'd, That altho' the Proofs were weak and altogether impertinent, yet being Judges, they ought to hear them, and afterward to judge of their Force or Invalidity: and I further told them, That this Proceeding of theirs, in thus preventing and rejecting the Teſtimony of my Witneſſes, in not ſuffering them to depoſe what they could, did much ſtrengthen my Belief of the common Report ſpread abroad the Country, That they had reſolved before-hand to condemn and eject me, whether by right or wrong. At this Mr. *Trapham*'s Choler ſeemed much to be ſtirred, that the Court, of which he was one, ſhould thus be charged; ſaying with much paſſion, That this ſhould be looked upon as a Contempt and an Affront againſt the Court.

But the Commiſſioners peremptorily reſolving not to take the Evidence of the forementioned Witneſſes, becauſe it contradicted not Mr. *Tickle*'s Teſtimony, *quoad idem tempus*, in reference to the ſame particular time; I was forced to tell them, that I muſt be ſubject to the Determinations of the Court: but I hoped they would be more ingenuous and Chriſtian-like, than condemn me for a Word or Expreſſion, tho' proved ever ſo clearly, if the Driſt and Tenour of my Miniſtry were otherwiſe.

But I ſhall here inſert, and ſo leave it to the Judgment of the Reader, what eight ſubſtantial Witneſſes, who almoſt conſtantly hear me, would willingly have depoſed upon Oath, touching this Article, *viz.* That the Scope of my Miniſtry is not to take away the due Application of Chriſt's Righteouſneſs, but the miſapplying of it in reference to thoſe who have no Intereſt in it.

After this, I further preſſing the Commiſſioners to hear thoſe Witneſſes which were to atteſt this, they ſeemed ſomewhat to change their Reſolution, and to admit one or two of them to be examined. So I mentioned Mrs. *Mary Pocock*, a very pious and experienced Chriſtian, and ſo known to be in the place where ſhe lives. Againſt whom it was objected, that ſhe was one of my own Tribe. Then I mentioned another diſcreet prudent Chriſtian, by name *Richard Higgs*, who is known to be one of a very good Converſation. Againſt whom Mr. *Fowler* having ſomewhat to object for his ſuppoſed Judgment, was willing to have him called to Examination.

So this *Richard Higgs* being ſworn, depoſed, That he had been a Hearer of me at certain times for five or ſix Years laſt paſt, and that during that time, for ought the Deponent knew, the Scope of my Miniſtry hath not been againſt the right and due Application of Chriſt's Righteouſneſs, but againſt the Miſapplication thereof, for ought he knew or ever underſtood. And being aſked, Whether he had been a conſtant Hearer of me? he ſaid, he had heard me very often, but that he was uſually at his own Pariſh in the Morning, and that ſometimes he was abſent, but had often heard me.

And being further aſked, What he had uſually heard me preach concerning the imputative Righteouſneſs of Chriſt, he ſaid, He could not charge his own Memory; but had a Note to which he would reflect, for recollecting his Memory; and thereupon produced a Note, which he confeſſed was given him from the Doctor.

[Here, upon this, were many Outcries againſt me, from the Accuſer, and others of the Miniſters and Commiſſioners, as though I had committed ſome heinous Act in ſuborning a Witneſs to ſwear what I pleaſed: whereas there was no ſuch thing; for this Man and two more, meeting at my Houſe, compared their Note-books together, out of which this was taken, which was in that Paper, which he after mature Deliberation, and Reflection upon it, could with a good Conſcience ſwear to; as looking upon it more ſafe, than to ſwear upon ſudden Memory.]

But I ſhall now proceed to the further Examination of this Witneſs, as it was taken by the Clerk, but very partially, as you ſhall ſee preſently.

This *Richard Higgs* being aſked, what he meant, or what the Doctor meant by the Righteouſneſs of Chriſt? he ſaith he cannot depoſe: but the Doctor interpoſing, ſaid, Chriſt's Righteouſneſs was his active and paſſive Obedience. And thereupon the Deponent being aſked, What was Chriſt's active Obedience? preſently denied his words again.

To this he refuſed to ſubſcribe.

'The Clerk hath left out ſomething touching *Richard Higgs*'s Anſwer 'to that Queſtion about Chriſt's active Obedience; which Anſwer being 'caught up by the Clerk, before he had liberty to expreſs his Meaning, 'he might very well deny, though the Clerk had wrote it down, it being 'not according to his Meaning and Purpoſe; and ſo not fit to be 'ſubſcribed.'

After this, Mr. *Fowler*, the Accuſer, openly atteſted againſt this Deponent, That he denied the Bible to be the Word of God, and ſaid, that the ſame was but old Declaratives; which the ſaid Deponent denies.

'Here the Clerk's Partiality is again apparent, who left out a weighty 'Diſtinction which the Deponent made, concerning the Word of God, 'in anſwer to Mr. *Fowler*'s Accuſation, which was this; That he never 'denied the Scripture or Bible to be the written Word, but had ſaid, it 'was not the Eſſential Word: And this very Diſtinction the Deponent 'had formerly given to the Miniſter of the Pariſh, who being preſent, 'confeſſed it before the Court, acknowledging that he walked like an 'honeſt and ſober Chriſtian in his Converſation.

'But to proceed: Although this Deponent's written Evidence would 'not be received, yet I ſhall here preſent it as it was to be given in, 'and atteſted by ſeven more Witneſſes beſides himſelf. The Form of 'it was this; I confeſs I have heard the Doctor preach, at *Bradfield* 'about the Year 49, out of *Dan.* ix. 24. thus: *Queſt.* What is meant 'here by this Righteouſneſs? *Anſw.* By this Righteouſneſs is meant 'Chriſt's Righteouſneſs, *Jer.* xxiii. 6. *The Lord our Righteouſneſs.* 'And *Paul* deſireth not to be found in his own Righteouſneſs, but in 'the Righteouſneſs of Chriſt, *Phil.* iii. 9. Chriſt's Righteouſneſs is the 'Soul's Wedding-Robe; *Iſa.* vi. 10. *He hath covered me with the Robe of 'Righteouſneſs.* As to the nature of Chriſt's Righteouſneſs, it is a pure, 'ſpotleſs, perfect and compleat Righteouſneſs, *Eph.* v. 27. *That he 'might preſent to himſelf a glorious Church*, in this Righteouſneſs of his, '*not having Spot or Wrinkle.*

'This which follows was alſo intended to be given in, and was to be 'atteſted by three Witneſſes: I confeſs, I heard the Doctor preach in '*Bradfield* Church, out of *Luke* i. 68. That the free Grace of God the 'Father is the firſt Cauſe of the Soul's Juſtification.

'*Queſt.* What is the Matter out of which a Sinner cometh to be juſtified in the ſight of God? *Anſw.* It is Righteouſneſs. As a Man cannot live without a Life, ſo a Chriſtian cannot be juſt without Righteouſneſs; and this Righteouſneſs is called Chriſt's Righteouſneſs; no other Righteouſneſs, but the Righteouſneſs of Chriſt, can juſtify the Soul. Therefore he is ſtiled, *Jer.* xxiii. 6. *The Lord our Righteouſneſs.* 1 Cor. i. 30. *Chriſt is made unto us Wiſdom and Righteouſneſs*; that is, for our Juſtification. This Righteouſneſs of Chriſt, in its own nature, is an everlaſting Righteouſneſs, *Dan.* ix. 24. 2 Cor. v. 21. *That we might be made the Righteouſneſs of God, in being clothed upon with Chriſt's Righteouſneſs.* Phil. iii. 9. We are not to be found in our own ſelf Phariſaical Righteouſneſs, but in Chriſt's Righteouſneſs, which is the Righteouſneſs of Juſtification. And the formal Cauſe of a Sinner's Juſtification, is his Union and Communion with this Righteouſneſs of Chriſt, through Faith and believing on it; *Rom.* x. 6. *The Righteouſneſs of Faith ſpeaketh on this wiſe*, &c. that is, the Righteouſneſs of Chriſt apprehended by Faith.

'This was alſo intended to have been given into the Court in Writing, being tranſcribed out of three or four Note-Books compared together, and afterward ſeriouſly conſidered and weighed; to which the Witneſſes could ſwear with good Conſciences, notwithſtanding all thoſe Outcries were againſt this Evidence by ſome of the Miniſters and Commiſſioners, as though I had preſcribed what they ſhould ſwear; and that we were all combined to commit a heinous Sin, and bring the Guilt of Perjury upon our ſelves: whereas we all ſtood in Innocency as to this thing, having no other End in it, but the ſtable Aſſurance of the Truth of what was to be atteſted by ſerious Reflections upon it, after the comparing of divers Note-Books together, which ſerved to help and ſtrengthen the Memory of the Witneſſes; together with the avoiding of the Clerk's Prevarications in Writing, by partially taking the Depoſitions, in which we oft found him defective.

'But to conclude this Article, I have produced theſe Teſtimonies to 'ſhew my Judgment touching Chriſt's Righteouſneſs, which (with the 'poſitive Depoſition of Mrs. *Mary Pocock*, That I ſpake that of the Imputative Righteouſneſs of Chriſt with a Limitation) may in Juſtice outweigh the Depoſitions of the other two Witneſſes againſt me, being neither of them are poſitive, and ſo not effectual in Law or Reaſon.'

Now I ſhall paſs to the third Article;

To which Mr. *Tickle* being ſworn, ſaith, That I delivered, that the Diſcoveries of the Sinfulneſs of Sin, the Terrors of the Law, the Death of Chriſt, the free Grace of God, are fleſhly and flaſhy Diſcoveries.

Afterward being croſs-examined by me to this Interrogatory, Whether this Article was delivered in the ſame expreſs Words, and in the ſame Order? he anſwered thus:

That the very Sum and Subſtance of this Article was delivered fully and roundly by me, and in the expreſs words for the Subſtance of them, and to the beſt of his Remembrance.

'Now I not remembring that ever I ſaid that theſe were but fleſhly and 'flaſhy Diſcoveries, and knowing that it was but his ſingle Teſtimony, 'and not poſitively ſworn to, and ſo no legal Evidence to condemn; 'and beſides, that it was not comprehended in the Act of blaſphemous 'Opinions, to which the Ordinance refers: I paſſed it by formerly without any Anſwer. But now to ſatisfy knowing Chriſtians concerning my 'Judgment in this Particular, I ſhall here preſent this Anſwer; That I 'then held forth, and do ſtill own it, That the Diſcoveries of the Sinfulneſs of Sin, the Terrors of the Law, the free Grace of God, the Death 'of Chriſt, were but preparatory Works under the Father's Diſpenſation, to the higher and more powerful Workings of God under the 'Diſpenſation of the Son, in changing and transforming the Heart into 'his Image; and ſo but weak in compariſon of the more full and clear 'Manifeſtations and Operations of God upon the Soul, in bringing it up 'into divine Union and Fruition.'

To the fourth Article;

Mr. *Tickle* ſaith, that I delivered, That the Liberty and Freedom ſpoken of, purchaſed by the Blood of Chriſt, is not a Liberty and Freedom from the Guilt of Sin, the Curſe of the Law, the Wrath of God, but the fiery Deity of Chriſt in the Center of our Souls.

Mr. *Tickle* being further examined on this Article by me, to this Interrogatory, *viz.* Whether this was delivered firſt in the ſame expreſs Words? Secondly, and in the ſame Order? Anſwers:

Firſt, the very Sum and Subſtance of this Article was delivered fully and roundly by the Doctor. Secondly, That it was delivered in the expreſs Words, for the Subſtance of them.

To a third Interrogatory propoſed by me, *viz.* Whether this Article was thus expreſſed by me, without any Addition or Diminution of his own? He thus anſwers; To the beſt of his Remembrance, without any Limitation, Addition or Diminution of his own.

'But here, courteous Reader, you muſt give me leave to ſhew you 'Mr. *Tickle*'s Uncertainty and Diſagreement with himſelf in delivering 'this Article, which cannot but make it invalid in the Eyes of thoſe 'that are judicious.

'In

'In his atteſting of this Article three ſeveral times, he never agreed 'with himſelf, but either diminiſhed or added. The firſt time he ſware 'to this Article, he had this Clauſe *(And applied by the clinging and 'cleaving of the Soul to Chriſt)* as you may ſee in the firſt Paper of Ar-'ticles, which, being ſworn again *Octob.* 5. he left out: and neither of 'theſe agreed with his own Depoſition given under his own Hand 'ſome four Years ſince, to the Committee of Plundered Miniſters, when 'it was more freſh in his Memory, and yet not delivered ſo fully and 'poſitively as now; which you may ſee by his own Words (taken out 'of his former Depoſitions) which were theſe.

'Another Preparation was the inſtating of the Soul into a glorious Li-'berty and Freedom, in theſe Expreſſions: Which Liberty and Free-'dom is not that Liberty and Freedom from the Guilt of Sin, the Curſe 'of the Law, the Wrath of God, brought about (or in an Expreſſion 'of the ſame Signification) by the Death and Blood of another; and ap-'plied (or a word like it) by the clinging and cleaving of the Soul to 'Chriſt.

'Now you may take notice, that in the two former, this Clauſe was 'added, *viz. But the fiery Deity of Chriſt in the Center of the Soul*; 'which here is not mentioned. Moreover the Order is changed, and 'ſome doubtful Expreſſions are inſerted; which ſhewed his Uncertainty 'four Years ſince. All which compared with that Anſwer of his, given 'by Oath at my late Trial, that this Article was delivered in the 'ſame expreſs words, for the Subſtance of them, cannot but ſhew that 'he hath almoſt, if not altogether, incurred the Sin of Perjury. Now 'all this being well weighed, cannot but demonſtrate that this Teſti-'mony is of no force at all.

'And although I formerly gave no Anſwer to this Article, becauſe it 'was not ſworn to poſitively, but with Reſerves and Alterations, and 'that by one Witneſs only, and came not under the Act of ſcandalous 'Opinions; yet I ſhall now ſpeak ſomething to it, and ſhew you the 'Deponent's Miſtake, which was in leaving out this word *(only)* which 'inſerted, makes it appear with a more innocent Face.

'But now I ſhall further anſwer, That I delivered this Sentence thus, 'which I ſtill own, *viz.* That the ſecond preparatory Work that 'Chriſt did in the Soul of a true Saint, for the manifeſting of his Glory 'in it, was the inſtating of the Soul into a glorious Liberty and Free-'dom, which doth not *only* conſiſt in the Liberty and Freedom from the 'Guilt of Sin, the Curſe of the Law, the Wrath of God; but alſo in 'the enjoying of the Spirit of Chriſt in the Center of the Soul, there 'purifying our Natures, mortifying our Luſts, and reſtoring us into the 'Image of God. And ſo this, truly repreſented, is a glorious Truth; 'though as Mr. *Tickle* by Miſtake delivered it, it ſeemed monſtrous.'

To the fifth Article.

Mr. *Tickle* ſaith, that I did deliver, That by Male and Female, *Gen.* i. we are to underſtand by Male, the Deity; and by Female, the Humanity; and that theſe two became one Fleſh. Theſe things were delivered without any Limitation whatſoever.

Mr. *Tickle* being further examined on this Article, *viz.* Whether I ſpake this as my own avowed Judgment, or as the Judgment of ſome other Perſon? anſwers thus: That I delivered thoſe Expreſſions of the Article with Approbation, and that therefore he had cauſe to believe it was my Judgment; and, as far as he remembers, it was delivered as my Judgment.

'Here the Reader may obſerve, that Mr. *Tickle* doth not anſwer di-'rectly and nakedly as a Chriſtian ſhould, but ſubtilly and indirectly, 'like a Sophiſter; for he anſwers, that I delivered this with Approba-'tion: but whether this Approbation was from my ſelf, or from ſome 'other (I might then cite) he doth not expreſs, paſſing it over in Silence. 'Afterwards he ſaith, he hath Cauſe to believe it was my Judgment; 'which is a mere Prevarication, but no Anſwer to the Queſtion; which 'was not, Whether he believed it to be my Judgment, but whether 'I delivered it as my Judgment, or as the Judgment of another? To 'which in the laſt Clauſe he anſwers ſomewhat, *viz.* That I delivered 'it as my own, as far as he remembers. But though this be ſomewhat 'to the Queſtion, yet not much to the Purpoſe, it being no legal Proof 'or Evidence; for his Memory might fail him.

'Now the Reaſon of this Interrogatory was, in that Mr. *Tickle*, ſome 'four Years ſince, when this was better in his Memory than now it can 'be, gave in this that followeth, under his own hand, to the Committee 'of Plundered Miniſters, *viz.* That *Gen.* i. by Male, we are to under-'ſtand, ſaith Mr. *Pordage*, the Deity; by the Female, the Humanity. 'This he gave from a Rabbi, with that Approbation.

'Now how conſiſtent this is with his late Anſwer to my Interrogato-'ries, let all judge; eſpecially with that part of it in which he affirms, 'that as far as he remembers, I delivered it as my own Judgment.

'But now to anſwer ſomething poſitively to this, which may give Sa-'tisfaction to judicious and knowing Chriſtians, I acknowledge that, 'in the Sermon before-mentioned, I delivered for Subſtance, this which 'follows, *viz.*

'That another preparatory Work that Chriſt did in the Soul of a true 'Chriſtian, for the manifeſting of his own Glory in it, was the bring-'ing up the Spirit of the Soul into a glorious, myſtical, yet real Union 'with himſelf: And after I had proved the Truth and Subſtantiality of 'this Union betwixt Chriſt and a Chriſtian, from ſeveral Texts of 'Scripture, which directly evinced it; I came by way of Illuſtration to 'ſpeak of that Scripture, *Gen.* i. out of which I ſaid, That by Male 'and Female, according to the Judgment of a learned Rabbi, the 'Deity and pure Humanity might be ſhadowed forth, which by Union 'become one; the Male repreſenting the Deity, the Female the pure 'Humanity, or regenerated part of the Soul, which by Union is made 'Partaker of the Divine Nature.

'By this you may ſee, that if Mr. *Tickle* had been but a charitable 'and knowing Chriſtian, he needed not have troubled himſelf and me 'about this Article.'

To the ſixth Article;

'Mr. *Tickle* ſaith, That he heard me deliver in Diſcourſe with Mr. '*Pendarvis*, That the Gifts and Graces of the Spirit were but Fleſh.

Being further examined, he ſaid, That to this ſixth Article there was no Limitation whatſoever in the delivering of it.

'Here the Reader muſt know that Mr. *Pendarvis* was ſummoned by 'me to witneſs to the Truth in this particular, but he came not; al-'ledging that he could ſay no more than what he had already depoſed. 'Whereupon I deſired the Commiſſioners (after Information that I had 'ſummoned him) to hear his former Depoſition read; but they peremp-'torily denied it. By which I clearly ſaw that they had more mind to 'take all Occaſion of Advantage againſt me, than to be fully informed 'of the Truth of things.

'But Mr. *Pendarvis*'s Depoſition given in before the Committee of 'Plundered Miniſters, was this, *viz.* That the Doctor, in Conference, 'did ſay, That the Gifts and Graces of the Spirit, were but Fleſh; and 'I oppoſed him: but then the Doctor replied, by way of Explanation, 'that he underſtood them only to be Fleſh; that is, weak in point of 'Reſt and Truſt on them for eternal Life and Salvation: and in this I 'agreed with him.

'Correſpondent to this, was my Anſwer to, and Explanation of this 'Article before the Committee of Plundered Miniſters, which three Wit-'neſſes were ready to depoſe on Oath before the preſent Commiſſioners, 'who refuſed to hear their Teſtimony.'

To the ſeventh Article;

Mr. *Tickle* ſaith, That he heard me deliver in Diſcourſe, That Chriſt is a Type, and but a Type.

Being further examined, he ſaith, That I endeavoured to prove that Chriſt was but a Type, out of *Peter*, where he is called τύπος.

Further, *Roger Stephens* being ſworn to this Article, depoſeth, That the Doctor, in Diſpute with Mr. *Pendarvis*, delivered, That Chriſt was but a Type, and went to prove it by that Scripture, 1 *Pet.* ii. *He is our Example.* To which Mr. *Pendarvis* replied, That is not meant by way of Righteouſneſs to Juſtification, but by way of Example, as to Re-proaches. To which the Doctor anſwered, You underſtand it one way, and I another; or words to that effect.

Now to balance theſe Depoſitions, the Reader muſt take notice,

'1. That my True Senſe of this Article may be ſeen in my Anſwer 'to this firſt Charge, in which I have truly ſhewed in what Senſe I 'owned Chriſt to be a Type, *viz.* as he is a Pattern and Example for 'us to imitate and follow.

'That this Diſcourſe being with Mr. *Pendarvis*, it is requiſite I 'ſhould here inſert his Depoſition taken by the Juſtices of Peace of that 'County, and afterward preſented to the Committee of Plundered 'Miniſters; which was as follows:

'This Examinant (which was Mr. *Pendarvis*) further ſaith, That 'the ſaid Doctor *Pordage*, in a Conference had with him at the ſame 'time, after his Sermon at *Ilſley*, ſaid, That Chriſt was a Type, and 'but a Type: but this Expreſſion was immediately waved by him, but 'he conſtantly affirmed that Chriſt was a Type.

'But becauſe Mr. *Pendarvis* could not be there to witneſs *viva voce*, 'the Commiſſioners would not admit this Evidence.'

But Mrs. *Mary Pocock* being ſworn and examined on this Article, ſaith, That ſhe heard the Doctor maintain in that Diſcourſe with Mr. *Pendarvis*, That Chriſt was a Type; and proved it out of *Peter (He was an Example)* and that ſhe heard the Doctor ſay, He would not ſtand to the word *But.*

And further,

John Pordage, Son to the Doctor, aged between 19 and 20 Years, and examined *December* the 7th; this Deponent ſaith, That in Diſpute between the Doctor and Mr. *Pendarvis*, about five or ſix Years ſince, about Chriſt's being a Type, the Doctor ſaid, That Chriſt was but a Type. To which Mr. *Pendarvis* aſked, Do you ſay but a Type? Whereupon the Doctor anſwered, He did not ſtand to the Expreſſion, *but a Type*; it was but the ſlip of his Tongue: but he maintained that Chriſt was a Type.

'You ſee here are three Witneſſes that atteſt I never owned or ſtood 'to that of Chriſt's being but a Type.'

Correſpondent to which Teſtimony, I gave in my Anſwer before the Committee of Plundered Miniſters which I offered to prove by three Witneſſes then preſent, who heard me, who were ready to atteſt this which follows, *viz.*

'That they being preſent (about the 27th of *March* 1651.) before the 'Committee of Plundered Miniſters, heard me touching this Article '*That Chriſt was a Type, and but a Type*, deliver my ſelf thus; That I 'had owned Chriſt to be a Type, that is, a Pattern and Example for 'us Chriſtians to ſquare our Lives and Converſations by; but that I 'had not owned him to be but a Type, or a Type only: But the Com-'miſſioners would by no means hear this Evidence.

'After this I earneſtly preſſed them to hear what my Witneſſes could 'further ſay, touching what I had publickly delivered in my Miniſtry 'about this Subject; telling them that ſuch Evidence was in Juſtice 'more to be reſpected, than a Miſtake in ſudden ſpeaking, preſently 'retracted: but they denied all ſuch Evidence, and would not hear; 'which clearly ſhewed their Partiality, and that they little regarded 'what my avowed Judgment was.

'Notwithſtanding, I ſhall here inſert what ſome were ready to wit-'neſs, in reference to this Article, who had been conſtant Hearers of 'me; whoſe Teſtimony was this: We confeſs we have heard the Doctor 'preach out of *Luke* i. 68. Firſt, This by way of Doctrine, *viz.* That 'God's free Grace is the firſt and chief Cauſe of our Redemption. 'Then he proceeded thus: That the inward Man was redeemed in, for, 'and through Chriſt, *Rom.* iii, 24. *through the Redemption that is in 'Jeſus Chriſt.* How through Chriſt? *Anſw.* Through Chriſt's Death 'and Paſſion; *Iſa.* liii. 5. *He was wounded for our Tranſgreſſions, he was 'broken for our Iniquities.* 1 Pet. ii. 24. *Who bare our Sins in his own 'Body on the Croſs.* Rom. iv. 25. *Who was delivered for our Offences to the 'Death of the Croſs.* 1 Cor. v. 7. *Chriſt our Paſſover is ſacrificed for us.*'

'Now

'Now this clearly shews, that Christ is more than a Type, and that 'he is a compleat Redeemer.

So much for this Article.

To the Eighth and Ninth Articles;

Mr. *Tickle* saith, That he heard me deliver before the Committee of this County, sitting at *Reading*, That Christ was not God; and that he was not *Jehovah*.

Being further examined to this Article, my Interrogatories to him were these:

1. *Whether these Words were not expressed in a hot Dispute before the Committee?* To this Mr. *Tickle* replied, That I endeavoured in Dispute with great Seriousness, before the Committee, to maintain, That Christ was not God, that Christ was not *Jehovah*.

My second Question was this, *Whether, in the same Dispute, this Article was not limited and explained by me?*

'But this Question was wholly waved and passed over in Silence; 'but whether voluntarily by Mr. *Tickle*, or by the Clerk's Deceit, the 'Interrogatories being given in in Writing, I do not know; but this I 'am sure, it was much to the prejudicing of my Cause to let such a 'weighty Question pass without an Answer.'

3. *Whether this Article was held forth by me as my avowed Judgment?*

Answ. To this he thus answers: The Doctor did maintain and defend this Article as his avowed Judgment.

'Here Mr. *Tickle* is very peremptory in a rash Answer, though that 'Interrogatory before could be slided over in Silence; the Answer to 'which, if Mr. *Tickle* had not easily incurred Perjury, would have much 'cleared the Truth, in regard I meant and explained myself, of God the 'Father, as you shall see afterward.'

This Deponent, Mr. *Tickle*, further deposeth to the eighth and ninth Articles, That there was no such Expression, *of the Father*, used in the Definition of Blasphemy, as is mentioned in the Doctor's Answer; but saith that the Definition was, That Blasphemy was an Evil-speaking against God, derogating from his Glory, either in his Name, Nature, Word or Works. Mr. *Tickle* further affirms, That my immediate Words thereupon were, Hark! he answereth, Blasphemy is an Evil-speaking against God; and in his Paper chargeth me with Blasphemy against Christ, as if Christ were God: And hereupon we began a hot Dispute about the Godhead of Christ.

'The Reader must here know, That upon Mr. *Tickle*'s defining Blas-'phemy to be an Evil-speaking against God the Father, as I then 'really apprehended, I immediately cried out, Hark! he defineth Blas-'phemy to be an Evil-speaking against God the Father, and in his Paper 'chargeth me with Blasphemy against Christ, who is God the Son. 'Whereupon began a Dispute; in reference to which Mr. *Tickle* further 'deposeth,'

That he asked the Doctor if Christ were God: who did deny it, and put the Deponent upon Proof of the same. Whereupon he cited that Scripture, *In the beginning was the Word*, &c. To which the Doctor replied, He is called God, but he is not *Jehovah*. To which the Deponent replied, He is *Jehovah*; which the Doctor likewise put him upon Proof of. To which he answered that Scripture, *His Name shall be called* Jehovah, *our Righteousness*: And, as he remembers, the Doctor did disallow of that Proof, as being out of the Old Testament; to which he cited that Scripture, *He that was, is, and is to come*, as of the same purpose with *Jehovah*.

''Tis well that Mr. *Tickle* adds, According to his best Remembrance, 'which saves him from Perjury: For I esteem the Old Testament to be 'Scripture as well as the New; neither did I disallow of that Proof as 'being taken thence, as he would insinuate: But I said that *Jehovah* in 'the Old Testament most commonly signified the Person of the Father.'

But now we shall pass to the next Witness.

Thomas Trapham, one of the Commissioners, sworn and examined, deposeth;

That, to his Remembrance, the Word *Father* was not in Mr. *Tickle*'s Definition of Blasphemy; and that the Doctor did then deny Christ to be God; which the Deponent did acquaint Mr. *Blagrave* with. To which Mr. *Blagrave* said, If he say Christ is not God, we must take further Course with him. To which the Doctor replied, Christ is not *Jehovah*: and that when Mr. *Tickle* had confuted him in that Argument, (I must now tell the whole Truth) the Doctor replied, He was not God the Father.

'*Note*, This was rather a Confutation of Mr. *Tickle*'s own Appre-'hensions concerning me, than of my Meaning in what I then spake: 'And if he swears truly that the Term *Father* was not in his Definition, 'then as he mistook me, I mistook him; upon which Mistakes his 'needless Proofs were grounded.'

But now to the next.

Mr. *Roger Stevens*, of *Reading*, sworn and examined, *November* 22, deposeth, That the Doctor did confess in the Deponent's Hearing, in a Sermon, That Christ was not *Jehovah*.

'*Note*, Before I proceed any further, I cannot but desire all sober 'Christians to take notice what a bitter and envious Spirit this Depo-'nent is of; which will appear by what follows.'

After his before-expressed Depositions, I put these Interrogatories to him:

1. Where did you hear me preach this? To this he replied, In a Sermon at St. *Lawrence*'s Church.

2. I asked him before whom? He answered, Before the Committee of *Berks*.

3. I demanded of him how I explained my self, when in the Sermon I affirmed openly, That Christ was not *Jehovah?* He replied, He did indeed explain himself thus, That he had said that Christ was not *Jehovah*, in opposition to the Father.

'*Note*, Here the Reader must know that this Sermon was delivered 'at *Reading* by the Appointment of the Committee, (before which we 'had the Dispute about the Godhead of Christ) in which Sermon I 'openly cleared my self from that dismal Aspersion of denying the God-'head of Christ; which so satisfied the Committee, that upon this they 'judged me innocent in that Particular, and by Vote cleared me. 'And now considering the Scope of my Sermon at that time, to-'gether with the Deponent's Deposition, *viz.* That he heard me in a 'Sermon confess that Christ was not *Jehovah*, without adding any more 'to shew how I said it, till I cross-examined him: I say, weighing 'these well together, the judicious Reader cannot but see this Deponent's 'Envy and Partiality, and Unfitness to take Oath, or be much re-'garded after Oath; who swearing to speak all the Truth, dares yet 'take one Sentence out of a whole Discourse, without adding any fur-'ther Explanation of it, to make the Commissioners believe that I ac-'cused myself of Blasphemy at that time, when my whole Scope was to 'vindicate myself from the undeserved Imputation of it.'

Now I shall present you with the Depositions and Evidence given in on my behalf, touching the Eighth and Ninth Articles, *viz.* That Christ is not God; and, That Christ is not *Jehovah*.

BUT in the first Place I refer you to my Answer to these Articles; in which you may see the Occasion of the Discourse before the Committee, touching the Godhead of Christ; and that I never owned any such monstrous Position, as, That Christ is not God.

In the second Place I come to the Witnesses: The first of which was Mr. *Francis Pordage*, Brother to me.

Now this Deponent being asked whether the Words, *That Christ was not God, and that Christ was not Jehovah*, before the Committee at *Reading*, were not delivered in a hot Dispute; he saith they were.

And being further asked whether in the same Dispute these Words, *That Christ was not God*, were not limited by me; he saith, The Doctor did express it with this Limitation, *That Christ was not the Father*.

Now follow the Cross-Examinations of the Accuser, and some other of the Ministers.

MR. *Pordage* being asked by them the ground of this Dispute, he thus answered, That the Dispute arose upon a Definition of Blasphemy which Mr. *Tickle* gave to Mr. *Blagrave*, That it was against God. To which the Doctor replied, He saith it is against God, and yet chargeth me for speaking against Christ.

'*Note*, Here are some Things prevaricated by the Clerk, the Mi-'nisters at that time being very hot in examining this Deponent.

'I must here therefore a little correct it by the Line of Truth.'

Mr. *Pordage* indeed said that the Dispute arose upon a Definition of Blasphemy, which Mr. *Tickle* gave to Mr. *Blagrave*: But then a Minister asking him whether the Definition was not thus expressed, That Blasphemy was an Evil-speaking against God? he replied, He could not tell whether it was expressed against God, or against God the Father. But now I shall proceed as the Clerk took them.

Mr. *Pordage* being further asked by me, whether in that Dispute I did deny that I held Christ not to be God? he saith the Doctor did declare to Mr. *Blagrave*, That Christ was God.

Hereupon he was asked by the Commissioners and Ministers, whether there was not so much distance of time at the least between the Doctor's Denial of Christ to be God, and his correcting of it afterwards, as required Proof of Mr. *Tickle*, to prove him to be God and *Jehovah?* the Deponent doth acknowledge the same.

And the Deponent being asked whether he did hear Mr. *Tickle* speak any Word of God the Father in that Dispute? he saith, he doth not remember that Mr. *Tickle* used any such Expression.

This Deponent being asked by me, whether frequently in that Dispute, when I spake of denying Christ to be God, I did not speak it always in relation to God the Father? he thus answered, The Doctor did then speak it in relation to God the Father; but he cannot say frequently or always.

Moreover the former Deponent being asked by me, How I did explain myself in St. *Lawrence* Church concerning the Divinity of Christ, when I was commanded by the Committee at *Reading* to explain myself in a Sermon there? he saith, In that Sermon the Doctor did clear himself concerning the Trinity of Persons, and that Christ was God; and did assert the same as his avowed Judgment.

After this, being asked by the Commissioners whether the Doctor did not make his Limitation, if any, after he was confuted by Mr. *Tickle* concerning the Deity of Christ? the Deponent answereth to this, That it was after Mr. *Tickle* had cited many Scriptures to prove the Deity of Christ.

But last of all being asked by me, whether he understood me at that time to be confuted or mistaken? he saith, Mistaken.

Francis Pordage.

The next Witness is *Mary Pocock*, sworn again, and further examined.

WHO being asked by me whether this Expression, *That Christ was not God and* Jehovah, was not spoken in a Dispute before the Committee at *Reading?* she saith, She was before the Committee of *Berks*, where she heard the Doctor in a Dispute with Mr. *Tickle* concerning Christ; in which Dispute she heard the Doctor say, *Christ was not the Father:* But she did not hear him deny that he was God the Son, neither then, nor at any other time, but owning him to be perfect God, and perfect Man.

And being further asked, whether she did not hear the Doctor express that Christ was not God with a Limitation, and with what Limitation? she answered, Yes; and that the same was thus, *He was not God the Father.*

And being further asked by the Doctor, Whether she did not hear him deny in that Dispute, That he held Christ not to be God? she saith, she did apprehend him so, *viz.* That he did deny he held Christ not to be God; and so far as she was satisfied with it.

And being asked by the Commissioners, Whether she did not hear the Doctor in that Dispute, deny Christ to be God? she answereth, she heard him deny Christ to be God the Father.

And being further asked, Whether the Words of God the Father were not spoken by the Doctor, after Mr. *Blagrave* did tell him, If he held such Opinions, they must proceed against him? To this she saith, Mr. *Blagrave* put some Questions to him, what they were she cannot remember.

And being further aſked, Whether the Doctor did not bring in the Expreſſion of God the Father, after many Scriptures cited by Mr. *Tickle* to prove Chriſt to be God? To this ſhe ſaith, ſome Scriptures Mr. *Tickle* did bring; but ſhe is not able to ſay it was before the Doctor did expreſs God the Father.

Mary Pocock.

After this, I deſired the Commiſſioners, that if they were not yet ſatisfied, they would hear my Witneſſes which I had there ready to be ſworn; that I had formerly cleared myſelf of holding Chriſt not to be God and *Jehovah*; and that I had held forth the contrary as my avowed Judgment, *viz. That Chriſt was God and* Jehovah, in a Sermon before the Committee of *Berks* at *Lawrence*-Church in *Reading*; and how afterward I was cleared by their Vote from theſe Articles now in Debate, and particularly from this of holding Chriſt not to be God. But they would not ſuffer me to produce the Evidence of theſe Witneſſes, replying, They had nothing to do with what other Committees before had done; they would proceed according to the Proofs of the preſent Witneſſes.

But nevertheleſs I ſhall here preſent to the judicious Reader the Evidence which they through Prejudice rejected.

Which was this that follows.

'I confeſs I heard the Doctor deliver himſelf in a Sermon at *Reading* 'in *Lawrence*-Church, where the Committee of *Berks* was preſent, out 'of *Ezek. cap.* ix. *ver.* 4, 5, 6, 7. after this manner, That *Jehovah*, 'taken *latè*, largely, including the Trinity of Perſons, ſo they are all '*Jehovah*: But take *Jehovah ſtrictè*, only for the Perſon of the Father, 'and then Chriſt is not *Jehovah*. And hereupon he further ſaid, What 'Dealings have I had from my Fellow-Miniſters, but as *Jacob* had from '*Eſau*, *Obad. ver.* 10, 12. who ſpake proudly againſt his Brother *Jacob* 'in the Day of his Diſtreſs. And there he avowedly declared, That the 'Thought of denying the Deity or Godhead of Chriſt never enter'd 'into his Soul.

Moreover,

'Theſe following Witneſſes were preſent to atteſt on Oath their 'former Depoſitions, taken before the Committee of Plundered Mi'niſters, which were theſe.

'This Deponent (Mr. *Francis Pordage*) further ſaith on Oath, That 'he was preſent before the Honourable Committee of *Berks*, when the 'Doctor was cleared by the Vote of the whole Committee, touching the 'Buſineſs at *Ilſley*, and concerning thoſe Articles, That Chriſt is not 'God and *Jehovah*.

'This Deponent (*John Hambleton*) ſaith on his Oath, That he was 'preſent before the Honourable Committee of *Berks*, when the Doctor 'was cleared by the Vote of the whole Committee, concerning *Ilſley* 'Buſineſs, and theſe Articles of Chriſt's not being God and *Jehovah*.

'And this Deponent further ſaith on Oath, That he was at *Reading* 'before the Committee of *Berks*, where the Doctor was cleared of the 'Buſineſs at *Ilſley*, and from the falſe Aſperſions laid to him, as if he de'nied Chriſt to be God or *Jehovah*, and that by the Vote of the whole 'Committee.

'But the Commiſſioners not receiving theſe Teſtimonies, I earneſtly 'deſired them they would hear the Evidence of ſome Witneſſes there 'preſent, touching the Tenor of my Miniſtry ſince that Diſpute con'cerning Chriſt's being God, which I looked upon more conſiderable 'than one Expreſſion uttered in a Diſpute upon a Miſtake, (if Mr. '*Tickle* ſwears the Truth.) But they denied this reaſonable Requeſt, 'ſaying, They were in haſte; and that theſe Teſtimonies were but 'dilatory and impertinent. Which notwithſtanding I ſhall here pre'ſent, to be weighed by the judicious Reader.

'Theſe four Witneſſes (Mr. *Francis Pordage*, *Richard Higgs*, Mr. '*Samuel Pordage*, *John Higgs*) were ready to atteſt this which follows 'upon their Oaths, which was writ down in ſome of their Note-Books.

'We confeſs we heard the Doctor preach out of *Matth.* i. 23. in the 'Year 1652, concerning Chriſt's Birth; at which time he ſpeaking of 'ſix Wonders, delivered the four laſt after this manner:

'The third Wonder in Chriſt's Birth was this, That he was born a 'perfect Man, a true natural Man, *Luke* i. 42 where Chriſt is called 'by *Elizabeth* the Fruit of the Virgin *Mary*'s Womb; *Gal.* iv. 4. made 'of a Woman; *Gal.* i. 1. not only in and through a Woman, but 'out of the Subſtance and Nature of the Virgin. Fourth Wonder, That 'Chriſt was born perfect God, *John* i. 14. *The Word was made Fleſh:* 'Who is meant by this Word? The Eternal Word, the Word Chriſt, '*Heb.* i. 2. Fifth Wonder, Behold two diſtinct Natures born in him, '*viz.* The Deity and Humanity, the Godhead and the Manhood, *Rom.* 'i. 3, 4. According to the Fleſh, he is of the Seed of *David*; and ac'cording to his divine Nature, he is the Son of God. Theſe two Na'tures remain diſtinct in Chriſt's Perſon; *John* viii. 58. *Before* Abraham '*was*, *I am.* According to his divine Nature, he was before *Abraham*; 'and according to his human, after. Sixth Wonder, Behold two 'Natures hypoſtatically united in one Perſon! Theſe two Natures do 'not make two Perſons, two Chriſts, but both theſe Natures hypoſtati'cally united together, make up but one Perſon, *Matt.* i. 23. Emanuel, '*God with us.*

'The Nature of this Union was after this manner explained:

'It was an inconvertible Union, an indiviſible Union, an inconfuſed 'Union, an inſeparable Union, a ſubſtantial and real Union, yet a 'myſtical Union.

'We alſo heard the Doctor in *Bradfield* Church, at another time, 'about 1653, deliver himſelf (out of *John* i. 14. concerning the Word's 'being made Fleſh) thus, *viz.* That this Word was Chriſt, the Eternal 'Word, that is co-eternal, coeſſential, and coequal with the Father, '*Prov.* viii. 22, 23, 24, 25. *I was ſet up from Everlaſting*, &c. John 'x. 30. *I and my Father are one.*

'Beſides, we can with a good Conſcience teſtify, that in his publick 'Miniſtry, out of divers Texts of Scripture, we have heard him clearly 'hold forth Chriſt to be God.'

So much for theſe Articles, as to the Teſtimony of Witneſſes.

'And now we muſt inform the Readers, that I have hitherto in Truth, 'without Partiality toward myſelf, or Paſſion and Prevarication to'ward my Adverſaries, preſented the Depoſitions and Evidence on both 'ſides, touching the firſt Charge: I would therefore requeſt, that theſe 'following Particulars, drawn together by way of Recapitulation, may 'be ſeriouſly weighed and conſidered.

'*Part.* 1. That to moſt of theſe nine Articles they have but one 'Witneſs, without any concurrent Teſtimony, which is not ſufficient 'Proof, according to the Ordinance they are to act by; in which it is ex'preſſed, that at leaſt there muſt be one Witneſs with concurrent Evidence.

'*Part.* 2. That whereſoever the Accuſer hath two, I have alſo two 'to balance them.

'*Part.* 3. That altho' many of the Articles are in groſs ſworn to poſi'tively, yet in the Croſs-Examinations you will find ſuch Limitations as 'theſe, According to our beſt Remembrance, and According to our 'Apprehenſions, In the ſame expreſs Words for the Subſtance of them, '*&c.* which cannot therefore amount to legal Evidence, being invalid 'in point of Law; becauſe, as the judicious Lawyer ſaith, if the De'ponents ſwear not poſitively and ſyllabically, they may by changing, 'adding to, or taking from the expreſs Words, uſurp the Place of 'Judges, and ſo prevent their Work and Duty, which is to judge whe'ther ſuch expreſs Terms are criminous or not; which they cannot do 'after the Terms be altered, and made criminous already by the Wit'neſſes miſrepreſenting them.

'*Part.* 4. That my Witneſſes in reference to the moſt ſubſtantial 'Queſtions, are poſitive in their Anſwers.'

Now I come to the ſecond Charge of Articles in reference to the Proof, being exhibited againſt me by one *Joſeph Cook*, an unknown Perſon.

Art. 1. *ONE Mrs.* Lewyn *being with Child, and near the time of Travail, ſent for Dr.* Pordage's *Mother to be her Midwife; but he would not ſuffer her to go, ſaying they would not be guilty of ſuch a beaſt-like Life, meaning Mrs.* Lewyn's *being with Child by her Huſband.*

Depoſ. Mr. *John Lewyn* of *Hamſted-Norris*, ſworn and examined the ſecond of *November*, at the *Bear* in *Speenhamland*, before the Commiſſioners, to this Article ſaith, he cannot depoſe.

Ann Lewyn, Wife of *John Lewyn*, Miniſter of *Hamſted-Norris*, ſworn and examined to the ſecond Paper of Articles exhibited againſt Dr. *Pordage*, ſaith, to the firſt Article ſhe cannot depoſe.

Art. 2. *The ſaid Dr.* Pordage *coming to the Houſe of Mr.* Lewyn, *in his Diſcourſe with Mrs.* Lewyn, *blamed her for having Children by her Huſband, and argued with her the Unlawfulneſs of having Children by her Huſband.*

Depoſ. To this Article Mr. *Lewyn* ſaith he cannot depoſe.

To this ſecond Article Mrs. *Lewyn* ſaith, That the Doctor told her, when ſhe had two Children, a Boy and a Girl, ſhe had enough, one for her Huſband, another for herſelf: To which the Deponent anſwered, *As it ſhall pleaſe God.* Then the Doctor replied, *Piſh, it is as yourſelves will.* But ſhe ſaith, the Doctor did never perſuade her to live from her Huſband.

Art. 3. *In his Diſcourſe to Mr.* Lewyn *concerning the ſame Subject, he endeavoured to maintain the Unlawfulneſs of their having Children; and ſaid, that* Adam *was Male and Female in himſelf, and had he not fallen, he had brought forth Children himſelf; and to maintain and prove the ſame by Scripture and otherwiſe.*

Depoſ. To this third Article Mr. *Lewyn* ſaith, That about three Years ſince, the Doctor and this Deponent had ſome Diſcourſe at the Deponent's Houſe, about ſome Principles of Religion: the Doctor did urge that Place in *Geneſis*, That he made them Male and Female, but whether he meant *Adam* ſingly, or what mental Reſervation he had, the Deponent knoweth not. And further to this Article he cannot depoſe.

To this third Article Mrs. *Lewyn* ſaith, She heard the Doctor and her Huſband in diſcourſe to the purpoſe of the ſaid Article; but what the words were, ſhe cannot depoſe.

Art. 4. *In his Diſcourſe with Mr.* Lewyn, *which was about the time that one* Everard *was with him in his Houſe at* Bradfield, *who was generally reputed a Conjurer, he aſked Mr.* Lewyn *whether he would not be afraid if he ſhould ſee his own Picture or Shape, intimating that he himſelf had uſed to ſee his.*

Depoſ. To this fourth Article Mr. *Lewyn* ſaith, That about the time mentioned in the Article, the Deponent met the Doctor in *London*; in diſcourſe with him the Doctor aſked him, If it would not be terrible to ſee Apparitions? but did intimate nothing, that he uſed to ſee any himſelf.

To this Mrs. *Lewyn* ſaith ſhe cannot depoſe.

Art. 5. *The ſaid Dr.* Pordage *hath had for ſome Weeks together in his Houſe the ſaid* Everard, *and one* Tawny, *who ſtiled himſelf King of the* Jews, *who had been queſtioned, as it is generally reported, for holding dangerous and unſound Opinions, as that there is no Hell and the like.*

Depoſ. To this Mr. *Lewyn* depoſed nothing, and Mrs. *Lewyn* ſaith ſhe cannot depoſe.

'Now all that I ſhall ſay to this Charge, and the Proofs of it, con'ſiſts in theſe three ſubſequent Particulars.

'*Part.* 1. What *Paul* ſaith, *Acts* xxiv. 13. *Neither can they prove the 'Things whereof they now accuſe me*, I may ſay here; for many things are 'laid to my Charge, but nothing proved by this unknown Accuſer. 'But it is an Act of ſubtile Policy, to charge boldly, tho' they prove 'little of it, which hath been practiſed againſt me in this Trial, as 'every one may ſee.

'*Part.* 2. For the further Satisfaction of the Reader, in reference to 'this Charge, let him look back upon my former Anſwer, given unto 'it before the Witneſſes were examined.

'*Part.* 3. I look upon myſelf in ſome meaſure obliged here to give a 'ſhort account of my Judgment concerning Marriage; the holding forth 'of which may have occaſioned my Enemies to have framed ſome of the 'precedent Articles againſt me. I muſt therefore acknowledge, That 'I prefer Virginity before Matrimony, the ſingle State before the con'junct; and that Perſons, though in a married State, [1 *Cor.* vii. 38.] 'may by conſent abſtain from the Enjoyments of that State, and ſo be 'in it as though they were not in it, living as ſingle, though in an 'united Form. This now is my Judgment and deliberate Practice, being 'according to that of Chriſt, *Mat.* xix. 12. *He that is able to receive*

'*it*,

'*it, let him receive it:* where he speaks of the Law of Abstinence, and 'Christian Eunuchism; which these words immediately going before 'shew, *viz. There be Eunuchs, that have made themselves Eunuchs for the 'Kingdom of Heaven's sake.* Here is the Practice, and the End of it, 'which ought to be the Growth and Increase of God's Kingdom in the 'Heart; to which the Mortification of the Affections, and the Abstraction of the Soul from the corrupt sensitive Nature, does make 'way. And certainly it were well, if Christians, in this corrupt declining Age of the World, did more eye and imitate the Pattern of 'Christ's Life, who as he was born of a Virgin, so lived in Virginity, 'and the single devoted Life; leaving an Example to all that are able '[*Mat.* xix. 12.] to tread in his steps, and follow him. And further, 'it is fit for all that are either single or married to consider, that 'all private Bonds, Laws, and Engagements, ought to strike sail 'to our highest Laws and Engagements to God; and that whensoever 'they cross one another, the highest and supreme Law, by which we 'are obliged to live to God in Purity and Integrity, must have the 'precedency. Now my holding forth and declaring this my Judgment, 'together with my own Practice, hath given occasion to many (who 'are as the Generation before the Flood, eating and drinking, marrying 'and giving in Marriage, and taking complacency in the Delights of 'the Flesh) to speak evil of me, as one that breaks Bonds between 'Relations, tho' no such thing can (in truth) be proved against me: for 'it is not my design to make Proselytes to my Judgment, being willing 'to leave all to the Rule of Light in their own Consciences. Tho' I 'have said, and cannot but say, that it were well if Christians would 'more labour after, and pray for the Gift of Continency, and not 'involve themselves in the Entanglements of the World, till they had 'used all Means of Mortification prescribed in the Holy Scripture, to 'subdue their Natures: and it were happy if the present Generation 'could clearly distinguish betwixt those Marriages that are Idolatrous, 'Adulterous, and Bestial, and those that are Holy, Pure, Divine, 'being made in the Lord, according to his Will, and so lawful and 'honourable. But alas! most People now are as those in the days of *Noah*, 'who being insensible of God's intended Judgment by the Deluge, 'solaced themselves in the Pleasures and Delights of the Earth, till the 'Flood came and destroy'd them. Hence there is much need of some 'at this time, to call People to Self-denial and Imitation of Christ's 'Life, to live up to the highest and purest Rules of Christianity, in the 'Mortification of their Flesh, and in the compleat devoting of themselves to a constant Attendance upon the Lord, as waiting for his 'coming in Spirit, to destroy the Man of Sin, and overthrow *Babylon* 'with all its Idols. So much for the third and last Particular, which 'shall conclude the things of this Charge.'

Now I am come to the Depositions of my third and last Charge, some of which were taken *Nov.* 22. being the fourth time of my Appearance; the other *Decemb.* 7 and 8. being the fifth and last time of my appearing before the Court.

But before I present the particular Depositions, I must here inform the Reader of two things, which relate to the last time of my Appearance, and to this last Charge; one of which shews the Cruelty, the other the Injustness of the Commissioners. The first then is this: The seventh of *December* having been taken up in the Examination of my Witnesses to the first Charge, which continued till it was late in the Night, the Commissioners called for more Lights, that they might proceed to the Examination of Witnesses in reference to the third Charge. Whereupon I reply'd it was late, and I had many Witnesses to examine upon the last Charge. At this Mr. *Fowler* the Accuser rose up, and urged the Proceeding to the last Charge; saying, it would quickly be dispatched. Then the Commissioners cry'd out, Fetch us more Candles, we will make an end of it this Night. To which I reply'd, Gentlemen, I have here stood very long before you, and having not dined, (through the Urgency of my Business) I am not well, being very faint, and much spent and wearied; I desire you would therefore stay till the next Morning. But they peremptorily denied this just Request, and resolved to proceed. But they permitting me to withdraw for a little space, through Emptiness and Weariness I fell very sick, and was forced to go into my Bed: at which the Commissioners were very much troubled, seeming to consult whether they should proceed to Judgment. The second thing is this; On the morrow the Commissioners requiring me, against many Objections which I made, to give in my Interrogatories by writing; afterward judged most of them dilatory and impertinent to the Business, and so not fit to be examined. To which I objected, whatever my Proofs were, they ought in justice to hear them, by examining the Witnesses to my Interrogatories, and afterwards to judge of them, whether valid or invalid. But nothing I could speak prevailed with them, to obstruct their rejecting most of my Testimonies.

But now as to the particular Depositions, relating to the third Charge, exhibited by Mr. *Fowler*, I shall here present them to be weighed in the Scales of Justice by the Reader.

Art. 2. *THAT Jesus Christ was not perfect; alledging that Text to confirm it*, He cry'd out, My God, my God, why, *&c.*

Mr. *Christopher Fowler* sworn and examined (at *Reading*, *Novemb.* 23.) to this Article, saith, That about five Weeks or a Month since, he acquainted Mr. *Daniel Blagrave* the younger, that the Commissioners did intend to summon him to testify what he knew of Dr. *Pordage* in relation to Jesus Christ; and the Deponent asked him, if he heard the Doctor say, *That Christ was not perfect?* To which he answered, Yes.

Now as to my Defence against this Testimony, not repeating the Illegality and Invalidity of it, I have these things to say.

1. THAT the Clerk hath left out some Cross-Interrogatories, which were proposed by me to the Accuser, in reference to this his Deposition. As first, Whether he asked Mr. *Blagrave*, whether I spake it from myself, as my Judgment, or related it as delivered by and heard from another? Which Question the Accuser waved. And secondly, If he did ask it, what was reply'd to it by Mr. *Blagrave?* Which likewise was waved by him without any positive Answer. Whereupon I said to the Commissioners, I hope you will not take this Deposition as Evidence against me, without summoning Mr. *Blagrave* himself, who only can resolve the Truth of these Particulars.

2. In the second place, I shall refer you to my Answer to this Article; in which you may see, that I only related what I had heard another speak at a publick Meeting in *London*, the thing itself being much against my Judgment.

'3. In the third place, I must tell you that I had three Witnesses 'ready to depose on Oath, That after my coming from *London* they 'heard me relate this, as spoken by Mr. *Erbery* in a publick Sermon at '*Somerset-House*; which Testimony was according to my Answer to this 'Article, tho' accounted impertinent by the Commissioners, and so 'rejected, without examining the Witnesses.

'4. Farther to clear my Innocency in this particular, I desired them 'to hear what my Witnesses could say, as to the Tenour of my Ministry, touching Christ's being a perfect Redeemer: But this was also 'rejected as impertinent. But whether this subsequent Testimony, 'intended to have been given in, was not as weighty as the Accusers 'Deposition or Hearsay, let the Reader judge.

"We have heard the Doctor preach in *Bradfield* Church (about 1652, "out of *Coloss.* i. 14. *In whom we have Redemption*, &c.) after this "manner. These words he divided into three Particulars; 1. Into "the Redeemer, in whom. 2. The Redeemed We. 3. The Act itself, "Redemption. As to the first Particular, he thus enlarged himself: "Who can this Redeeming Person be, but Christ? *Acts* iv. 12. *Neither "is there Salvation in any other, for there is no other Name given under "Heaven, whereby we must be saved.* 1 Cor. iii. 7. *For other Foundation "can no Man lay, than that is laid, which is Jesus Christ.* As to the "second Particular, The Persons redeemed, he said they were the whole "mystical Body of Christ. Thirdly, As to the third Particular, the "Act itself, Redemption, he said it imply'd a Deliverance from a State "of Bondage into a State of Liberty; which he opened at large in "every Particular, setting forth the Riches of this Redemption to "us by Christ.

"And we heard him further preach in *Bradfield* Church, about 1654, "from these words out of 1 *Tim.* i. 15. *That Jesus Christ* came *into the "World to save Sinners, viz.* That Jesus Christ was a perfect Saviour, "in reference both to his Prophetical, Priestly, and Kingly Office, "every one of which Heads he opened at large."

'Now let the Reader but impartially weigh the Accusers illegal 'Deposition, with the Particulars here recited on my behalf, and judge 'whether the Commissioners have not broken their own Law, the 'Law of Nature, and the Law of Scripture, in taking this Deposition 'of my Accusers into their Sentence of Ejectment, in which they 'expresly condemn me for holding, *That Christ was not perfect.*'

Artic. 3. *That the Blood of Christ was not meritorious of any Man's Salvation.*

To this Mr. *Christopher Fowler*, sworn and examined, deposeth, That about three Weeks or a Month since he asked Mr. *Daniel Blagrave* the younger, whether he did not hear the Doctor say, That the Blood of Christ was not meritorious of any Man's Salvation? he answered, He heard him to that purpose.

To balance this Deposition, let the Reader consider,

1. That the Accuser is here Deponent, which is against Law.

2. That the Deposition is but a Story or Hearsay, and no legal Testimony.

'3. That the Deponent was not able to answer to any of my Interro'gatories, so as to declare where, before whom, or on what occasion 'this was spoken; only protested as he was a Minister of the Gospel, 'that Mr. *Blagrave* told him so.

'4. That I am not guilty of holding any such thing, as my Answer 'to this Article shews.

'5. That seeing I had no other way of clearing my Innocency, but 'by shewing my Judgment, and producing Proofs of the Tenour of my 'Ministry touching this particular; I desired them to examine some 'Witnesses, that were there ready to attest this which follows.

"We heard the Doctor in *Bradfield* Church (about 1652, out of "*Coloss.* i. 4. viz. *In whom we have Redemption through his Blood)* deliver "himself thus: That the fourth particular in this Text, was the "Means of this Redemption, expressed in the last words, *Through his "Blood*, to be understood *per modum meriti*, through his meritorious "Blood. 1 *Cor.* vi. 20. *Ye are bought with a Price*, that is, the Price "of Blood. 1 *Pet.* i. 18, 19. *Forasmuch as ye know that ye were not redeemed with corruptible things, as with Silver and Gold, from your vain "Conversations, but with the precious Blood of Christ.* Acts xx. 28. *Which "he hath purchased with his own Blood.*

"We also heard the Doctor in *Bradfield* Church, (about 1654, out "of these words, *Isa.* xxxv. 6. *In this Mountain will the Lord of Hosts "make a Feast of fat things*, &c.) speak thus; That one Dish amongst "the Dainties of this Feast, was the Blood of Christ; which he opened, "to be cleansing purging Blood: 1 John i. 7. *Having cleansed us from "all our Sins through his Blood.* And reconciling Blood, *Coloss.* i. 20. "*Reconciled through his Blood.* And pardoning Blood, *Coloss.* i. 14. "*Through his Blood, even the Forgiveness of our Sin.*

"And we have oft heard him in his Ministry thus set forth the "Efficacy of the Blood of Christ."

'But you must know that this Testimony would not be received, for 'they judged it invalid, tho' they received the Accusers Hearsay as 'Evidence against me. Now whether this Dealing was not more suitable to corrupted Ethnicks, than to such Professors of Religion, let 'knowing Persons judge.'

Art. 4. *Pish! It is a poor thing to live upon the Blood of Christ.*

Depos. Susannah Grip, Wife of *John Grip* of *Reading*, Joiner, sworn, deposeth, This Deponent told Dr. *Pordage*, That it was a high thing to live

live upon the Blood of Chriſt. To which he replied; To live upon the Blood of Chriſt, that is a poor thing: and repeated the ſame again, and ſaid, Thou art a Babe, thou knoweſt nothing; to live upon the Blood of Chriſt, that is a poor thing. Whereupon the Deponent's Heart fell almoſt dead with Fear at his words. And being aſked by the Doctor, whether the ſame were delivered in the ſame very words? ſhe anſwered, Yes, in the very ſame words. Being aſked where? ſhe replied, In the Kitchen: Being further aſked when? ſhe ſaith, Four Years ſince, to the beſt of her Remembrance; but who was then preſent, ſhe doth not remember. And being aſked by the Doctor, upon what occaſion the ſame was ſpoken? ſhe ſaith, the Doctor was ſpeaking ſomething in a rambling manner, which ſhe did not underſtand; but ſhe ſaid, ſhe thought would ſpeak ſomething to him, that he ſhould underſtand and rejoice with her for it: and that was the Occaſion of the Diſcourſe; and that the Doctor's words were without any Explanation. This Deponent being ready to faint, ſaid, What then, Doctor? He anſwered, I know not what the Matter is, that I muſt ſpeak to you; I do not uſe to diſcover myſelf: but he told her ſomething of the Man that died at *Jeruſalem*, which ſhe did not remember, being then ſo amazed.

The Doctor's Anſwer to the eighth Article being read unto her, ſhe ſaith, that all the Circumſtances mentioned in the ſaid Anſwer, are all of them falſe and untrue.

Now as to this Depoſition, what is further to be added, to give the Reader more Light to judge of both the Article and Depoſition, is this:

NOT to ſpeak any thing of the Levity and Raſhneſs of this Woman, which is well known to the Inhabitants of *Reading*, and may make her Teſtimony the leſs to be valued; ſhe in her raſh Denial of the Circumſtances of my Anſwer, confidently ſpake a known untruth upon her Oath, and ſo made herſelf guilty of open Perjury.

Whereupon, when I came to make my Defence, to invalidate her Teſtimony, I preſented four Witneſſes, who were ready upon Oath to prove her perjured.

The firſt of theſe was one Mr. *Richard Stockwell*, eſteemed by all moderate Perſons that know him to be a ſober and pious Chriſtian. Although he was excepted againſt by Mr. *Fowler* the Accuſer, as an *Erberiſt*, as this ſubſequent Depoſition ſheweth.

Mr. *Fowler* being ſworn, as to his knowledge of Mr. *Stockwell*, depoſeth, That he conceives the ſaid *Stockwell* is an *Erberiſt*; becauſe that when the Deponent (being charged to be a Slanderer of him) did offer to make a publick Recantation, and to confeſs himſelf to be a Slanderer, in caſe the ſaid Mr. *Stockwell* would deny the Doctrine and Opinion of Mr. *Erbery*, which he refuſed.

Notwithſtanding which, the Commiſſioners would examine him, if the Doctor would aſk him any material Queſtion; but do not think fit to examine him to their due or undue taking of Mr. *Grip*'s Examination, which the Doctor inſiſteth on.

Now let the Reader judge whether the Queſtion was not material, which this Witneſs would have anſwered to by Oath, *viz.* Whether Mrs. *Grip* did not aver on Oath in open Court, That ſhe never railed againſt Mr. *Fowler*? To this one Mr. *Tench* was ready alſo to be ſworn in the Affirmative: there were alſo many others which heard it. And further, I had two more ſubſtantial Witneſſes, who offered to ſwear they had heard Mrs. *Grip* rail againſt Mr. *Fowler* in publick Meetings before many Witneſſes. Mrs. *Eleanor Burleigh* was willing to depoſe, That ſhe heard Mrs. *Grip* ſay, That Mr. *Fowler* was a Son of *Belial*, &c. and one Mrs. *Kent* would have atteſted, that ſhe heard her rail againſt Mr. *Fowler* in the ſame and the like Speeches, with much more. Now becauſe the Clerk had not taken that Expreſſion of hers, That ſhe never railed againſt him, therefore the Commiſſioners made it their Pretence, of not examining the Witneſſes to it, as a thing impertinent; though by the Atteſtation of that, with the Teſtimony of the other two Witneſſes, ſhe had been proved directly perjured. But Mr. *Fowler* the Accuſer, being a great Friend of the Woman's, and ſeeing ſhe was in danger to be proved perjured, and ſo an inſufficient Witneſs in all her Teſtimonies, prevailed with the Court againſt the importunate, rational, and legal Pleas of my Counſel, to reject theſe fore-mentioned Witneſſes. The Unjuſtneſs, palpable Partiality and Illegality of which Action I leave to be weighed in the Balance of Equity by the impartial Reader, who in Juſtice may eſteem this Woman as really perjured, as though the Witneſſes had proved it, and value her Teſtimony accordingly. And truly, ſome of the godly Party at *Reading* hearing with what Impudence and Raſhneſs ſhe affirmed on Oath ſhe never railed againſt Mr. *Fowler*, confeſſed they could not but wonder at her, being it was ſo commonly known.

But, to conclude, let the Reader take notice, Firſt, that this Article may be either true or falſe, according to the applying of it to particular Perſons. Secondly, That though it were taken in the worſt Senſe, yet it were not within the Act of Scandal. Thirdly, That there was only one Witneſs to it, to whoſe Teſtimony what Credit is to be given, let the foregoing Particulars declare. Fourthly, That I had Witneſſes ready to depoſe, That in the Tenour of my Miniſtry, I had often held forth Chriſt's Blood to be of a cleanſing, redeeming and juſtifying Nature. Fifthly, That in my Anſwer to it, I have given the true Ground and Occaſion of it.

Art. 5. *Piſh! there was no ſuch thing as Perſons in Trinity.*

Depoſ. The former *Suſannah Grip* ſaith, That the Doctor came into her Kitchen at another time, as ſhe thinks from the Committee, and ſaid, That whereas Miniſters ſpake of Perſons in Trinity, there is no ſuch thing; *There are Three that bear record in Heaven:* but there is no ſuch thing as Perſons in Trinity.——Note, *In that Scripture*, 1 *John* v. 7. ſhould be added; and that in reference only to the Terms.

Now my Interrogatories to her upon this Article, were theſe: 1ſt, When I ſpake theſe Words? She ſaith, When I came from the Committee, which was two or three Years ſince, or thereabouts. 2dly, Before whom? She anſwereth, Whether her Maid, or any body elſe, or who was preſent, ſhe doth not remember. 3dly, Being further aſked, Whether this Expreſſion was delivered without any further Limitation or Explanation? She replies, Without any, as ſhe remembers.

Now what I have more to add, to clear the Truth in reference to this Depoſition, is this.

Firſt, I refer the Reader to my Anſwer to this Article, in which you may ſee that I made a Relation to this Woman of what had paſſed before the Committee, where ſome Queſtions were propoſed to me concerning the Holy Trinity. Secondly, I had a Witneſs preſent to teſtify on Oath, That what I ſaid before the Committee, was only this, That there was no ſuch word as Perſons in Trinity in that text, 1 *John* v. 7. a Relation of which I made to this Woman, who, as it ſeems, miſtaking my Meaning, comes now four Years after to accuſe me; though at the very time ſhe ſeemed to aſſent to what I ſpake, and made no Exception againſt it; nor ſo much as aſked me to explain myſelf for her Satisfaction, though ſhe had a very convenient Opportunity. Thirdly, She is but a ſingle Witneſs, and her Teſtimony not poſitive, ſhe adding, As ſhe remembers. 'Fourthly, I deſired the Commiſſioners to hear what my 'avowed Judgment was, from the Teſtimony of ſome Witneſſes who 'were ready to depoſe what I had held forth in my publick Miniſtry, 'touching the Perſons in the Holy Trinity. But the Commiſſioners 'refuſed to examine the Witneſſes, whoſe Evidence was this:

'We heard the Doctor in *Bradfield* Church (about 1653, from theſe 'words, *John* i. 14. *The Word was made Fleſh)* deliver himſelf thus: 'For the underſtanding of the Perſon that was made Fleſh, you muſt 'conſider the unutterable Myſtery of the Holy Trinity; the Unity diſtinguiſhing itſelf into three Perſons, the Father, Son, and Holy Ghoſt: '*Mat.* xxviii. 19. *Baptizing them in the Name of the Father, Son, and 'Holy Ghoſt.* 1 John v. 7. *There are Three that bear Record in Heaven, 'the Father, the Word, and the Holy Ghoſt.* Now which of theſe three 'Perſons are made Fleſh? 'Tis not the firſt Perſon, the Father, nor the 'Third Perſon, the Holy Ghoſt; but it is to be underſtood of the Son, 'the ſecond Perſon in the Trinity.

'We have alſo heard him out of theſe Texts, *Ezek.* ix. 4, 5, 6. '*Pſalm* cx. 1. *Mat.* xxviii. 19. 1 *John* v. 7. deliver in *Bradfield*-Church, 'the Diſtinctions of the Perſons in the Trinity; as that the Father is 'not the Son, nor the Son the Holy Ghoſt, and the Holy Ghoſt neither 'the Father nor the Son, but each diſtinct.'

So much for this Article.

Art. 6. *That it was a Weakneſs to be troubled for Sin.*

Depoſ. Mr. *Benjamin Woodbridge*, Miniſter of *Newbury*, ſworn and examined, depoſeth, That Mr. *William Twiſs* of *Dorcheſter* told the Deponent, That Dr. *Pordage* maintained it to him, or ſpake in his Company, That he was no Chriſtian that could not commit the greateſt Sin, and not be troubled for the ſame; or Words to that effect, to his beſt Remembrance.

To this I replied before the Court.

I knew not the ſaid Mr. *Twiſs*, and to my knowledge I never ſaw his Face. Being then engaged in the buſineſs of examining my Witneſſes, I ſaid not much to the Vindication of myſelf, as to this horrid Imputation; the Teſtimony being but a mere Hear-ſay, and the Deponent rendering it more invalid by theſe Expreſſions, *viz. or Words to that effect*, and, *to his beſt Remembrance.*

But I deſire the Reader here to take notice of the Weakneſs or Envy of Mr. *Woodbridge*, that he ſhould thus with a Hear-ſay only, which he himſelf did not exactly remember, thus endeavour to aſperſe me, and render me odious, when he ſaw there were ſo many horrid things laid to my charge before: but I believe he will one day be touched in his Conſcience for dealing thus with me; for the Lord knows I am innocent as to the acting or holding of what he ſaith.

'I therefore (for the Satisfaction of the Reader) ſolemnly proteſt in 'the preſence of Almighty God, that I never held any ſuch Opinion; 'for it is diametrically oppoſite to my Principles: neither did I ever utter 'any ſuch Expreſſions as my Judgment; and am confident, were that 'Mr. *Twiſs* brought to my Face, he durſt not aver any ſuch thing.'

To the ſeventh Article, nothing is depoſed, being contrived and reported abroad by the Accuſer, to draw an *Odium* upon me, as you may ſee in my Anſwer to it.

Art. 8. *That he aſſerted he knew nothing to the contrary, but that a Man might company with more than one Woman*, &c.

Depoſ. Suſannah Grip ſaith, ſhe told the Doctor, That ſhe heard it was reported of him, he ſhould keep unlawful Company with a Woman in *London*, and aſked him if it were true? To which the Doctor aſked her, Who ſaid ſo? The Deponent replied, She would not tell him. Whereupon the Doctor ſmiled, and was not troubled, but denied it, ſaying, No: but he made her a further Anſwer, That he did not diſallow of any ſuch thing, as ſhe underſtood him. But what his expreſs Words were, ſhe cannot now remember.

Note, This laſt Clauſe makes all invalid, and ſhews her Raſhneſs in ſwearing, that I did not diſallow of any ſuch thing; being ſhe hath forgotten my Words, by which only ſhe can judge of my Senſe.

And the Anſwer of the Doctor to this Particular being read to her, ſhe thus replied: She doth not remember the Doctor uttered any ſuch Paſſages as are therein mentioned; to wit, That he ſhould ſay, I am a Man born to all manner of Sufferings.

It was further read to her, that the Deponent knew his Life and Converſation: This ſhe could remember; and doth confeſs, ſhe did then reply, ſhe did not believe any ſuch thing of him.

Being further aſked by the Doctor, Whether this was expreſſed as his own Judgment, or the Judgment of ſome other? She thus replied; As far as ſhe conceived, the Doctor did ſpeak that Paſſage of allowing that a Man may have more than one Woman, as his own Judgment, not as another Man's.

Note, ſhe did conceive amiſs; for if ever I ſpake it, it was in reference to the Ranters, who then were much talked of: for ſuch carnal Principles are very much againſt my Judgment, and queſtionleſs againſt the Truth.

Being

Being further asked, Where it was spoken? she saith, In the Deponent's own Court. Being asked before whom? she answers, No body else was then present. Being asked when? she saith, It was about three or four Years since.

But let the Reader here take Notice,

1. That this Article is not within the Limits of the Act. 2. That her Testimony is not legal, in that it is single and not positive, she confessing that she had forgot the express Words. 3. That this is against my avowed Judgment; to prove which, besides my own Assertions, I had present three Witnesses, who were ready to depose, That I had often affirmed in Conference, that although this Principle was owned by the Ranters, yet it was much against my Judgment, as you may further see in my Answer.

Art. 9. *That he hath very frequent and familiar Converse with Angels.*

Depos. Mr. *Christopher Fowler* of *Reading*, sworn and examined, deposeth, That about three Weeks or a Month since, he asked Mr. *Daniel Blagrave* the younger, whether he could not speak to the Doctor's Converse with Angels? He answered (as far as the Deponent remembers), he could speak much.

Mr. *Fowler* sworn again, and further examined, *November* 23, at the *Bear* in *Reading*, before the Commissioners, deposeth, That about *Michaelmas* last, the Deponent speaking with Mr. *Daniel Blagrave* the elder, concerning the Visions of Angels that were at his House, in reference to Mrs. *Pindar*; the Deponent told him, he the said Mr. *Blagrave* was able to say much to the purpose, it being in his House: and desired him thereupon to speak his knowledge of the Truth, both in point of Conscience and Reputation, being censured for supporting such a Man as Dr. *Pordage*.

The said Mr. *Blagrave* answered, Why, the Doctor doth converse with Angels; and I believe when he comes before the Commissioners, he will not deny but he doth converse with Angels.

The Deponent thus replied to Mr. *Blagrave*, If the Doctor will confess them Angels, we will prove them Devils.

'Note, How full of Pride and Rashness was this Speech of Mr. *Fow-*
'*ler*'s, and how unsuitable to the Scriptures, and the Law of Charity!
'For there are two sorts of Angels and Spirits, good and evil, light and
'dark, holy and wicked, which are continually tending upon Men in
'this World: the evil, to tempt and draw Men into the same Condem-
'nation with themselves: the good, to guard and preserve them from the
'evil Influences and malicious Designs of the other. But doth not the
'Accuser seem to forget, that the Ministration of the Holy Angels still
'abides; who are *ministring Spirits sent forth to minister for those who*
'*shall inherit Salvation?* Heb. i. 14. And the Psalmist says, *The Angel of*
'*the Lord pitcheth his Tent round about those that fear him.* How then dare
'Mr. *Fowler* affirm, that if I confess I have Communion with Angels,
'they will prove them Devils? How dare he thus limit the Holy One of
'*Israel*, and shut up his Favours within the narrow Limits of his own
'Conceptions and Enjoyments? And why may not God, for the Sup-
'port and Comfort of some precious Saints, who in Humility, Self-de-
'nial and Abstractedness of Spirit, serve him Day and Night; I say, why
'may he not afford such a sweet and heavenly Converse with the Holy
'Angels? What Scripture is there that speaks against it? Is it not suit-
'able to what he afforded the Patriarchs, Prophets and Apostles, and the
'Primitive Christians? But if my Accuser lives so much in his Senses,
'as to have no Sense or Knowledge of it, yet why should he thus rashly
'condemn others?'

But the Accuser proceeds in his Depositions:

And further, this Deponent saith, That he hath credibly heard something tending to this purpose, That Dr. *Pordage* hath seen the Vision of the said Mr. *Blagrave*, somewhat a bright Vision.

But here I put in a Question, which was this: Mr. Chairman, I do confess in my Answer, Communion and Converse with Angels; but pray ask Mr. *Fowler*, What Converse with Angels Mr. *Blagrave* understood, visible or invisible?

To this the Deponent further saith,

That the Entrance of this Discourse with Mr. *Blagrave*, was in reference to Visions that were seen with a bodily Eye; and mentioned the Visions of Mrs. *Pindar*, that were by her reported to be such. Upon this, he understood Mr. *Blagrave*, that the Purport of his Answer was a visible Converse with Angels.

And the Deponent further saith, That he delivered a Summons for Mr. *Blagrave* to attest these things in Person, to Mr. *Cook*, one of the Commissioners, who sent the Deponent word by Letter, that he had shewed the same to Mr. *Blagrave*, who hath notwithstanding refused to appear.

And further, he spake thus in open Court against Mr. *Blagrave*, though the Clerk did not take it, *viz.* I do verily believe, such a Judge as he was in this Case before, such a Witness he would have been, were he now present: But I say, it was the Plague of this County to have such a cursed Committee.

Note, Mr. *Fowler* here asked me some Questions to ensnare me, as, Whether I had not seen the Vision of Mr. *Daniel Blagrave?* To which I answered, To this profound Question I will answer when I see it attested upon Oath. And further asking me concerning Converse with Angels; the Clerk took this Answer:

The Doctor doth confess that he hath daily Converse with Angels: But he desires Mr. *Fowler* to declare what Converse with Angels Mr. *Blagrave* did inform that the said Doctor had.

The Doctor doth further say, That he heard it credibly reported, that he hath every day two Angels dressing of him: To which he added, That they that reported it to him, said they had it from the Mouths of two godly Ministers, that would not lye, *viz.* Mr. *Fowler* and Mr. *Ford*.

Note, I brought in this Story to shew the Vanity and Invalidity of such Proofs as the Accuser had before produced, as that he had credibly heard somewhat to that purpose, That I had seen the Vision of Mr. *Blagrave*. And, for all the Accuser knows, that which he heard so credibly reported might be as great an Untruth as that which I heard reported of my self, as coming from him and his Brother *Ford*, whose Function seems very unsuitable to that of Lying and Slandering.

Afterward Mr. *Fowler* asked me again, Whether I had seen the Vision of Mr. *Daniel Blagrave?* I answered, As long as it is attested only upon Report, I would not answer to it.

Art: 10, 11, 12, 13. *Concerning the Apparitions of Spirits, and of a great Dragon.*

Here I must intreat the Reader seriously to weigh the following Depositions, from which my Enemies have charged me to be a *Conjurer* and a *Sorcerer*; that so it may be seen, whether they have any better ground thus to esteem me, than they have to esteem *Job*, who was terrified through Visions; and Christ, who was tempted by Voice and Vision in the Wilderness; and *John*, who in Visions saw a great red Dragon, and terrible Locusts go forth of the bottomless Pit, and three unclean Frogs, the Spirits of Devils, going forth to deceive the World; I say, then they have to esteem these *Conjurers* and *Necromancers* for such Sights.

But now to the Depositions:

Depos. Susannah Grip, Wife of *John Grip*, of *Reading*, sworn and examined, deposeth, That the Doctor told her, that a great many Spirits hovered about his Window, and kept a Noise; but the Doctor said, He told the Company there should come in but one at a time; and that a Dragon did come in with a long Tail, and great Eyes and Fangs, and did spit Fire at him.

And this Witness further saith, That his Angel stood by him in his own Shape, in the same Clothes, Band, and Cuffs, and did protect him.

Note, Where this Woman speaks Truth, I shall not contradict her: But where she mistakes, I must inform the Reader of the Truth, and shew that she rashly swears Untruths. This then I told her, that I had an Angel of God that stood by me, assisted me, comforted me, and protected me, when that dreadful Apparition was before me; and that the Dragon was then over-come.

And I further told her, that the Angel or Spirit of one *Everard* appeared in his own Shape, Clothes, Band, and Cuffs, *&c.* Which compared with Mrs. *Grip*'s Deposition, shews her Mistake. This *Everard* I suspected to be a Conjurer, and to be instrumental in the raising of those Apparitions; though I was not so sure of it as to prosecute him, or to swear he caused them: for the Devil may take up any one's Shape by God's Permission, as it is generally thought he did *Samuel*'s.

Further this Deponent saith, that the Doctor likewise told her, that Mrs. *Pordage* and Mrs. *Flavel* had their Angels standing by them; and that he overcame the Dragon; and that he said the Children saw the Spirits, and said, Look there, Father! being not afraid, after they had fasted and prayed. And that the Doctor further said, that the Spirits did afterward come into their Chambers, and drew the Curtains, and looked on them; but they would not take notice of them: And that the Spirits did come about three Days after he had fasted and prayed, and flashed open the Curtains, and looked upon them.

'*Note*, For three Weeks or a Month there were very many, and very
'strange Apparitions; but the Curtains were never drawn but once, and
'that was by a Spirit in the Shape of *Everard*. For some other Particulars
'of this Deposition, I do not remember whether I spake them or not.'

Depos. The Doctor being asked by Mr. *Fowler*, What he saith concerning the Apparition of the Dragon? the Doctor doth confess before the Commissioners, That he hath seen very many dreadful Apparitions of Devils at his House; and that some of his Family did see them; and that a Dragon did come into his House with a long Tail and great Teeth: but that he said his Angel did protect him, he denies. But he further saith, That about four Years since he had Apparitions both of good and bad Angels, for three Weeks together, at his own House: But from that time to this, they have ceased in that manner.

Being further asked by Mr. *Fowler*, the Doctor doth deny, that ever any Angel appeared in his Cloaths, Band, and Cuffs; and further saith, that his Angel never did appear to him in any visible Shape.

And being asked, Whether he ever saw Mrs. *Pordage*'s and Mrs. *Flavel*'s Angels standing by them? he answereth, He never saw them standing by them; but it doth not therefore follow that they might not stand by them: And though he can, yet he will not answer to any Questions, but such as concern himself immediately.

And being further asked by Mr. *Fowler*, Whether he did not relate to Mrs. *Grip*, that Mrs. *Flavel* and Mrs. *Pordage* had their Angels standing by them? he answereth, He can neither affirm nor deny it; for he doth not remember whether he did, or no.

And being further asked by Mr. *Fowler*, Whether he did not relate to the said Mrs. *Grip* that his Children saw the Spirits come into his House, and cried, Look there, Father! and that the Spirits did often come into his Chamber, and drew the Curtains when they were in Bed?

To the first Part of the Question he answereth, He cannot affirm or deny it; for in truth he doth not remember whether he did, or no. To the second Part of the Question he saith, He doth deny it positively; and will prove the Deposition to be Perjury.

And the Doctor being further asked, Whether or no he knows that the Children did see the Spirits come up and down the House, or no, and whether they thereupon did say, *Look there, Father!*

To the first Part of this Question, he saith, He cannot know what the Eyes of Children do see; and otherwise he will not answer. And to the other Part of the Question, he answers, He cannot remember whether the Children did say so, or no; and therefore will neither affirm nor deny it.

2d Witness. Susannah Grip, Daughter of the foresaid *John Grip*, aged 21 Years, sworn and examined, deposeth:

That about three or four Years since, in her Mother's Kitchen she heard Dr. *Pordage* say, that a Dragon came into his Chamber, and that he expostulated and contended with it; and that he said the Dragon did spit Fire at him; and that his Angel did appear to him in the Shape of a Man, with his Band, and his Clothes, and Bandstrings, and did support him while he contended with the Dragon. The Deponent further saith, that

That ſhe heard the Doctor ſay, that the Spirits did come into his Chamber, and drew the Curtains, and looked upon him; and that the Doctor likewiſe ſaid they were affrighted at it at firſt, but afterward, when they were uſed to it, they were not.

She ſaith ſhe heard ſeveral other Things to this purpoſe, which ſhe cannot now remember to depoſe.

And being aſked by the Doctor, whether the Doctor ſaid that the Angel that appeared with the Band and Band-ſtrings, was the Doctor's own Angel, or the Angel of ſome other? ſhe ſaith, To her beſt Remembrance, he ſaid it was his own Angel.

3d Witneſs. Elizabeth Benwell, Servant to Mr. *Ellis* of *Shinfield*, and formerly Servant to the Doctor, ſworn and examined, depoſeth:

That ſhe ſaw ſomething like a Star in the Red Chamber in the Doctor's Houſe by the Bed's Leg: It was light, and ſomewhat like a Star; but the Deponent cannot ſay it was a Star. Yet it was in the Night, and no other Light in the Room, to the beſt of her Remembrance.

She further ſaith, That ſhe hath heard Muſick at ſeveral Times at the Doctor's Houſe, when ſhe did not know that any Inſtruments or Muſicians were in the ſaid Houſe. She ſaith ſhe hath heard it in the Kitchen, and in her Miſtreſs's Cloſet; did apprehend the ſame to be near her, but ſaw none playing.

She further ſaith, That Mrs. *Flavel* did uſually lie in the Doctor's Bedchamber during the Time the Deponent was Servant there, which was about a Year and a quarter.

But immediately to this the Maid added, But I never lived in ſuch a Family for Piety and Holineſs, as that was; and I believe never ſhall again, except I return thither.

But this, by the Clerk's Knavery, was left out, although I ſtood by, and aſked him why he did not write down thoſe Words. To which he replied, If you will have me, I muſt. I ſaid, I will have it. Yet he neglected it; and I believe by the Command of ſome of the Court, who were troubled at any thing that ſeemed to make for me: But what Unjuſtneſs this was, let the Reader judge.

'But from theſe preceding Apparitions of Spirits in my Family, in 'which we were merely paſſive, and by which we were excited the more 'to wait upon God in Prayer and Faſting, my Enemies have ſcandalized 'me for Conjuration and Sorcery, reporting ſo confidently that I am a 'Conjurer, that many, who are not acquainted with my Principles and 'Converſation, believe it ſo in earneſt. But theſe horrid Scandals I take 'up as my Croſs, and ſee my ſelf in them conformable to Chriſt's Suf'ferings, who was reckoned amongſt Conjurers and Tranſgreſſors by the '*Jewiſh* Zealots.

'But the Lord hath given me Peace in my Conſcience, whilſt my 'Enemies have railed againſt me in their Pulpits, as Mr. *Ford* in his 'Sermon at the Aſſizes held at *Reading*, *Feb.* 28. 1653. In which, '*Page* 22, he ſaith, That there is one of the moſt eminent Church-'Livings in the County poſſeſſed by a Blaſphemer, and in whoſe Houſe 'the Devil is as viſibly familiar, as any of the Family; and ſhall the 'Horns of theſe Beaſts never be pared off by the Civil Magiſtrate?

'Here you ſee he endeavours to brand me for a Conjurer, and calls me 'Blaſphemer, exciting the Magiſtrate to perſecute me. And this was 'he who was choſen by the Commiſſioners to make a Speech in the Court 'before they gave Sentence againſt me, who there by envious Prevarica'tion ſhewed himſelf a ſecond *Tertullus*, though no Orator.'

Art. 14. *That Mrs.* Margaret Pindar *acquainted with this Doctrine of Spirits, and pretending to be converted by Viſions of Angels, doth think ſhe was bewitched by them of* Bradfield, *&c.*

Depoſ. Mr. *Chriſtopher Fowler*, ſworn to this Article, and examined, ſaith, That Mrs. *Pindar*, being aſked by him, did acknowledge on *Thurſday* laſt, at *London*, that at Mr. *Blagrave*'s Houſe, at *Southcot*, ſhe heard a great Noiſe of Drums and Trumpets; which Dr. *Pordage* (who was then ſent for to her) told her was the Alarum to the Spiritual War. And that one Night ſhe had the Viſion of young Mr. *Daniel Blagrave* come to her Bed-ſide, and ſhe took him by the Hand, which Hand felt cold; which Dr. *Pordage* expounded to her thus: That the Coldneſs of his Hand ſignified that he began to be cold to Vanity. And that ſhe aſked the Doctor what the Viſions meant; and he replied to her, We do not uſe to reveal one another's Viſions.

The Depoſition taken on my behalf was this that follows:

MRS. *Elizabeth Blagrave*, Wife of Mr. *Daniel Blagrave*, ſworn and examined: This Deponent ſaith, She never heard Mrs. *Pindar* ſay that ſhe was bewitched by them of *Bradfield*; but the ſaid Mrs. *Pindar* told the Deponent that her Viſions were from God; and that the ſaid Mrs. *Pindar* told the Deponent ſhe never ſpake with the Doctor in her Life.

This Deponent further ſaith, That Mrs. *Pindar* told her ſhe had been at Mr. *Fowler*'s Houſe; and that Mr. *Fowler* examined her touching her Viſions, and the Deponent aſked her what ſhe ſaid: To which ſhe replied, She was ſure ſhe had ſaid nothing to him that could hurt the Doctor. Here upon the Deponent aſked her if ſhe told Mr. *Fowler* that the Doctor did ſend theſe Viſions? To which ſhe anſwered, She could not ſay the Doctor ſent them, for a World.

This Deponent further ſaith, That Mr. *Pindar* told the Deponent that his Wife ſaid, when ſhe came to *London*, ſhe would not ſay what ſhe had ſaid to Mr. *Fowler*, if it were to do again; for ſhe perceived it was a Snare, or a Trap.

This Deponent further ſaith, She was by when the Queſtion concerning the Coldneſs of young Mr. *Blagrave*'s Hand was put; and the Deponent aſked it her ſelf to one in the Room: And the Anſwer was, That the Coldneſs of his Hand, as far as they knew, ſignified his dying to Vanity; which was delivered in a jeſting manner. Which Anſwer was not delivered by the Doctor. And the Deponent ſaith, The Doctor never gave ſuch an Anſwer in his Life, as ſhe knows.

Here follow the Depoſitions of *John Grip* of *Reading*, Joiner; who being ſworn and examined, depoſeth:

That he was at Mr. *Blagrave*'s when Mrs. *Pindar* ſaw the Viſions that are mentioned in her Confeſſion; and that ſhe ſaid ſhe ſaw a Man in white, (as ſhe thought) with the Lamb's Book; and that the ſaid Man told her her Name was written in the Book; and that ſhe heard a Watch going; and that there appeared another in the Likeneſs of a black Man, with a Knife, which he offered unto her.

And this Deponent further ſaith, That at another time, at the Deponent's Houſe, the ſaid Mrs. *Pindar* did inform the Deponent, that Dr. *Pordage* had ſaid he had power to beſtow the Gifts and Graces of the Spirit on whom he pleaſed.

Note, That this diſagreeth from Mrs. *Pindar*'s Confeſſion, under the Head of the 14th Article, where ſhe ſaith that ſhe heard it reported at *Southcot*, That ere long the Doctor ſhould have power——to beſtow ſaving Graces on whom he pleaſed.

And this Deponent further ſaith, That another time he was at Mr. *Blagrave*'s Houſe, when the ſaid Mr. *Blagrave* was ill, and kept his Chamber; and Mr. *Blagrave* and the Deponent fell into Diſcourſe concerning Dr. *Pordage* in preſence of Mrs. *Blagrave*; that in the ſaid Diſcourſe Mr. *Blagrave* ſaid to his Wife, That the Doctor held ſtrange Opinions, ſuch as were not agreeable to the Word of God: for he did maintain that Jeſus Chriſt was not God; and that he was a Type, and but a Type; Man, and not God; a Shadow, and not the Subſtance. And Mr. *Blagrave* did labour very much to take off his Wife's Affections from the Doctor and his Ways; but could not prevail. This was about three quarters of a Year ſince, to the Deponent's beſt Remembrance.

In reference to theſe two laſt Particulars, touching Mr. *Blagrave* and his Wife, conſider this following Depoſition and Evidence.

MRS. *Blagrave*, ſworn and examined, depoſeth, That ſhe never knew any thing of the Doctor's Judgment; neither did he ever bring the Deponent into any Judgment; and that ſhe had never any Diſcourſe with the Doctor, till ſhe did firſt begin with him: and that if ever he had confirmed her in any thing, it was in nothing diſagreeable to the Word of God.

As to that Part of the former Depoſitions, which concerns Mr. *Blagrave*'s Relation of what Opinions I held, I had a Summons for his perſonal Appearance to witneſs the Truth in that Particular: But he being detained in *London* by earneſt Buſineſs, could not appear according to the Summons, and therefore wrote this following Letter to the Commiſſioners, which was exactly copied out by a Friend of mine, who had the Favour from Mr. *Blagrave* to read it.

Gentlemen,

UNderſtanding by this Bearer, Mr. *Samuel Pordage*, that one *John Grip* of *Reading*, upon his Examination againſt Dr. *Pordage*, did affirm upon Oath, That having Diſcourſe with me lately touching the Doctor's Opinions, I ſhould ſay that he denied that Chriſt was God, and that he held him to be a Man, and not God; a Type, and but a Type; a Shadow, and not the Subſtance: the Things are highly blaſphemous, if true. But this I aſſure you, if ever any ſuch Language fell from me, (which truly I do not remember) it was ſpoken as relating to that Charge he lay under at that Time, raiſed by ſome who ſeem to know Men's Meanings and Opinions better than I do. In ſhort, this I do affirm, and ſhall readily atteſt upon Oath, when required, That the Doctor hath ſeveral times moſt ſolemnly avowed the contrary; and to me by Scripture, under his own Hand, evinced it: For the truth is, I have with much Boldneſs charged the Doctor with things of that nature, having received them upon report. But upon Debate he hath given me ſuch clear Satisfaction, both touching the Divinity of Chriſt, and other Matters of Faith of the higheſt Concernment, that I have ſtood ſilent, having nothing to object againſt him. I did therefore apprehend it a Duty incumbent upon me thus to write; for as I will never be inſtrumental to clear him in what he is guilty, ſo not to condemn him wherein I believe he is innocent.

Thus, deſiring the juſt and all-knowing God to direct you in this great Work, I remain,

Gentlemen,

28 Novemb. 1654. *Your Friend and Servant*,
Weſtminſter. Dan. Blagrave.

I deſired that this Letter might have been read in the open Court: But they denied it, though I alledged that it was Evidence on my behalf. But whether this was not more conſiderable, and ſo more fit openly to be read, than Mr. *Grip*'s Stories and Hearſays to be openly received as Evidence, let the Reader judge.

But Mr. *Grip* further on Oath depoſeth, that at other times he hath often had Conference with Mr. *Blagrave*. And at one time, above the reſt, walking over the Fields towards *Southcot*, we fell into Diſcourſe concerning Dr. *Pordage*; and the ſaid Mr. *Blagrave* did then tell him that the Doctor did go about to perſuade him to leave off all Employment, and to ſell his Eſtate, and retire to his Houſe; for his Houſe was the Ark, as *Noah*'s Ark was, to receive all thoſe that muſt be ſaved. This was ſome time the laſt Summer. And that Mr. *Blagrave* did ſeem very much to ſlight and ſcorn it, and asked the Deponent what he thought he ſhould have got by it, had the Doctor prevailed. To which the Deponent replied, That he thought the Doctor had a grand deſign in it: For Mr. *Blagrave* being taken notice of to be one of the wiſeſt Men in the County, if the Doctor had prevailed to draw him away, he might likewiſe have drawn away moſt of the County; and then the Doctor would have ſet himſelf up like a *Mahomet*.

In oppoſition to this Story, Mrs. *Blagrave*, ſworn and examined, depoſeth, That ſhe had heard a Muttering that Mr. *Grip* ſhould ſay that the Doctor had perſuaded Mr. *Blagrave* to leave all, and come and live with him. Whereupon the Deponent asked Mr. *Blagrave*, about five or ſix Weeks ſince, concerning it; and the ſaid Mr. *Blagrave* anſwered to the Deponent, That he did not remember that the Doctor ever ſaid any ſuch thing.

This

This Deponent, *John Grip*, further saith, That Mr. *Daniel Blagrave* the younger told him, When the Spirit came upon the Doctor, he could leap over Pales of a great height, about five Foot and an half high, as the Deponent could conceive by his Relation; and that this was told him within five Months last past.

This Deponent further saith, That Mr. *Charles Blagrave* told him some time the last Summer, that Dr. *Pordage* should say that Christ was not perfect; and that he quoted that Place of Scripture, mentioning our Saviour's Passion, when he cried out, *My God, my God, &c.* to prove the same.

Art. 28, 29. *Concerning Mrs.* Mary Pocock's *Relation to Mrs.* Forster, *of what was acted in my House; and of Mrs.* Flavel's *being in a Trance, and seeing what was the Philosopher's Stone.*

The Depositions of Mrs. Mary Pocock, *taken at the* Bear *in* Speenhamland, November 30, *before the Commissioners, for the Proof of the two former Articles.*

MRS. *Pocock*, sworn and examined, deposeth: The Question being asked, Whether the Deponent did not tell Mrs. *Forster* and Mrs. *Evelyn*, That the Doctor had contended with the dark Power in his Shirt two or three Hours? she answereth, It is so long since that she cannot remember any thing positive she then said: But she saith there was some great Power then amongst the Doctor's Family.

And being asked, Whether she did not say to the aforesaid Parties, that when the Doctor contended with the dark Power, there was such an Expostulation between them, as, *Thou lyest*; *and thou lyest, &c.* she answereth, She cannot tell.

And being further asked, Whether upon this Conquest of the dark Power by the Doctor, she did not tell the aforesaid Parties she should think the Doctor to be a bright Man? To this Question she answereth, If she did not say so, she hopes she shall, when he hath the Victory.

And being asked, Whether she did not tell the aforesaid Parties, the Doctor's Family were strangely acted, some in their Legs, Thighs, and Arms? To this she answereth, She cannot tell.

And being further asked, Whether she did tell the said Parties, that Mrs. *Flavel* did see in a Trance the Philosopher's Stone? she saith, She cannot tell.

And being further asked, Whether the Philosopher's Stone, seen by Mrs. *Flavel* in a Trance, were not the Divinity in the Humanity? she answereth, She knows no such Thing.

Art. 30. *This consists of seven Particulars, being the first that relates to Scandal in my Conversation.*

Depos. Roger Laughton of *Heston* in the County of *Middlesex*, Locksmith, sworn and examined, deposeth:

That about nine Years since, or upwards, Dr. *Pordage* brought to the Deponent's House Mrs. *Flavel* behind him under the Name of Mrs. *Fruin*; and that both the Doctor and the said Mrs. *Flavel* did ask for Entertainment for her; and that they did ask what they should give for her Board, and her Son *Stephen's*: and that they did bargain for Eight Shillings a Week, and then he carried her away; and she came not till after *Christmas*. But he saith, how she then came, whether in a Cart, with her Trunk and Clothes, or otherwise, he knoweth not: but the Doctor did not then come with her. And after she had been there a while, the Deponent's Wife conceived she was with Child; which she denied, saying it was a Tympany. And that she remained there till betwixt *Easter* and *Whitsuntide*, where and when she was brought to bed of a Daughter; and she did not desire any Store of Company to come to her Labour, though the Deponent's Wife did desire it. And after she had been a short time delivered, the Doctor came and baptized the Child in the Deponent's Chamber, and named it *Hannah*. And after that the Doctor called the Deponent aside into his Orchard, and prayed him to find out a private Place, two or three Miles from the Deponent's House, where the said Mrs. *Flavel* might come now and then to see her Child. The Deponent said it would be inconvenient, because it was a Time of Soldiers, and the Corn was high; and thereupon the Deponent did not look out as he desired. And he further saith, When the Nurse did bring the Child oft-times to see the said Mrs. *Flavel*, she would not permit her Son *Stephen* to call her Sister, saying, *Stephen*, it is Nurse's Child. Afterwards the said Mrs. *Flavel* departed from the Deponent's House to *Kensington*, where she remained about a Month. And that the Deponent having occasion to go to *London*, called at *Kensington* by the way, to speak with her; but she was gone: Whereupon the Deponent said her Child was not well. Then two Gentlewomen of the House told the Deponent, that she denied unto them that she had any other Child but her Son *Stephen*. And the Deponent further saith, That the Doctor came to the Deponent's House three or four times, in Term-time only: And that both the Doctor and the said Mrs. *Flavel* did inform the Deponent that she was married to one Mr. *Fruin*, a Minister; but was now a Widow, as both of them said when they came to the Deponent's House.

For the clearing of Truth, in reference to this Deposition, I shall here annex the Confession of the same Person, as subscribed by him, and owned before two sufficient Witnesses; which is as follows:

THAT about nine Years ago Dr. *Pordage* brought a Gentlewoman, by Name Mrs. *Fruin*, behind him from *London*, as he said, to one *Roger Laughton*'s House, a Smith in *Heston* Parish; That the said Mrs. *Fruin* agreed with him herself for her Boarding.

That she told his Wife, at her first coming, she knew not certainly whether she were with Child, or not; but thought she was.

That her first Husband's Name was Mr. *Flavel*; and that she had had a second Husband, by Name Mr. *Fruin*, who also was then dead.

That the Cause of her private living there, was in that her Brother-in-Law threaten'd he would have her Body, if it were above Ground, she being then in Law with him.

That at the same time the Doctor owned that he dwelt at *Reading*; and that he was Minister of St. *Lawrence* Church; and that he knew the Gentlewoman to be sober and godly.

That she told him, for his Security, he might enquire at the *Bulwark* by the *Tower* of *London*; where he might know that she had there an Estate in Houses.

That after she had been in the said *Roger Laughton*'s House about four Months, she was brought to-bed of a Girl, which was christned by the said Doctor, and named *Hannah*. That the Time of her Continuance with him was about three quarters of a Year; in which Time the said Doctor visited her some three times, or four at the most, and that in Term-time, when he went to *London*.

That by Enquiry he came to know she was in great Troubles at Law.

That the said Doctor never agreed with him, nor paid him for her Board, nor removed her, so far as he knows, to *Kensington* from his House.

R. L.

This was delivered in to the Court after *Laughton* had finished his Deposition: but they would not suffer it to be enrolled among the Depositions, it in some Particulars crossing *Laughton*'s present Testimony, and in others, tending to clear the Truth, in reference to the Occasion of Mrs. *Flavel*'s being there. But the Accuser asking him whether he would not stand to his present Deposition? he said, Yea. Whereupon the Clerk returning me the Paper again, wrote this at the bottom of it, *Mr.* Laughton *acknowledgeth the two Letters* R. L. *to be his Writing; but will stick to what he hath now deposed.*

'There was not a Word altered after he had subscribed the Paper, as 'two Witnesses then present could attest by Oath. Now the Particulars 'in which he crosseth himself, cannot be all true. And if a Man will 'solemnly own and subscribe an Untruth, he may after swear an Un'truth: But the Confession he wrote last is much to be regarded, being 'he owned and subscribed it before the other, being then in a calm, sober 'Posture; but the other he deposed after my Adversaries had been a whole 'Day tampering with him at the *Bear* in *Reading*, and possessing him 'with Prejudice against me; which he openly shewed in the Court by 'bitter Expressions, and by those Circumstances in the former Deposition, 'which tend to blast the Gentlewoman's good Name and Reputation.

'But for further Satisfaction, 1. I refer you to my Answer; in which 'I have largely shewed the Reasons of her private Retirement, there, 'which may in Justice clear me from that undeserved Aspersion my 'Enemies have cast upon me.

'2. Consider that this, as to me, is no legal Proof of any Crime, but 'a mere circumstantial Thing, brought to raise Suspicions and Preju'dices against me, being but of the nature of a Libel, and so unfit to 'have been received into a judicial Court: for whose Name and Repu'tation may not be blasted, if such libellous illegal Things, so long past, 'should be received into Courts of Judicature as Accusations to con'demn them?

'Tho' that Crime, which my Accuser would render me suspected for 'by this circumstantial Deposition, had been ever so clearly proved, 'yet the Date of it (being nine or ten Years since) had put it quite 'out of the Cognizance of the Commissioners, not only by the Act of 'general Pardon, but also by another Law, made particularly by the 'Parliament in reference to things of this nature, which takes away all 'legal Guilt from any Persons that are not accused within a Year after 'the Commission of any such Crime; besides, the Act to which the 'Commissioners are confined, as their Rule to judge of Scandal, was 'made many Years since. Therefore, I say, they neither had nor have 'Power to take a Business so long past, tho' otherwise ever so criminal, 'into their Cognizance.

'But notwithstanding these Things, the Commissioners sent a Sum'mons for Mrs. *Flavel*, tho' they had no positive Charge against her; and 'after her Appearance, would have forced an Oath upon her, and ex'amined her to Questions concerning herself. But she, as in Justice she 'might, refused to answer them, alledging, That if any one durst lay 'any positive Crime to her Charge, she would answer by the Mouth of her 'Lawyer. Whereupon the Commissioners threaten'd to send her immedi'ately to Prison, tho' they durst positively accuse her of nothing.'

Art. 33. *That he is a very ignorant and insufficient Man for the Work of the Ministry.*

George Hastlet, of *Bradfield*, Weaver, sworn and examined, deposeth, That he heard Dr. *Pordage* in a Sermon, in the Church of *Bradfield*, about two Years since deliver, That it was a vain Thing to trust in the Blood of him that died at *Jerusalem* 1600 Years since, or more, unless it were acted in me, or in thee; for that was but in the Type, the Substance must be fulfilled in us: And that Christ must be crucified in us, we must have the *Jews* and *Pilate* to put him to death in us; otherwise it was a vain Thing to believe in him that died at *Jerusalem* 1600 Years since without us.

'*Note*, As I own and embrace the Historical Birth, Life, Death, and 'Resurrection of Christ without us, with the blessed Effects of them, 'clearly held forth in the Gospel; so do I also believe the Mystical Birth, 'Death, and Resurrection of Christ in us, according to the Scriptures, '*Matt.* xii. 50. *Gal.* iii. 1. *Ephes.* ii. 5.

'And to say that both these are necessary to be known, at least experi'mentally enjoyed by all that will be saved; and that it is vain to de'pend upon the first, without some Sense and Feeling of the last, as it is 'to depend upon a notional Justification, without a real Sanctification: 'I say, to aver this, is not against, nay, altogether according to the Holy 'Scriptures; *For we know that Christ Jesus is in us, except we be Repro'bates:* And if we have not his Spirit, we are none of his.'

This Deponent further saith, That the said Doctor, about a Month since, in *Bradfield* Church, did deliver, That doubtless the Apostles by that Text (*Know you not that your Bodies are the Temple of the Holy Ghost?*) did not mean these earthly Bodies.

'*Note*

'*Note*, I never denied our elemental Bodies to be the mediate Temples 'of the Holy Ghoſt, but the immediate: For the immediate Temple 'of the Spirit is the Image of God in us, which is renewed in Righte-'ouſneſs and true Holineſs, and may truly be called the Body of Righte-'ouſneſs and Life in oppoſition to that Body of Sin and Death, *Rom.* vii. 24. 'which hath many Members, *Coloſſ.* iii. 5. being the evil corrupt 'Inclinations and Habits of the Old Man. This inward Body, which 'is the immediate Temple of the Spirit, is called, *Rev.* xvi. 15. our 'Garments, which we are exhorted there to keep, leſt we walk naked; 'and the Armour of Light, *Rom.* xiii. 12. which we are there com-'manded to put on, in oppoſition to the Works of Darkneſs, which 'we are to caſt off. This may alſo be called our pure Fleſh, in oppo-'ſition to that ſinful Fleſh ſpoken of, *Rom.* vii. 18. And as in the laſt 'there dwells no good Thing, ſo in the firſt nothing but Good, being 'it is the immediate Tabernacle of the Holy Ghoſt, *Joel* ii. 28. *I will 'pour out my Spirit upon all Fleſh.*'

And this Deponent further ſaith, The Doctor did deliver, That by that Text (*Gen.* xviii. 19. *I know him, that he will command his Children and his Houſhold after him*, &c.) was not meant the outward Houſhold of *Abraham*, but his inward Houſhold, his Will and Affections, which he was Lord Paramount over; and he quoted that Text in the laſt of *Joſhua*, (*As for me and my Houſe, we will ſerve the Lord*) which he likewiſe ſaid was the inward Houſe, and not the outward. This was about two Years ſince, as far as this Deponent can remember. And the Deponent ſaith, He judged the ſame contrary to the Mind of the Holy Ghoſt.

'*Note*, Had the Commiſſioners allowed me ſo much Time as to have 'brought in what Evidence I could againſt this Man's Depoſition, I 'ſhould have proved, that in the Tenor of my Miniſtry I never denied or 'rejected the Hiſtorical or Literal Senſe of the Scriptures, for which 'there can be no juſt Ground; but that I have uſually joined the literal 'and allegorical Interpretation together, even as *Paul* doth, *Gal.* iv. 24, '25, 26. which ſweetly united, cannot but make an amiable Harmony. 'And the Deponent miſtakes, in ſaying I excluded the Hiſtory; for I 'had before opened it in the plain hiſtorical Senſe, and afterwards came to 'open it myſtically, in making a ſpiritually moral Uſe of thoſe Scriptures, 'in applying them to the Work of God upon the inward Man.

'Let the Reader further know, That the Commiſſioners could not in 'Juſtice take this as Evidence againſt me, becauſe it was all brought 'the very Day of my Sentence, I having no Time allowed me to make 'my Defence by the Teſtimonies of ſome others that conſtantly hear 'me, who might have certified this Deponent's Miſtakes, in miſrepre-'ſenting both my Words and Meaning, by ſhewing I excluded not the 'literal Meaning of the Texts produced. 2. In regard I objected againſt 'him as a Drunkard, and ſo an inſufficient Witneſs. 3. In that there 'was no concurrent Teſtimony. 4. In that he wrote not this down, 'and ſo could not exactly deliver ſo much Word for Word, as I ſpake it, 'eſpecially ſo long after ſome Part of it was delivered, and ſo by a little 'Miſtake might prevaricate my Senſe and Meaning.'

This Deponent further ſaith, That Goodwife *Knap* told him about a Month ſince, that ſhe being at the Doctor's Houſe, Mrs. *Flavel* was very angry with her, and threatned to have her whipt, for ſaying the Child *Hannah* was Mrs. *Flavel*'s Child; and that ſhe then denied ſhe had any other Child except *Stephen* her Son. And that when the ſaid Goodwife *Knap* denied ſhe had ſaid any ſuch Thing, and began to be outrageous, both old and young Mrs. *Pordage* deſired her to be pacified, ſaying, Happily it might be another Woman might ſpeak ſo.

'*Note*, The Woman here mentioned hath under her Hand, before 'Witneſs, denied what the Deponent here relates of her; ſo that either 'the Deponent is perjured, or this Woman aſhamed to ſtand to ſo groſs 'an Untruth, as the Deponent pretends ſhe related to him. But the Sen-'tence being given the Day in which this Depoſition was taken, I had 'not Time to bring this Woman face to face to the Deponent, ſo to ſee 'where the Guilt of Perjury, or a lying Slander lay. Tho' as to the 'Strength of this Teſtimony, there was no ſuch Thing neceſſary, it 'being a mere Hear-ſay.'

Art. 34. *The Teſtimony of* Richard Sawood, *who was neither ſworn nor examined in publick Court.*

I came into *Bradfield* Parſonage in the Evening, *Septem.* 9, 1650, and there I heard a very mournful Cry, as if it had been one in extreme Pains; but who it was, I knew not, for it continued all the Time I was at the Door, which was well near a Quarter of an Hour; and ſo it continued when I went away. And then on the tenth Day in the Morning I came to Mr. *Francis Pordage*, at the Parſonage of *Stanford-Dingley*, and he enquired of me, what I did think of the Noiſe that I heard? I told him, I could not tell. Then he related to me, that the Lord was about a great Work in this Kingdom, and to this Nation. And the Cauſe of this Cry was one in Travail, and the Pains were ſo extreme, that had I ſtaid there but a little longer, I might have heard it as far as the Town; but now ſhe was delivered of a Man-Child, and the Travail was at an End, and that he and others were Witneſſes of it.

Mr. *Pordage*, Miniſter of *Stanford-Dingley*, ſworn and examined to the former Depoſition of *Richard Sawood*.

This Deponent being aſked, Who it was that was in Travail of the Child in the ſaid Depoſition mentioned, and what became of it? To this Queſtion he anſwereth, That it was one Mrs. *Flavel*. And he further ſaith, That above four Years ſince, Mrs. *Flavel* was very earneſt in Prayer, on a Day when they were Faſting; which was at the Time when one *Sawood* came to the Door: the ſaid *Sawood* knocking, the Deponent went to the Door to him. And he ſaith, he doth acknowledge that *Richard Sawood* did come to him (about the Time mentioned in the Examination of the ſaid *Sawood*) to the Parſonage of *Stanford*; and he ſaith, it is probable he did aſk the ſaid *Sawood*, what he did think of the Noiſe he heard in the Doctor's Houſe the Day before? And that when the ſaid *Sawood* anſwered to this foregoing Queſtion, He could not tell, it is very probable the Deponent did relate to him, that the Lord was doing a great Work in this Kingdom, and to this Nation; and doth confeſs, that unadviſedly he told the ſaid *Sawood*, that the Cauſe of the foreſaid Cry was one in Travail; but doth not remember he ſpake any ſuch thing, as that the Pains were ſo extreme, as that, had he ſtaid longer, he might have heard it as far as the Town: but doth confeſs, that he ſaid ſhe was in Travail of a Man-Child, and that he and many others were Eye-Witneſſes of it.

And being aſked who it was that was in Travail? He anſwered, Mrs. *Flavel*. And being further aſked, what became of this Man-Child? he anſwereth, It was the Birth, Death, and Reſurrection of Chriſt, in her Nature. And being aſked, How the Birth, Death, and Reſurrection of Chriſt in the Nature of Mrs. *Flavel* was ſo great a Work that God was doing to this Nation? he anſwereth, He never ſaid any ſuch Thing. And being further aſked, Whether himſelf (being demanded what this Man-Child was) did not anſwer, The Child of Reformation? to this he anſwereth negatively.

He further ſaith, That this Travail of a Man-Child was not any natural Birth of a Child out of the Womb; but the Cry that was then made was Nothing elſe but the Groanings and Interceſſions of the Spirit in her Prayer.

'*Note*, This laſt Part is the real Truth of the Buſineſs, which I could 'have proved by many Witneſſes more, who were preſent in my Houſe 'at the Time, and whom I had ready before the Court, to atteſt upon 'Oath, that there was no natural Travail, nor any natural Birth, nor 'any ſuch Child born; but only the Gentlewoman was then very earneſt 'in Prayer. But this was thought ſuperfluous, being that the Deponent 'Mr. *Pordage*, from the Miſtake of whoſe Diſcourſe this came to be 'made an Article againſt me, cleared the Buſineſs himſelf by Oath. 'But how my Name hath ſuffered from this groundleſs Buſineſs, is 'known very well, both to my Friends and Enemies; ſome of which, 'as the Accuſer Mr. *Fowler* for one, in open Court, ſcoffed at me, 'threatning to prove great Things againſt me from this Depoſition of '*Sawood*'s.'

To the 35th and 37th Articles:

Mr. *John Tickle* of *Abingdon*, ſworn again, and further examined, depoſeth, That a Summons being iſſued for the Appearance of *Suſanna Day*, the Meſſenger went for her, and met with her on *Tueſday* Night laſt, being the fifth Inſtant, at the Deponent's Houſe, and that ſhe was willing to come, and could not in regard of her Diſtemper at preſent: but the ſaid *Suſanna* having reported to ſeveral People in *Abingdon*, and particularly to the Deponent's Wife, that ſhe was at Dr. *Pordage*'s Houſe, and that the People there told her her Eyes were opened, and ſhe ſaid ſhe ſaw at that time the *New Jeruſalem* to come down from Heaven all of precious Stones, and ſo on, according as in the Article:

The ſaid *Suſanna* told the Deponent on the ſaid *Tueſday* Night, That the laſt time ſhe was at the Doctor's Houſe, ſhe ſaw the *New Jeruſalem* to come down from Heaven, a City four-ſquare, with Borders and precious Stones. And being aſked, Whether it was not her Fancy only? ſhe anſwered, ſhe ſaw it really.

The Deponent ſaith, That he aſked the ſaid *Suſanna*, whether ſhe ſaw any Angels in the Doctor's Houſe? To which ſhe anſwered, No. But ſhe ſaid the Doctor's Daughter did ſee two Angels holding a golden Crown over her Head.

Thus have I finiſhed this laſt Charge of Articles, being in number 37. Of theſe, 21 were paſſed by without any Depoſitions brought to prove them; and of thoſe Articles to which ſomewhat was ſaid to prove them, moſt part was atteſted but by Hear-ſays and Reports from others; as the Depoſitions of Mr. *Fowler* the Accuſer, of Mr. *Woodbridge*, Mr. *Tickle*, and *John Grip*, clearly ſhew; which cannot be accounted ſo much as concurrent Teſtimonies, being they are not any way Teſtimonies in Law. The reſt were atteſted but by a ſingle Witneſs (except thoſe of Viſions and Apparitions, which I acknowledged myſelf, and which are no way criminous, nor under the cognizance of thoſe Commiſſioners), *viz.* Mrs. *Grip*, who in her Teſtimony is not wholly poſitive, tho' ſhe did ſwear very deſperately to two or three of the Articles; the Particulars of which are no way included in the Act of ſcandalous Opinions, as to their Nature or Time: for as to the laſt, I was ſo far from being accuſed within ſix Months after the pretended ſpeaking thoſe words, as it was four Years before they were alledged againſt me. Beſides, this Woman ſpeaking an Untruth upon Oath, was really perjured, and had been ſo proved, had I had juſt dealings from the Commiſſioners; whence in equity her Teſtimony is to be accounted invalid, as in Law it might have been, had my Witneſſes been but examined, who were ready to prove it.

Now as to that Article of Ignorance and Inſufficency, I have before ſhewed, That the Depoſitions of *George Haſtlet*, brought to prove it, cannot in Juſtice and Equity weigh any thing to condemn me, for the Reaſons before expreſſed.

And now let the Reader conſider, whether Mr. *Fowler* was not very raſh to proclaim in the open Court at *Newbury*, That if he did not prove the greateſt part of theſe Articles, he would be accounted a Slanderer. Which Title, whether he deſerves or not, I leave to the Judgment of the judicious Reader.

But to proceed: The Depoſitions on both ſides being ended, I preſented into the hands of Mr. *Dunch* the Chairman, this following Proteſtation, to be read publickly before the Court and the People; but they privately conſulting of it, would not ſuffer it openly to be read, but ſuppreſſed it, as before they did Mr. *Blagrave*'s Letter.

My Proteſtation was this:

I John Pordage *do ſolemnly avow and proteſt, before the all-ſeeing Eye of Almighty God, That I do maintain, hold, and embrace theſe following Principles of Divine Truth, as my real and avowed Judgment.*

1. That there is a Trinity of Perſons in the Unity of the Divine Eſſence, *viz.* The Father, Son, and Holy Ghoſt, diſtinct from each other.

2. That

2. That Christ is God, coeternal, coessential, and coequal with the Father, and therefore *Jehovah*.

3. That Christ is a perfect Saviour and Redeemer of his Church, and so more than a Type.

4. That Christ's Righteousness is a most holy, pure, spotless, compleat, and perfect Righteousness for the Satisfaction of lost Sinners.

5. That the Blood of Christ is not only redeeming and ransoming, in reference to Hell and Damnation, but also purchasing in reference to Salvation, as having purchased an open Gate and Way to Glorification and Life eternal for purified Saints.

6. That all Arts of Necromancy, and black Magick, all Compacts with evil Spirits, whether explicit or implicit, direct or indirect, are unlawful, being against the Holy Scriptures, and never looked into or practised by me; but, on the contrary, abominated, even as they are to be detested and abhorred, not only by all Christians, but by all Mankind.

7. That Polygamy, and all such Practices that tend to the indulging of the Flesh, are contrary to the Mind of God, and not to be owned by Christians.

I do moreover disown and reject these subsequent Positions, which are contrary to the former Principles.

1. As to maintain that there is no such thing as Persons in the Holy Trinity.

2. That Christ is not God; that Christ is not *Jehovah*.

3. That Christ was not perfect, and that he is no more than a Type.

4. That Christ's Righteousness is a poor, vain, empty, and sapless Righteousness.

5. That the Blood of Christ is not meriting and redeeming Blood, or that it is a poor thing to live upon the Blood of Christ.

6. That it is lawful to have Communion with evil Spirits, or any Compact with them, explicit or implicit.

7. That it is lawful for a Man to keep company with more Women than one.

Now this most solemn Protestation I make in all Humility and Reverence before the Divine Majesty, the Omnipresent God, the Searcher of all Hearts, and from a true Intention, without any Veil or Covering, as I shall answer it at the great Day, when the Secrets of all Hearts shall be revealed. And now if you my Judges have not so much as a Grain of Faith, to believe this my cordial and solemn Protestation; let God, Angels, Saints, and all here present, bear witness that I have left every one of you inexcusable.

And now having performed what I could, and what I thought myself obliged to do in reference to the Vindication of that pure Truth I own and live to; I am as ready to receive any Sentence from you, whether of Acquitment or Ejectment, as you are to deliver it.

'Now altho' the Commissioners would take no notice of this solemn 'declaring of my Judgment, yet it is of great moment, as you may see 'by that Passage in the Ordinance, by which the Commissioners are to 'act, *pag.* 613. where it runs thus: *Such Ministers shall be deemed and 'accounted scandalous in their Lives and Conversations, as shall be proved 'guilty of holding and maintaining such blasphemous and atheistical Opinions*, '&c. In which you see the time present is only respected: What then 'have the Commissioners to do to judge any for things many Years past, 'tho' then guilty, as I never was, if now they disown them, and own 'the contrary as their Judgment?'

But to proceed in relating the Transactions of the last Day of Trial: After the Particulars before recited, Mr. *Dunch* the Chairman said to me, If Mr. *Starkey* (being of Counsel for me) had any thing to present on my behalf, he might have liberty to speak. Whereupon Mr. *Starkey*, being desired by me, recited all the Evidence, with much Acuteness, Method, and Judgment; shewing, That if they squared their Proceedings by the Rules of Law they were to act by, they could have no ground to give Sentence against me: which he demonstrated so clearly, by enumerating both the Testimonies on both sides, and also the particular Laws and Privileges which freed me from the Imputation of any legal Guilt, that many, tho' prejudiced Persons, were much staggered, doubting of the Issue in reference to Sentence. But after this Speech, we were all commanded to withdraw; and about an hour and a half after, we were called in again, and the Register was commanded to proceed to Publication. Whereupon all the Depositions on both sides were read: which being done, Mr. *Ford* was ordered by the Commissioners to make a Speech in justification of their intended Sentence against me; which Office he performed as wretchedly, as he undertook it willingly, misrepresenting the Evidence with confused Paraphrases and Mistakes, labouring to refute the Law of my Counsel's Speech, with such Assertions as these, *viz.* That although many of the Proofs brought against the Doctor, were not Proofs according to Law; yet to the Commissioners, who are a Court of Equity, and of an Ecclesiastical Jurisdiction, and so not obliged to judge according to positive Laws and Statutes, they were, and might be esteemed sufficient Proofs.

'Many such Speeches as these he used, contrary to the Liberty of the 'Subject, the Rule of Reason and Scripture, endeavouring to persuade 'the People, I was as monstrous as he and some others had represented me 'in their Pulpits and Discourses; but I shall say no more of him and his 'Speech, leaving them both to the righteous Judge of all things, who one 'day will justify whom he and others of his way have condemned.'

After this Speech of Mr. *Ford*'s was ended, I desired liberty of Mr. *Dunch*, the Chairman, to speak something to the People, in reply to some things Mr. *Ford* had untruly said against me: but it would not be permitted.

Then I desired them to receive in this my last Request, and to weigh it seriously, before they proceeded to Sentence; which tho' it was returned into my hand again before it was read, I shall here present, for the Satisfaction of the judicious Reader.

Gentlemen,

BEFORE you proceed to Judgment and pass Sentence, I desire you seriously to consider these subsequent Particulars.

1. That I was according to Law acquitted of that Charge attested by Mr. *Tickle*, whence I produced my Discharge before you, which according to the Judgment of judicious Lawyers is undoubtedly legal, and will hold good, notwithstanding all Pretensions to the contrary.

2. That the Matters of the same Charge are acknowledged by the Witness to have been spoken a Year before that Act was made, intitled, *An Act against several Blasphemous Atheistical Opinions*; to which the Commission refers, as the Rule to judge of scandalous Opinions, which make a distinct Head from Matters of Ignorance and Insufficiency, according to the Tenour of the Commission.

3. That the same Act cannot take into cognizance any Crime for which the Offender was not accused within six Months after the committing of it; therefore nothing in either the first or last Charge that hath been any way proved, can be judged as an Offence against that Act.

4. In reference to my third or last Charge, there hath been nothing directly proved against me; but some Words and Expressions dropt from me in a private Discourse to one single Witness: which Expressions, as you see, are capable of a harmless Interpretation, being never owned in that sense the Witness took them, as my avow'd Judgment, but solemnly disowned, as contrary to it, and therefore incapable legally to prejudice me; for the former Act doth not make one an Offender for a Word, but for avowedly maintaining or holding forth in Words or Writing, any thing there prohibited.

5. That in reference to those Words in both my Charges, which have been any way proved to have fallen from me, I never owned them as my Judgment, in that sense my Accuser takes them; but have openly denied and disowned them: which therefore cannot render me guilty, either by the Law of that former Act, or by the Law of Scripture, which denounceth Judgment against those who make a Man an Offender for a Word, *Isa.* xxix. 20, 21. which deserves your Consideration.

6. That the particular Articles both of my first and last Charge, that seem to be of worst consequence, cannot justly be brought within the cognizance of that Act, according to the literal and genuine Scope of it; being chiefly made against the Principles and Practices of those called Ranters.

7. That nothing of Scandal in Life and Conversation being proved against me, my free owning and confessing the Appearance of evil Spirits for some time in my Family, permitted by God, opposed and overcome by the Christian Weapons of Prayer and Fasting, ought not in Equity to prejudice any against me, so as to sway them in their Sentence or Judgment; I having cordially, solemnly, and sincerely protested my Innocency, as to any Communion or Compact with evil Spirits: and that you would consider that things of this nature, tho' criminous, are not under the cognizance of the Act, but to be tried by the Common Law, according to the usual Custom of this Nation.

8. That the Act of general Pardon doth clearly take away all legal Guilt from things done or spoken before 1651, that are not excepted in the said Pardon. Now the Particulars of my first Charge, and all those of my third or last, which seem to be of moment, and to be any way proved, were spoken or done before the Year 1651. Now this being the positive Judgment of able Lawyers, who have seen it experienced in things of more dangerous consequence, may give you the Commissioners sufficient ground of serious Reflections upon it.

9. That (according to the Judgment of wise, judicious, and knowing Men, your Commission having been long since, and being now again under Consideration and Debate, whether to be confirmed or altered) you the Commissioners in the interim have not compleat Power to act, especially in reference to Sentence, Judgment, and Execution: which I believe is the reason why so few of the Commissioners have sat, and why others that were at first so earnest in their Proceedings, have since withdrawn themselves.

10. That in reference to Judgment and Sentence concerning me, Scandal ought to be preserved as an absolute distinct Head from Ignorance and Insufficiency, according to the Letter of your Commission, and the undoubted Judgment and Intent of the Authors.

11. That the Testimony of any one, tho' by Oath, concerning what another related to him touching a third Person, (*i. e.* the Defendant) is no Proof at all according to Law, being not so much as concurrent Testimony, if the Defendant deny it, and do not own it himself: Moreover, that the Testimony Mr. *Fowler* gave, is not legally valid; because, besides the former Reason, he is the Accuser, and incapable to be Witness, according to Law.

12. That in the Day of Sentence, Mr. *Dunch* and Mr. *Trapham* cannot by Law sit as Judges, because they condemned me long before Proof; threatning me before Witness, to turn me out of my Living, at the sitting of this Parliament; and the last was a Witness against me. That Mr. *Fowler*, Mr. *Woodbridge*, and Mr. *Tickle*, cannot by Law sit as Assistants to the Judges, or give their Votes in the Day of Sentence; the one being my Accuser, the other two Witnesses against me.

After I had delivered this to be read, and had received it again, we all withdrew; and about two Hours after were called in again: when the Room being full of People, one Mr. *Lee* a Minister, the gravest Man amongst them, began a very formal Speech to me, in which he very rhetorically expressed what a grief and trouble it was to them to pass Sentence against me, and that he durst not judge that I then was guilty of holding those monstrous Tenets I was accused of; yet they must proceed *secundum Allegata & Probata*. Afterward he proceeded to give me many Exhortations and secret Reproofs, in which he, with much Artifice, made me guilty of all I was accused of. Whereupon, after I had heard him for a pretty space, being very sensible of his disguised prejudicing Discourse, and his Design in it, I was forced to stop him, by replying, That if he had any brotherly Exhortations to give me, he might come in private with me: but thus to pretend to admonish and exhort me, yet really to represent me as guilty of all I was accused of, and that before the People, was the Custom of the *Scribes* and *Pharisees*, who were wont to hide foul Designs under fair Colours, witness their Dealings with Christ. Whence I desired him to spare his Admonitions, and to

leave off twiſting ſuch ſilken Halters, ſaying, I was prepared for Sentence, and that I deſired him and the reſt to take heed of condemning and betraying the Innocent. Upon this, the Man being ſtruck ſomewhat ſilent, Mr. *Dunch* the Chairman commanded the Regiſter to do his Office; who preſently read the Sentence of my Ejectment in the open Court, which was then very brief, though afterwards enlarged with many circumſtantial Aggravations, and great Untruths; as this following Copy ſent to me from the Clerk, on the next Day after my Sentence, clearly ſhews.

Berks, ſſ. *By the Commiſſioners appointed by Order of his Highneſs the Lord Protector and his Council, for ejecting of Scandalous, Ignorant, and Inſufficient Miniſters and School-Maſters.* Reading, *Dec.* 8. 1654.

WHEREAS ſeveral Charges have been exhibited to us againſt Dr. *John Pordage*, Rector of *Bradfield* in this County, who hath given in ſeveral Anſwers in writing thereunto; and thereupon we have proceeded to Examination of ſeveral credible Witneſſes upon Oath, for Proof of the ſaid Charges in open Court; which Witneſſes the ſaid Doctor hath been permitted fully and freely to croſs-examine: And the ſaid Doctor hath been required to produce his Witneſſes for his Juſtification, and to bring in his Interrogatories, upon which he would examine his ſaid Witneſſes, and hath had Day after Day aſſigned him for that Purpoſe; but notwithſtanding hath peremptorily refuſed ſo to do, perſiſting in his own Way, and refuſing to obſerve our Direction in his Proceeding; and hath publickly, by his evil and contumacious Expreſſions, ſlighted and affronted the ſaid Commiſſioners, and inſtead of producing his Interrogatories in Writing, according to our Order, he hath now verbally offered ſeveral Queſtions, which he deſires to have propounded to ſeveral of his ſaid Witneſſes, which the Commiſſioners (upon Conſideration of) have judged impertinent to clear him from the Matters charged againſt him, but merely to delay and weary out the ſaid Commiſſioners; and therefore they have examined only to two of the ſaid Queſtions, which they conceive might ſomewhat tend to his Juſtification: And upon full Hearing what the ſaid Doctor could ſay, and Mr. *Starkey*, of Counſel in his Behalf, upon the whole Matters; and upon due Conſideration, it appeareth, that the ſaid Doctor is guilty of denying the Deity of Chriſt, and the Merit of his precious Blood and Paſſion; and hath aſſerted and maintained, That Chriſt was a Type, and but a Type, and not perfect, and that his imputative Righteouſneſs was ſapleſs, and ſeveral other helliſh Opinions; and is otherwiſe ſcandalous, as by the ſaid Depoſitions may more fully appear. And it is likewiſe declared, under the Hands of ſix of the ſaid Commiſſioners, and ſeveral Miniſters their Aſſiſtants, that upon the Matters proved againſt him, the ſaid Dr. *Pordage* is ignorant, and very inſufficient for the Work of the Miniſtry. It is therefore ordered, That the ſaid Dr. *Pordage* be, and he is hereby ejected out of the Rectory of *Bradfield* aforeſaid, and Profits thereof: But the ſaid Commiſſioners do grant him time to remove himſelf, Family, and Goods and Chattels out of the ſaid Parſonage-Houſe, till the ſecond of *February* next; and further time to remove his Corn out of the Parſonage-Barns, till the 25th of *March* next.

A True Copy, Mat. Langley *Regiſt.*

LII. *The Trial of the Honourable Colonel* John Penruddock *, *at* Exon, *for* High-Treaſon, 19*th* April, 1655. 7 Car. II. *Wrote by Himſelf.*

UPON *Thurſday* the 19th of *April*, 1655, the Commiſſioners of Oyer and Terminer being ſat in the Caſtle of *Exon*, ſummoned before them myſelf, Mr. *Hugh Grove*, Mr. *Richard Reeves*, Mr. *Robert Duke*, Mr. *George Duke*, Mr. *Thomas Fitz-James*, Mr. *Francis Jones*, Mr. *Edward Davis*, Mr. *Thomas Poulton*, and Mr. *Francis Bennet*. Being all called to the Bar, we were commanded to hold up our Hands, and an Indictment of High-Treaſon was read againſt us: And being aſked whether we would plead Guilty or Not Guilty to the Indictment, in the Behalf of myſelf and of the Gentlemen therein charged, I ſpake as followeth:

Col. *Penruddock.* My Lords, though my Education hath been ſuch, as not to give me thoſe Advantages which the Knowledge of the Laws would have aſſiſted me with, for the defending myſelf; yet upon the hearing this very Indictment, my Reaſon tells me that it is illegal; and therefore I do demand Counſel, that may diſpute the Illegality thereof.

Serjeant *Glyn.* Sir, you deſire that which cannot be granted; therefore give your Anſwer, whether you are Guilty or Not Guilty of the Treaſon of which you ſtand charged.

Col. *Pen.* Sir, by your Favour, it is that which hath been granted to my Inferiors, *viz.* to Mr. *Lilburne*, and to one *Rolf* a Shoemaker; and I have as great a Right to the Laws, as any Perſon that ſits here as my Judge: I do therefore challenge it as my Right. Judge *Nicholas*, whom I there ſee, will tell you he himſelf was Counſel for this *Rolf*: And it is a hard Caſe, if a free-born Gentleman of *England* cannot have the ſame Privilege that his Inferiors have had before him.

Attorney General *. Sir, there is a great Difference between Treaſon acting and acted; the latter is your Caſe: Therefore flatter not yourſelf, and do not think your being mute ſhall ſave your Eſtate in Caſe of Treaſon; for if you plead not to the Indictment, Sentence will be pronounced againſt you, as if you had been found guilty of the Fact you are charged with.

* Mr. *Prideaux.*

Col. *Pen.* Sir, I obſerve your Diſtinction: But all the Logick you have, ſhall not make me nor any rational Man acknowledge, that this was either acting or acted, before it be proved. Sir, it is but a bare Suſpicion, and I hope you will not condemn me before I am convicted: I ſay the Indictment is illegal, and I do demand Counſel.

At. Gen. Sir, the Court muſt not be dallied withal: I do peremptorily demand of you, Are you Guilty or Not Guilty? If you plead, you may have Favour; otherwiſe we ſhall proceed to Sentence.

Col. *Pen.* Sir, put Caſe I do plead, ſhall I then have Counſel allowed me?

At. Gen. Sir, the Court makes no Bargains; refer yourſelf to us.

[Hereupon my Fellow-Priſoners perſuaded me to plead Not Guilty: Which being done, I demanded Counſel, as being partly promiſed it. Mr. Attorney told me, I could have none. Then I replied;]

Col. *Pen.* Sir, *Durus eſt hic Sermo*, it is no more than I expected from you; but rather than I will be taken off unheard, I will make my own Defence as well as I can.

[The Jurors being then called, I challenged about 24 of the 35 I might have challenged. The reſt of the Gentlemen were ſent from the Bar, I was left alone upon my Trial: And the Jurors were ſo packed, that had I known them the Iſſue had been the ſame that it was. The Jurors being ſworn, and the Indictment again read, Mr. Attorney demanded what Exception I could make to it.]

Col. *Pen.* Sir, I except againſt every Part thereof; for I take it to be illegal *in toto Compoſito*.

Record. *Steel.* Sir, it is not uſual for any Court to admit of general Exceptions, therefore we expect that you ſhould make it to ſome Particular.

Col. *Pen.* Sir, I deſire a Copy of my Indictment, and time until Tomorrow to make my Defence.

At. Gen. Sir, you cannot have it; the Court expects you ſhould do it now.

Col. *Pen.* Then if I cannot have time, if my general Exception might have been admitted, it would have told you, that there can be no High-Treaſon in this Nation, but it muſt be grounded either upon the Common or Statute Law. But this is neither grounded upon the Common Law, or the Statute; *ergo*, no Treaſon (againſt a Protector, who hath no Power according to Law): Neither is there any ſuch thing in Law as a Protector, for all Treaſons and ſuch Pleas are *propria Cauſa Regis.*

Serj. *Glyn.* Sir, you are peremptory, you ſtrike at the Government; you will fare never a whit the better for this Speech: Speak as to any particular Exception you have to the Indictment.

Col. *Pen.* Sir, if I ſpeak any thing which grates upon the preſent Government, I may confidently expect your Pardon: My Life is as dear to me, as this Government can be to any of you. The holy Prophet *David*, when he was in Danger of his Life, feigned himſelf mad, and the Spittle hung upon his Beard: You may eaſily therefore excuſe my Imperfections. And ſince I am now forced to give you my particular Exception (more plainly) to the Indictment, I am bold to tell you, I obſerve in the latter Part of the Indictment, you ſay I am guilty of High-Treaſon, by virtue of a Statute in that Caſe made and provided: If there be any ſuch Statute, pray let it be read; I know none ſuch. My Actions were for the King; and I well remember what *Bracton* ſaith [5 *Tract. de Delatis cap.*], *Rex non habet ſuperiorem niſi Deum; ſatis habet ad pœnam, quod Deum expectat ulterem.* And in another Place he ſaith, [*Bract. Rem. H.* III. *Cap.* 3. *Sect.* 24.] *Rex habet poteſtatem & juriſdictionem ſuper omnes qui in regno ſuo ſunt: Ea quæ ſunt juriſdictionis & pacis, ad nullum pertinent, niſi ad regiam dignitatem; habet etiam coercionem, ut delinquentes puniat & coerceat.* Again he ſaith, *Omnes ſub Rege, & ipſe nullo niſi tantum Deo; non eſt inferior ſibi ſubjectis; non parem habet in regno ſuo.* This ſhews us where the true Power is: You ſhall find alſo,

That whoever ſhall refuſe to aid the King when War is levied againſt him, or againſt any that keep the King from his juſt Rights, offends the Law, and is thereby guilty of Treaſon. [*Parl. Rol. num.* 7.] Again,

All Men that adhere to the King in perſonal Service, are freed from Treaſon by Law: [*Rex & conſuetudo Parliament.* 11 *H.* VII. *Cap.* 1.] And yet you tell me of a Statute, which makes my adhering to my King according to Law, to be High-Treaſon: Pray let it be read.

At. Gen. Sir, you have not behaved yourſelf ſo as to have ſuch a Favour from the Court.

Col. *Pen.* I require it not as a Favour, but as my Right.

At. Gen. Sir, you cannot have it.

Col. *Pen.* If I cannot have it, theſe Gentlemen that are the Jurors, have not offended you, their Verdict reaches to their Souls, as to my Life; pray let not them go blind-fold, but let that Statute be their Guide.

At. Gen. Sir, the Jury ought to be ſatisfied with what hath been already ſaid, and ſo might you too.

Col. *Pen.* Sir, I thank you; you now tell me what I muſt truſt to.

Mr. Attorney then made a large Speech in the Face of the Court, wherein he aggravated the Offence with divers Circumſtances; as ſaying, I had been four Years in *France*, and held a Correſpondency with the King my Maſter, of whom I had learned the Popiſh Religon: That I endeavoured to bring in a debauched lewd, young Man, and to engage this Nation in another bloody War; and that if I had not been

* Clar. Hiſt. Vol. 3. p. 433.

timely

timely prevented, I had deſtroyed them (meaning the Jurors), and their whole Families. I interrupted him, and ſaid,

Col. *Pen.* Mr. Attorney, you have been heretofore of Counſel for me; you then made my Caſe better than indeed it was: I ſee you have the Faculty to make Men believe Falſhoods to be Truth too.

Attorn. Gen. Sir, you interrupt me; you ſaid but now you were a Gentleman.

Col. *Pen.* I have been thought worthy heretofore to ſit on the Bench, tho' now I am at the Bar. Mr. Attorney then proceeded in his Speech, and called the Witneſſes. Then I ſaid,

Sir, you have put me in a Bear's Skin, and now you will bait me with a witneſs. But I ſee the Face of a Gentleman here in Court (I mean Captain *Crook*) whoſe Conſcience can tell him, that I had Articles from him which ought to have kept me from hence. Captain *Crook* hereupon ſtood up, and his guilty Conſcience (I ſuppoſe) adviſed him to ſit down again, after he had made this Speech, (that is to ſay) he opened his Lips and ſpake nothing. The ſeveral Witneſſes now come in, Mr. *Dove* the Sheriff of *Wilts*, and others; my Charity forbids me to tell you what many of them ſwore: I ſhall therefore omit that, and only tell you that one of our own Party (and indeed I think an honeſt Man), being forced to give his Evidence; I ſaid, My Lords, it is a hard Caſe, that when you find you cannot otherwiſe cleave me in Pieces, that you muſt look after Wedges made of my own Timber. The virtuous Crier of *Blandford* being aſked what were the Words I uſed in the proclaiming King *Charles* at the Market? he ſaid, I declared for *Charles* the Second, and ſettling the true Proteſtant Religion; for the Liberty of the Subject, and Privilege of Parliaments.

Then I ſaid to the Attorney-General and the whole Court, You ſaid even now, that I had learned of the King my Maſter the Popiſh Religion, and endeavoured to bring him in: Your own Witneſs tells you What and Whom I would bring in; and that it was the true Proteſtant, and not the Popiſh Religion his Majeſty is of, and intends to ſettle. I urged divers Caſes to make the Buſineſs but a Riot (as my Lord of *Northumberland*'s), pretending it was for the taking of Taxes; and that the Power was not declared to be where they ſay it is. I required the Judges to be of Counſel for me, and told them it was their Duty. Commiſſioner *Liſle* told me, I ſhould have no Wrong (but he meant Right); but Judge *Rolle* and *Nicholas* confeſſed themſelves Parties, therefore would ſay nothing. Then I told the Court, if I had ſeen a Crown upon the Head of any Perſon, I had known what had been Treaſon: The Law of *England* would have taken hold of me, out of the reſpect it has to Monarchy: There were no ſuch Land-marks before me, therefore I conceive I cannot be guilty of what I am charged with. And my Lord, and Mr. Attorney, you here indict me for a Treaſon committed at *South-moulton* in *Devonſhire*; and, Gentlemen, ye ſwear Witneſſes againſt me for Facts done in other Countries; *Sarum*, *Blandford*, and *South-moulton*, are not in a Pariſh. You puzzle the Jurors with theſe Circumſtances, pray go to the Kernel. And you, Gentlemen of the Jury, ſave your Labour of taking thoſe Notes. Mr. Attorney then addreſſed himſelf to the Jury; and to be ſhort, after the Space of half an Hour long, gave them Directions to bring me in guilty. This being done, I craved the Favour from the Court, that I might ſpeak to the Jury; which being allowed, I ſaid to them as followeth, or to the ſame effect:

Gentlemen, You are called a Jury of Life and Death; and happy will it be for your Souls, if you prove to be a Jury of Life. You have heard what hath been ſaid to make my Actions Treaſon; and with what Vigour many Untruths have been urged to you. I have made appear to you, that there can be no Treaſon but againſt the King; that the Law knows no ſuch Perſon as a Protector. Mr. Attorney pretends a Statute for it, but refuſeth the Reading thereof either to me or you; vilifies me at Pleaſure, and tells you I am a Papiſt, and would bring in the Popiſh Religion; and that if I had not been timely prevented, I had deſtroyed you. I hope you are alſo ſatisfied of the contrary, from the Mouth of one of the bittereſt Witneſſes. You are now Judges between me and theſe Judges. Let not the Majeſty of their Looks, or the Glory of their Habits, betray you to a Sin which is of a deeper Dye than their Scarlet: I mean that Sin, Blood; which calls to Heaven for Vengeance. Gentlemen, you do not ſee a Hair of my Head but is numbered, neither can you make any one of them, much leſs can you put Breath into my Noſtrils, when it is taken out. A Sparrow doth not fall to the Ground without the Providence of God, much leſs ſhall Man, to whom he hath given Dominion and Rule over all the Creatures of the Earth. Gentlemen, look upon me, I am the Image of my Creator, and that Stamp of his which is in my Viſage, is not to be defaced, without an Account given wherefore it was. I have here challenged, as I am a Gentleman, and free-born Man of *England*, the Right which the Law allows me; I demanded a Copy of my Indictment and Counſel, but it is denied me. The Law which I would have been tried by, is the known Law of the Land, which was drawn by the wiſe Conſultation of our Princes, and by the ready Pens of our Progenitors. The Law which I am now tried by, is no Law, but what is cut out by the Point of a rebellious Sword; and the Sheets in which they are recorded, being varniſhed with the Moiſture of an eloquent Tongue, if you look not well to it, may chance to ſerve for ſome of your Shrouds. If the Fear of diſpleaſing others, ſhall betray you to find me guilty of any Thing, you can at the moſt but make a Riot of this. Pray, by the way, take notice, that the laſt Parliament would not allow the Legiſlative Power to be out of themſelves; ſeventeen of twenty in this very County were of that Opinion, and deſerted the Houſe; they were your Repreſentative; if you ſhould find me guilty, you bring them in danger, and in them yourſelves. Have a care of being drawn into a Snare. Gentlemen, your Blood may run in the ſame Channel with mine: If what I have ſaid do not ſatisfy you, ſo as to acquit me; if you bring a ſpecial Verdict, you do in ſome meaſure acquit yourſelves, and throw the Blood that will be ſpilt upon the Judges. Conſider of it, and the Lord direct you for the beſt!

The Jury, after a quarter of an Hour's Retirement, brought me in Guilty: The Lord forgive them, for they knew not what they did.

Upon *Monday* the 23d of *April*, we were again called to the Bar, being then in Number twenty-ſix. Serjeant *Glyn* aſked of me firſt, what I could ſay for myſelf, that I ſhould not have Sentence according to Law? Then I ſaid,

My Lords and Gentlemen, you aſk what I can ſay for myſelf, that I ſhould not have Sentence paſſed upon me. The Jury found me guilty: If I ſhould go about to make a Defence now, it would ſignify no more than as if my Friends ſhould petition for my Pardon after I am executed. I could have offered you Articles here, but I thought them inconſiſtent with this Court. When I look upon my Offence (as to the Protector), I conclude myſelf a dead Man; but when I reflect upon the Favour he hath ſhewed to others of my Condition, and the Hopes I have of your Interceſſion, methinks I feel my Spirits renewed again. My Lords, Death is a Debt due from me to Nature; the Protector has now the keeping the Bond, and has put it in Suit by his Attorney; if he pleaſe to forbear the ſerving me with an Execution, and let me keep it a little longer, I will pay him the Intereſt of Thanks for it as long as I live, and engage my Poſterity and a numerous Alliance to be bound for me. So the Lord direct you all for the beſt. If I have found Favour, I ſhall thank you; if not, I ſhall forgive you!

This being done, Serjeant *Glyn*, after a moſt bitter and nonſenſical Speech, gave Sentence againſt us; *viz.* to be drawn, hanged and quartered. A pretty Exchange for unworthy *Crook*'s Articles for Life, Liberty, and Eſtate; which I can prove, and will die upon. My Trial held at leaſt five Hours. This is as much as at preſent I can remember of it; excuſe the Errors.

One of the Jury being aſked by a Gentleman, why he found me guilty? anſwered, He was reſolved to hang me, before he did ſee me.

I obſerve Treaſon in this Age to be an *individuum vagum*, like the Wind in the Goſpel, which bloweth where it liſteth; for that ſhall be Treaſon in me to-day, which ſhall be none in another to-morrow, as it pleaſeth Mr. Attorney.

The Judges are ſworn to do Juſtice according to the Law of the Land, [3 *Part. Inſt. pag.* 22. 2 *Part. Inſt.* 47, 48. Prince's *Caſe*, 8 *Report.*] and therefore have miſerably perjured themſelves in condemning me contrary to Law: And (not ſo contented) muſt cauſe the Jury (ſo wiſe they were) through their falſe and unjuſt Directions, to deſtroy their own Rights and Properties, and ſet up a New, Arbitrary and Tyrannical Government.

The Judges would not give me their Advice in point of Law (as was their Duty), becauſe they ſaid they were Parties; yet could ſit ſtill on the Bench in their Robes, to countenance and approve of my Sentence.

No Man can be a Judge where he is a Party in the ſame Cauſe; [*Hobart fol.* 120. Doct. *Bonam*'s Caſe, 8 *Part* of *Coke*'s *Reports.*] therefore my Trial was contrary to Law.

The Judges being Parties, ought not to ſit upon the Bench, but ſtand by; therefore my Trial was illegal: The reſt being no Judges, but the Protector's immediate Servants, ſo could not be my Judges in caſe of High-Treaſon; for none but the ſworn Judges of the Land are capable of it by Law.

One thing of Colonel *Dove*, the reverend Sheriff of *Wilts*, who, that the Jury might be ſufficiently incenſed, complaining of the many Incivilities (he pretended) were offered him by our Party, being upon his Oath, ſaid, That one of our Men did run him through the Side with a Carabine. Surely it was a very ſmall one, for the Wound is not diſcernible.

A great deal of Pains every Man in his Place took for the carrying on his Maſter's Work.

Be merciful unto me, O Lord, be merciful unto me: Under the Shadow of thy Wings will I hide myſelf till this Tyranny be overpaſt.

Glory to God on high, on Earth Peace, Good-Will towards Men; and ſo have Mercy on me, O Lord!

The Sentence was ordered to be executed the 16th of *May* following.

As he was aſcending the Scaffold, he ſaid, This, I hope, will prove to be like *Jacob*'s Ladder; though the Feet of it reſt on Earth, yet I doubt not but the Top of it reacheth to Heaven.

When he came upon the Scaffold, he ſpoke to the People as follows:

Gentlemen,

IT hath ever been the Cuſtom of all Perſons whatſoever, when they come to die, to give ſome Satisfaction to the World, whether they be guilty of the Fact of which they ſtand charged. The Crime for which I am now to die, is Loyalty, (but) in this Age called High-Treaſon. I cannot deny but I was at *South-moulton*, in this County; but whether my being there, or my Actions there, amount to ſo high a Crime as High-Treaſon, I leave to the World and to the Law to judge! Truly, if I were conſcious to myſelf of any baſe Ends that I had in this Undertaking, I would not be ſo injurious to my own Soul, or diſingenuous to you, as not to make a publick Acknowledgment thereof. I ſuppoſe that divers Perſons, according as they are biaſſed in their ſeveral Intereſts and Relations, give their Opinions to the World concerning us: I conceive it impoſſible, therefore, ſo to expreſs myſelf in this Particular, as not to expoſe both my Judgment and Reputation to the Cenſure of many whom I ſhall leave behind me; becauſe I will not put others (therefore) upon a Breach of Charity concerning me, or my Actions, I have thought fit to decline all Diſcourſes which may give them a Capacity either to injure themſelves, or me. My Trial was publick, and my ſeveral Examinations (I believe) will be produced when I am in my Grave: I will refer you therefore to the firſt, which I am ſure ſome of you heard; and to the latter, which many of you (in good time) may ſee. Had Captain *Crook* done himſelf and us that Right which a Gentleman and a Soldier ought to have done, I had not now been here. The Man I forgive with all my Heart: But truly, Gentlemen, his proteſting againſt thoſe Articles he himſelf with ſo many Proteſtations and Importunities put upon us, hath drawn ſo much Diſhonour and Blood upon his Head, that I fear ſome heavy Judgment will purſue him; though he hath been falſe to us,

I pray

I pray God I do not prove a true Prophet to him; nay, I muſt ſay more, that coming on the Road to *Exon*, he, the ſaid Captain *Crook*, told me, Sir *Joſeph Wagſtaff* was a gallant Gentleman, and that he was ſorry he was not taken with us; that then he might have had the Benefit of our Articles; but now, ſaid he, I have beſet all the Country for him, ſo that he cannot eſcape, but muſt be hang'd. He alſo queſtion'd me, as I paſs'd through *Saliſbury* from *London*, whether he had given me Conditions; which I endeavouring to make appear to Major *Butler*, he interrupted me, and unwillingly confeſs'd it, ſaying I proffer'd him Four Hundred Pounds to perform his Articles; which had been a ſtrange Proffer of mine, had I not really condition'd with him; and I told him then (having found him unworthy) I would have given him Five Hundred Pounds, believing him to be mercenary. To make it yet farther appear, I injure him not, by ſtiling him unworthy; after theſe Articles were given, he proffer'd to piſtol me, if I did not perſuade another Houſe to yield, which then were boldly reſiſting; to which my Servant, *John Biby* (now a Priſoner) reply'd, I hope you will not be ſo unworthy as to break the Law of Arms. Thus much I am obliged to ſay to the Honour of the Soldiery, That they have been ſo far from breaking any Articles given to others, that they have rather better'd them than otherwiſe. It is now our Misfortune to be made Precedents and Examples together: But I will not do the Protector ſo much Injury, as to load him with Diſhonour, ſince I have been inform'd, that he would have made our Conditions good, if *Crook*, that gave them, had not abjur'd them. This is not a Time for me to enlarge upon any Subject, ſince I am now become the Subject of Death; but ſince the Articles were drawn by my Hand, I thought myſelf oblig'd to a particular Juſtification of them. I could tell you of ſome Soldiers which were turn'd out of his Troop for defending thoſe Conditions of ours; but let that paſs, and henceforward, inſtead of Life, Liberty, and Eſtate, (which were the Articles agreed upon) let Drawing, Hanging, and Quartering bear the Denomination of Captain *Crook*'s Articles. However, I thank the Protector for granting me this honourable Death. I ſhould now give you an Account of my Faith; but, truly, Gentlemen, this poor Nation is rent into ſo many ſeveral Opinions, that it is impoſſible for me to give you mine, without diſpleaſing ſome of you; however, if any Man be ſo critical as to enquire of what Faith I die, I ſhall refer him to the Apoſtles, *Athanaſius*, and the *Nicene*-Creed, and to the Teſtimony of this reverend Gentleman, Dr. *Short*, to whom I have unboſom'd myſelf: And if this do not ſatisfy, look in the Thirty-Nine Articles of the Catholick Church of *England*, to them I have ſubſcribed, and do own them as authentick. Having now given you an Account concerning myſelf, I hold myſelf obliged in Duty to ſome of my Friends, to take off a Suſpicion which lies upon them; I mean, as to ſome Perſons of Honour; which upon my Examination I was charged to have held Correſpondency with; the Marqueſs of *Hertford*, the Marqueſs of *Wincheſter*, and my Lord of *Pembroke*, were the Perſons nominated to me; I did then acquaint them, and do now ſecond it with this Proteſtation, that I never held any Correſpondency with either, or any of them, in relation to this particular Buſineſs, or indeed to any thing which concern'd the Protector or his Government: As for the Marqueſs of *Wincheſter*, I ſaw him ſome twelve Years ſince, and not later; and if I ſhould ſee him here preſent, I believe I ſhould not know him; and for the Earl of *Pembroke*, he was not a Man likely to whom I ſhould diſcover my Thoughts, becauſe he is a Man of contrary Judgment. I was examin'd likewiſe concerning my Brother *Freke*, my Couſin *Haſtings*, Mr. *Dorrington*, and others: It is probable their Eſtates may make them liable to this my Condition; but I do here ſo far acquit them, as to give the World this further Proteſtation, that I am confident they are as innocent in this Buſineſs as the youngeſt Child here: I have no more to ſay to you now, but to let you know that I am in Charity with all Men, I thank God; I both can and do forgive my greateſt Perſecutors, and all that ever had any Hand in my Death. I have offered the Protector as good Security for my future Demeanour, as I ſuppoſe he could have expected; if he had thought fit to have given me my Life, certainly I ſhould not have been ſo ungrateful as to have employed it againſt him. I do humbly ſubmit to God's Pleaſure, knowing that the Iſſues of Life and Death are in his Hand; my Blood is but a ſmall Sacrifice; if it had been ſaved, I am ſo much a Gentleman as to have given Thanks to him that preſerv'd it, and ſo much a Chriſtian as to forgive them which take it; but ſeeing God by his Providence hath call'd me to lay it down, I willingly ſubmit to it, tho' terrible to Nature; but bleſſed be my Saviour, who hath taken out the Sting; ſo that I look upon it without Terror. Death is a Debt, and a due Debt; and it hath pleaſed God to make me ſo good a Huſband that I am come to pay it before it is due. I am not aſham'd of the Cauſe for which I die, but rather rejoice that I am thought worthy to ſuffer in the Defence and Cauſe of God's true Church, my lawful King, the Liberty of the Subject, and Privilege of Parliaments; therefore I hope none of my Alliance and Friends will be aſham'd of it; it is ſo far from pulling down my Family, that I look upon it as the raiſing of it one Story higher; neither was I ſo prodigal of Nature, as to throw away my Life, but have uſed (tho' none but honourable and honeſt) means to preſerve it. Theſe unhappy Times indeed have been very fatal to my Family, two of my Brothers already ſlain, and myſelf going to the Slaughter; it is God's Will, and I humbly ſubmit to that Providence. I muſt render an Acknowledgment of the great Civilities that I have receiv'd from the City of *Exon*, and ſome Perſons of Quality, and for their plentiful Proviſion made for the Priſoners. I thank Mr. *Sheriff* for his Favour towards us, in particular to myſelf, and I deſire him to preſent my due Reſpects to the Protector, and tho' he had no Mercy for myſelf, yet that he would have reſpect to my Family. I am now a-ſtripping off my Clothes to fight a Duel with Death (I conceive no other Duel lawful); but my Saviour hath pulled out the Sting of this mine Enemy, by making himſelf a Sacrifice for me, and truly I do not think that Man deſerving one Drop of his Blood that will not ſpend all for him in ſo good a Cauſe. The Truth is, Gentlemen, in this Age Treaſon is an *Individuum Vagum*; like the Wind in the Goſpel, it bloweth where it liſteth: So now Treaſon is what they pleaſe, and lighteth upon whom they will. Indeed, no Man, except he will be a Traitor, can avoid this Cenſure of Treaſon. I know not to what End it may come, but I pray God my own and my Brother's Blood, that is now to die with me, may be the laſt upon this ſcore: Now, Gentlemen, you may ſee what a Condition you are in without a King; you have no Law to protect you, no Rule to walk by when you perform your Duty to God, your King and Country; you diſpleaſe the Arbitrary Power now ſet up (I cannot call it Government). I ſhall leave you to peruſe my Trial, and there you ſhall ſee what a Condition this poor Nation is brought into; and (no Queſtion) will be utterly deſtroy'd, if not reſtor'd (by loyal Subjects) to its old and glorious Government; I pray God he lay not his Judgments upon *England* for their ſluggiſhneſs in doing their Duty, and readineſs to put their Hands in their Boſoms, or rather taking part with the Enemy of Truth. The Lord open their Eyes, that they may be no longer led or drawn into ſuch Snares, elſe the Child that is unborn will curſe the Day of their Parents Birth. God Almighty preſerve my lawful King, *Charles* II. from the Hands of his Enemies, and break down that Wall of Pride and Rebellion, which ſo long hath kept him from his juſt Rights! God preſerve his Royal Mother, and all his Majeſty's Royal Brethren; and incline their Hearts to ſeek after him! God incline the Hearts of all true *Engliſh*-men to ſtand up as one Man to bring in the King, and redeem themſelves and this poor Kingdom out of its more than *Egyptian* Slavery. As I have now put off theſe Garments of Cloth, ſo I hope I have put off my Garments of Sin, and have put on the Robes of Chriſt's Righteouſneſs here, which will bring me to the Enjoyment of his glorious Robes anon. Then he kneel'd down and kiſs'd the Block, and ſaid thus: I commit my Soul to God my Creator and Redeemer. Look upon me, O Lord, at my laſt gaſping, hear my Prayer, and the Prayers of all good People; I thank thee, O God, for all thy Diſpenſations towards me. Then kneeling down, he pray'd moſt devoutly. Then he deſir'd to ſee the Ax, and kiſſed it, ſaying, I am like to have a ſharp Paſſage of it, but my Saviour hath ſweeten'd it unto me. Then he ſaid, If I would have been ſo unworthy as others have been, I ſuppoſe I might by a Lye have ſaved my Life, which I ſcorn to purchaſe at ſuch a rate; I defy ſuch Temptations and them that gave them me. Glory be to God on high, on Earth Peace, Good-will towards Men, and the Lord have Mercy upon my poor Soul! *Amen.*

So laying his Neck upon the Block, after ſome private Ejaculations, he gave the Headſman a Sign with his Hand, who at one Blow ſever'd his Head from his Body.

The Night before his Execution he received the following Letter from his Lady:

My dear Heart,

'MY ſad Parting was ſo far from making me forget you, that I ſcarce thought upon myſelf ſince, but wholly upon you. Thoſe dear Embraces which I yet feel, and ſhall never loſe, being the faithful Teſtimonies of an indulgent Huſband, have charm'd my Soul to ſuch a Reverence of your Remembrance, that were it poſſible, I would, with my own Blood, cement your dead Limbs to Life again; and (with Reverence) think it no Sin to rob Heaven a little while longer of a Martyr. Oh my Dear! you muſt now pardon my Paſſion, this being my laſt (oh fatal) Word that ever you will receive from me; and know, that until the laſt Minute that I can imagine you ſhall live, I will ſacrifice the Prayers of a Chriſtian, and the Groans of an afflicted Wife. And when you are not (which ſure by Sympathy I ſhall know) I ſhall wiſh my own Diſſolution with you, that ſo we may go Hand in Hand to Heaven. 'Tis too late to tell you what I have, or rather what I have not done for you; how turn'd out of Doors becauſe I came to beg Mercy; the Lord lay not your Blood to their Charge. I would fain diſcourſe longer with you, but dare not; Paſſion begins to drown my Reaſon, and will rob me of my *Devoir*, which is all I have left to ſerve you. Adieu therefore ten thouſand times, my deareſt Dear! and ſince I muſt never ſee you more, take this Prayer; May your Faith be ſo ſtrengthened, that your Conſtancy may continue, and then I know Heaven will receive you; whither Grief and Love will in a ſhort time (I hope) tranſlate,

My Dear,

Your ſad, but conſtant Wife, even to love your Aſhes when Dead,

Arundel Penruddock.

'*May* the 15th, 1655, Eleven o'Clock at Night. Your Children beg your Bleſſing, and preſent their Duties to you.'

To which he wrote this Anſwer:

Deareſt, beſt of Creatures!

'I HAD taken leave of the World when I receiv'd yours: It did at once recal my Fondneſs for Life, and enable me to reſign it. As I am ſure I ſhall leave none behind me like you, which weakens my Reſolution to part from you; ſo when I reflect I am going to a Place where there are none but ſuch as you, I recover my Courage. But Fondneſs breaks in upon me; and as I would not have my Tears flow To-morrow, when your Huſband and the Father of our dear Babes is a Public Spectacle; do not think meanly of me, that I give way to Grief now in private, when I ſee my Sand run ſo faſt, and I within few Hours am to leave you Helpleſs, and expoſed to the Mercileſs and Inſolent, that have wrongfully put me to a ſhameleſs Death, and will object that Shame to my poor Children. I thank you for all your Goodneſs to me, and will endeavour ſo to die, as to do nothing unworthy that Virtue in which we have mutually ſupported each other, and for which I deſire you not repine that I am firſt to be rewarded; ſince you ever preferred me to yourſelf in all other things, afford me, with Chearfulneſs, the Precedence in this.

'I deſire your Prayers in the Article of Death, for my own will then be offered for You and Yours.

J. Penruddock.'

LIII. *Proceedings in the Houſe of Commons againſt* James Nayler *for* Blaſphemy, *and other Miſdemeanours*, December 1656. 8 Car. II.

Reſolved,

THAT the Matter of Fact, together with the particular Reſolutions of this Committee thereupon, be reported to the Houſe.

Firſt, I ſhall give you the ſhort Hiſtory of his Life, as the Committee had it from his own Mouth. He ſaith he was born in the Pariſh of *Ardſloe*, near *Wakefield* in *Yorkſhire*, where he lived 22 or 23 Years, till he was married (according to the World), as he expreſſed it. Then he removed into the Pariſh of *Wakefield*, where he continued till the laſt Wars began; during which time he was under ſeveral Commands, and at laſt was Quarter-maſter in Major-General *Lambert*'s Troop; in which Service he continued till diſabled by Sickneſs in *Scotland*, and ſo retired to his own Home: about which time he was a Member of an Independent Church at *Horbery* in *Yorkſhire*, of which Church Mr. *Chriſtopher Marſhall* was Paſtor; and by the ſame Church ſince caſt out (as himſelf confeſſeth he hath heard); by which Church he was charged as guilty of Blaſphemy, and uncivil and wanton Carriage with one Mrs. *Roper* a married Woman, as that ſhe ſhould ſit on his Knee, and kiſs him before divers other Perſons; and that it was his Opinion, he might lie with any Woman that was of his Judgment. And then after ſome time went to viſit the Quakers in *Cornwall*, and by his way was by Major *Saunders* committed to the common Goal in *Exon*, as a Vagrant: And thence he and his Company being delivered by an Order from the Council, they travelling to *Briſtol*, in the way *Nayler* took upon him, as was alledged againſt him. And as he paſſed through *Chewſtoke* in the County of *Somerſet*, towards *Briſtol*, it is informed upon Oath, certified by three Juſtices to the Committee, That ſtaying in that Town one Night, he was there in a Chamber with three Women of his Company, leaning upon the Bed with one of them at Night when the Servant of the Houſe left them: And in the Morning the Servant found *Nayler* on the Bed with one of the Women, and the Curtains drawn; and ſome of the Company wiſhed the Servant to make no noiſe to awake them.

The way taken in this Report will be,

Firſt, To give you the Articles charged againſt him.

Secondly, The Evidence, wherein there will be a little mention of the Examinations and Informations upon Oath taken at *Briſtol*; againſt which becauſe there lies a ſeeming Objection, I ſhall firſt clear that upon the Matter of Fact.

The Objection was, That they were not read again to the Parties, as is uſual in ſuch Caſes.

Anſwer. That two Witneſſes, both of more than ordinary good Repute, in that Place were both put, and took Characters of the Queſtions and Anſwers there; and comparing their Notes, did both of them publickly avow to the Committee, as that which they were ready to depoſe, That every material Paſſage was read unto the Parties once or twice after they writ it down; and that they were the ſame which were offered to the Committee, atteſted under the Mayor of *Briſtol*'s Hand to every of the ſaid Examinations and Informations, and the City Seal annexed to the whole. And beſides, there is nothing in the ſaid Examinations and Informations taken there, but what is generally more clearly made out upon their Examinations before the Committee.

Other Evidence will be from *Nayler*'s Examination, wherein is moſt of this whole Matter, which was taken in Characters by Five of the Committee, who were appointed to, and did compare their Notes.

Thirdly, The Opinion of the Committee.

The whole Fact will fall under one of theſe two Articles.

Firſt, *James Nayler* did aſſume the Geſture, Words, Honour, Worſhip, and Miracles of our bleſſed Saviour.

Secondly, The Names and incommunicable Attributes and Titles of our bleſſed Saviour.

As to part of the firſt Article, That *James Nayler* riding through a Town in *Somerſet*, his Company ſpread their Garments, and ſang, Holy, Holy, before him; and alſo ſang the like at his Entrance into *Briſtol*, one going bare-headed before his Horſe:

The Evidence was, That *Dorcas Erbury*, in her Examination before the Committee in the *Painted Chamber*, confeſſed, that ſhe did ſpread Garments before him. And *Martha Simmons* in her Examination at the ſame time ſaith, that thoſe Garments that ſhe did ſpread ſhe ſpread in obedience to the Lord. And *Hannah Stranger* being then alſo examined, ſaid, ſhe threw two Handkerchiefs before him, which ſhe did, becauſe he that is Lord of all commanded her ſo to do. And

John Stranger confeſſeth, That he ſaw others ſpread Garments before him in the way from *Exon* to *Briſtol*. And

James Nayler himſelf confeſſeth (upon the Queſtion, Whether Garments were ſpread before him?) That ſome Clothes were caſt down, and afterwards, that ſome Gloves and other things.

The Evidence for ſinging Holy, Holy, was thus:

Dorcas Erbury, in her Examination at *Briſtol*, being then aſked, Why ſhe paſſed along ſinging? ſaid, She did not do it; but they that did it were commanded to do it: and the Lord hath made it manifeſt that they were moved of the Lord to do it. And being aſked, To whom they ſang? and whom they called the *Holy One of* Iſrael? ſhe ſaid, Him that rode upon the Horſe; and ſhe would maintain it with her Blood. And being examined by the Committee as to this part of the Examination, and adviſed to deny, if it were falſe; yet did not deny it, though ſhe did ſome other part of that Examination.

Martha Simmons being examined in the *Painted Chamber*, Whether ſhe did ſing the Words, Holy, Holy, before the ſaid *James Nayler*? anſwered, It is my Life to praiſe the Lord, whether he be before me, or from me; it is my Life to praiſe the Lord. And being aſked, Whether ſhe heard any Perſon ſing Holy, Holy, before the ſaid *James Nayler*? ſhe anſwered, It is our Life to praiſe the Lord.

Hannah Stranger being examined in the *Painted Chamber*, Whether ſhe ſang the Words, Holy, Holy? anſwered, She could not well remember the Words; but if ſhe did not ſing Holy, Holy, ſhe witneſſeth the Holy of Holies was riſen, which moved her ſo to do: but ſaid further, ſhe did not ſtand there to accuſe her ſelf.

James Nayler being examined by the Committee, whether any ſang Holy, Holy, before him as he rode? anſwered, There were Praiſes ſung to the Lord. And being aſked, Whether thoſe Words, Holy, Holy, were ſung? anſwered, That he heard thoſe Words. And being aſked as to the ſinging before him when he rode into *Briſtol*, anſwered, That there was a Pſalm ſung, ſuch a one as the Lord was pleaſed to give into the Hearts of them that ſang. And being aſked as to the Words of the Pſalm, whether they were not Holy, Holy? ſaid, It may be it was; very like it might be ſo.

And in his Examination at *Briſtol*, being aſked why he came in there in ſuch an unuſual manner, two Women leading his Horſe, and ſinging, with one bare before him? ſaid, It was for the praiſes of his Father; and that he may not refuſe any thing that is moved of the Lord: and that he did think the Father did command them to do it. And being then aſked, Whom they meant by the Word *Holy* that they ſang? he anſwered, That they that ſang were all of Age to anſwer for themſelves.

And this ſpeaks ſomething for the proving of another part of the firſt Article, vindicating one going bare-headed before him, and Women leading his Horſe, which is more fully proved by the Informations upon Oath of *George Witherley* and *Richard Hart*, taken at *Briſtol*, before the Mayor there, and certified as aforeſaid; and upon the Confeſſion of one *Thomas Woodcock* before the ſaid Mayor, who went bare-headed before *James Nayler*, and ſaid he was moved by the Spirit ſo to do. And *James Naylor* himſelf, upon his Examination by the Committee, when he was aſked, Whether any went bare-headed before him as he went into *Briſtol*? anſwered, He did not know, he took little notice of it, but heard ſome ſay it was ſo. And being aſked, Whether any Woman led his Horſe? anſwered, There was a Woman took hold of the Bridle of the Horſe.

Reſolution of the Committee upon this whole Evidence.

The Committee were of Opinion, that the firſt Article was proved.

One thing alſo, being part of the Matter of Fact, we think worthy your Knowledge, though much Streſs will not be laid on it; and that is, That the Deſcription of our Saviour by *Publius Lentulus* to the Senate of *Rome* in Writing (which is alſo imprinted), was taken upon one of *James Nayler*'s Attendants, which is alſo certified by the ſaid Mayor. And for *Nayler*'s Hair, both Colour and Manner of wearing it, as alſo the Faſhion of his Beard, and Feature and Perſon, did much agree with that Deſcription; which alſo was taken Notice of by many of the Committee, how much he reſembled (as they apprehended with ſome Affectation) the Picture uſually drawn for our Saviour.

That in divers Anſwers he imitated our Saviour Jeſus Chriſt, uſing the ſame Expreſſions that he did; in one place he ſaith, That he lived ſome Weeks, fifteen or ſixteen Days, without any Food or other Suſtenance; and being aſked, wherewithal God fed him, if not with Food? anſwered, *Man liveth not by bread alone, but by every Word which proceedeth out of the Mouth of the Lord.*

I ſhall here mention one remarkable one in his Examination at *Briſtol*: his Expreſſion was, If they had known the Father, they ſhould know him alſo. And *Nayler* being examined by the Committee to this, Whether that were his Anſwer at *Briſtol*? he anſwered in theſe Words: Truly I can ſay little of that, whether I did ſay it or no; but if I did ſay it there, it is true; for if any one do know the Father, they ſhall know what I am, and where I live; and none can know my Life further than they know the Father; for the Father is my Life: none can know my Life, but they that know my Father; for he is my Life. This I particularly mention, being commanded by the Committee, who reſolved, That this whole Anſwer of *James Nayler* be reported to the Houſe.

Another part of this Article was, That he received the outward Worſhip of being kneeled unto, and having his Feet kiſſed. And for this the Evidence was:

Martha Simmons, in her Examination at *Briſtol*, ſaid, She ought to worſhip him, but here denied.

And further the Evidence went, That after his Impriſonment at *Briſtol*, it appeared by the Information upon Oath at *Briſtol*, to wit, of *Thomas Perkins*, and *Thomas Cole*:

Thomas Perkins informeth, That *Dorcas Erbury* fell down at *Nayler*'s Feet, and kiſſed his Feet; and the ſame Evening one *Alice Brock* fell

on her Knees before the ſaid *Nayler*, and *Nayler* put his Hands upon her Head, and ſaid, Stand faſt, &c.

Thomas Cole informeth, That the 25th of *October*, *Martha Simmons* and *Hannah Stranger* being called out of *Nayler*'s Room into their own Lodging, they one after another kneeled before *Nayler*, and laid their Heads on his Knees; and he laid his Hands on their Heads, making a groaning Noiſe within himſelf; and before they roſe from his Knees, he croſſed his Hands over their Heads. And *Hannah Stranger* at her Examination before the Committee, confeſſed, That ſhe kneeled at *James Nayler*'s Feet, and kiſſed them. And others being demanded concerning theſe Actions, would give no Anſwer. And

James Nayler being examined, whether any kneeled and kiſſed his Feet, anſwered, That there might be ſuch Things, though he did not mind it, being Things that he did not glory in.

As for his doing of Miracles particularly, *Dorcas Erbury* ſaith, That ſhe was dead in *Exeter* Goal two Days, and that *Nayler* laid his Hands upon her, and raiſed her; which ſhe affirmed in her Examination at *Briſtol*, and did not deny when examined as to this by the Committee.

To which *Nayler* being examined whether *Dorcas Erbury* was dead in *Exon* Goal, as in her Examination, anſwered, If you ſpeak of ſuch a Death as you may underſtand, ſhe was dead. Being further aſked, How ſhe was dead, in his Underſtanding? anſwered, I ſhall ſay little of my ſelf in that Thing. And being further aſked, whether he raiſed her from the Dead? anſwered, I can do nothing of my ſelf. Being aſked, whether any other did raiſe her by his Hands, and if he laid his Hands upon her? anſwered, There is a Power in me from above. And being demanded, whether he had ſuch a Power as to raiſe from the Dead? anſwered, I have ſaid before I cannot bear Witneſs of my ſelf in the Thing. And being aſked, who bore Witneſs of him? anſwered, The Scriptures do bear Witneſs to the Power which is in me, which is everlaſting. And being demaded whether he raiſed from the Dead by Virtue of that Power? anſwered, I can do nothing but what the Power doth in me: And it is the ſame Power whereof you read in the Scriptures, that hath raiſed the Dead, according to the Meaſure of the Power manifeſt.

And being aſked, whether that Power were manifeſt in ſuch a Manner in him as to raiſe *Dorcas Erbury* from the Dead? anſwered, I have ſaid; I ſhall not ſatisfy in Words concerning the Thing further than only this, that you may clearly underſtand that wherein *Dorcas Erbury*, or any elſe do attribute unto me, as to a Creature that hath Beginning and Ending, that I utterly deny; but That that any ſee of God in me, by the ſame Spirit that revealed any Thing to them, that I do not deny. This may ſerve at one Word; for there cannot be a more abominable Thing than to take from the Creator, and give to the Creature: The ſame Power which did raiſe from the Dead, which you read in the Scripture, the ſame Chriſt, the ſame Anointing according to the Meaſure of him, is manifeſt in me, and no other. And being aſked, if any prayed to Chriſt in him, whether he did diſown it? anſwered, As a Creature I do diſown it.

Theſe Things and divers others we have reported as Part of the Matter of Fact.

Second Article: That the ſaid *James Nayler* aſſumed the Name, and c incommunicable Attributes and Titles of our bleſſed Saviour: as firſt,

The Faireſt of Ten Thouſand.

As for this, the Evidence was in a Letter of *Hannah Stranger*, found about him at *Briſtol*, ſhe giving him the Title of *the Faireſt of Ten Thouſand:* which upon her Examination at *Briſtol* and before the Committee, ſhe confeſſed ſhe wrote to him in her Letter. And *James Nayler* being aſked by the Committee, whether any ſuch Title as *the Faireſt of Ten Thouſand* had been given to him in any Writing or Letter? he anſwered, To what they did in the Letter, if they gave it to me as to the viſible, then I do deny it; but if they ſpeak it to that begotten of the Father in me, then I dare not deny it. And being willed to repeat that Anſwer again, he ſaid, If they ſpeak it as to the viſible, as to that which is earthly, then I deny any ſuch Thing belonging to me in that Senſe: But if they ſpeak it to that which the Father hath begotten in me, then I dare not deny it; becauſe that (as he ſaid) is beautiful, where-ever it is begotten. And in his ſecond Examination before the Committee, his Anſwer was to the ſame Effect.

Reſolution of the Committee.

Upon this Evidence the Committee were of Opinion, That *James Nayler* had aſſumed the Title of *the Faireſt of Ten Thouſand.*

The Only-begotten Son of God.

And for that the Evidence was, That *Hannah Stranger* in the ſaid Letter gave him that Title: And being demanded whether he did aſſume that Title, anſwered in theſe Words; that there are many Sons beſides, yet the Son of God I muſt witneſs, and dare not deny: The Son of God I am, and dare not deny. And being often preſſed to give a direct Anſwer, whether he were the only-begotten Son of God? anſwered thus: I am the Son of God, but I have many Brethren; and again ſaid, I have many Brethren, though ſome of them do not yet know me. And being urged to confeſs or deny it, anſwered in theſe Words: I have anſwered, That I have given of my Father to ſpeak for the preſent unto that Thing. Being aſked, whether he were the only-begotten Son of God? he anſwered, Thou haſt ſaid it. Which Queſtion and Anſwer being repeated to him as his Anſwer, he anſwered, Do not enſnare the Innocent. And upon his Examination taken, certified and atteſted, as aforeſaid, being aſked, whether he be the only-begotten Son of God? anſwered, That he was the Son of God; and that the Son of God was but one.

But being examined by the Committee as to this Part of his Examination at *Briſtol*, he affirmed, That this was not his Anſwer.

Reſolution of the Committee.

Upon this Evidence the Committee were of Opinion, That the Title of *the only-begotten Son of God* was given to *James Nayler*. And being demanded whether he aſſumed that Title, he did not deny it.

The Prophet of the Moſt High.

This Title we find given him in a Letter to *Nayler* from one *Jane Woodcock*, found about him at *Briſtol*. And being examined there upon that Clauſe in the Letter, he anſwered, That he was the Prophet of the moſt high God.

And *Martha Simmons*, upon her Examination at *Briſtol*, ſaid, There was a Time when *James Nayler* was a true Prophet of the moſt high God, but now he is gone beyond, and is in the Adminiſtration of Peace, and is the Beloved of the Lord.

James Nayler being examined by the Committee, whether he owned this Title of *the Prophet of the moſt high God?* he anſwered, Yea, I am a Prophet of the moſt high God. And being preſſed to anſwer whether he were the Prophet, he anſwered, There be other Prophets beſides me. And being preſſed again with the ſame Queſtion, anſwered, I have ſaid what I may, as to that Thing in the Counſel of my Father.

Upon this his Confeſſion at *Briſtol*, and Anſwer as aforeſaid,

Reſolution of the Committee.

The Committee were of Opinion, That *James Nayler* had aſſumed the Title of *the Prophet of the moſt high God.*

The King of Iſrael.

And for this the Evidence was, We find in a Letter from one *Thomas Simmons* this Title given to *James Nayler*; and in the Examination of *Dorcas Erbury*, taken at *Briſtol* aforeſaid, we find ſomething to this Purpoſe; who being aſked why ſhe pulled off his Stockings, ſhe anſwered, Becauſe he is the Holy One of *Iſrael*, and deſerves and is worthy of it.

And *Martha Simmons*, upon her Examination at *Briſtol*, ſaith, That *James Nayler*'s Name is now buried, and that he is anointed King of *Iſrael*. To which being examined by the Committee, expreſly owned the Examination as to that to be true, and the Thing it ſelf: But becauſe this varies a little from the Charge, and faſtens it not altogether upon *James Nayler*, they had this further Proof: *James Nayler*, in his Examination at *Briſtol*, being aſked whether he were the King of *Iſrael?* anſwered, Thou haſt ſaid. To this *James Nayler*, being examined by the Committee, whether this Queſtion were ſo demanded as aforeſaid? he anſwered, That it was not aſked by way of a Queſtion, whether he were the King of *Iſrael*, but that the Examiner did poſitively affirm, Thou art the King of *Iſrael*; to which he anſwered, Thou haſt ſaid it. And being particularly examined by the Committee, whether he did own the Title of the King of *Iſrael?* he anſwered in theſe Words, I have no Kingdom in this World, yet a Kingdom I have; and he that hath redeemed me, hath redeemed me to be a King for ever. And being examined again to the ſame Queſtion, whether he owned the Title of the King of *Iſrael?* he anſwered, As a Creature, I deny any ſuch Thing, further than as God manifeſted in the Fleſh: And if they gave that Title to Chriſt in me, then I do own it.

Reſolution of the Committee.

Upon this Evidence the Committee were of Opinion, That *James Nayler* aſſumed the Title of *the King of* Iſrael.

The Everlaſting Son of Righteouſneſs.

This we find given to him in a Letter by *Hannah Stranger* in theſe Words, Thou Everlaſting Son of Righteouſneſs. And *Martha Simmons*, in her Examination at *Briſtol*, calls him Lord of Righteouſneſs; which ſhe alſo affirmed before the Committee. And *James Nayler* himſelf being examined by the Committee, whether any Perſon had given him that Title of the Everlaſting Son of Righteouſneſs? he anſwered, Where God is manifeſted in the Fleſh, there is the Everlaſting Son of Righteouſneſs. And being aſked twice, Whether God was manifeſted in the Fleſh in him? anſwered both Times, God manifeſt in the Fleſh I witneſs, and may not deny.

Prince of Peace.

This we find given him in a Letter by the ſaid *Hannah Stranger*; and in her Examination at *Briſtol* ſhe owned him to be the Prince of Peace. The ſame Title was alſo given him by *Martha Simmons*, as it appeared by her Examination at *Briſtol*, which was confeſſed by her before the Committee. And being particularly aſked, what ſhe called the Man whom we call *James Nayler?* anſwered, I call him a perfect Man. And being further demanded, whether ſhe did not call him the Prince of Peace? anſwered, He that is a perfect Man, he is the Prince of Peace. And *Nayler* being examined by the Committee, whether he owned the Title of the Prince of Peace? anſwered, The Prince of Peace I own, the Everlaſting Peace is begotten in me.

Sent to judge and try the Cauſe of Iſrael.

The Evidence of this was, In the ſame Letter of *Jane Woodcock*'s we find it given to him; and in his Examination at *Briſtol*, whether that Title was given to him, he would make no Anſwer. And being examined by the Committee, whether he aſſumed to judge and try the Cauſe of *Iſrael?* anſwered in theſe Words: The Judge of *Iſrael* is but one, and that Judge I witneſs in me, which is the Chriſt: And further anſwered, If thou ſpeak of him whom the Father hath ſent into the World and begotten in me, the Holy Ghoſt, the Spirit of the Father, and the Son in me, which is in me; if thou ſpeak of it, this I own. And being aſked, in what Reſpect he was ſent? he anſwered, No otherwiſe but as God manifeſt in the Fleſh, though not as mortal. And being aſked, by whom he was ſent to try the Cauſe of *Iſrael?* anſwered, By him who

who hath made all Creatures, and hath ſent his Spirit into me, his Son into me, to try the Cauſe; though he ſaid he was no Judge in carnal Matters. And being aſked whether he were more ſent to judge and try the Cauſe of *Iſrael*, than another? anſwered in theſe Words: As to my ſaying I am ſent; mind, that no otherwiſe than as the Father and the Son is in me: and to that I ſay further, That no other Man is ſent in that Senſe, but he that knoweth the indwelling of that God, and according to the Meaſure of his Knowledge of the living God, ſo far is Judgment committed to him, and no further.

And being urged to anſwer, whether any other had the ſame Meaſure of Judgment, to judge the Cauſe of *Iſrael*, as he had? he anſwered, That he had not at preſent any thing given him of his Father to anſwer unto that.

Reſolution of the Committee.

That *James Nayler* hath aſſumed to be *ſent to judge and try the Cauſe of* Iſrael.

J E S U S.

And for this the Evidence was,

John Stranger, in a Poſtſcript in his Wife's Letter directed to, and found upon *James Nayler*, uſed theſe Words: Thy Name is no more to be called *James*, but *Jeſus*. Which Poſtſcript being ſhewed to *Stranger* by the Committee, he owned it written by him: and being aſked, wherefore he called him *Jeſus?* anſwered in theſe Words: I was moved of the Lord, and afterwards by the Spirit of the Lord. And being asked, whether by Jeſus he meant the Saviour of the World? he would give no Anſwer. And *Martha Simmons* in her Examination at *Briſtol* ſaith, That ſhe hath heard ſome call him *Jeſus*; which Examination being read unto her, ſhe denied not that, though ſhe denied another part of that Examination. And *James Nayler* being examined, whether any Perſon had called him by the Name of *Jeſus?* anſwered in theſe Words: As I am viſible here before you, I believe they have not; but that the Name of the Lord is in me, that I dare not deny: And further ſaid, That they have given that Name to him who is the Jeſus, but if they have given it to any other than to the Son of God that is in me, I do deny what they have ſpoken. And being asked, whether he denied that they gave him the Name of *Jeſus?* anſwered, As I am a Creature, I believe they did not: And afterwards confeſſed that the Name of *Jeſus* was given him in a Letter; and if he had underſtood it of any other than the *Jeſus*, he ſhould have denied it. Being demanded, whether they gave the Name of *Jeſus* to him? he anſwered in theſe Words: No otherwiſe than as to the Son of God. Being demanded, whether any had given him the Name of *Jeſus?* anſwered, Not as to the Viſible. And being demanded, to what then they gave the Name of *Jeſus?* anſwered in theſe Words: I underſtand they gave that Name to the *Jeſus*, to the Chriſt that is in me.

Upon his ſecond Examination, being aſked whether he owned the Name of *Jeſus*; and if that Title belonged to him, as to Chriſt within? he anſwered, That Name was never publiſhed to be called by me, neither do I call my ſelf by that Name; but what my Father hath publiſhed, is another thing.

Reſolution of the Committee.

Upon this Evidence the Committee were of Opinion that *James Nayler* aſſumed the Name of *Jeſus*.

He in whom the Hope of Iſrael *ſtandeth.*

And for this, the Evidence was in the Letter of *Martha Simmons*, found upon *James Nayler*, where were theſe Words, Thou well-beloved Lamb of God, in whom the Hope of *Iſrael* ſtands. And *James Nayler*, in his Examination at *Briſtol*, being asked, whether he were the Lamb of God, in whom the Hope of *Iſrael* ſtands? anſwered, That if I were not his Lamb, I ſhould not be ſo ſought to be devoured; and that the true Hope of *Iſrael* ſtands in the Righteouſneſs of the Father, in whomſoever it is. And being aſked, whether *Iſrael*'s Hope were in any meaſure in him? he anſwered, Yea. Which Examination of his at *Briſtol* being read to him by the Committee, he denied not this part of it. And being examined by the Committee, whether their Hope of *Iſrael* did ſtand in him? anſwered in theſe Words, It ſtands only in Chriſt Jeſus, and as Chriſt Jeſus is known in me. And being aſked again, whether he were he in whom the Hope of *Iſrael* ſtands? anſwered in theſe Words, No way but as Chriſt is in me. And being then asked, Whether as Chriſt is in you, ſo are you he in whom the Hope of *Iſrael* ſtands? anſwered, Nay, do not add to my Words; I ſpeak as plain as I can, that all the Glory may be given to God, and none to the Creature; that the whole Glory may be given to my Father, and none to me, as you look upon me as a Creature. And the next Queſtion was, Whether as Chriſt is in you, are you he in whom the Hope of *Iſrael* ſtands? To which he anſwered, Chriſt in me, the Hope of Glory. And being examined, what Hopes *Iſrael* had in him beyond any other Perſon? anſwered, None can know, but they that are of *Iſrael:* They can give an Account of their Hopes; *Iſrael* muſt give an Account of their Hopes themſelves.

The Reſolution of the Committee.

That *James Nayler* aſſumed to beſeem him *in whom the Hope of* Iſrael *ſtands.*

The Committee being deſirous to inform themſelves how far the ſaid *Nayler* was conſenting unto that Worſhip and thoſe Titles, before given unto him, beſides the former Evidence, they did find in his Examination at *Briſtol*, where being asked why he came in ſo unuſual a Manner, as the Woman leading his Horſe, and ſinging before him? he anſwered, That he might not refuſe any thing that's moved of the Lord: Which being read unto him at the Committee, he denied not. And for the better clearing of this, the Committee examined *Hannah Stranger*, whether *Nayler* reproved her for caſting her Garments before him, or for kneeling, or kiſſing his Feet? From whom they could get no other Anſwer than this, She would not accuſe or juſtify any. The Committee did alſo find in their Examination of *Nayler*, being asked by them, whether he reproved the Women for ſpreading their Garments, and ſinging before him, anſwered in theſe Words, Nay, only I ſaid unto them, take heed that they did nothing but what they were really moved of the Lord. And being alſo examined by the Committee, whether he reproved thoſe that gave him the Titles before-mentioned? anſwered, That he had not at all ſpoken unto them concerning that Thing, only the Letters he had, wherein the Titles were given; and did not think at all that any ſhould have ſeen them, becauſe he knew there was Things in them that many could not bear; but now he ſaw his Father purpoſed they ſhould not be hid.

Nayler, at his ſecond Examination before the Committee, being demanded, whether he had reproved the Perſons that gave him thoſe Titles and Attributes? he would not ſay he had reproved them. Being demanded, whether he owned them, or diſclaimed them? anſwered in theſe Words: If they had it from the Lord, what am I, that I ſhould judge it? And being preſſed again with the ſame Queſtion, anſwered thus: If the Father move them by his Spirit to give them to Chriſt, I may not deny; if they give that to any other but Chriſt, I diſown it. And being asked again, whether he reproved them or not? anſwered, If attributed to the Creature, then it is reprovable; if they did it to the Lord, then I dare not reprove it. And being asked, whether he thought not Chriſt robbed of his Honour, by that Honour or Worſhip given unto him? anſwered, That he looked upon it to be really to the true Honour of Chriſt, or elſe he would utterly have denied it. And being asked, whether he had at any time whatſoever reproved thoſe Perſons? he anſwered, I never underſtood that they gave that Honour but to God.

Here we thought to have concluded this Report; but the Committee meeting with ſome further Evidence, they were willing you ſhould be Partakers of it. And it is this: *John Baynham*, Deputy to the Serjeant of the Houſe, to whoſe Cuſtody *Nayler* and his Company are committed, informed, That the uſual Poſture of *James Nayler* is ſitting in a Chair, and his Company, both Men and Women, do ſometimes kneel; and when they are weary of kneeling, they ſit upon the Ground before him, ſinging theſe and divers other Words to the like purpoſe, *viz.* Holy, holy, to the Almighty, to the true God, and great God; and Glory to the Almighty, *&c.* And thus they do uſually all the Day long: But the Informer never heard *Nayler* ſing as aforeſaid. And ſaith, There is great Reſort to the ſaid *Nayler* by divers Perſons, who, moſt of them, do kneel before him in the manner aforeſaid. And *Martha Simmons*, in the Poſture aforeſaid, ſung, This is the joyful Day; behold the King of Righteouſneſs is come. And further, the Informer ſaith, That he never knew the ſaid *Nayler* ſhew any Diſlike, either by Reproof or otherwiſe, of that Honour or Worſhip which *John Stranger* and his Wife, *Martha Simmons*, and *Dorcas Erbury*, and the reſt, gave him as aforeſaid. And a Member of the Houſe, being lately at the Place where *Nayler* is now a Priſoner, informs the Committee, That he ſaw *Nayler* and his Company in the Poſture aforeſaid: and heard *John Stranger* and one of the Women ſing, Holy, holy, holy Lord God; and, Holy, holy, holy to thee, thee, thee, Lord God. And whilſt *John Stranger* ſung theſe Words, he did ſometimes look upwards, and ſometimes upon *James Nayler*. Another Member informed us, as upon his own View, to the ſame purpoſe. And at *Nayler*'s laſt Examination before the Committee, being *Wedneſday* the 3d inſtant, one *William Piggot* did inform, That *Nayler* ſitting in a Chair where he is now a Priſoner, one *Sarah Blackbury* came to him, and took him by the Hand, and ſaid, Riſe up, my Love, my Dove, my Fair-one, and come away: Why ſitteſt thou among the Pots? And preſently put her Mouth upon his Hand, and ſunk down upon the Ground before him.

To which *Nayler* himſelf, being examined by the Committee, confeſſed ſhe took him by the Hand, and ſpoke the Words aforeſaid; but denies the putting her Mouth upon his Hand, and ſuch bowing-down: But ſaith, That he ſat low; and that he was not free to go with her. And *Nayler* being asked to whom ſhe directed that Speech? anſwered, To the Lord, and to him that raiſeth from the Duſt, and caſteth them down that are exalted. And being asked whether he reproved her for that Expreſſion? he anſwered, He reproved her not. And further, *William Piggot* informed the Committee, That the laſt Week he was at the Place aforeſaid, where *Nayler* is now a Priſoner; and that one *Stranger* and *Martha Simmons* were, with others, ſitting upon their Heels before and about *Nayler*; and that *Stranger* roſe up, and ſtood and ſung juſt before *Nayler*, according to their uſual manner of ſinging, when and where a Man Quaker (being preſent) asked *Nayler*, Doſt thou own that Voice? *Nayler* anſwered, Yea, I do. And *Nayler* being asked by the Committee, if this were ſo, anſwered, If I tell you the Truth, you will not believe me. And *Nayler* being preſſed to anſwer, whether he owned the Voice aforeſaid? anſwered, That Voice I will not deny.

To ſum up all: The Committee asked *Nayler* what he had more to ſay? (that being likely to be the laſt Time of hearing him, before the Committee reported the whole Fact to the Houſe) He thus anſwered:

I do abhor that any of that Honour which is due to God ſhould be given to me, as I am a Creature: But it pleaſed the Lord to ſet me up as a Sign of the coming of the Righteous One; and what hath been done in my paſſing through the Towns, I was commanded by the Power of the Lord to ſuffer ſuch Things to be done to the Outward as a Sign. I abhor any Honour as a Creature.

December 5.

THE Report concerning *James Nayler* received and read in the Houſe this Day from the Committee.

December

December 6.

The Houſe this Day reſumed the Debate upon the Report touching *James Nayler*.

Reſolved, That *James Nayler* be brought forthwith to the Bar; and that the Report of the Committee be read to him; and that it be then demanded of him, what he ſaith hereunto by Confeſſion or Denial. He was ſent for accordingly: And being brought to the Bar, was ſpoken to to kneel, which he did not; and keeping his Hat on, the Serjeant by Command of the Speaker took off his Hat. And being aſked whether his Name were *James Nayler?* he anſwered, He is ſo called. Being aſked, how long he hath been ſo called? he anſwered, Ever ſince he can remember.

The Report that the Committee had drawn up was read to him, and he was demanded to every Particular, whether that were his Anſwer to the Committee? To which he anſwered particularly, acknowledging them to be ſo, or to that effect, and ſo withdrew.

Reſolved, That *James Nayler* be called in to the Bar, and demanded ſeveral Queſtions. He was accordingly called in, and theſe * Queſtions demanded of him.

Reſolved, That the Houſe doth agree with the Committee in the Report of the Matter touching *James Nayler*.

Reſolved, That this Debate be adjourned till *Monday* Morning; and nothing to intervene.

Reſolved, That *James Nayler* be kept private.

Monday 8.

The Houſe, according to former Order, reſumed the Debate upon the Buſineſs of *James Nayler*.

Reſolved, That this Debate be adjourned till Three of the Clock.

Reſolved, That Candles be brought in.

The Queſtion being propounded, That *James Nayler*, upon the whole Matter of Fact, is guilty of Blaſphemy: And the Queſtion being put, That the Word *Horrid* be inſerted in the Queſtion, next before the Word *Blaſphemy*, it paſſed in the Affirmative.

And the Queſtion being propounded, That *James Nayler*, upon the whole Matter of Fact, is guilty of horrid Blaſphemy;

And the Queſtion being put, That the Queſtion be now put, it paſſed in the Affirmative.

And the main Queſtion being put, it was

Reſolved, That *James Nayler*, upon the whole Matter of Fact, is guilty of horrid Blaſphemy.

Reſolved, That *James Nayler* is a grand Impoſtor, and Seducer of the People.

Reſolved, That the Debate upon this Report, touching *James Nayler*, be adjourned till to-morrow Morning.

Tueſday 9.

The Houſe, according to former Order, did reſume the Debate upon the Report touching *James Nayler*.

Reſolved, That the Debate be adjourned two Hours.

The Houſe adjourned till Three of the Clock.

The Houſe reſumed the Debate upon the Report touching *James Nayler*.

Reſolved, That this Debate touching *James Nayler* be adjourned till to-morrow morning.

Wedneſday 10.

Reſolved, That this Debate be adjourned till to-morrow Morning Eight of the Clock, and nothing to intervene.

Thurſday 11.

The Houſe reſolved, *&c.*

The Queſtion being put, That the Houſe adjourn two Hours, the Houſe was divided.

Yeas went forth	84
Noes	87

So it paſſed in the Negative.

Reſolved, That the Debate touching *James Nayler* be adjourned till to-morrow Morning, and nothing to intervene.

Friday 12.

The Houſe, according to former Order, reſumed the Debate upon the Buſineſs of *James Nayler*.

Reſolved, That this Debate, *&c.* till to-morrow Morning, and nothing to intervene.

Saturday 13.

The Houſe this Day, according to former Order, reſumed, *&c.*

The Queſtion being propounded, That the Debate touching *James Nayler* be adjourned till *Monday* Morning, and nothing to intervene, the Houſe was divided.

Noes went out	65
Yeas	108

So it was reſolved, That the Debate touching *James Nayler* ſhould be adjourned till *Monday* Morning Eight of the Clock, and nothing to intervene.

Monday 15.

The Houſe, according to former Order, reſumed the Debate about *James Nayler*, and adjourned till to-morrow Morning.

Tueſday 16.

The Houſe, according to former Order, reſumed, *&c.*

The Queſtion being propounded, That the Puniſhment of *James Nayler* for his Crimes ſhall be Death; and that a Bill be prepared, and brought in for that purpoſe: And the Queſtion being put, That the Queſtion be now put, the Houſe was divided.

The Noes went forth	96
The Yeas	82

So it paſſed in the Negative.

The Queſtion being put, That this be part of the Puniſhment of *James Nayler*, To have his Hair cut off, it paſſed in the Negative.

Reſolved, That this be part of the Puniſhment of *James Nayler*, That his Tongue be bored through with a hot Iron.

That the further Puniſhment of *James Nayler* ſhall be, That he ſhall be ſtigmatized in the Forehead with the Letter *B*.

The Queſtion being propounded, That *James Nayler* be ſet on the Pillory in the *New Palace-Yard*, *Weſtminſter*, the ſpace of two Hours, and then ſhall be whipped by the Hangman through the Streets, from *Weſtminſter* to *Cheapſide*; and there likewiſe to be ſet upon the Pillory for the ſpace of two Hours in each of the ſaid Places, wearing a Paper, containing an Inſcription of his Crimes: That his Tongue ſhall be bored through with a hot Iron; and that he be ſtigmatized in the Forehead with the Letter *B*.

Reſolved, That inſtead of the Word *Cheapſide* in this Queſtion, *the Old Exchange* be inſerted.

Reſolved, That theſe Words be added in the Queſtion, *With his Head in the Pillory*.

Reſolved, That the Place for boring his Tongue, and ſtigmatizing, be near the *Old Exchange*.

The Queſtion being propounded, That the Priſon he ſhall be committed to, be *Bridewell* in *Briſtol:* And the Queſtion being put, it paſſed in the Negative.

Reſolved, He be committed to Priſon to *Bridewell*, *London*.

Reſolved, That inſtead of the Words, *From the Society of all Men*, theſe be inſerted, *From the Society of all People*.

Reſolved, That he have no Pen, Ink, or Paper.

Reſolved, That he ſhall have no Relief but what he earns by his daily Labour.

Wedneſday 17.

Reſolved, That *James Nayler* be ſet on the Pillory, with his Head in the Pillory, in the *Palace-Yard*, *Weſtminſter*, during the ſpace of two Hours, on *Thurſday* next; and ſhall be whipped by the Hangman through the Streets, from *Weſtminſter* to the *Old Exchange*, London; and there likewiſe be ſet on the Pillory, with his Head in the Pillory, for the ſpace of two Hours, between the Hours of Eleven and One, on *Saturday* next; in each Place wearing a Paper containing an Inſcription of his Crimes: and that at the *Old Exchange* his Tongue be bored through with a hot Iron; and that he be there alſo ſtigmatized in the Forehead with the Letter *B*; and that he be afterwards ſent to *Briſtol*, and be conveyed into and through the ſaid City on Horſeback, bare-ridged, with his Face backward, and there alſo publickly whipped the next Market-Day after he come thither; and that from thence he be committed to Priſon in *Bridewell*, *London*, and there reſtrained from the Society of all People, and there to labour hard till he ſhall be releaſed by Parliament; and during that Time to be debarred the uſe of Pen, Ink, and Paper, and ſhall have no Relief but what he earns by his daily Labours.

Reſolved, That the ſaid *James Nayler* be brought to the Bar to-morrow Morning by Ten of the Clock to receive this Judgment.

Reſolved, That the Speaker be authorized to iſſue his Warrants to the Sheriffs of *London* and *Middleſex*, the Sheriff of *Briſtol*, and Governor of *Bridewell*, to ſee this Judgment put in Execution reſpectively in the ſaid Places.

Reſolved, That the Speaker be authoriſed to make his Warrant to the Sheriffs of *London* and *Middleſex*, to convey the ſaid *Nayler* to *Briſtol*.

Reſolved, That the Speaker do iſſue the like Warrant to the Sheriff of *Briſtol*, to convey him up to *London* after the Execution of this Judgment there.

Reſolved, That to-morrow after the Sentence is pronounced againſt *James Nayler*, the ſeveral Petitions now offered be read.

Reſolved, That then the Houſe do likewiſe take into Conſideration the Perſons brought up with *James Nayler*.

The Houſe being informed that *James Nayler* was brought to the Door, according to the former Order made yeſterday, that he ſhould be brought to the Bar to receive the Judgment and the Reſolution made yeſterday, touching the ſaid *James Nayler*, for his Puniſhment:

Reſolved, That theſe Words be added to the ſaid Reſolution, *viz. And the Parliament do declare and judge the ſame accordingly*.

The Queſtion being propounded, That *James Nayler* be had in, and before Judgment pronounced be demanded, whether he have any thing to ſay why Judgment ſhould not be pronounced upon him? And the Queſtion being put, That the Queſtion be now put, the Houſe was divided.

The Noes went forth	107
The Yeas	87

So it paſt in the Negative.

The ſaid *James Nayler* was by Order of the Houſe brought into the Bar; where the Speaker acquainted him of the Heinouſneſs of the Crime of which the Parliament found him guilty; and accordingly did pronounce the Judgment againſt him; upon which he withdrew.

Which Sentence was accordingly executed upon him; and ſome of his Followers were ſo prodigiouſly impious and ſilly as to lick his Wounds, kiſs his Feet, lean in his Boſom, *&c.*

When he came firſt to *Bridewell*, to carry on the Impoſture he faſted three Days; but Fleſh and Blood being able to hold out no longer, he fell to Work to earn himſelf ſome Food. Upon the return of the *Rump* he obtained his liberty, and died ſoon after without any ſigns of Repentance.

* *What theſe Queſtions were, is not known, there being no Record kept of them.*

In

In the Debate upon the Queſtion, Whether *James Nayler* ſhould be puniſhed with Death, *Lord Commiſſioner* Whitlock *delivered his Opinion to this Effect,* viz.

THE Arguments of thoſe Gentlemen who would have *James Nayler* put to Death, are chiefly drawn from theſe three Grounds:

1. From the Law of Nature.
2. From the Law of God.
3. From the Law of the Land.

And I hold that he ought not to ſuffer Death by any of theſe Laws.

Firſt, As to the Law of Nature:

1. It is held amongſt the Politicians, That the Subject thereof is *Conſervatio ſui*; for that every Creature by the Law of Nature ſeeks his own Conſervation.

Then, Whether the Conſervation of the People and Commonwealth of *England* do depend upon the Life or Death of *James Nayler?* is the Queſtion.

It is likewiſe held among the Politicians, That there is no Judge of the Law of Nature, but only the Supreme Magiſtracy of each particular Commonwealth; and that within their own Bounds only; and of a preſent Caſe, not of a paſt or future Caſe.

As in *England*; the Parliament only is the Judge of the Law of Nature in *England*, and of the preſent Caſe before them; wherein if the Parliament ſhall adjudge, That it is neceſſary for the Being and Preſervation of the People and Commonwealth of *England*, that *James Nayler* be put to Death, then he ought to die by the Law of Nature.

But I ſuppoſe that no Gentleman is of Opinion, That it is neceſſary for the Being and Preſervation of the People and Commonwealth of *England*, that *James Nayler* ſhould be put to Death; and therefore on that Head or Principle of the Law of Nature, he is not to die.

2. If by the Law of Nature a Blaſphemer is to die, How comes it to paſs that *Moſes* was ſo doubtful in the Caſe of the *Ægyptian*, in the xxivth Chapter of *Leviticus?* He put him in Ward, and aſked Counſel of God what ſhould be done with him.

Moſes was a Man of great Knowledge and Wiſdom, and as able to underſtand the Law of Nature as any of us are; and if the Caſe of the *Egyptian* had been againſt the Law of Nature, he was ſurely capable to have found it out, and not to have made ſo much Difficulty as he did of it, ſo as to know the immediate Pleaſure of God in it.

3. The Crimes of *James Nayler* cannot be againſt the Law of Nature, becauſe they are againſt the Second Perſon of the Trinity, the Knowledge of whom is not by the Law of Nature, but by the Law of Grace only; and therefore cannot be an Offence againſt the Law of Nature, by which there cannot be any Knowledge of him.

But it hath been objected, That the Papiſts put to Death thoſe who deny the Real Preſence, and other of their Opinions held contrary to the Truth; and that the very Heathens, by the Light of Nature, did put to Death ſuch as denied or reproached their Idol Gods; and how much more Zeal ought we to have for the Honour of the only true God whom we worſhip!

This may be anſwered in the Parallel, That neither are we to follow the Examples of thoſe bloody, perſecuting Papiſts; nor is *James Nayler* worthy the Honour to be ranked amongſt the Holy Martyrs. And,

As to the Judgments of the Heathens, they were againſt ſuch as denied their Gods to be Gods; but *James Nayler* at the Bar did acknowledge, That *Jeſus Chriſt*, who died at *Jeruſalem*, was the Son of God, and the Saviour of the World.

And ſome of the Heathen Princes, by their Light of Nature, when Flattery and their own Strength did bear them out, aſſumed the Names and Titles of the Gods of their Countries, and were worſhipped by their Vaſſals.

Herein, *James Nayler* comes towards them, permitting, and not reproving thoſe who did adore him; which he would evade by the Diſtinction, That as he is a poor Creature, and viſible, no Adoration is due to him; but, as to that Power which is inviſible (that Chriſt within him), he is to be worſhipped.

That Chriſt is in the Heart of a true Believer, is not ſo ſtrange a Doctrine, as that a Man is to be worſhipped, who ſaith, That Chriſt is in him. But yet it cannot be warranted by the Law of Nature, to put a Man to Death for theſe Aſſertions.

Then *Secondly,*

The Second Ground is the Law of God: By which it is objected, That this Man being guilty of horrid Blaſphemy, ought to be put to Death.

And the Caſe of the *Ægyptian* is inſtanced in, and much inſiſted on as a poſitive Rule and Law for us to do the like in the Caſe of *James Nayler.*

Herein I think it not improper, firſt to conſider the Signification of the Word *Blaſphemy*, and what it comprehends in the Extenſiveneſs of it; and I take it to comprehend, *The reviling or curſing the Name of God, or of our Neighbour.*

And *Gregorius Turonenſis*, in his *Appendix*, cap. 51. hath this Expreſſion, *Liberare poteras de Blaſphemia hanc cauſam.* From whence the *French* Word, *Blaſme*; and our *Engliſh*, *Blame.*

Spelman ſaith it is *increpare, vel convitiis aliquem afficere.*

Paræus derives it from βλάπτω τὴν φαμὴν; i. e. *Læſio Famæ.*

And is this in Relation to Men, as well as to God.

And therefore the great Objection is taken away, That the Parliament having voted him Guilty of horrid Blaſphemy, cannot in Honour and Conſcience inflict upon him a leſs Puniſhment than Death, for this Offence.

They have not voted it Blaſphemy againſt God; and it appears the Word extends to Men, in the genuine Signification of it.

But I ſhall take it according to the uſual Acceptation amongſt us, and, as I ſuppoſe, is intended by the Vote, That he is Guilty of horrid Blaſphemy againſt God.

Yet I do not find my ſelf convinced, that by the Law of God, whoſoever is guilty of horrid Blaſphemy amongſt us, is to be put to Death.

That we ought all of us, as Magiſtrates and Chriſtians, to bear our Teſtimony againſt theſe abominable Crimes, and againſt this poor Wretch, I do agree; but that the Puniſhment for thoſe Offences muſt be Death, I am not ſatisfy'd.

That the Law of God is ſo, many Gentlemen have urged the Caſe of the *Ægyptian*, the *Iſraelitiſh* Woman's Son ſtriving with the *Iſraelite*, in the xxivth Chapter of *Leviticus*, becauſe God determined that he ſhould die; and therefore, as their Argument is, *James Nayler* muſt alſo die.

By the ſame Argument he muſt be ſtoned to Death; and ſo muſt every rebellious Son, and even he that gathereth Sticks upon the Sabbath Day, and the like.

Very learned Divines are of Opinion, and I think it not to be confuted, That no Part of the Law of the *Jews* doth bind any other Nation, but that Part of it only which is Moral.

The Laws of the *Iſraelites* were by the Wiſdom of God ſuited to the Inclinations and Diſpoſitions of that People; and others (as there is great Difference between the Inclinations of People) muſt have different Laws: And none hath ever yet affirmed, That this or that Puniſhment of any Offence is Moral, tho' the Offence itſelf be ſo.

But to come to a more particular Diſquiſition of the Caſe of this *Ægyptian.* He was one bred up in the Worſhip of the Idol Gods of *Ægypt*; and in ſtriving with the *Iſraelite*, it is conceived, that he preferred his own God before the God of *Iſrael*, and ſaid, that their God did not bring them out of the Land of *Ægypt*, nor was able to do it.

There is a Difference to be obſerved in this Chapter between the Offence of this *Ægyptian*, and the Offence of Blaſpheming or Curſing of God in another Caſe.

In the 15th Verſe of this xxivth Chapter of *Leviticus* it is ſaid thus, *And thou ſhalt ſpeak to the Children of* Iſrael, ſaying איש איש *Man, Man,* i. e. *Whoſoever or whatever Man ſhall* קלל *curſe God ſhall bear his Sin*; that is, ſhall be puniſhed as the Nature of the Fact ſhall require; ſo ſaith *Aynſworth in locum*, ſhall bear the Puniſhment due for his Sin.

The Word *Curſe* in *Hebrew* is קלל *Jicallel*, the Root of which ſignifieth, *to count light of*; and in the Conjugation *Piel* is found to ſignify *to Curſe out of Evil Will*, to ſpeak ill of, or to Imprecate; and alſo, to ſpeak Evil, ſo as by ſpeaking to bring it.

This 15th Verſe in *Grotius*'s Opinion (in his Expoſition upon this Text) is to be underſtood of him that Curſeth, but not diſtinctly naming the Sacred Name *Jehovah*, nor taking from him his Reverence and Deity, as if he were no God, and ſo is to be puniſhed with an arbitrary Puniſhment, as Stripes, or the like.

But the 16th Verſe is thus, *And he that Blaſphemeth* נקב *Nokeb*, from the Root נקב *Nacabh*, which ſignifies, *to run through*, or, *to bore through*, and alſo to ſpeak or name to one's Diſgrace; and is the ſame with the *Latin* Phraſe, *configere Nomen alicujus maledictis.*

The Emphaſis is not in this Word, but in the other שם *Shem*, and יהוה *Jehovah*; and when that Name was named, it was a moſt immediate and direct Blaſpheming of God; detracting from him his Honour and Deity.

He that Blaſphemeth the Name Jehovah, *or the Name of* Jehovah, *ſhall ſurely be put to Death, and all the Congregation ſhall ſtone him.*

Upon this, *Aynſworth* is of Opinion, that the *Hebrews* ſome of them will not ſentence this Blaſphemer with Death, unleſs *Jehovah* be named; which Opinion he diſalloweth, ſaying, That the Word is not ſo much, but the Thing is to be reſpected. But he ſeems to require, that the Blaſphemer muſt immediately ſpeak ill of God, or blaſpheme him, or elſe he is not ſubject to this Puniſhment.

Grotius agrees with the *Rabbins*, who ſay, that every Curſing of God was not puniſhable with Death, but that the Puniſhment in ſome Caſes was Arbitrary, as the godly Judgment of thoſe, who were to cenſure, ſhould determine. But if *Jehovah* were named by a *Jew*, or others under their Government, and ſo expreſly and immediately diſhonoured, that was to be puniſhed with Death.

Wherein he doth diſtinguiſh between immediate and expreſs Blaſphemy, and that which is ſo interpretatively only; and ſignifieth, that the Puniſhment by Stripes was only inflicted upon him that did Blaſpheme but *interpretatively*, and not *maliciouſly* nominating *Jehovah.*

This Judgment of *Grotius* ſeems to me to be reaſonable, and that the Offence of *James Nayler* is within the 15th Verſe of this Text, a Blaſphemy interpretatively only, and therefore puniſhable with Stripes or the like. But that it is not within the 16th Verſe, an immediate and direct reproaching of the Name of God; for at your Bar he did acknowledge *Jeſus Chriſt* to be the Saviour of the World, *&c.*

And if it be not within the 16th Verſe, then it is not puniſhable by Death according to that Law of the *Jews*, admitting the ſame to be binding amongſt us Chriſtians; as with Submiſſion to better Judgments I think it is not, no more than thoſe other Laws of theirs of the like Nature. Nor can any Sort of Puniſhment be conſtrued to be Moral.

I (therefore) conclude this Point, that there is no binding Rule or Law of God, that for theſe Offences *James Nayler* ought to be put to Death.

And if the Matter be but doubtful, we ſhould, *in favorem Vitæ*, incline to the way of moſt Mercy.

Thirdly, The Third Ground is, *The Law of the Land.*

And hereupon hath been obſerved, That by the Laws of other Nations Blaſphemy is puniſhable with Death: And ſhall we do leſs for the Honour of God, than others? And a worthy Gentleman reported a Caſe, which did lately happen in *France*, where the Parliament of *Bourdeaux* adjudg'd an *Engliſhman* to Death, upon the Complaint of the Proteſtants there, for Blaſphemy, in ſaying, *That he was* Chriſt.

I know not what might be lately done there, but I find the Laws of *France* concerning Blaſphemy, in the *Code of Foreign Deciſions*, and of *Henry* III. to be this: That for the firſt four Offences, a Blaſphemer may be committed to Priſon to Bread and Water; for the fifth Offence, to have his under Lip ſlit; for the ſixth, that his under Lip ſhould be cut ſo that his Teeth be ſeen; for the ſeventh, his Tongue to be bored; and for the eighth Offence he is to be put to Death.

It is true, that the Popiſh Countries, where the Inquiſition is in Force, do put Proteſtants to Death as Blaſphemers: but I hope that will be no Precedent for us to imitate.

The *Lutherans* do hold the Ubiquity of *Chriſt* in ſuch ſort, that the News of *James Nayler*'s being put to Death for theſe Offences, would not be pleaſing to them.

But to come to that which is moſt proper for your Conſideration, and for my Diſcourſe, *The Law of* England.

I muſt acknowledge my own Ignorance, that I do not know any Law of this Nation now in Force, for the putting of *James Nayler* for theſe Offences to Death.

It is held that the Ordinance * of the Long Parliament concerning Blaſphemy is not now in Force, and I do agree to that Opinion; nor do I know any other Law in that Caſe.

That Ordinance coſt much Debate, and therein was a great diverſity of Judgments; and ſo I preſume we ſhall again find it, whenſoever theſe Matters ſhall fall under Conſideration.

The Objection was very weightily urged, That there is a Law in Force againſt *Hereſy*, as appears by the Writ *De Hæretico comburendo*, which (they ſay) was by the Common Law; and that Blaſphemy is an Hereſy within that Law; by which he may be put to Death.

This Objection may receive a clear Anſwer.

I am not of Opinion, That *Hereſy* was puniſhable by the Common Law with Death, notwithſtanding the Writ *De Hæretico comburendo* be in the Regiſter; for it is not in the antient Manuſcript Regiſters, which indeed is a true part and demonſtration of the Common Law †.

But this Writ was of later Date, and brought in by *Arundel* Archbiſhop of *Canterbury*, in *Henry* the Fourth's Time, for the Puniſhment and Suppreſſion of *Lollards*, who were good Chriſtians, and of the ſame Profeſſion that we are. But the bloody practice of that Prelate did not work the Effect he intended, as appears (bleſſed be God) at this Day.

Yet if it ſhould be admitted that *Hereſy* was puniſhable by Death at the Common Law, that cannot include *Blaſphemy*.

They are Offences of a different Nature; *Hereſy* is *Crimen Judicii*, an erroneous Opinion: *Blaſphemy* is *Crimen Malitiæ*, a reviling the Name and Honour of God.

Hereſy was to be declared in particular, and by the four firſt general Councils. But the Blaſphemy in this Vote is general; and I do not find it reckoned in thoſe Councils for Hereſy.

I remember a Caſe in our Book of *H.* VII. where the Biſhop committed one to Priſon for a Heretick, and the Hereſy was, denying *that Tythes were due to his Parſon.* This at that Time was a very great Hereſy; but now I believe ſome are inclinable to think, that to ſay, *Tythes are due to the Parſon*, is a kind of Hereſy.

So in this Caſe, That which now may be accounted Blaſphemy, and the Offender to be put to Death for it; in another Age the contrary may be eſteemed Blaſphemy, and the Offender likewiſe put to Death for that; which may be warranted by the preſent Caſe before you, if *James Nayler* ſhould be put to Death upon the general Vote for being guilty of horrid Blaſphemy, the Particulars thereof not being expreſt.

And what Miſchief and Inconvenience in the Conſequence thereof may enſue to the People of *England*, and to Poſterity, is worthy the Care of a Parliament, and to be avoided, we being ſent hither to provide for the Good and Safety of the People; and not to do that, which may bring them into Snares and Dangers.

If this Wretch be put to Death, it muſt be either by Judgment of the Parliament, as the Supreme Court of Juſtice; or by Act of Parliament to attaint him of the Crimes, and to inflict the Puniſhment of Death upon him for thoſe Crimes.

If you ſhall think fit to proceed in the judicial way, I hope you will be pleaſed to conſider the Weight of the Conſequences thereof, and to be very clear in the Foundation, we being here in a Conſtitution different from the former.

And whoſoever will take the Pains to read the Records of the Parliament-Rolls in *Edward* the Second, and *Richard* the Second's time, of the Judgments then given in Parliament, (with Quickneſs and Sharpneſs enough) and the ſpeedy Executions thereupon, will be the more tender of making new Precedents of ſuch Proceedings in Parliament.

I am far from derogating from the Honour and Authority of Parliaments, and of this eſpecially; but I humbly inform you what I have obſerved, and ſubmit it to your better Judgment.

It is held, That antiently the Judicatory of Parliaments was in the Lords Houſe, and particularly in criminal Cauſes, which was very frequent; but ſeldom without an Impeachment by the then Houſe of Commons, who were as the Grand Jury in that reſpect of the whole Nation.

You are now the ſole Parliament of *England*, and have the ſole Power in you; yet probably ſome may object, whether in a judicial Proceeding the Lord Protector ought not to join with you.

I do not know any Judgment given in Parliament, but where there was a known Law then in Force againſt the Offence adjudged, and the Judgment given according to that known Law.

In this Caſe of *James Nayler* there is no known Law in force for the Puniſhment of his Offence with Death, and therefore I am not ſatisfied, that we ſhould by Judgment of Parliament condemn him to Death; nor to make a new Law for the Puniſhment of an Offence by Death, which Law was not known nor made at the Time of the Offence committed; and this to be done by a Judgment.

Perhaps it will be ſaid, That this may be done by a Bill of Attainder, and I perceive many Gentlemen inclined thereunto; they have remembred the Caſes of the Earl of *Strafford*, and of the Archbiſhop of *Canterbury*, who were attainted by Bill; and the Offences by them committed were not Treaſon by the known Law at the Time when they were committed, and yet by Act of Parliament they were attainted of Treaſon for thoſe Offences.

But (here we are to) obſerve, That in thoſe Acts of Attainder is a Clauſe, That they ſhall not be drawn into Precedent; and I hope they ſhall not.

And further give me leave to inform you, That there is a great difference between thoſe Caſes, and that now before you.

By the Stat. 25 *E.* III. Treaſons are enumerated, and a Power is left in the Parliament to declare any other Facts to be Treaſon.

And the Facts of the Earl of *Strafford*, and of the Archbiſhop, in the general was the ſame, endeavouring to ſubvert the Fundamental Laws of the Land, and to introduce an Arbitrary and Tyrannical Government; which were maintained by the Arguments of a very learned and honourable Perſon, now a Chief Juſtice, to be Treaſon by the Common Law of *England.*

But it will be hard to maintain, that the Offences of *James Nayler* are puniſhable by Death by the Common Law of *England*, and therefore it will be very dangerous in the Conſequence of it to inflict this Puniſhment upon him by a new Law.

I ſhall not mention the Loſs of Time (whereof too much hath been already ſpent about this Matter) in caſe you ſhall proceed by Bill. All the Matter muſt be again debated and examined by you, and after that by my Lord Protector.

But the Miſchief which it may produce to the People of *England* in the Precedent of it, wherein no Man can be ſafe, that by a Law now to be made you ſhould inflict the Puniſhment of Death upon *James Nayler* for Offences which were not by the Law of *England* puniſhable by Death at the Time when they were committed, is the ſtrong Argument with me to be againſt the Queſtion for the putting of *James Nayler* to Death for theſe Offences.

* *This Ordinance bears date* May 2, 1648. *and ordains, that whoever ſhould maintain any one of the ſeveral Opinions (there call'd* Errors), *unleſs he would abjure the ſame, or after Abjuration ſhould relapſe, ſhould be guilty of* Felony *without Benefit of Clergy.*

† *See* Hale's *Hiſt.* P. C. Vol. I. p. 392. *Note (b)* p. 394. *and Note (p)* p. 709.

LIV. *The Trial of Sir* Henry Slingsby * *Kt. before the High Court of Justice, for* High-Treason, *the* 25th *of* May, 1658. 10 Car. II.

THE High Court being set, and the Names of the Commissioners being called, the Serjeant at Arms was commanded to fetch the Prisoner to the Bar. Sir *Henry Slingsby* was brought accordingly to the Bar. Then Proclamation made for Silence, and the Commission for Trial of the Prisoner read. Proclamation for Silence again was made. Then Mr. Attorney-General *Prideaux* exhibited a Charge of High-Treason against Sir *Henry Slingsby* the Prisoner; which was read: The Substance of which Charge was as followeth, *viz.*

'THAT the Town of *Kingston* upon *Hull*, in the County of *Kingston* upon *Hull*, in *England*, on the 11th of *October*, 1656, and ever since, unto the Day of the exhibiting of this Charge, was and hath been, and is yet, a Town belonging to this Commonwealth; where there is a Garrison, and a great part of the Army and Forces belonging to this Commonwealth: That Sir *Henry Slingsby*, late of *Redhouse*, in the County of *York*, Knight, minding and intending to imbroil this Commonwealth in intestine Wars, the 30th of *April* last, and divers Times since the 10th of *October* 1656, and before the said 30th of *April* last, as a false Traitor and Enemy then and yet to his Highness *Oliver*, Lord Protector of these Nations, together with one *Robert Gardiner* and *Edward Chapman*, and with one *William Smith*, of the said County of *York*, Gentlemen, and divers others, did traitorously, advisedly, and maliciously combine together, and plot and contrive to betray and yield up the said Garrison of *Hull* unto *Charles Stuart*, eldest Son of the late King *Charles*, now an Enemy to this Commonwealth.

'That the said Sir *Henry Slingsby*, by like traitorous Combination, the said 30th of *April* last, and divers Times after the said 10th of *Oct.* 1656, did traitorously and maliciously plot, and contrive, and endeavour to stir up Mutinies within the said Garrison, to withdraw *Ralph Waterhouse*, *John Overton*, *George Thompson*, *&c.* Officers of the same, from their Obedience to his Highness *Oliver* Lord Protector.

'That then and there, and at divers other Times, as well before as after the said 30th of *April* last, and after the said 10th of *October*, 1656, he the said Sir *Henry Slingsby* did traitorously, advisedly, and maliciously plot, contrive, and endeavour to stir and raise up Forces against *Oliver* Lord Protector, and against the Government of this Commonwealth, as the same is established, and to alter the same.

'That the said Sir *Henry Slingsby* did traitorously, &c. then and there declare, publish, and promote the said *Charles Stuart* to be King of *England*, *Scotland*, and *Ireland*, and the Dominions thereto belonging, and held Correspondence with him. All these Things the said Sir *Henry Slingsby*, at *Kingston* upon *Hull* aforesaid, did maliciously, *&c.* carry on by conferring with the said Officers how to effect the aforesaid Treason, and encouraging the said Officers thereto by promising to them, and every of them, Rewards and Sums of Money to join with him in the Treason aforesaid, and by delivering to the said *Ralph Waterhouse*, one of the Officers of the Garrison, a certain Instrument under Seal, which the said Sir *Henry Slingsby* said was from *Charles Stuart*, and did purport to be a Commission from the said *Charles Stuart*, to him the said *Ralph Waterhouse*, to be Governor of the Castle. All which said Treasons are contrary to the Statute in that Case made and provided. With which Treasons the said Attorney-General, on behalf of the Lord Protector, *&c.* doth charge the said Sir *Henry Slingsby*, and prays that the said Sir *Henry Slingsby* may be put to answer thereto; averring that the said Sir *Henry Slingsby* is the Person by Name appointed by his Highness the Lord Protector to be tried and proceeded against. Signed *May* 25, 1658.'

Edm. Prideaux.

* *Lord President.* Thou here standest charged for High-
* *John Lisle.* Treason: This Court requires that thou give a positive Answer, whether Guilty or Not Guilty.

Sir *Henry Slingsby.* I desire to have Counsel assigned me.

Ld. President. There is Matter of Fact laid to your Charge, which amounts to Treason; and there is no Law allowed in Matters of Fact.

Sir *H. Slingsby.* There is also Matter of Law: And I desire to be tried by a Jury, which is according to the Law of the Land.

Ld. President. We are all here your Jury, as well as your Judges: We are the Number of two or three Juries. And your Jury is well known; for they are chosen by the Parliament. You are to plead to your Indictment.

Sir *H. Slingsby.* I desire to know whether there can be any Conviction, unless it be by Confession?

Ld. President. If you had looked upon the Act of Parliament, that would have told you: It speaks of Examination of Witnesses; it speaks of your Confession and Answer, and of your Default; and if you do not plead to it, it will be very penal to you.

Sir *H. Slingsby.* If it be by the Laws of the Land, that the Trial should be by a Jury, I desire I may have that Privilege.

Ld. President. Acts of Parliament make Justice and Law: They are both. They think fit to change the Custom of Trials that have been in former Times, and all Persons must submit to it. And the Parliament hath thought fit to make this Court both Jury and Judges. And therefore I require that you answer, whether Guilty or Not Guilty.

Sir *H Slingsby.* I desire that the Act of Parliament may be read.

Ld. President. You are before your Jury and Judges. Parliaments have great Care of the Rights of the People, and have appointed this Court; and his Highness hath appointed you to be tried by us; you ought therefore to plead to your Indictment.

Sir *H. Slingsby.* The Law gives Liberty in case of Juries to the Party accused, to make his Exceptions against the Jury; which he cannot do here, where you are both Judge and Jury.

Ld. President. If you have any particular Exception to any Man, you may make it: You were, Sir, of the Parliament when this Act was made.

Sir *H. Slingsby.* I was a Prisoner at the same Time.

Ld. President. Although a Prisoner, yet you are bound by Act of Parliament.

Mr. Phelps, *Clerk.* You have heard your Charge read, and Plea demanded: The Court again requires of you that you give a positive Answer, whether Guilty, or not.

Sir *H. Slingsby.* I am, my Lord, of an Opinion (though you account it a Paradox), that I cannot trespass against your Laws, because I did not submit to them.

Ld. President. All the People of *England* must submit to the Laws of *England*, to the Authorities of *England*; all must submit to my Lord Protector and Acts of Parliament. We sit here by Authority of his Highness, by a Commission under the Great Seal of *England*, and by Authority of Parliament; and you must submit to our Authority.

Sir *H. Slingsby.* The Laws have been so uncertain with me, that I could not well know them; and when I was a Prisoner, I could not take notice of them: I could have no Benefit by your Laws, because that is no Law to me which doth not give me Interest and Property to what I have. It is the Benefit of Laws, that they do distinguish between *meum* and *tuum:* But when you take all from me, in my Case it is not so.

Mr. Attorn. Gen *Prideaux.* He may enjoy as much Benefit by the Laws as any, if he have not forfeited it; and I desire he may be put to answer.

Ld. President. The Court again require you to plead to your Indictment.

Sir *H. Slingsby.* Not Guilty.

Mr. *Phelps.* Your Plea then is, That you are Not Guilty? To which Sir *Henry Slingsby* answered, Yes.

Mr. *Lechmere.* Mr. Attorney-General having exhibited a Charge of High-Treason against this Gentleman, Sir *H. Slingsby*, the Prisoner at the Bar, the Charge doth set forth, That the Town of *Kingston* upon *Hull*, *October* 11, 1656, and ever since, to the Time of exhibiting the Charge, was a Town of this Commonwealth's; and that within that Town, in all that Time, there is and hath been a Garrison, and part of the Army of this Commonwealth; and during that Time, *Ralph Waterhouse*, *John Overton*, *George Thompson*, *&c.* were Officers of the Forces of that Garrison. That Sir *H. Slingsby*, minding to imbroil the Commonwealth in War, *April* 30 last, and divers other Times since *October* 10, 1656, as a false Traitor and Enemy to his Highness the Lord Protector, did plot, contrive, and endeavour to betray the said Town and Garrison to *Charles Stuart*, an Enemy to this Commonwealth. It sets forth further, That Sir *H. Slingsby*, the Time and Place aforesaid, did contrive and endeavour to stir up Mutinies among the Soldiery of that Garrison, and to raise Forces against this Commonwealth; and that he did publish and declare the said *Charles Stuart* to be King of *England*, *Scotland*, and *Ireland*, *&c.* and hath held Correspondence with him; and that he delivered to the said *Ralph Waterhouse* a certain Instrument, which he said was a Commission from *Charles Stuart:* All which Treasons are contrary to the Form and Effect of the Act of Parliament. And the Prisoner having pleaded Not Guilty, which Plea is recorded, we are ready to prove him guilty, and ready to call our Witnesses.

Mr. At. Gen. You have heard the Charge, and Plea Not Guilty; it rests upon us to prove it to you. This Gentleman himself, I believe, when he hath heard them particularly opened, will be convinced that of these Acts he hath been Guilty. It would not have been expected from him to have tasted of the Mercy of this Court: For had he had Justice done formerly, he had not been to have answered this here. I do believe it was expected from those that did govern, to have got him off by Mercy, not to take him off by Justice. But he ceased not to interpose on the Behalf of *Charles Stuart*, and endeavoured to bring him in again, and had like to have withdrawn the faithful Officers of that Garrison to betray their Trust: If Money would have done it, that was not wanting to be offered; if Preferment would have wrought upon them, that was proffered; if Hopes of higher Preferment under *Charles Stuart* would have wrought upon them, it would have been done. But to our Witnesses.

Ralph Waterhouse *sworn.*

Mr. At. Gen. What Discourse had you with Sir *Henry Slingsby*, touching the delivering up of *Hull?*

Mr. *Waterhouse.* I had several Discourses with him; particularly about the latter end of *December* last, being a-hunting, Sir *Henry Slingsby*'s Son came to me in the Field, and told me his Father presented his Service to me, and gave me a Book; which I looked on about an Hour after, and found it was a printed Book. At the beginning was a Paper thus written, *Put this out with your Finger, and then tell me whether* Rob. Gardiner *had not spoke to me to serve the King*, &c. Presently after I acquainted Col. *Smith*, who advised me to discover, if I could, whether Sir *H. Slingsby* was carrying on any Plot. I went to Sir *H. Slingsby*, and Sir *H. S.* took me to the Window-side, and hugged and embraced me; and

* Clar. Hist. Vol. 3. p. 485, *&c.*

asked

aſked me if *Robert Gardiner* had not ſpoke to me to ſerve the King: And then began with a great many good Words, and ſaid that one (meaning his Highneſs) had put a Diſreſpect upon me, and if I would I might right myſelf; with many other Words; and promiſed me a Sum of Money, to ſecure the South-houſe for the Service of the King. About a Week after, he ſent the Book again, and in the ſame Leaf wrote a few Lines more, which I alſo ſhewed to Col. *Smith*; he promiſed me 5000 *l.* in Land or Money here or elſewhere. I made many Queries, and told him I thought it was to no Purpoſe: He told me, that if that Houſe were ſecured, in a little Time he would bring an Army to beſiege *Hull*, and then half our Work would be done. He after ſent me another Paper, which was to this Purpoſe, That if the Governour ſought for him, he would give Security for his peaceable Living; and ſaid, if I would give him a Piece, he would make it twenty if he did not procure me a Commiſſion from *C. Stuart* within fourteen Days. He ſaid further, That a great Party were engaged in *Scotland*. Upon the ſecond of *April* he delivered me a Commiſſion, which he ſaid was from the King; and the Commiſſion being read in Court, the ſaid Mr. *Waterhouſe* averred it to be the ſame he received of Sir *Henry Slingſby*, and which ran thus:

C. R.

CHARLES *by the Grace of God* (with the old uſual Title, *&c.*) *To our Right Truſty and Well-beloved Major* Ralph Waterhouſe: *We do by theſe Preſents conſtitute and appoint you to be Governour of the Caſtle and two Block-Houſes near* Hull, *and to put ſuch a Garriſon of Horſe and Foot therein, as you ſhall judge neceſſary for the Defence of the ſame; and to command the Garriſon and Governour thereof, and to do all Things neceſſary for the Preſervation of the ſame Place. Given at* Bruges, *March* 12. 1657.

Sir *H. Slingſby* alſo ſaid to me, That he had ſpoken with Capt. *Overton*, and promiſed to furniſh him with Money to lay in Proviſion, and engaged by a Bond to repay ſuch Money as I ſhould lay out for the Victualling of the South-Houſe; and alſo read a Letter from *C. Stuart*, running thus, *I can never be enough ſenſible of your Favours*, &c. I demanded how the Army ſhould come; he anſwered, that the Duke of *York* had 7 or 8000 Men, that the King of *Spain* would furniſh them, if there was a Place of Security. And aſking what Way of Correſpondence he had with *C. Stuart*, he ſaid he had a Way of having Commiſſions from *C. Stuart*, which he would not diſcover. [*Here Sir* H. Slingſby *ſtood up, and diſowned any ſuch Expreſſion.*]

Mr. At. Gen. What Officer were you, Mr. *Waterhouſe?*

Mr. Waterhouſe. I have the Command of a Company, and of the South Block-houſe.

Mr. At. Gen. Mr. *Waterhouſe*, what Letter was that Sir *H. Slingſby* ſent to his Son?

Mr. *Wat.* The Contents were thus: *That* Harry *would ſpeak to the two Men to be very importunate with the twelve.* Sir *H. Slingſby* promiſed ſo many Men, that he offered Capt. *Overton* 20 *l.* to raiſe forty Men.

Mr. At. Gen. How many Men did he tell you ſhould be at *Paul* near *Hull?*

Mr. *Waterhouſe.* Six Hundred to march into *Hull.*

Mr. At. Gen. What Men did he tell you *Andrew* would raiſe?

Mr. *Wat.* He ſaid *Andrew* would raiſe fifty or ſixty Men when he pleaſed, and that Capt. *Overton* ſhould have a Deputation to command the Caſtle under me; he ſaid he had good Hopes of Col. *Smith*, and that he had a Commiſſion for him, if he would accept of it.

Sir *H. Slingſby.* This which is here ſpoken in Serioufneſs, was then ſpoke in Mirth, a mere Diſcourſe, as thoſe that are in good Fellowſhip may have, and what I ſaid or did was but in Jeſt.

Ld. Preſident. There ought to be no good Fellowſhip in Treaſon.

Mr. *Wat.* I never viſited him but by Col. *Smith*'s Commiſſion. Sir *H. Slingſby* according to his Engagement, upon Receipt of a Piece, gave me another Commiſſion running thus: Oliver, *Lord Protector*, &c. took it again, and burned it.

Mr. At. Gen. Sir *Henry*, was it you that filled up that blank Commiſſion?

Sir *H. Slingſby.* It is more than any Man knows: But it is not the Commiſſion I gave *Waterhouſe*, which is dated 12 *March*, 1657.

Capt. *John Overton* ſworn.

Mr. *Phelps* ſhew'd him the Commiſſion dated 12 *March*, 1657.

Mr. At. Gen. Did you ſee that Commiſſion delivered to *Waterhouſe* by Sir *H. Slingſby?*

Capt. *Overton.* Yes, I did; he delivered it to him in the Caſtle about the ſecond of *April* laſt.

Sir *H. Slingſby.* Mr. *Overton*, what Date did that Commiſſion which I then delivered bear?

Capt. *Overton.* This is the ſame Commiſſion, and (having it in his Hand) I here ſee it is dated 12 *March*, 1657.

Sir *H. Slingſby.* I deny that the Commiſſion I then delivered did bear that Date.

Waterh. and *Overton.* My Lord, we are upon our Oaths.

Capt. *Overton.* I ſaw Sir *H.* give it to Major *Waterhouſe* in his own Chamber in the Caſtle of *Hull*, and Major *W.* bid me read it, which I did.

Sir *H. Slingſby.* Was that Commiſſion, which you read, dated 12 *March?*

[Capt. *Overton* reads the Copy of it, which he then wrote from the Original, which agreed with this.]

Sir *H. Slingſby.* I deny that the Commiſſion then delivered was of that Date.

Waterh. and *Overton* both deny the altering of the Date.

Sir *H. Slingſby.* Major *Waterhouſe* deſired me to alter the Date of the Commiſſion, and I ſcraped out *April* and the Day, and put in *March.*

Capt. *Overton* examined.

Mr. At. Gen. What Treaty was between Sir *H.* and you at *Hull?* Are you an Officer there?

Capt *Overton.* Yes.

Mr. At. Gen. How long have you been an Officer there?

Capt. *Overton.* About ten Years.

Mr. At. Gen. What Proceedings was there between Sir *H.* and you? What Meetings had you, *&c.* Was he your Priſoner?

Capt. *Overton.* He was my Priſoner. The firſt Time he ſpake any Thing to me, was on *Feb.* 18 laſt, when he told me, he thought me the ſtricteſt Man alive with Priſoners, but now would believe the contrary: Said, that I ſearched a Man of his for a Letter; but afterwards, to prevent me, he gave his Letter in a Purſe with ſome Money to his Laundreſs, who carried it into the Town, and ſent it away; and after that (he told me) I never found any Letter. I told him, if he wanted any Thing neceſſary, I would go to the Governour about it: He told me, it was not much for that, but that I might very much befriend him. He wrote to me, that a Colonel (naming him) was engaged to bring ſix Regiments from the King; aſking whether I knew my Men were right for me, and particularized one *Clark*: I told him he was right. He aſked me what I thought of 100 *l.* to give them: I told him they did not uſe to have ſuch great Gratuities. This was 18 *Feb.* 1657.

28 *Feb.* He aſked me where the Sally-port was: I told him it was twenty Yards from the Caſtle. He told me, ſome Priſoners not long ago intended to make an Eſcape that Way, but were prevented, and aſked me which Way it enter'd into the Caſtle, which Way I could let in any Men into the Caſtle, that I ſhould not want Money; whether I could tell how to victual the Caſtle, he would be glad if I could do it. He told me, that the King kept his Deſigns ſo cloſe, that none knew of them, and that it was not known whether he would land at *Hull* or *Scarborough.*

3 *March.* He aſked me whether I continued my Command: I told him I knew nothing to the contrary; to which he ſhew'd much Gladneſs. He told me, Duke *Daſſy* was to bring a conſiderable Party, but ſtaid ſo long that the reſt were gone.

6 *March.* He aſked me what News, and ſaid that *Chapman* had aſſured his Son the Town was too ſtrong for the Garriſon; and aſked me who I knew in the Town to be right: I told him, *Edw. Chapman* was not for the Soldiery.

14 *March.* I told him, that his old Maſter *C. Stuart* was about to ſet ſail with 7 or 8000 Men. He ſaid, that the King was more private than to let any Man know his Deſign; but aſked me, whether I was ready to receive him?

23 *March.* Sir *H. Slingſby* being below in our Chamber, told me that I had a fit Opportunity to receive ſuch Men as might be right for me. I told him, I thought I could not have half my Number. He told me, he was glad I would ſerve the King; and ſaid, that if he had any Favour from the King, I ſhould not want any Thing. He told me he had aſſurance, that any that aſſiſted the King when he firſt came to kiſs his Mother Earth, he would give them 4 or 5000 *l.* That he would furniſh me with Money; and deſired that I would not ſhoot any great Bullets at King *Charles*'s Men when they were landing. And further told me, That if I would take a Deputation to command under Major *Waterhouſe*, he would procure it.

On *April* 2. Sir *H. S.* told Major *Waterhouſe*, That he had a Commiſſion for him to be Governour of *Hull*, and I ſaw him deliver a Parchment Commiſſion to Major *Waterhouſe.*

Mr. At. Gen. If Sir *H.* hath any Thing to object, he may.

Sir *H. Slingſby.* I ſee that I am trepann'd by theſe two Fellows: They have ſaid That ſeriouſly againſt me, which was ſpoken in Mirth between us: I never ſought to them, but they to me: the Commiſſion was procured by no Intercourſe with any Perſons beyond the Seas, but a Blank which I had for four Years together. Nor had I any Correſpondence beyond Sea, to carry on any Deſign here.

Lieutenant *George Thompſon* ſworn.

Being aſked what Officer he was, he anſwered, I am a Lieutenant to Major *Waterhouſe.* I was deſired to go and ſee Sir *H. Slingſby*, *April* 16, who told me, That he had great Confidence in me. I ſaid to him, Why? He told me, he thought I had good Thoughts of the King. His Son told me, he heard the King was to come in, and to bring in a conſiderable Army, but knew not when. Next Day I went again to Sir *H.* and aſked him if he would walk on the Leads, which he did; and there I told him, I had been pondering on the Words he laſt ſpoke to me: Who then hugging me, ſaid, I have a great deal of Confidence in you, there is a Deſign in agitation to bring in the King with a conſiderable Army, but he did not know how ſoon it would be; but told me, I ſhould have Notice of it: and ſaid that the King had promiſed Pardon to all Officers but the Lord Protector and Lord *Bradſhaw.*

Sir *H. Slingſby.* I confeſs ſuch like Diſcourſes; but —— *Waterhouſe* ſpoke to me, that I would ſpeak to *Thompſon* to try whether he would be Aſſiſtant; but I told him I would not, leſt he ſhould not accept it, and then turn him out of his Place. *Waterhouſe* preſſed me to go to *Thompſon*, and Major *Waterhouſe* invited us to his Houſe to Dinner: After Dinner he ſpoke to *Thompſon* to go with me on the Leads, to ſhew me the Guns; we walked about, and came down again. Then ſaid *Waterhouſe* to me, Did not you ſpeak to *Thompſon?* I ſaid not. You had a good Opportunity, ſaid he. At laſt *Thompſon* came to me, and I had ſome Diſcourſe with him about it.

Ld. Preſident. Sir *H. S.* have you any Thing elſe to ſay?

Sir *H. Slingſby.* No, my Lord.

[Then Mr. Serjeant *Maynard* ſummed up the Charge, Plea, and Evidence, and eloquently ſet forth the Fulneſs and Clearneſs of the Evidence, with the Heinouſneſs of the Offence, and demanded the Judgment of the Court.]

Mr. At. Gen. I ſhall not trouble you with Repetition, the Matter being clearly laid open. The Place where this Acting was, and where the Deſign was laid, was, I may ſafely ſay, the moſt conſiderable Place in *England* for *Charles Stuart*'s Deſign; a Place ſtrongly ſeated and ſituated, and remote from this City: And had he prevailed there, as he endeavoured, it had not been Peace with us that now are here. And truly, my Lord, I cannot but pity thoſe Gentlemen that are thus drawn into Deſigns which I am confident will never take; and I am ſorry that People ſhould be ſo ſeduced as they are, for their Seducers bring them to the Gallows, and then laugh at them. And, my Lord, I pity this Gentleman, (pointing

(pointing at Sir *H.*) that thoſe grey Hairs ſhould thus go to the Grave. I have no more to ſay, but crave the Juſtice of this Court.

The Serjeant at Arms was commanded to take away the Priſoner.

Proclamation for Adjournment of the Court into the Painted Chamber: After a little private Debate in the Painted Chamber, they adjourned till Thurſday next, Nine in the Morning.

Thurſday, *May* 27, being appointed for the Meeting of the ſame Court, about Ten of the clock they accordingly met in the Painted Chamber, *Weſtminſter*; where after about two Hours private Debate, they adjourned 'till Tueſday next, the firſt Day of *June*.

LV. *The Trial of Dr.* John Hewet *, *before the High Court of Juſtice for* High-Treaſon, *the 1ſt of* June, 1658. 10 Car. II.

THE Serjeant at Arms being commanded by the Court to fetch the Priſoners to the Bar; Dr. *Hewet* was brought to the Bar accordingly.

After Proclamation was made for Silence, the Lord Preſident aſked Mr. Attorney-General what he had to ſay againſt the Priſoner at the Bar. Mr. Attorney-General thereupon exhibited an Impeachment of High-Treaſon againſt the Priſoner, and deſired it might be read, and pray'd that the Court would pleaſe to receive his Anſwer thereunto. The Charge was read by Mr. *Phelps* the Clerk; the Effect of which was as followeth, *viz.*

'THAT *John Hewet*, late of the Pariſh of *Gregory*'s in the City of *London*, Doctor of Divinity, minding and intending to embroil this Commonwealth in new and inteſtine Wars, the 30th of *April* now laſt paſt, and at divers times ſince the 10th of October, which was in the Year of our Lord 1656, and before the ſaid 30th of *April* laſt paſt, as a falſe Traitor and Enemy to *Oliver* then and yet Lord Protector of the Commonwealth of *England*, *Scotland*, and *Ireland*, and the Dominions and Territories thereunto belonging, and to the ſaid Commonwealth; together with one *Trelawney* late of *London* Gent. *Henry Biſhop* of *Lewes* in *Suſſex* Gent. and other their Complices, at the Pariſh of *Gregory*'s aforeſaid, and at *Lewes* in *Suſſex*, did traitorouſly, adviſedly, and maliciouſly plot, contrive, and endeavour to ſtir up Force, and levy War againſt the ſaid *Oliver* Lord Protector, and againſt the Government of this Commonwealth, as the ſame is now eſtabliſhed, and to ſubvert and alter the ſame. And did alſo then and there, and at divers other times and places, as well before as after the ſaid 30th Day of *April* now laſt paſt, and after the ſaid 10th of *October* 1656, traitorouſly, adviſedly, and maliciouſly declare, publiſh, and promote *Charles Stuart*, eldeſt Son to the late King *Charles*, to be King of *England*, *Scotland*, and *Ireland*, and the Dominions thereunto belonging: And did then and there traitorouſly, adviſedly, and maliciouſly hold Intelligence and Correſpondence with the ſaid *Charles Stuart*. All which ſaid Treaſons he the ſaid *John Hewet*, at the Pariſh of *Gregory*'s in the ſaid City of *London*, and alſo at *Lewes* and elſewhere, did traitorouſly, adviſedly, and maliciouſly declare, at the times and places aforeſaid, by conferring with *John Stapely* and *Henry Mallory* how to effect the ſame; and by encouraging the ſaid *John Stapely* and *Henry Mallory* thereunto, and by delivering Commiſſions to them from the ſaid *Charles Stuart*, concerning the levying War againſt the ſaid *Oliver* Lord Protector of the Commonwealth of *England*, *Scotland*, and *Ireland*, &c. ——— All which ſaid Treaſons are contrary to the Statute in that caſe made and provided. With which ſaid Treaſons committed and done, the ſaid Attorney-General, for and on the behalf of his Highneſs the Lord Protector and the Commonwealth, doth charge and impeach the ſaid *John Hewet*; and for and on the behalf of the ſaid *Oliver* Lord Protector, and the Commonwealth, prayeth that the ſaid *John Hewet* may be put to anſwer; that ſuch Trial, Judgment, and Proceedings may be had againſt him, as to Juſtice doth appertain. And the ſaid Attorney-General doth aver that the ſaid *John Hewet* is the Perſon by Name appointed by his Highneſs the Lord Protector to be try'd and proceeded againſt according to the Act.'

[*Dr.* Hewet, *the Priſoner, ſitting covered whilſt his Impeachment was reading, the Lord Preſident commanded his Hat to be taken off; which the Doctor obſerving took it off himſelf. Then Mr.* Phelps, *Clerk to the High Court, addreſs'd to the Priſoner to this effect:*]

Mr. *Phelps*. *John Hewet* D. D. thou ſtandeſt here charged of High-Treaſon; this Court requires you to give a poſitive Anſwer, whether Guilty or Not guilty.

Dr. *Hewet*. My Lord, if I have already miſbehaved myſelf here, my Error is the more pardonable, becauſe I have not had any Counſel; and I dare not preſume to have any Knowledge in any Faculty, eſpecially in the Law. I never did change my Caſſock into a Jump; I am better acquainted with a Pulpit than a Bar; better read in St. *Auſtin* than my Lord *Coke*; and in the *Fathers*, than *Raſtal*'s *Entries*, or *Plowden*'s *Commentaries*. In all my Life I never ſtudied any Law-Caſe 'till now; that Neceſſity that hath no Law hath made me thus far to become a Lawyer, as to think to plead (not for my Livelihood, but) for my Life. God forgive them that have occaſioned this unuſual and unaccuſtomed Study, that hath put me into ſuch a Pulpit as I never ſaw before. And therefore, my Lord, in as much as I have often heard that there are ſuch Niceties in the Law, that a Man may be loſt in the Severity of it for a word ſpoken in mere Simplicity; I ſhall crave that there may be nothing taken, in Prejudice to my Innocency, from words ſpoken in Simplicity: And I hope you will pleaſe to grant me that.

† *Ld. Preſident*. Dr. *Hewet*, I am ſorry, truly very ſorry, to ſee ſuch a one as you in that place; but you are impeached of High-Treaſon: All Favour will be ſhewn you according to the Rules of Juſtice. I think you deſire Counſel?

Dr. *Hewet*. No, my Lord, it is firſt, that I knowing nothing of the Law, may have nothing (ſimply ſpoken) prejudice me; and that you will allow me Counſel.

Ld. Preſident. The Court is Counſel for you, your Buſineſs is to plead to the Indictment; you are required by the Court to anſwer whether Guilty or Not guilty.

Dr. *Hewet*. My Lord, you ſit there as Judge, I beſeech you let me know by what Commiſſion you ſit there.

Ld. Preſident. Dr. *Hewet*, we ſit here by a Commiſſion under the Great Seal of *England*, in purſuance of an Act of Parliament; that's our Commiſſion.

Dr. *Hewet*. Pray give me the favour to have the Commiſſion read, my Lord.

Ld. Preſident. Dr. *Hewet*, we know our own Authority, it is not uſual to read Commiſſions to Priſoners; the Laws of *England* and Acts of Parliament are to be ſubmitted to.

Dr. *Hewet*. I am not to own every Perſon that will ſit to judge me, therefore I deſire to know by what Commiſſion you ſit, and who are the Judges, and then I ſhall ſay no more.

Ld. Preſident. Thoſe that are to judge you, are very well known; you conſented your ſelf to the Judges, we are all choſen by Act of Parliament, the Parliament hath conſented to it; we are choſen Judges, and are your Judges by Act of Parliament.

Dr. *Hewet*. My Lord, I muſt know the Perſons, whether they be all here; I ſee but very few.

Ld. Preſident. Here be very many, and we have been all called this Morning, as the Courſe is, and we ſit now as your Judges.

Dr. *Hewet*. Under favour, my Lord, as I remember, the Commiſſion by the Act is directed to 150, and there are the Lords Commiſſioners of the Great Seal, with the Lords of his Highneſs's Treaſury, and all the Judges, and divers other Perſons, are named in the Act of Parliament: I do not ſee ſo many Faces as are mentioned in that Act.

Ld. Preſident. Dr. *Hewet*, I muſt tell you the *Quorum* is any Seventeen or more of them: If we are here Seventeen or more, we are a *Quorum* by that Commiſſion: We are here I believe Forty or Fifty.

Dr. *Hewet*. My Lord, with Submiſſion, the Caſe is true, in caſe the Commiſſioners were but Seventeen, and they all preſent, then they might hear and determine; but if one were abſent, they cannot, my Lord, as I conceive.

Ld. Preſident. You are a Perſon of Parts, and therefore we may delight to hear you; but we muſt keep our ſelves to the Buſineſs of the Court: You are required by the Court to anſwer the Impeachment.

Dr. *Hewet*. My Lord, if you ſit by the Act, ſit according to the Act, and then I ſhall ſubmit. It was reſolved by all the Judges of the *King's-Bench* in the 13th of *Eliz.* in the Earl of ‡ *Leiceſter*'s Caſe.

‖ *Mr. At. Gen.* The Doctor did profeſs his Ignorance of the Laws, yet pretends more Knowledge than the Court: The Court are here, and know themſelves lawfully authorized to try you. Dr. *Hewet*, if you pleaſe to proceed to give your Anſwer, whether guilty or not, you will find the Juſtice of the Court to be according to the Laws of *England*.

Dr. *Hewet*. This learned Gentleman, I know his Face, though not his Name; he ſpeaks according to Worth, but I cannot anſwer him according to Law, and therefore ſtill plead Ignorance of the Law, but deſire to be tried according to Law; and I have given you a Law Precedent, if you will go againſt it I ſhall ſay no more.

Mr. At. Gen. This Gentleman hath it by Tradition, not by his own Knowledge; but the Caſe he mentions cannot parallel this. The Act of Parliament ſaith, an Hundred and Fifty, or any Seventeen, here are three Seventeens.

Mr. Sol. *Ellis*. I think the Commiſſion is directed to your Lordſhips, or any Seventeen: [*Which Commiſſioners, or any Seventeen*, &c.] The Meaning whereof is, That thoſe Seventeen, or more reſpectively, ſhould hear, &c. There were ſeveral *Quorums* for *England*, *Scotland* and *Ireland*; Seventeen for *England*, Thirteen for *Scotland*, &c. That Caſe out of *Plowden* differs clearly from this: For if a Commiſſion be directed, and there be no *Quorum*, then the Commiſſioners muſt all certify. We humbly conceive, that if your Lordſhips be here Seventeen, or more, you are fully authorized to proceed.

Mr. At. Gen. In many Caſes you have a *Quorum* of Perſons, ſuch and ſuch Men: It's true, here is no *Quorum* of Perſons but a *Quorum* of the Number; and if there be a *Quorum* of Seventeen, it is warrantable.

Dr. *Hewet*. This learned Gentleman, he is better able to ſpeak what is Law than I; but under favour, and with Submiſſion, I do not think he may judge of the Laws, or the other (that ſpoke his private Conception) to interpret the Meaning of the Parliament. And, my Lord, if your Lordſhip pleaſe, I ſhall make this my humble Appeal to the learned Judges of the Law, That if they will ſay, in this reſpect, that this is a lawful Judicature, I ſhall proceed.

Ld. Preſident. You have heard the words of the Act of Parliament read, Authority is given to the Commiſſioners, or any Seventeen or more of them; [*Which ſaid Commiſſioners reſpectively*] that is, for *England* Seventeen, or more of them: and you have heard the Judgment of the Court upon

* Clar. Hiſt. Vol. 3. p. 485, &c. † John Liſle. ‡ Plowd. 384. ‖ *Mr.* Prideaux.

upon that. That which you ſpeak of in relation to my Lord *Leiceſter*'s Caſe is true; if a Commiſſion be directed to Commiſſioners, and no *Quorum* appointed, then all muſt certify; but by the Act of Parliament, and the Commiſſion made in purſuance of it, the *Quorum* is Seventeen: but here are three *Quorums*.

Dr. *Hewet*. My Lord, in as much as all the Commiſſioners are named in that Act, and that Commiſſion is according to the Act, they are all commiſſionated to ſit; and unleſs all ſit, the reſt cannot try and examine, *&c.* And I ſhall refer it to the Judges of the Laws.

Ld. Preſident. We did not call our ſelves to be your Judges; by being named your Judges by Act of Parliament, we have Power to declare to you what the Law is by that Act of Parliament. I have declared it.

Dr. *Hewet*. My Lord, if the *Quorum* had been named, then it were ſomewhat; but it being directed to Seventeen, or more, when more or Seventeen are commiſſionated, all muſt ſit: I refer it again to the Judges of the Laws.

Ld. Preſident. Dr. *Hewet*, what you ſay now, or what you ſay hereafter, beſides this, you have time to ſpeak to, as to Matter of Law, after Matter of Fact hath been tried; if you plead to Matter of Fact, what you ſay to the Court as to Matter of Law, we ſhall be ready to hear it; apply your ſelf to the Court in Matter of Fact. The Court aſks you, whether guilty or not?

Dr. *Hewet*. My Lord, I muſt firſt know whether the Court be a lawful Judicature, before I give in my Defence.

Ld. Preſident. Dr. *Hewet*, you have offered very much touching the Juriſdiction of the Court, in Concluſion you muſt acquieſce; I muſt put you up to plead; you know the Danger, if you do not plead, being required: if you ſtand mute and do not plead, it is equally as dangerous to you, as if you had confeſſed the Crimes.

Dr. *Hewet*. I am ſo highly ſenſible of the Privileges of an *Engliſhman*, that both for the Satisfaction of my own Conſcience, and all Perſons, I would not willingly give up the Liberties and Privileges of any *Engliſh* Freeman to any body that demands it; I am very loth that there ſhould be any juſt Imputation laid upon me, that I ſhould ſeek a Diſturbance in point of Self-Intereſt, to divide myſelf from the Communion of thoſe that are my Fellow-Freemen; and I ſhould (as I have always) abhor to be both a Schiſmatick from the Church, and ſingular from the State. My Lord, I am ſo concerned for the Privileges of an *Engliſh* Freeman, and publick Intereſt, that I ſhould be loth to do any thing towards the giving them up, that might make my Heart ake. I ſhall deſire it may be determined by the Judges.

Ld. Preſident. You ſpeak of common Friendſhip; what is common Friendſhip, but to be a Friend to the publick Government? If you have been a Friend to the Government and Peace of this Nation, you need not fear to plead to the Indictment: And therefore I require you to plead to it.

Dr. *Hewet*. Whenever you ſhall come to a particular Examination of the Buſineſs, it will not appear that I have been an Enemy; I deſire, that whereas there are many Niceties in the Laws, I humbly crave the Engagement of your Honours, that there may not be any Advantage taken.

Mr. At. Gen. God forbid.

Dr. *Hewet*. My Lord, I think I have not ſpoken any thing unreaſonably, or againſt Law, and therefore humbly crave my former Requeſt.

Mr. At. Gen. If you pleaſe, the Doctor knows that there muſt be a Judgment, in which we muſt acquieſce: This is that Judicature that calls you before them; you ſit by the higheſt Authority of *England*; an Act of Parliament in the firſt place, a Commiſſion under the Great Seal in the ſecond place, and a Commiſſion of his Highneſs, againſt whom, of which the Doctor is one; I deſire he may give an anſwer to the Impeachment; that being done, we ſhall have Liberty on both ſides to ſpeak to what is Juſtice, and Law, and Fact: if you are not guilty, be you aſſured that this Court will not take your Blood upon them; you have a very fair Court.

Dr. *Hewet*. This learned Perſon ſpeaks very fairly; it ſhall be far from me to queſtion any Act of a lawful Parliament: but under favour as yet it doth not appear to me, that you have by that Act by which you ſit, Power to hear and determine concerning the Matters of which I am charged: I refer it, and appeal again and again to the learned Judges of the Laws, even his Highneſs's Judges.

Ld. Preſident. Dr. *Hewet*, the Court has had much Patience in hearing of you thus long, you having not ſo much as owned their Authority; if you will not own us, we will own you: therefore I require the Clerk to enter it, that we have required you to plead.

Mr. *Phelps* Clerk. *John Hewet*, you here ſtand charged of High-Treaſon againſt his Highneſs the Lord Protector and the Commonwealth; the Charge hath been read to you, the Court have demanded whether Guilty or Not guilty; they again demand of you whether Guilty or Not guilty.

Dr. *Hewet*. My Lord, I ſhall be very loth to do any thing to ſave my Life, and forfeit a good Conſcience; and I ſhall not, for my private Intereſt, give up the Privileges of thoſe that are equal Freemen with my ſelf: I am look'd upon in a double Capacity, as a Clergyman, and as a Commonwealth's Man; I ſhould be very loth to be ſcandalous in either: And pray be pleaſed to do that Juſtice to your ſelves, as to vindicate the Legality of your Judicature, and then I'll proceed.

Mr. At. Gen. My Lord, you was pleaſed to tell the Doctor, That you will own him when he doth not own you; but, my Lord, his flying in your Face, and taxing you thus, is not to be endured: I wiſh he would have that Conſideration of himſelf, that if he doth not own your Authority, you expect to be owned, otherwiſe he will be ſuppoſed to be guilty of all thoſe Crimes that are laid to his Charge; and by not pleading, he doth confeſs them; that will be an high Scandal, Mr. Doctor: therefore to vindicate your ſelf, I deſire you to anſwer.

Dr. *Hewet*. This learned Gentleman hath urged it with a great deal of Civility and Reſpect to me, which I muſt own, and thankfully acknowledge: but, my Lord, withal, I dare not, for the ſaving of my ſelf, give up others; ſo many thouſands of others, by my Precedent, that might likewiſe be involved in the ſame Condition that I am in: therefore, my Lord, let it appear that it is a lawful Judicature, and I have done.

Mr. At. Gen. I beſeech Mr. Doctor to conſider his Caſe; he is not brought as a Champion for the People of *England*; as he ſtands charged, he appears to you to be contrary affected: I humbly beg that he may be put to plead, that ſo his Innocency may be clear'd.

Dr. *Hewet*. My Lord, I ſaid before that I am no Lawyer, I underſtand nothing of it, neither deſire to be Judge in my own Cauſe; but I do not deſire likewiſe to be judged by every Perſon that would ſit to judge me; neither would I give up that Right that belongs to an *Engliſhman*, to every one that demands it: Therefore I deſire you to grant this Petition, That you will make appear that you are a lawful Judicature. I would rather die ten thouſand times than I will be guilty of giving up my Fellow-Freemen's Liberties and Privileges.

Mr. At. Gen. My Lord, ſome of his own Coat have acknowledged the like Authority before him; but if Mr. Doctor be peremptory in this, that he will not own your Authority, and plead to his Charge, I muſt do my Duty; that is, humbly to pray the Court, that if he refuſe to anſwer, I muſt pray their Judgment, and acquaint him with the words of the Act; [*which accordingly were read.*] So that, my Lord, in default of Anſwer, if Mr. Doctor will not plead to this, my Lord, I muſt thereupon pray that you will proceed according to the Act, as in Caſes of High-Treaſon, which is very penal. I have no more to ſay.

Dr. *Hewet*. My Lord, I ſuppoſe theſe learned Gentlemen, who are ſo learned in the Laws, will be cautious what they do againſt Law; and I hope they will remember what Condemnation and Execution befel * *Treſilian* in the 11th of *Richard* the Second, that did there * *Trial* I. miſadviſe the King to do ſuch and ſuch things; that is much like to this Caſe of mine: And withal, I hope they will remember what befel the Judges in the Caſe of *Ship-money*, in the time of the late King; and therefore I hope they will be cautious themſelves in doing any thing that is contrary to Law.

Ld. Preſident. Dr. *Hewet*, you have heard the Clauſe of the Act of Parliament read to you, whereby you may underſtand, that either we muſt proceed upon your Anſwer, or elſe to Judgment upon your Refuſal; if upon your Anſwer you clear your Innocency, then thoſe Freemen you ſpeak of, may faithfully embrace you: but if you will not anſwer, we muſt proceed to Judgment. I am ſorry for your Robe-ſake, but if you will not anſwer, you cannot acquit yourſelf: you thereby confeſs it: Therefore let me adviſe you, for your Robe-ſake, to follow the beſt Counſel; that is, to put your ſelf upon that which Priſoners muſt do. Anſwer to it, Guilty, or Not guilty.

Dr. *Hewet*. My Lord, I hope it is not the Senſe of the whole Court, that they ſhould proceed againſt me, either to Sentence, or any other way, till firſt they clear themſelves to me.

Mr. At. Gen. Pray, who is the Judge? You muſt clear your ſelf to him.

Ld. Preſident. If there be any here that are of another Opinion, let him declare himſelf. Dr. *Hewet*, you loſe your ſelf mightily in ſaying this one thing ſo often, and we loſe our Time: I require you again to plead.

Dr. *Hewet*. My Lord, I cannot ſpeak of that too often, that is ſo dear and precious to me and every Perſon.

Mr. At. Gen. I can ſay no more, but pray your Juſtice.

Ld. Preſident. Dr. *Hewet*, I am called upon by the Court, becauſe of your Refuſal to anſwer; but I pity you very much, and therefore deſire once more the Patience and Favour of the Court, that they would give you leave to anſwer: Therefore, Mr. Doctor, that we may not record your ſtanding mute, and refuſing to anſwer, I ſhall once more, in favour to you, require you to anſwer. Clerk, ſtay your Hand a while.

Dr. *Hewet*. My Lord, both the Court and all theſe Perſons will thus clear me to the whole World, that I have referred my ſelf, and appealed to his Highneſs's Judges of the Law, to reſolve whether this be a lawful Judicature: this Appeal is denied, therefore I muſt proceed to ſome other thing, ſeeing you all deny me that.

Mr. *Phelps*, Clerk. *John Hewet*, D. D. you ſtand here charged on behalf of his Highneſs the Lord Protector, of Treaſon againſt him and his Commonwealth; you have heard the Charge, the Court hath ſeveral times demanded your Anſwer, and you refuſe; they the third time require your Anſwer, whether Guilty, or Not guilty.

Dr. *Hewet*. Pray, my Lord, is there any Indictment found againſt me by a Grand Jury, by which I am to be tried? For by the fifth and ſixth of *Edward* the Sixth, all Treaſons are to be inquired into, and preſented by twelve Men: the Commiſſion by which you ſit, doth not declare any other way: I beſeech you, is there any other Indictment?

Ld. Preſident. You have a very great Grand Jury, forty Perſons, and we have Power upon a ſpecial Act of Parliament, to give order for a Charge to be brought in againſt you; and we have, according to that Power and Authority, given order for this Charge to be brought in againſt you, and you are to anſwer to it.

Dr. *Hewet*. My Lord, with Submiſſion, you are not a competent Jury.

Mr. At. Gen. My Lord, now it is the ſecond Part to the ſame Tune; I know there are many others upon the ſame String when this is reſolved. Sir, this is the Grand Jury, the Petty Jury, and your Judge; they require you to give your Anſwer, whether Guilty, or Not guilty.

Dr. *Hewet*. My Lord, this is likewiſe denied me, I now humbly crave a Copy of my Charge, Time to anſwer to it, and Counſel aſſigned me.

Ld. Preſident. For the Copy of your Charge, it was never granted to any Priſoner indicted for High-Treaſon. For Counſel, you are now upon Matter of Fact, whether Guilty or Not guilty.

Mr.

Mr. At. Gen. I have a Word to inform him. I would not preſs any thing againſt him, which in my Judgment I thought not legal; you have given him your Reſolution as to the Juriſdiction, there is nothing now to ſay, but Guilty or Not guilty: he muſt bring himſelf to be a Party, or elſe nothing can be aſked.

Dr. *Hewet.* I think the Priſoner cannot be charged and tried on one and the ſame Day, no more than a Man can be indicted and tried the ſame Day, as in *Kelway*'s Reports; and this was declared to be Law in the Caſe of the *Portugal* Ambaſſador's Brother *.

Mr. At. Gen. You are not upon your Trial, you muſt plead and join Iſſue, and then we will conſider whether we will try you now or no; yet there is many a Man hath been brought to Priſon the ſame Day, found the ſame Day, and tried the ſame Day.

Dr. *Hewet.* I deſire a Copy of my Charge; if not that, I deſire Time to ſpeak, and Counſel aſſigned me, which hath been the Courſe of former times; for Counſel it hath been uſually allowed, as in the Caſe of *Humphry Stafford* in the time of *Henry* the Seventh, and in the Caſe of *Lilburne*. Baron *Nicholas* and Serjeant *Maynard* were of Counſel for Major *Rolph*, who endeavoured to Poiſon the late King. And for Matter of Law, it ought to be allowed, as in my Lord *Coke*'s ſixth Book of his *Reports*, 14 *fol.* is of the ſame Opinion. *Arundel* had Counſel aſſigned him for Murder, in Matter of Law.

Sol. *Ellis.* For Matter of Fact, it was never allowed; but if he plead, and any Matter of Law do ariſe that's doubtful to the Court, then the Court, if they doubt of it, aſſign Counſel; but the Priſoner muſt plead firſt to the Matter of Fact. For a Man to be accuſed the ſame Day, and tried the ſame Day, is *no new thing*. For Counſel, if any thing ariſe in Matter of Law, then it may be conſidered. The *Portugal* Ambaſſador's Brother came, and was accuſed and tried the ſame Day. We ſhall humbly pray that he may plead Guilty or Not guilty; if any Matter of Law ariſe, your Lordſhips may do him Juſtice.

Dr. *Hewet.* My Lord, with Submiſſion, this learned Gentleman hath underſtood me but in part; my Requeſt was for Counſel for Matter of Law in general, as well as particular for Matter of Fact. I humbly conceive that there are ſeveral Acts of Parliament that do free me from this Charge, and particularly the great Charter of *England*; for which I humbly crave I may have Counſel aſſigned me.

Ld. Preſident. You are now in Generals; you ſpeak of ſeveral Acts of Parliament, and you would have Counſel to plead; Counſel was never allowed in this Caſe upon ſuch a general Deſire: many that ſtand about you may have a Prejudice to you, and think you are loth to plead; I have called upon you often: if we ſhould once record the Refuſal, it would be very penal. I would adviſe you to plead to the Indictment.

Dr. *Hewet.* My Lord, ſince you have denied me Counſel, I ſhall deſire to ſpeak ſomething in my own behalf.

Mr. At. Gen. This is a very ill Precedent to the Juſtice of *England*; I ſuppoſe that you will allow him all Favour, but the Juſtice of *England* muſt be preferred againſt all Perſons whatſoever. The Juriſdiction is ſettled to the Satisfaction of the Doctor himſelf; if he will bring himſelf a Party, and aſk any thing of you, that muſt be by pleading: till then he can aſk nothing.

Dr. *Hewet.* My Lord, the Judicature is not yet cleared to me, for the Legality of it; and if you pleaſe to give a little Patience, I ſhall give you the Reaſons why.

Mr. At. Gen. I ſhall deſire it may be no more thus.

Ld. Preſident. I ſhall ſay no more to you, we muſt make our Authority appear to you either by trying of you, or judging of you: will you be try'd?

Dr. *Hewet.* My Lord, the Charge depends upon an Act of Parlia- ‡ 17 *Septem.* 1656. ment, which was made about two Years ‡ ſince; the Members of which Parliament were choſen by the People, yet notwithſtanding one hundred and fifty of them were not permitted to ſit.

Mr. At. Gen. My Lord, we muſt not ſuffer this; pray, if he will not be otherwiſe ſatisfied, I muſt require your ſtrict Juſtice. Your words they are ſeditious; this ſhews the Spirit of the Man.

Dr. *Hewet.* I hope you will have Patience to hear me for Vindication of my ſelf, and Satisfaction of my own Conſcience and all Perſons whatever; and withal for the clearing of your ſelves, that you do not bring Blood upon your ſelves by taking that Power that is not juſtifiable——

Mr. At. Gen. Truly, my Lord, this is inſufferable; Mr. Doctor hath had as much Reſpect as ever any had. I have attended many, I never ſaw the like in my time; you have had the Patience to hear him oppoſe your ſelves, your Authority, your Perſons, and to ſtrike at the Root of all. Mr. Doctor, I would have you to carry your ſelf with more Reſpect. This ſhews, that much of what is charged againſt you, is true: if you will ſcorn the Court, ſay it poſitively.

Dr. *Hewet.* My Lord, I humbly ſubmit my ſelf to the Laws of the Land; I ſhall not diſpute Acts of Parliament, but I conceive (if you pleaſe to give me a little Patience) an Houſe of Commons is not Authority enough——

Ld. Preſident. Mr. Doctor, pray remember that Text, *He that ſeemeth to be Religious, and bridleth not his Tongue, his Religion is vain.* Will you plead or not?

Dr. *Hewet.* My Lord, whilſt I ſpeak for the Laws of the Land, this is not an evil Speech.

Mr. At. Gen. My Lord, if you pleaſe, I did receive your Commands to prepare this Charge againſt this Doctor; in obedience to you I have done it, not willingly againſt your Perſon, Mr. Doctor; I have ſome others to proceed againſt, if you will pleaſe that Mr. Doctor may diſpatch one way or other. I muſt pray your final Sentence, if he do not plead immediately.

Dr. *Hewet.* My Lord, what I petitioned for before, I do again, That ſeeing you will not pleaſe to give me leave to ſpeak either as to the Privileges of *Engliſhmen*, nor as to the Act, I deſire time to ſpeak to the Charge, and Counſel.

Ld. Preſident. You have heard that I muſt require your Anſwer; you muſt plead Guilty, or Not guilty.

Dr. *Hewet.* Hath your Lordſhip aſſigned me Counſel in Matter of Fact, when Matters of Law ariſe?

Ld. Preſident. We ſhall then take the Conſideration of it, now is not a time.

Dr. *Hewet.* My Lord, I am in a great ſtraight, I pray God aſſiſt me; and I here appeal to Almighty God, and to all the World, that I do againſt my Soul and Conſcience nothing that ſhall be to the Prejudice of the Privileges of the Laws of *England*; if there ſhall be any thing in theſe Proceedings that ſhall be to the Diſadvantage of others, my Soul be clear of it, the Guilt be upon others; ſeeing I am neceſſitated upon this, and cannot have Counſel aſſigned me for the Judicature, for the Legality of it, I referring my ſelf to the Judges of the Land: I durſt refer my ſelf to his Highneſs's own Counſel, that if they will ſay that this Particular that I have urged, that this is a lawful Judicature, I will go on.

Ld. Preſident. I am required by the Court, before I enter your Refuſal, to require your Anſwer.

Dr. *Hewet.* I am in a great Diſpute, and I pray God direct me what to do in this Caſe; though I do not at all diſpute my own Innocency, which I hope I ſhall clear; yet I could petition again (though I am tedious to you, that I can never importune enough) to take into your Thoughts your ſelves and Poſterity, and all the People of *England*.

Ld. Preſident. I ſhall deſire, becauſe you may ſee what I ſay comes from the Act of Parliament, I ſhall deſire the words may be read to him, what is to be done, if he refuſe to anſwer.

Clerk, read the Clauſe.

[‘ And for Examination of Witneſſes upon Oath (which the ſaid re- ‘ ſpective Commiſſioners are hereby authorized to adminiſter) and there- ‘ upon, or upon Confeſſion of the Party, or in Default of ſuch Anſwer, ‘ to proceed to Conviction and final Sentence, as in Caſes of High- ‘ Treaſon, and Miſpriſion of Treaſon, according to Juſtice and the ‘ Merits of the Cauſe; and ſuch final Sentence to execute, or cauſe to ‘ be executed, ſpeedily and impartially.]

Dr. *Hewet.* My Lord, this is a printed Paper which is called an Act of *Parliament*—

Ld. Preſident. I muſt take you off, you have been required to anſwer, often required; and having refuſed, in the Name of the Court I require the Clerk to record it; and pray take away your Priſoner.

Dr. *Hewet.* My Lord——

Court. Take him away, take him away.

Dr. *Hewet* had prepared a *Plea* and *Demurrer* to the Juriſdiction and Proceedings of the Court, and Exceptions to their Judgment, drawn up in Form by Council, which was ready Engroſs'd, and which he deſigned to have tendered the Court, had he not plainly perceived their peremptory Reſolution to over-rule him.

The Plea *and* Demurrer *of* John Hewet, *Doctor of Divinity, to the* Juriſdiction *and* Proceedings *of the* Commiſſioners *in purſuance of an* Act *for the Security of the Lord* Protector's *Perſon, &c. and to the* Sentence of Death *pronounced againſt him by them.*

THIS Defendant ſaith, That he is by Birth a *Freeman of England*, and that it is the undoubted antient inſeparable *Birth-right, Privilege*, and *Inheritance* of every *Engliſh Freeman*, both by the Common Laws, Franchiſes, Great Charters, Statutes, and Uſages of this Land, ratified from Age to Age by the Votes, Reſolutions, Declarations, Judgments of the High Court of Parliament, and other publick Courts of Juſtice, the Oaths of the Kings of *England* and their Juſtices, and by many other ſolemn publick Confirmations, Proteſtations, Oaths, Vows and Covenants: *(a) That no Freeman of* England *may or ought to be taken or impriſoned, or diſſeized, or diſinherited of his Freehold, Liberties, or Free Cuſtoms; or to be outlawed, exiled, or any way deſtroyed, paſſed upon, dealt with, or forejudged of Life or Limb, or put to Death, upon any Accuſation whatſoever, but by the lawful Judgment of his Peers, or by the Law of the Land; and that he ſhall not be put to anſwer without Preſentment before the Juſtices, or thing of Record, or by due Proceſs of the Law, or by Writ Original, according to the old Law of the Land;* (b) *And that all Trials hereafter to be had, awarded, or made for any Treaſon, ſhall be had and uſed* ONLY *according to the due Order and Courſe of the Common Laws of this Realm, and* NOT OTHERWISE, *upon Inqueſt and Preſentment by the Oaths of Twelve good and lawful Men, upon good and probable Evidence and Witneſs: And that* (c) *if any thing be done to the contrary of the Premiſes, it ſhall be void in Law, redreſſed, and holden for Error, and nought: And if any Statute be made to the contrary, that ſhall be holden for none.* And moreover this Defendant ſaith, that in the Parliament 2 *R.* 2. rot. Parl. n. 47, the Commons petitioned the King, and Lords, that the *Conſtable and Marſhal of* England (then encroaching upon this Privilege of the Commons, by holding Pleas of *Treaſon* and *Felony* before them after the Courſe of Martial Law) *might from thenceforth ſurceaſe to hold Places*

* *His Name was* Don Pontaleon Sa, *he was tried and convicted before Ld. Ch. Juſt.* Rolle, *for the Murder of Mr.* Greneway, *a Gentleman of* Gray's-Inn, July 6, 1654, *and was beheaded* July 10.

(*a*) Coke's 2 Inſtit. p. 45 *to* 57. Magna Charta *of King* John, H. 3. & E. 1. c. 29. 25 E. 1. c. 1. 28 E. 1. c. 1. 5 E. 3. c. 9. 25 E. 3. n. 26 & c. 4. 28 E. 3. c. 3. 42 E. 3. c. 23. 2 H. 4. rot. Parl. n. 60. *The* Petition of Right, 3 Caroli.

(*b*) 25 E. 3. c. 2. 26 H. 8. c. 13. 33 H. 8. c. 20. 35 H. 8. c. 1. 1 Ed. 6. c. 12. 1 & 2 Phil. & Mar. c. 10. 11. 5 E. 6. c. 11. 1 Eliz. c. 6. 5 Eliz. c. 11. 13 Eliz. c. 1. 14 Eliz. c. 1. 18 Eliz. c. 1. 27 Eliz. c. 2. 1 Hen. 4. c. 14.

(*c*) 5 E. 1. c. 21. 2. Coke's 2 Inſtit. p. 526, 527. 28 E. 3. rot. Parl. n. 7, 8, 9, 10, 11, 12, 13. 29 E. 3. rot. Parl. n. 29, 30. E. 3. coram rege, rot. 92. Coke's 3 Inſtit. p. 52. 42 E. 3. c. 1. 3.

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of Treaſon and Felony before them, done within the Realm, and that the ſame may be determined ONLY *before the King's Juſtices, according to the great Charter*; which was then aſſented to: And that upon the like Petitions of the Commons in the *Parliaments* of 1 *H.* 4. and 2 *H.* 4. Rot. Parl. n. 89. it *was aſſented to, and enacted by the King and Lords, that the King's liege People* (d) *ſhould not be put to anſwer before the Conſtable or Marſhal in Courts of Chivalry, for any thing done within the Realm, but that (as before in the times of his Progenitors) the ſame might be tried and determined* ONLY BEFORE HIS JUSTICES IN HIS COURTS, AS IT OUGHT TO BE ACCORDING TO THE COMMON LAW OF THE REALM, AND IN NO OTHER PLACE OR MANNER. *Upon which Conſiderations many of the King's loyal Lords, Gentlemen and other Subjects in the general Inſurrection of the Villains, and other Rebels againſt the King, in the fifth Year of* Richard *the ſecond, having inflicted divers Puniſhments upon the ſaid Villains and Traitors without due proceſs of the Law, and otherwiſe than the Laws and Uſages of the Realm required; though they did it out of no Malice prepenſed, but out of meer Loyalty to the King, and to appeaſe and ceaſe the preſent miſchief, and out of ignorance of the ſaid Laws and Uſage, in which if they had been learned, yet at that time they ought not to have tarried the proceſs of the Law in thoſe puniſhments of their good diſcretion; yet thoſe puniſhments and executions of them in a ſummary way being contrary to, and not warranted by the Laws and Uſages of the Realm, they were enforced for their future Indemnity againſt the King and his Heirs, and the Heirs, Wives and Friends of thoſe they puniſhed, to petition the King and Parliament, for a general Pardon by Act of Parliament, to ſecure and indemnifie themſelves*; which was granted them, in 5 *R.* 2. *Parl.* 1. ch. 5. elſe they might have been impeached and puniſhed for the ſame, as well as King *Richard* the ſecond himſelf; who in the *Parliament* of 1 *H.* 4. Rot. Parl. n. 44, (wherein he was enforced to reſign his Crown, and then depoſed for his Miſgovernment) was amongſt other Articles impeached of this in particular by that Parliament, *for that againſt the great Charter* (ch. 29.) *and his Coronation Oath, he ſuffered many of his liege People to be malicioufly accuſed, apprehended, impriſoned, and tried before the Conſtable and Marſhal of* England *in their military Court, for words ſecretly ſpoken, or acts privately done, to the ſcandal of his Royal Perſon, where they were enforced to acquit themſelves by duel; whence the deſtruction not only of the Nobles and Great Men, but likewiſe of all and every the Perſons of the Commons of the Realm might probably have enſued.* And this Defendant further ſaith, that one *Peter Burchet* of the *Temple*, in the thirteenth Year of Queen *Elizabeth*'s Reign, having wilfully ſtabbed that famous Sea-Captain *John Hawkins*, for not being of his Opinion in Religion, (*Burchet* being perſuaded in Conſcience that it was lawful for him to kill every one who was not of his Opinion) the Queen being much incenſed againſt him for this horrid fact, *commanded him to be forthwith tried and executed for it by Martial Law:* But her Judges and Council informing her, *that he could not be ſo tried by Law, it being done not in an Army, but in time of Peace, when her Courts of Law and Juſtice were open; thereupon ſhe deſiſted from this way of Trial; After which he was tried according to Law for this, and his murdering his Keeper in the Tower*, as Mr. *Camden* records in his *Annals* of Queen *Elizabeth*, p. 242, 243. And whereas in the Parliament of the fourth of King *James* holden at *Weſtminſter*, there was ſome kind of motion made; *that to extirpate and reform the inveterate evil Cuſtoms, Diſorders, Fewds, Bloodſheds, Theſts and Spoils, wherewith the worſt ſort of Inhabitants near the Borders and Limits of both Realms of* England *and* Scotland, *were infected and inured*, that they might be tried by a *ſummary Proceeding*, by way of *Martial Law*, or by the Laws of the Kingdom into which they fled to purchaſe their Impunity: This Parliament was ſo far from approving thereof, that they ſpecially enacted, in this caſe (even of theſe worſt ſort of men) ‘ * That in regard of ſome difference and inequality in the ‘ Laws, Trials, and Proceedings in caſes of Life, between the Juſtice of ‘ the Realm of *England* and that of the Realm of *Scotland*, it appearing ‘ to be moſt convenient for the contentment and ſatisfaction of all his ‘ Majeſty's Subjects, to proceed with all poſſible Severity againſt ſuch ‘ Offenders in their own Country, ACCORDING TO THE LAWS OF ‘ THE SAME, WHEREUNTO THEY ARE BORN AND INHERITABLE; ‘ and by and before the natural-born Subjects of the ſame Realm; by ‘ whom their Murders, Felonies, Rapes, &c. ſhould be inquired of, ‘ heard and determined before his Majeſty's Juſtices of Aſſize, or Com- ‘ miſſioners of *Oyer* and *Terminer*, or Goal delivery, by good and lawful ‘ Men of the three Counties therein ſpecified, and NONE OTHER. And ‘ that at all ſuch Trials the Jury then and there ſworn, ſhall have in ‘ their Power and Election, according to their Conſcience and Diſcretion ‘ upon their Oaths, to receive and admit only ſuch ſufficient good and ‘ lawful Witneſſes upon their Oaths, either for or againſt the Party ‘ arraigned, as ſhall not appear to them, or the greater part of them to ‘ be unfit and unworthy to be Witneſſes in that cauſe, either in regard of ‘ their hatred and malice, or their favour and affection either to the ‘ Party proſecuting, or to the Party arraigned, or of their former evil ‘ Life and Converſation.' Which common, equal, indifferent Juſtice allowed to the worſt Malefactors, as their *birth-right* and *inheritance* by this Parliament and Act, this Defendant now only craves, and hopes you cannot in Law or Juſtice deny him; nor proceed againſt him by way of Martial Law. And ſo much the rather, becauſe ſince this Statute, King *Charles* in the third Year of his Reign, by the *advice of his Council* (to ſuppreſs the Inſolencies of *Soldiers* and *Mariners* then billetted in ſundry parts of the Realm) having iſſued out *Commiſſions* to ſundry Perſons of Quality, in time of Peace, *to execute Martial Law upon thoſe Soldiers and Mariners, and other diſſolute Perſons (only) joining with them, for Murther, Robbery, Felony, Mutiny, and other Outrages committed by them, by ſuch ſummary courſe and order as is agreeable to Martial Law, and as is uſual in Armies in time of War; to proceed to the Trial and Condemnation of ſuch Offenders, and then to cauſe them to be Executed and put to death, according to the Law Martial; By pretext whereof ſome of the ſaid Soldiers and Subjects were put to death by ſome of the ſaid Commiſſioners, when and where, if by the Laws and Statutes of the Land they had deſerved death, by the ſame Laws and Statutes alſo they might, and by* NO OTHER *ought to have been judged, before the Kings Juſtices) and executed.* Upon Complaint of theſe *Commiſſions*, as *illegal*, in the Parliament of 3 *Caroli*, they were, after a full debate by both *Houſes*, *voted to be againſt Law.* And in the *Petition of Right* itſelf, it was then prayed by the *Lords and Commons*, aſſented to by the late beheaded King himſelf, and enacted by this Law, *That hereafter no Commiſſions of* LIKE NATURE *may iſſue forth to any Perſon or Perſons whatſoever, to be executed as aforeſaid, leſt by colour of them any of his Majeſty's Subjects be deſtroyed or put to death,* CONTRARY TO THE LAWS AND FRANCHISE OF THE LAND: *which the Lords and Commons then prayed, and the King granted, confirmed by Act of Parliament,* AS THEIR RIGHT AND LIBERTY ACCORDING TO THE LAWS: which Act ſtands yet in its full Force. Upon conſideration of which late excellent Law, the laſt long *Parliament*, in the caſes of the Lord *Connor Magwire* and *Mac-mahun*, and the Court of *King's Bench* wherein they were tried by their Special Order, in *Michaelmas* and *Hilary* Terms 20 *Caroli* were ſo juſt, punctual and honourable, in confining themſelves to the rules of Law and Juſtice; that though theſe were principal *Conſpirators*, and *Actors* in the late moſt *horrid, barbarous, bloody Treaſon, Rebellion, and Maſſacre in Ireland*, and taken in its proſecution; yet they were ſo far from trying them by *Martial Law* in a *Council of War*, or *High Court of Juſtice*, even in a time of *open War* both in *England* and *Ireland*, that they aſſigned the ſaid *Magwire* Council, to argue againſt the very *Juriſdiction* of the *King's Bench itſelf*; *whether he, being a Peer of* Ireland, could in point of Law or *Juſtice* by the *Statute* of 35 *H.* 8. *ch.* 2. or any *other Act, be outed of his Trial by his Peers, and tried by a Jury of good and lawful Men of the County of* Middleſex *for a Treaſon committed in* Ireland, *being ſent a Priſoner from thence againſt his will?* Which was there (e) publickly argued at the Bar by Counſel *pro & contra*; and then by the *Judges*, and over-ruled at laſt againſt him, before he was put to plead *guilty* or *not guilty* to his *Indictment:* after which they both were admitted to take both their *peremptory* and legal *challenges* to the Juries returned; (f) (*according to Law, admitting ſuch Challenges even in caſes of High-Treaſon;*) and all juſt Exceptions to the Witneſſes produced; and had a moſt fair and *free Trial*; being *found guilty by the Jury*, before any Judgment paſſed againſt them. Which Juſtice he humbly craves in his Caſe, of leſs hainouſneſs and importance than theirs, being a native *Engliſh free-man*, and they only *Iriſh* Rebels; becauſe this his inherent *Birth-right* and *Liberty, can* (g) *neither be forfeited by him for any real or pretended Treaſon or Offence whatſoever, nor yet be denied or deferred to him* (after all the premiſed Laws, Statutes, Charters, Judgments, Reſolutions, Precedents) without the higheſt Injuſtice. And he further ſaith, that to proceed againſt, try, condemn, execute him in this *high Court*, without a legal *Indictment, Preſentment, and Trial by the Oaths of twelve good and lawful Men*, according to the due order and courſe of the Common Laws of this Realm (and that in *Weſtminſter-Hall* itſelf, the place of Law and publick Juſtice, in time of Peace, when and where all other Courts of Juſtice are open) or in any other form by way of *Martial Law*, or otherwiſe than a juſt Jury of his Equals, is not only illegal, erroneous, and againſt all Rules of Juſtice (the Commiſſioners themſelves being both his grand and petty Jury, and his Judges likewiſe; if not Parties intereſted, to whom *he can take no peremptory nor legal Challenges*, which the (h) *Law allows him if tried by a Jury in caſes of High-Treaſon at this day;*) but alſo *wilful and malicious Murder* by the Laws of *England*, being againſt *Magna Charta, c.* 29. *and done by ſuch power and ſtrength as he this Defendant cannot defend himſelf againſt*, as is reſolved in Sir *Edward Coke's* 3 *Inſtit. p.* 52. & 224. (printed by ſpecial *Order* of the *Houſe of Commons*, dated 12 *May*, 1641.) and long before in *Andrew Horn* his *Mirrour of Juſtices, c.* 5. *p.* 296, 297, who records, that our noble King *Alfred* cauſed no leſs than 44 of his Juſtices to be hanged in one Year as MURDERERS, *for condemning and executing ſome of his People without a legal Indictment and Trial by a ſworn Jury; and others of them for offences not capital by the known Laws of the Land, and without clear and pregnant Evidence.* And this Defendant likewiſe ſaith, that the Commons themſelves ſitting at *Weſtminſter*, after the *late King's* Execution, in their printed *Declaration* of 17 *Martii*, 1648, (expreſſing *the grounds of their proceedings againſt the ſaid King, and for ſettling the preſent Government in way of a Free State*, to which many in preſent power and ſitting here were aſſenting and gave their Votes) did thereby faithfully *promiſe* and *engage* to the whole *Engliſh* Nation, *That the good old Laws and Cuſtoms of* England, THE BADGES OF OUR FREEDOM, *(the benefit whereof our Anceſtors enjoyed long before the Conqueſt, and ſpent much of their blood to have confirmed by the great Charters of their Liberties) which have continued in all former Changes, and being duly executed, are the moſt juſt, free, and equal of any other Laws in the World; ſhall be duly continued and maintained; the Liberty, Property and Peace of the Subject being ſo fully preſerved by them*; adding, that, ‘ If theſe Laws ſhould be taken away, ‘ all Induſtry muſt ceaſe, all Miſery, Blood and Confuſion would follow; ‘ and greater Calamities, if poſſible, than fell upon us by the late ‘ King's Miſgovernment would certainly involve all Perſons, under ‘ which they muſt inevitably periſh.' And moreover, the *General Council* of the *Officers* and *Army* themſelves (whereunto moſt Officers and Soldiers in preſent Power and ſome Commiſſioners here ſitting were Parties) in the *Declaration* of their Engagements, Remonſtrances, Repreſentations, Propoſals, Deſires, and Reſolutions for ſettling the Parliament in their juſt Privileges, and the Subjects in their Liberties and Freedoms (printed by their own Orders, and reprinted all together by Order of the *Lords* in *Parliament*, 27 *September*, 1647) *pag.* 11, 36, 37, 38, 39, (eſpecially in their *Declaration* and *Repreſentation* tendered to the *Parliament*

(d) Coke's 4 Inſtit. p. 124, 125. * 4 Jacob. ch. 1.
(e) *See Mr.* Prynne's *Argument thereof.*
(f) 32 H. 6. f. 26 14. H. 7. f. 19. Brook Challenge, 86, 211, 217, Stamford's Pleas l. 3. c. 7. Coke's 3 Inſtit. p. 27.
(g) 1 E. 6. c. 12. 1 & 2 Phil. & Mar. c. 10, 11. Coke's 3 Inſtit. c. 1, 2. (h) Coke's 3 Inſtit. f. 27. Brook, Challenge 217.

ment concerning the juſt and fundamental Rights and Liberties of the Kingdom, 14 *May*, 1647) do profeſs and declare, 'That they were not 'a meer mercenary Army, hired to ſerve any Arbitrary power of State, 'but called forth and conjured by ſeveral Declarations of Parliament, to 'the defence of their own and the Peoples juſt Rights and Liberties, and 'that they took up Arms in Judgment and Conſcience to thoſe Ends, 'and have ſo continued them, and are reſolved, according to the Par-'liament's juſt deſires in their Declarations, and ſuch Principles as they 'have received from their frequent Informations, and their own common 'Senſe concerning thoſe fundamental Rights and Liberties, to aſſert 'and vindicate the ſame againſt all Arbitrary Power, Violence and Op-'preſſion, and againſt all particular Parties and Intereſts whatſoever; 'that ſo all the free-born People of this Nation may ſit down in quiet 'under the glorious Adminiſtration of Juſtice and Righteouſneſs, and 'in full poſſeſſion of thoſe fundamental Rights and Liberties; without 'which we can have little Hopes (as to human conſiderations) to enjoy 'any comfort of Life, or ſo much as Life itſelf, but at the pleaſure 'of ſome Men RULING ACCORDING TO WILL AND POWER. That 'they deſire the Eſtabliſhment of ſuch good Laws, as may duly and 'readily render to every Man their juſt Rights and Liberties. And 'more particularly, in their Propoſals to the Commiſſioners of Parlia-'ment, in order to the clearing and ſecuring of the Rights and Liber-'ties of the Kingdom, *Auguſt* 1, 1647, *Sect.* 10. *p.* 114. they propoſed, 'That the Rights and Liberties of the Commons of *England*, MAY BE CLEARED AND VINDICATED FROM ANY OTHER JUDGMENT, SENTENCE, OR PROCEEDING AGAINST THEM, OTHER THAN BY THEIR EQUALS, OR ACCORDING TO THE LAW OF THE LAND. And this De-fendant finally ſaith, that by the *Inſtrument of Government* itſelf, 16 *Decem-ber*, 1653, *Artic.* 6. and the Oath therein preſcribed to, and accordingly taken by his Highneſs, *Oliver Cromwell Lord Protector*, he is limited and ſworn, 'not to alter, ſuſpend, abrogate or repeal the Laws, and to 'govern theſe Nations according to the Laws, Statutes and Cuſtoms; 'cauſing Juſtice and Law to be equally adminiſtred: whereunto he is 'likewiſe obliged and ſworn again, by his *Oath* preſcribed in the late 'printed *humble Petition and Advice*.' Neither doth that pretended *Act*, by which you here ſit as Commiſſioners to try this Defendant (made by no *legitimate*, nor free *Parliament* of *England*, and that when near one hundred and fifty Members thereof were *cauſeleſly* and *forcibly* ſecluded) authorize you (as he humbly conceiveth) to proceed againſt him for any Crime therein ſpecified, *to Conviction* or *final Sentence*, but *only as in Caſes of High-Treaſon, and miſpriſion of Treaſon*, AND ACCORDING TO JUSTICE; and that you cannot do but only by proceeding againſt him by a lawful Indictment and Trial by a Grand and Petty Jury, according to the great Charter, Laws, and Statutes of the Land, and the late *Petition of Right*, which this new Act cannot repeal or null. All which this De-fendant is ready to aver, juſtify, and make good, when and where this *high Commiſſion Court*, or his *Highneſs the Lord Protector* ſhall appoint: which being a meer matter of Law, wherein both the Liberties and Lives of all the Free-born People of *England* are ſo univerſally, highly, and equally concerned, as well as the Liberty and Life of this De-fendant, proper only to be debated before, and reſolved by the *Judges of the Law*, or the *high Court of Parliament*; This Defendant thereupon humbly prayeth, That *it may be referred to, openly argued by his learned Counſel, before all the Judges, or a Parliament, and by them determined:* and in the mean time humbly demandeth the Judgment of this *High Commiſſion*; Whether they may, can, or ought in point of *Law* and *Juſtice*, to proceed againſt, condemn, or execute this Defendant, upon any *illegal Accuſation* or *Impeachment* whatſoever, here exhibited or read againſt him, without a legal Indictment, Preſentment and Trial by a Jury of his Equals? Or can take any further connuſance of the *Charge* againſt him, for the premiſed Authorities and Reaſons; which he in all humility referreth to, and imploreth you to take into your ſaddeſt Conſiderations, and that in the Name and dreadful Preſence of the Omniſcient, Omnipo-tent, Sovereign *(i) Judge of all the Earth, (k) before whoſe glorious Tri-bunal you muſt all ere long appear*, (ſtript of all Earthly Honours, Pomp, Guards, and Power,) *to give a ſtrict Account of all your Actions, whether good or evil*, and of your Proceedings in this very Cauſe; when this his *Plea* and *Demurrer* will riſe up in Judgment againſt, and condemn you, in caſe you wilfully *prejudge*, *misjudge*, or reject it now, without due and full Examination according to Law, Juſtice, Conſcience: And if the Conſideration of this terrible Day of Account and juſt retribution before Chriſt's own Tribunal, ſhall not prevail with you to admit of this his *Legal Plea* and *Demurrer*, (as being after your Deaths perhaps many Years yet to come, and no ways endangering the loſs of your Lives, Lands, Honours or Eſtates in this preſent World,) He ſhall then humbly intreat you for your own future Indemnity (he hopes, without Offence) ſeriouſly to conſider; That in the Parliament of 11 *R.* 2. *c.* 1, 5. 21 *R.* 2. *c.* 11, 12. *Treſylian* Chief Juſtice of the King's Bench, *Belknappe* Chief Juſtice of the Common-Pleas, *John Carc*, *John Holt*, *Roger Ful-thorpe*, *William de Burgh* Judges, *and John Locton* the King's Serjeant, were all *impeached of High-Treaſon, condemned, and ſome of them executed as Traitors and Enemies to the King and Realm, the reſt perpetually baniſhed, their Lands and Eſtates confiſcated to the King, and all acceſs of their Wives, Children or others to them during their Exile, prohibited by Judgment and Act of Parliament*, only *for delivering their Opinions (through menaces and fear of Death at* Nottingham Caſtle) *under their Hands and Seals, againſt the Law of the Land; That the Lords and Commons who procured the Com-miſſion in the Parliament of* 10 R. 2. *for the better Government of the Realm*, and moved the *King to conſent thereto, deſerved to be puniſhed as Traitors, by capital pain of Death:* That ſo by Colour of theſe their Opinions, *Robert de Veer* Duke of *Ireland*, *Nicholas Brambre*, Knight, *and others of the King's ill Counſellers*, might take occaſion to *deſtroy and take away the Lives of the Lords who procured and executed that Commiſſion, and others of the King's People, by undue and illegal Indictments and Proceedings, without any lawful Trial by their Peers, as Traitors to the King.* And the ſaid Sir *(l) Nicholas Brambre* for *enforcing the Judges, with others of the King's ill Counſellors to deliver their Opinions againſt Law, and for his beheading and executing* 22 *Priſoners of* Newgate, *(impeached and indicted of Felony, or ſuſpicion of Felony) at* Foul-Hoke *in* Kent *by regal and tyrannical Power incroached by him, without Warrant, or due proceſs of the Law againſt the Great Charter and Uſage of the Realm of* England, *was in the ſame Par-liament condemned for High-Treaſon, and beheaded at* Tower-hill *on the ſame Block, with the ſame Ax he had prepared to cut off the Heads of others he intended there to execute as his Enemies.* And that in the laſt Parliament of King *Charles*, the *(m)* two *Chief Juſtices*, *Brampſton* and *Finch*, the *Chief Baron Davenport, and all the reſt of the Judges and Barons*, except two, were by the whole Houſe of Commons, and ſome of the Commiſ-ſioners here ſitting, and Counſel pleading againſt this Defendant, *Im-peached of High-Treaſon, diſ-judged and put to Fines and Ranſoms, for that they had traiterouſly endeavoured to ſubvert the fundamental Laws and Government of the Realm of* England, *and inſtead thereof to introduce an Arbitrary and Tyrannical Government againſt Law; which they had declared by traiterous Words, Opinions and Judgments in the caſe of Ship-money*, againſt Mr. *John Hampden*; Which Judgment and Opinions concerned only the property of the Subjects Goods, not the hazard of their Lives, In-heritances and forfeiture of their Eſtates, as your preſent Proceedings do, being of a more high and dangerous conſequence; In which Parlia-ment, by the like Impeachment and Proſecution, *William Laud*, Arch-biſhop of *Canterbury*, and *Thomas* Earl of *Strafford* Lord Deputy of *Ireland*, were condemned and executed by Judgment of Parliament, and ſome here preſent, as 'Traitors, guilty of High-Treaſon, for that they endea-'voured traiterouſly to ſubvert the Fundamental Laws and eſtabliſhed 'Government of this Realm, and inſtead thereof to bring in and ſet 'up an Arbitrary and Tyrannical Power, againſt Law. To prove 'which Charge, their Arbitrary Proceedings contrary to the Laws 'and great Charters of *England*, both at the Council Table, in the 'High-Commiſſion, Star-Chamber, and elſewhere, were given in 'Evidence againſt them; and more particularly, the Earl of *Strafford*'s 'proceeding againſt the Lord *Mount Norris* in *Ireland*, by a Council 'of War in Time of Peace, and condemning him to Death therein 'without any legal Indictment and Trial by his Peers, againſt the great 'Charter and Laws of the Land, though he did not execute him 'thereupon:' And whether your preſent Proceedings of like nature againſt this Defendant, in caſe you reject or over-rule this his *Plea* and *Demurrer*, and condemn and execute him by pretext of an *illegal Act* (made by no free and lawful Parliament of *England*,) for Offences not treaſonable by the known Laws and Statutes of the Land, nor legally proved againſt him by any one Witneſs produced in Court before his Face, without conſulting the preſent *Judges* of the Land (who refuſe to join or ſit with you in this new illegal way of Trial) will not much more involve you in the *Crime* and *Guilt* of the very ſelf-ſame *High-Trea-ſons*, for which they were thus anciently and lately Impeached, Con-demned, Executed by *Judgment of Parliament*, and ſo expoſe you to the like *capital Cenſures*, Forfeitures, Confiſcations of your Real and Per-ſonal Eſtates, as they underwent, in future *Parliaments*, 'by your endea-'vouring to ſubvert all the premiſed Fundamental Laws and eſtabliſhed 'legal Proceedings in the Land, and to introduce and ſet up a meer 'Arbitrary and Tyrannical Power contrary to Law, to the endangering 'not only of the Properties, but Lives, Liberties, and Inheritances of 'all the Noblemen, Gentlemen, Clergy-Men, and other Freemen of '*England*, by ſuch exorbitant, *martial* Proceedings,' after all theſe Statutes, Judgments, with the late *Remonſtrances*, *Declarations*, Leagues, Covenants, and ſolemn Oaths of the Lord *Protector* himſelf and others againſt them, yea after the many Years Wars and heavy Taxes impoſed on the Nation for the maintaining an inviolable preſervation of theſe Fundamental Laws, Liberties, and Rights againſt all Arbitrary *Com-miſſions* and Proceedings whatſoever; he humbly ſubmits to your own impartial Reſolutions and Conſciences. And thereupon this Defendant prays his Diſmiſſion from any ſuch further Proceedings againſt him, without a lawful *Jury and Trial by his* PEERS. And that you will be pleaſed, after deliberate conſideration of the premiſes, to reverſe and recal that *Arbitrary, unrighteous, bloody Sentence of Death*, ye have newly paſſed againſt him, without any lawful Indictment, Preſent-ment, Trial, Confeſſion or Conviction of Treaſon, which ſtrikes at the Root of the Fundamental Laws, Liberties, Franchiſes of all *Engliſh* Freemen, and cuts off all their Necks at one Stroke, tranſcending all the Arbitrary, Tyrannical Proceedings of *Strafford*, *Canterbury*, and the late King *Charles* (whom ſome of yourſelves have Impeached, cenſured, condemned, decapitated as the *very worſt, and greateſt of Tyrants)* leſt it become a moſt pernicious fatal precedent to Poſterity, to others, or your own Deſtruction, and render you as execrable to all ſucceeding Generations, as any formerly guilty of the like exorbitant Proceedings.

Juſt and Legal Exceptions to the Cauſe and Manner of the Illegal Judgment given againſt Dr. John Hewet; *humbly tendred by him to the Conſidera-tion of thoſe Commiſſioners who denounced it.*

THAT it is ſpecially enacted by the Statute of *Weſtminſter* the 1 ch. 12. and accordingly reſolved in *Brook* Pain 1, 2, 4, 5, 8, 9, 12, 13, 14, 15, 19, and the Year-Books therein abridged, by *Stam-ford*'s Pleas of the Crown, l. 2. c. 60. *Dyer*, *f.* 205. *a.* 300. *b. Coke's* 2 *Inſtitutes*, *p.* 177, 178, 179. and 3 *Inſtitutes*, *p.* 217. *That no Man ought by Law to be condemned, or put to Death in caſe of Treaſon and Felony, for ſtanding mute, or refuſing to Plead, or put himſelf upon his Trial, or for challenging more than* 36 *of the Jury peremptorily; but only in theſe Caſes.*

(*i*) Gen. xviii. 25. (*k*) 2 Cor. v. 10.

(*l*) Henry de Knyghton de Event. Angliæ l. 5. p. 2718, 2726, 2727, 2728.
(*m*) *Their Impeachments are entered in the Journals of the Lords and Commons Houſe.*

1. When and where the perſon accuſed and arraigned, *is a (a) Notorious Traitor or Felon, and openly of evil name, and defamed thereof:* But Dr. *Hewet* is no ſuch Perſon.

2. When and where the *Treaſon or Felony* for which he ſtands accuſed, is *(b) notorious, evident, certain, or at leaſt very probable, and already found upon Oath againſt him by the Preſentment, or Indictment of an honeſt lawful Grand Jury of his Equals of the ſame County wherein he is arraigned, or confeſſed by himſelf:* All which Circumſtances and Evidences of Guilt were wanting in Doctor *Hewet*'s Caſe.

3. When and where the Judges, *(c) for the better ſatisfaction of their Conſciences, and diſcharge of their Duties, do* (AS THEY OUGHT BY LAW,) *firſt openly examine the Evidences and Witneſſes, which prove the Perſon arraigned guilty of the Fact of Treaſon or Felony for which he ſtands indicted, before they proceed to give Judgment againſt him for not pleading, or ſtanding mute.* Which was not done in this Caſe, there being neither Witneſſes nor Evidence produced in open Court to prove him guilty.

4. When and where there is a *legal Indictment* found againſt the Party arraigned, which being read openly to him in Court, the *Traitor* or *Felon* thereupon doth either *(d) wilfully or maliciouſly ſtand mute, refuſing to anſwer or plead* thereunto, (which the *(e) Jury* there impannelled to try him, *are by Law to enquire of, find and return upon Oath:)* Or, *peremptorily challengeth above* 35 *of his Jury, without any legal Cauſe or Exceptions*; Or elſe obſtinately *(f) refuſeth to put himſelf upon a legal Trial* BY GOD AND HIS COUNTRY, *(being a Jury of honeſt, lawful men of the County then and there preſent, (g) returned by the Sheriff alone, not Juſtices or others, for to try him; to whom by Law he may take both his legal and peremptory Challenges)* ſaying, That he will be tried ONLY BY GOD AND THE BENCH; or, BY GOD AND THE COURT, or JUDGE; or *(h)* BY GOD AND THE VIRGIN MARY, or HOLY CHURCH: there being no Precedent extant in Records, or Law-Books, of any *Traitor* or *Felon* hitherto condemned to die, *for ſtanding mute, or not pleading, only for refuſing to* BE TRIED BY GOD AND THE HONOURABLE BENCH, JUDGES, COURT ALONE, without any Indictment or Jury; and for earneſtly importuning the Court and his Judges, THAT HE MAY BE TRIED ONLY BY GOD AND HIS COUNTRY, AND ON AN INDICTMENT BY A JURY OF HIS EQUALS ACCORDING to LAW, *caſting himſelf wholly upon ſuch a Trial, after a lawful Preſentment and Indictment* firſt *found againſt him by a Jury.* The only Reaſon rendered in and by the forecited *Statute* and *Law-books* of all Judgments hitherto given againſt any *Traitor* or *Felon*, for ſtanding mute, and refuſing to plead, being this, *(i)* 'Becauſe he peremptorily refuſeth to ſtand to and be tried by THE LAW OF THE LAND, AND A DUE AND LAWFUL TRIAL BY A JURY OF HIS EQUALS, ACCORDING TO THE COURSE OF THE COMMON LAW, AND THE GREAT CHARTER. But Dr. *John Hewet* is now *condemned* to be *executed* as a Traitor by the *High Court of Juſtice*, 'contrary to all former Precedents, 'Statutes, Law-books, and the only legal Reaſon in former times of 'all Judgments rendered againſt any Perſons in ſuch Caſes; even for his frequent, earneſt, importunate demanding and peremptory caſting of himſelf, upon a due legal 'Trial by God and his Country, and an 'indifferent Jury of his Equals, according to the common Statute 'Laws and great Charter of *England*, after a legal Preſentment and In-'dictment to be firſt found againſt him: and for refuſing to wave this his legal Trial (to the publick prejudice of all other *Engliſh* Freemen) and 'caſt himſelf wholly and ſolely upon a new kind of arbitrary 'Trial, contrary to Law, BY GOD AND THE BENCH, COURT, AND THE COMMISSIONERS themſelves, (who would be both *his Grand* and *Petty Jury* as well as *Judges*) 'without and before any legal Preſent-'ment, Indictment, or Jury impannelled or returned to try him. Therefore he humbly conceives this Judgment denounced againſt him upon this Reaſon and Ground alone, to be moſt erroneous, illegal, unjuſt, repugnant to all former Precedents, and to one this very Week at the *Seſſions* in the *Old Bailey* by Judgment of ſome of his Judges at *Weſtminſter*, and of very dangerous Conſequence. Whereupon he humbly prays the *ſuſpenſion* and *reverſal* thereof as unjuſt, and merely void in Law, by the Statutes of 25 *E.* 1. *cap.* 2. & 42. *E.* 3. *c.* 1. leſt the Execution of him for a Traitor upon this Judgment and Ground, ſhould prove *wilful Murder*, and a ſhedding of *innocent Blood* in the Account both of God and Man.

What therefore the Prophet *Jeremiah* alledged to the *Princes* of *Judah*, in a like Caſe, when they reſolved him at firſt *to be worthy of Death*, without a legal Hearing or Trial, *Jerem.* xxvi. 11. 14, 15. *As for me, behold, I am in your Hands, to do unto me what ſeemeth good and meet unto you: But know ye for certain, that if ye put me to Death,* YE SHALL SURELY BRING INNOCENT BLOOD UPON YOUR SELVES, AND UPON THIS CITY, AND UPON THE INHABITANTS THEREOF: Whereupon the *Princes* and *People*, upon ſecond and better adviſed Thoughts, altered their former bloody Sentence, ſaying; *This Man is not worthy to die; for he hath ſpoken unto us in the Name of the Lord our God. And the Hand of* Ahikam *was with* Jeremiah, *that they ſhould not give him into the Hand of the People to put him to Death*; ſhall be my Allegation to thoſe who have paſſed this unjuſt Sentence of Death againſt me; and if it produce not the like Effect for their Reverſal thereof, and my Preſervation from its violent bloody Execution, as it did in this Prophet's Caſe; I ſhall then earneſtly pray to God, that it may not draw down from Heaven that heavy Sentence of Wrath upon them, nor that ſad Judgment upon the whole Land of *England* which this Prophet denounced againſt *Jehoiakim*, *Jer.* xxii. 17, 18, 19. *But thine Eyes and thine Heart are but for thy Covetouſneſs, and* FOR TO SHED INNOCENT BLOOD, *and for Oppreſſion and Violence to do it. Therefore thus ſaith the Lord concerning* Jehoiakim; *They ſhall not lament for him, ſaying, Ah my Brother, or ah Siſter, ah Lord, or ah his Glory: But he ſhall be buried with the Burial of an Aſs, drawn and caſt forth beyond the Gates of* Jeruſalem. And that which the Prophet *Joel* threatned to *Egypt* and *Edom*, *Joel* iii. 19. Egypt *ſhall be a Deſolation, and* Edom *a deſolate Wilderneſs, for their Violence againſt the Children of* Judah, BECAUSE THEY HAVE SHED INNOCENT BLOOD IN THE LAND. And that againſt all Rules of Law and Juſtice, in that they intitle, The High Court of Juſtice, which will not palliate, but ‡ *aggravate* the Injuſtice acted in it, and make it more deteſtable both to Man and God himſelf, who avers this for an undoubted Truth;

Gen. ix. 5, 6. Surely your Blood of your Lives will I require; at the Hand of every Beaſt will I require it, and at the Hand of every Man's Brother will I require the Life of Man. WHO SO SHEDDETH MAN'S BLOOD, BY MAN SHALL HIS BLOOD BE SHED; for in the Image of God made he Man.

LVI. *The Trial of* JOHN MORDANT, * *Eſq*; *before the High Court of Juſtice for* High-Treaſon, *the 1ſt of* June, 1658. 10 Car. II.

THE Serjeant at Arms was commanded to bring *John Mordant*, Eſq; to the Bar, who was brought accordingly.

* *John Liſle.* * *Lord Preſident.* Mr. Attorney, what have you to ſay againſt the Priſoner at the Bar?

* Mr. *Prideaux.* * *Mr. Attorney General.* My Lord, I have prepared a Charge of High-Treaſon againſt the Gentleman at the Bar, which I deſire may be read.

The Subſtance of the Impeachment.

Mr. *Phelps. John Mordant*, Eſq; ſtand at the Bar, and hear your Charge.

A Charge of High-Treaſon againſt John Mordant *of* Clement Danes, *in the County of* Middleſex, *Eſq; as followeth*, viz.

'THAT *John Mordant*, late of the Pariſh of *Clement Danes*, in 'the ſaid County of *Middleſex*, Eſq; minding and intending to 'embroil this Commonwealth in new and inteſtine Wars and Seditions, 'on the 30th of *April* now laſt paſt, and at divers other Days and Times 'ſince the 10th of *October*, 1656, and before the ſaid 30th of *April* 'laſt, as a falſe Traitor and Enemy to *Oliver*, then and yet Lord 'Protector of the Commonwealth of *England*, *Scotland*, and *Ireland*, 'and the Dominions thereto belonging, and to this Commonwealth; 'together with *Henry Biſhop*, late of *Parham*, in the County of *Suſſex*, 'Gent. *Hartgil Baron*, and *Francis Manſel*, and divers others, their 'Complices, at the Pariſh of *Clement Danes* aforeſaid, and at divers 'other Places, did traitorouſly, adviſedly, and maliciouſly plot, con-'trive, and endeavour to ſtir up and raiſe War againſt the ſaid *Oliver*, 'then and yet Lord Protector of this Commonwealth, and againſt the 'Government thereof, as the ſame was eſtabliſhed, and to alter and 'ſubvert the ſame; and did alſo then and there, as well before as 'after the ſaid 30th of *April* laſt paſt, and after the 10th of *October*, '1656, traitorouſly, adviſedly, and maliciouſly declare, publiſh, and 'promote *Charles Stuart*, eldeſt Son of the late King *Charles*, to be 'King of *England*, *Scotland*, and *Ireland*, *&c.* and did then and there 'traitorouſly, adviſedly, and maliciouſly hold Intelligence and Correſ-'pondence with the ſaid *Charles Stuart*. All which ſaid Treaſon and 'Treaſons he the ſaid *John Mordant*, the ſaid 30th of *April* laſt, and 'other the Times and Places aforeſaid, and after the ſaid 10th of *October*, '1656, at *Clement Danes*, and other Places, did traitorouſly declare by 'Overt-Act, that is to ſay, by conferring with *J. Stapley* Eſq; and '*Henry Mallory*, and others, how to effect the ſame; and did then and 'there encourage the ſaid *John Stapley* and *Henry Mallory*, and others, 'thereunto; and did deliver Commiſſions to ſeveral Perſons in the Name 'of, and as from the ſaid *Charles Stuart*, concerning the raiſing of 'Forces, and levying War againſt the ſaid *Oliver*, then and yet Lord 'Protector, and againſt this Commonwealth: All which ſaid Treaſon 'and Treaſons are contrary to the Statute in that Caſe made and pro-'vided. With which ſaid Treaſon and Treaſons, he the ſaid Attorney-'General, for and on the behalf of the ſaid *Oliver*, then and yet Lord 'Protector, and on the behalf of the ſaid Commonwealth, as afore-'ſaid, doth charge and impeach the ſaid *John Mordant*. And the 'Attorney-General prayeth, That he the ſaid *John Mordant* may be 'put to anſwer; and that ſuch Proceedings, Trial, and Judgment 'may be had againſt the ſaid *Mordant*, as is agreeable to Law. And 'the ſaid Attorney-General doth aver that the ſaid *John Mordant* is a 'Perſon by Name appointed by his Highneſs and Council to be pro-'ceeded againſt.'

Mr. *Phelps. John Mordant* Eſq; thou ſtandeſt here charged with High-Treaſon againſt his Highneſs the Lord Protector and the Common-wealth. You have heard the Charge read: The Court demands your poſitive Anſwer thereto, whether Guilty, or Not guilty.

(a) Weſt. 1. c. 12. Stamford, l. 2. c 60. f. 149. b. Coke's 2 Inſtit. p. 177. 179. (b) Coke's 2 Inſtit. p. 177. Stamford, f. 150. 2. (c) Stamford, l. 2. c. 60. f. 150. 2.
(d) Stamf. l. 2. c. 60. Coke's 2 Inſtit. p. 177, 178. (e) Stamford, f. 150. b. 43. Aſſ. 30. Fitz. Corone, 225. 8 H. 4. 2. Coke's 2 Inſtit. p. 178. 21 E. 3. 18.
(f) Coke's 2 Inſtit. p. 178. (g) 11 H. 4. c. 11. Coke's 3 Inſtit. p. 32, 33. (h) 4 E. 4. 11. 7 E. 4. 29. Brook Pain. 14. (i) W. 1. c. 12. 3 Inſtit. p. 217. 2 Inſtit. p. 179. 8 E. 3. Itin. Nort. Fitz. Corone, 359. 14 H. 4. 7. Brook Pain. 14, 15.

‡ Eccleſ. iii. 16, 17. Pſal. xciv. 20, 21, 23.

* Clar. Hiſt. Vol. 3. p. 484, &c.

Mr.

Mr. *Mordant*. My Lord, I desire I may hear the Commission read, by which you sit.

Ld. President. You are impeached of High-Treason: We require your Answer.

Mr. *Mordant*. I desire the Commission may be read, and the Commissioners Names.

Ld. President. You are to be tried by the Laws of *England*, Act of Parliament, and Commission under the Great Seal of *England*, in pursuance of that Act.

Mr. *Mordant*. I claim it as my Right; I am ignorant in Law; I desire it may be read.

Ld. President. It is not granted to any.

Mr. *Mordant*. My Lord, will you take away that Liberty, that we shall not know by what Commission we are tried, and who are our Judges? I desire I may not be made the first Precedent.

Ld. President. It is visible who are your Judges; they are named by Act of Parliament: We are your Judges.

Mr. *Mordant*. My Lord, if the Act specify any such Thing that it may not be read, I have done. I desire it may be read, that I may have a legal and just Proceeding.

Ld. President. The Act of Parliament doth not require it.

Mr. *Mordant*. The Act doth not deny it.

Ld. President. You shall have all the Privileges that may be: But you must first plead.

Mr. *Mordant*. My Lord, I demand this, to hear the Commission read.

Mr. At. Gen. My Lord, pray let him know what is done, to warn him, lest he fall into the same Condemnation. There was one but a little before you that demanded the same Thing, and the Court hath ruled it otherwise; and he hath received his Sentence. I tell you of it, that you may beware, and know how to carry your self. If Mr. *Mordant* will be pleased to answer whether or no guilty of those Crimes, then he shall have a fair Trial, and full Examination: If otherwise, the same Sentence must be required as before; that is, upon Refusal, the Judgment pronounc'd for High-Treason.

Mr. *Mordant*. My Lord, I humbly crave the Act may be read.

Mr. At. Gen. The Act is publick: The Court are not to give you an account of their Authority, or the Way of their Proceedings. They require your Answer.

Mr. *Mordant*. My Lord, shall I not know by what Law I am tried, nor by what Act, nor by what Commission?

Ld. President. You seem to be a young Gentleman: I wish rather you would plead Not guilty, or make an ingenuous Confession.

Mr. *Mordant*. My Lord, this is the first Time that I have been before any Court in my Life: I desire that my Reason may be convinced: Either assign me counsel to argue it with this learned Counsel; and if they convince my Counsel, I shall submit: Or, if this Counsel will say the Law doth debar me the hearing of the Commission and the Act read to me, I shall refer it to the Judges of the Law, and by their Opinions I will stand or fall.

Mr. At. Gen. My Lord President, you have offered that Gentleman very seasonable Advice: I wish he may be capable of it. And in these Debates, I wish he doth not lose those Advantages that are really intended for him. For the Court, it is by Act of Parliament; and no Judicature in *England* can require an Account of their Proceedings.

Mr. *Mordant*. My Lord, pray give me leave to ask this Question, Whether there is any Precedent for this?

Mr. At. Gen. By way of Advice, I do acquaint you that there is no Judicature in *England* superior to this, but the Parliament immediately. You are here impeached of a very high Crime, High-Treason; it may be a Strain of Youth: the first Step to Mercy is Confession.

Mr. *Mordant*. My Lord, I have heard that the Judges of the Land are the best and proper Expositors of the Law: And if they declare that this is the Sense of the Act, I'll submit to the Court. If the Court will allow me Counsel, I shall submit if my Counsel be convinced. I desire to hear the Commission read.

Mr. At. Gen. My Lord, this Gentleman was a Fellow-Prisoner with one that went before him; he walks after the same Steps: I wish he may not run into the same Error. These Things were urged by Dr. *Hewet*, and the Court hath ruled that their Authority is sufficient, and therefore, my Lord, be pleased that this Gentleman may plead.

Mr. *Mordant*. I am over-borne both for Jury and Counsel: I desire that my Reason may be convinced. If this Counsel will give it under their Hands that this is Law by the Act of 1656, if you will say under your Hands that this is Law, that I must be excluded of Jury and Counsel, and that I must not know the Commission by which I am tried, I will proceed.

Ld. President. I am afraid you have received ill Advice from others: Possibly you know what is become of that Prisoner that spake of Counsel. We cannot assign you Counsel as to Matter of Fact: The Law and Act of Parliament have made us your Judges, and therefore you are to plead.

Mr. *Mordant*. My Lord, I desire that that Act may be read, to know whether I am to be excluded of Jury and Counsel: I refer it to this Counsel.

Mr. At. Gen. I doubt the Gentleman is in Jest: We are here to attend by Command of his Highness the Lord Protector; these Gentlemen are all sworn by Act of Parliament. It is a little slighting of the Court, to appeal from the Court to the Counsel: But, my Lord, I beseech you he may forbear to say he is over-borne. You shall have Justice done, if you will plead; if not, there was a Precedent but now. If you please to put yourself upon the Trial, you shall have a fair Trial.

Mr. *Mordant*. My Lord, convince me by this Act that I am to lose the Right of Jury; I have not heard any Reason why I must lose it.

Mr. At. Gen. I do tell you the Court hath given Judgment just now in the like Case.

Mr. *Mordant*. I ask a Precedent for this.

Mr. At. Gen. I tell you a Precedent, Sir *Henry Slingsby* and Dr. *Hewet*.

Mr. *Mordant*. Is it a good Precedent? If any give an ill Precedent, it is reason I should debate it my self.

Mr. At. Gen. I humbly conceive that this Court is your Court, and you ought to plead it.

Mr. *Mordant*. My Lord, I desire I may be heard: The Words are, That the respective Commissioners, or the major part of them, are to meet, *&c*. I humbly conceive, without the whole I cannot be tried.

Ld. President. All this that you ask of us now, we have declared this Morning already to one who was before you at the Bar: The *Quorum* of this Commission is seventeen, or any of them. We must require you again to plead.

Mr. *Mordant*. My Lord, I desire a little Patience. The Number of the Commissioners is seventeen: I conceive that must be very much strained in Reason, that they must try, because it relates to the respective Commissioners. Several Persons were allowed Counsel; I humbly desire Counsel.

Ld. President. That is when there is Matter of Law. You have alledged nothing: You are now upon Matter of Fact.

Mr. *Mordant*. My Lord, my Indictment is Matter of Law, and upon that I may safely demand Counsel: I desire to have Counsel as to my Indictment.

Ld. President. Your Reason, and my Reason, and all Reason, must submit to the Law: You are now upon Matter of Fact: The single Question is, Guilty, or Not guilty?

Mr. *At. Gen*. My Advice to you is, That you would put your self upon your Trial.

Mr. *Mordant*. I am not convinced at all, but forced upon it; and it is a hard Thing: It is reason that my Reason should be convinced. If this Act doth say in any place that I must lose these Privileges, or if the Judges will declare it to be so, I will submit to it. If the Judges will declare that I must be tried thus, God's Will be done; I desire to stand and fall by the Laws.

Mr. Sol. *Ellis*. I will tell you where his Mistake is: He speaks of former Trials, which we do not deny. But this Gentleman will agree that it is in the power of Parliaments, by Acts of Parliament, to alter those Trials. We conceive that this Act of Parliament hath determined this very Question: For, my Lord, it is, That you shall examine upon Oath, and thereupon proceed to Conviction and final Sentence, not by Jury: And this Act of Parliament hath entrusted you to be both Judge and Jury. All *Englishmen* must submit to what the Parliament hath done: And the Parliament hath determined this Question, that you have power to examine upon Oath, and thereupon to proceed to Conviction, *&c*. If a Jury was to do it, you were not to proceed to Conviction. This Gentleman says there is no Precedent for it; but we say it was the same in Queen *Elizabeth*'s Time: They proceeded to Conviction and final Sentence, when they proceeded against Duke *Hamilton*, Lord *Capel*, and *Holland*. Did not the Parliament approve of what they did in that Case as just, honourable, and lawful? Did not Duke *Hamilton*, did they not all petition to the House? Did not the Parliament order Execution upon some, and cleared others? To say this is without Precedent, when Precedents are so frequent, I wonder that should be said. To that Point of a Jury: I must tell this Gentleman he speaks of a Jury, but hath not put himself upon a Trial. After he hath pleaded Not guilty, then it must be considered the Manner of the proceeding; but to come before he plead Guilty, or Not guilty, to desire a Jury, this is a little to anticipate your Judgment.

Mr. *Mordant*. I do not shun to be tried by the Act of Parliament, but refer my self to the Judges, that those Privileges of the Act may not be taken from me.

Mr. At. Gen. The Parliament hath thought fit to go this way, and it is not to be disputed: They that live in this Nation are not to dispute it. If that Gentleman will please to recollect himself, and not, my Lord, thus expostulate and dispute with the Court of Justice, if he please to put himself upon a Trial, if he thinks himself innocent, I think it is best; and if he refuse it, his Sentence is from himself.

Mr. *Mordant*. I do not, my Lord, dispute the Power of the Court; but I desire my Reason may be convinced, and that I may have Counsel.

Ld. President. We are clearly of Opinion, we have not Power in this Case to appoint any other Jury, not to summon a Jury; we our selves have taken an Oath. You would do well to plead.

Mr. *Mordant*. My Lord, I have but little to say; and that is, That, as that Gentleman said, it was referred to the Court what Jury I shall have, I desire, my Lord, to know whether the Court doth intend to try me by a Jury.

Mr. Sol. *Ellis*. They do not.

Mr. *Mordant*. Is the Court Judge and Jury?

Mr. At. Gen. If you will deal ingenuously with the Court, I think that is best.

Mr. *Mordant*. Seeing I am here over-ruled, tho' not convinced in my Reason, I shall demur to the Court, and plead Not guilty. I desire a Copy of my Indictment, and Time to plead.

Ld. President. It was never done: For any Indictment of High-Treason was never delivered to any Prisoner.

Mr. *Mordant*. I urge my Lord *Coke* for Authority, for a Copy of my Indictment.

Mr. *Phelps*. *John Mordant* Esq; you stand here charged of High-Treason; to this Charge you plead Not guilty: Is this your Plea?

Mr. *Mordant*. Yes, I beg, my Lord, that my Ignorance of the Laws may not prejudice me, not understanding or knowing any thing of the Laws: And this granted me, I shall address to my Justification.

Mr. At. Gen. Do you stand to your Plea, Not guilty?

Mr. *Mordant*. Yes.

Mr. *Lechmere*. My Lord, I shall shortly open the Impeachment. The Attorney-General hath exhibited a Charge of High-Treason against *John Mordant* Esq; *viz*. That he the said *John Mordant* intending to imbroil this Nation in new and intestine Wars, the 30th of *April* last past, and at divers Times since the 10th of *October* 1656, together with *Henry Bishop*, *Hartgil Baron*, &c. at the Parish of *Clement Danes*, in the County of *Middlesex*, did traitorously, advisedly, and maliciously plot, contrive, and endeavour, First, to stir and raise Force, and levy War against his Highness the Lord Protector and the Commonwealth, to subvert and alter the Government of the same. Secondly, That he did traitorously, advisedly, and maliously declare, publish, and promote *Charles Stuart* to be King of *England*, *Scotland*, and *Ireland*. Thirdly, That he

he did traitorouſly, adviſedly, and maliciouſly hold Intelligence and Correſpondence with *Charles Stuart*; and that he did declare theſe Treaſons by Overt-Act, that is to ſay, by conferring with *John Stapely* and *Henry Mallory* how to effect the ſame, and did deliver ſeveral Commiſſions from *Charles Stuart* to ſeveral Perſons; and this contrary to the Statute. To this Charge of High-Treaſon the Priſoner pleads Not guilty: We are ready, my Lord, to call our Witneſſes to prove him guilty of theſe ſeveral Crimes, and with the leave of the Court, we ſhall call our Witneſſes.

Mr. At. Gen. I wiſh Mr. *Mordant* had done this before, and made himſelf capable of more Favour.

[*Mr.* Mordant *then deſired to have Pen, Ink, and Paper, which was granted him.*]

[John Stapely, *and* Anthony Stapely *were then called.*]

John Stapely *ſworn.*

Mr. At. Gen. We produce this Gentleman (I ſuppoſe he is well known to the Priſoner) to prove the Charge: I deſire he may declare what he knows. What do you know concerning the Diſcourſes of Mr. *Mordant* with you, touching the bringing in *Charles Stuart?*

John Stapely. I have been in Mr. *Mordant*'s Company ſeveral Times; and what I can ſay will not be much. Mr. *Mordant* did once tell me there was ſuch a Deſign as the bringing in of the King; and he did aſk me if I did not know of ſuch a Thing. I told him no. He was pleaſed to tell me ſomewhat of it. I aſked him if he was engaged in it: He told me he was not.

Mr. At. Gen. What did he tell you concerning his being entruſted by the King therein?

John Stapely. He told me the King wrote to him, to ſpeak to his Friends that they would be ready to aſſiſt him when he ſhould come into *England* with Force; which he told me was with 7000 Men. This was the chief of all.

Mr. At. Gen. Did he not ſay that he had Commiſſions from the King?

John Stapely. He did not tell me ſo; but I have heard him ſay others had had Commiſſions, two other Gentlemen in *Surrey*.

Mr. At. Gen. Did not he encourage you thereto? What Arguments did he uſe?

John Stapely. He ſpoke to me of it ſeveral times.

Mr. At. Gen. After what manner?

John Stapely. Only in Commendation of the Thing: I heard him ſay that if there were a Neceſſity, *Surrey* Folks would come into *Suſſex*, to aſſiſt them.

Mr. At. Gen. Who was preſent at any of theſe Diſcourſes?

John Stapely. There was none but him and myſelf.

Mr. At. Gen. At what Place, and at what Time?

John Stapely. Near his own Houſe, at ſeveral Times. I have told you the main of the Diſcourſes.

Mr. *Mordant.* Mr. *Stapely*, about what Time was this?

John Stapely. Above a Year ſince.

Mr. *Mordant.* Mr. *Stapely*, at what Place was the Encouragement made?

John Stapely. I do not know what he means by Encouragement: He only told me of it.

Mr. *Mordant.* I deſire to know when I told you that I had received a Letter to encourage my Friends from beyond-Sea, and who was by?

John Stapely. There was no body by.

Ld. Preſident. About what time did he tell you of this Letter?

John Stapely. About half a Year ſince.

Ld. Preſident. Who was by?

John Stapely. No body, my Lord.

Mr. Sol. *Ellis.* Did he tell you it was the King that wrote to him; and therefore it was juſt to aſſiſt him?

John Stapely. I think I heard him ſay ſo; I cannot take my Oath of it.

Ld. Preſident. Did he tell you what conſiderable Perſons were concerned?

John Stapely. I have heard him ſpeak of ſome Perſons that were engaged in this Deſign; Sir *Francis Vincent*, and one *Brown:* He ſaid that Sir *William Waller* ſpake to him to ſpeak to me.

Ld. Preſident. When?

John Stapely. Above a Year ſince: It was ſince the Parliament.

Mr. *Mordant.* My Lord, I do not know Sir *William Waller.*

Anthony Stapely *ſworn.*

Mr. At. Gen. What Diſcourſe have you had with Mr. *Mordant*, touching *Charles Stuart?*

Anthony Stapely. We were about a quarter of a Year ago at the *Half-Moon* Tavern in *Alderſgate-Street:* At that time there was no Diſcourſe about the Buſineſs at all. After that he was ſpeaking to me about the Times, Loſſes of Privileges, great Taxations, &c. wherein I agreed with him, and wiſhed they might be better. I aſked him if there was any way to help it. He ſaid, Yea; and ſaid that *Charles Stuart* was intending for *England*; and that would be a fair Opportunity to redreſs all Grievances. At *Berkſhire-Houſe*, there he was pleaſed to enquire concerning the Affairs of *Suſſex*, and in what Preparation they were, in caſe the King of *Scots* ſhould land. I told him I did not know; I had not been in the Country lately; I did believe that there would not be an Appearance ſuitable to his Expectation. He told me ſomething concerning *Surrey*; that there was a conſiderable Strength there, ready to aſſiſt us in *Suſſex*, and join with us when any ſuch Thing ſhould happen. He did ſay that he had delivered out four Commiſſions, three for Horſe, and one for Foot; but to whom I know not: I dare not ſwear it; but it is to the beſt of my Remembrance.

Mr. At. Gen. What Diſcourſe paſt between you at the *Half-Moon* Tavern in *Alderſgate-Street* about *March* laſt?

Anth. Stapely. It was the Day that the Cavalier Party were to depart the City: There was Captain *Mallory*, myſelf, and this Gentleman, Mr. *Mordant*. And then he ſpoke again concerning *Suſſex*; that the King of *Scots* coming was ſuddenly expected; and deſired to know in what Readineſs we were. I told him I could not tell; but I did believe that Things would be in as great a Forwardneſs as the Times would permit. It was agreed upon that ſome of our Country ſhould meet Mr. *Mordant* at *Crawly*, in *Surrey*, upon the Tueſday following.

Mr. At. Gen. What was the End of your Meeting?

Anth. Stapely. It was to conſider further how Things might be carried on, as to the Buſineſs of *Surrey* and *Suſſex:* There was an Expectation of the landing of *Charles Stuart*; and he did ſay that he heard *Charles Stuart* was in a Readineſs. Mr. *Mallory*, myſelf, and Mr. *Mordant*, were to meet, further to debate of Things. I underſtood it was for the Buſineſs of the King; but it was not poſitively ſo expreſſed. He aſked me how Things went on in *Suſſex*. I told him I could not ſatisfy him: Therefore we told him there ſhould ſome of our Country meet him at *Crawly*, to give him an Account. He ſaid there was a conſiderable Force; but I never heard him ſpeak of any Number of Horſe or Foot in *Surrey*.

Mr. *Mordant.* Mr. *Stapely*, I deſire to know when I ſpoke to you of this?

Anth. Stapely. My Lord, it was—I cannot tell the Days: But it was ſuddenly after the breaking-up of the Parliament; all the Diſcourſes were ſince the breaking up of the laſt Parliament.

Mr. *Mordant.* I deſire to know where I ſpoke this, and who was by?

Anth. Stapely. As I take it, the firſt Diſcourſe was at *Long-Acre*; but no body by.

Mr. *Mordant.* I deſire to know the Time when I met him at the *Half-Moon* Tavern.

Anth. Stapely. It was the Day ſet for the departing of the Cavalier Party out of Town.

Mr. *Mordant.* I deſire to know who was by?

Anth. Stapely. Captain *Mallory.*

Mr. *Mordant.* I deſire to know whether I did meet at the Place appointed?

Anth. Stapely. My Brother and Mr. *Mallory* did not meet him, becauſe my Brother was ſent for to *Whitehall.*

Mr. *Mordant.* I deſire to know the Witneſſes to all he ſays?

Anth. Stapely. It was all private; only once at the *Half-Moon* Tavern with Captain *Mallory.*

Mr. At. Gen. My Lord, there was mention made of one Captain *Mallory*, whom we did intend to have as a Witneſs: He was committed upon this Deſign being privy to it. It hath ſo fallen out that he is lately eſcaped. I deſire that Mr. Serjeant at Arms, Major *Elliſon*, *Thomas Tatlock*, and *William Capput*, may be ſworn.

All four ſworn.

Mr. At. Gen. We do produce theſe Witneſſes for this End: Captain *Mallory* was a Priſoner, and we did intend to make uſe of him here; but it hath ſo fallen out, that his guilty Conſcience hath made him to fly. Aſk theſe concerning his being in Cuſtody, and Endeavour of Eſcape.

Major *Elliſon.* My Lord, Captain *Mallory* was in Cuſtody, and a Guard conſtantly ſet upon him, which Guard was relieved every twenty-four Hours. The Manner of his Eſcape I only had by relation. We have uſed all our Endeavours to have found him ſince he is eſcaped: We did that Night ſend preſently to *Southwark*, to Inns there, and laid wait for him; and ſent to Captain *Mallory*'s Brother-in-Law, where he formerly lay, examined him, but all in vain. Where we had any Intimation of any Relation of his, we did ſend to ſearch for him.

Serj. *Dan.* My Lord, upon the twenty-eighth of *May* laſt, ſince the Eſcape of Captain *Mallory*, I received a Warrant from the Council, commanding me to uſe all Diligence for apprehending Captain *Mallory*; I have accordingly endeavour'd it: Not knowing his Relations, I did not ſpeak to them. I have uſed all Means I could; but cannot find him.

Tho. Tatlock. My Lord, Captain *Mallory* went away about Nine a Clock at Night: He went away in a black Suit and Cloke.

Will. Capput. All that I know, my Lord, is, That Captain *Mallory* was a Priſoner, and changed his Habit and Hair, went away, and left Money in the Window to pay for his Lodging.

Mr. At. Gen. My Lord, the Intention is to ſhew you Captain *Mallory* was a Priſoner, is eſcaped, and what Means have been uſed for his Apprehenſion. Officer, pray ſwear Mr. *Scobell.*

Mr. Scobell *ſworn.*

Mr. At. Gen. My Lord, Mr. *Scobell* was one of the Juſtices of the Peace that took Captain *Mallory*'s Examination upon Oath.

Mr. *Scobell.* My Lord, Captain *Mallory* gave in Information upon Oath, before my Lord *Goffe* and myſelf, upon the twenty-firſt of *April* laſt; and upon his Oath did inform us, That about the beginning of *March* laſt Captain *Anthony Stapely* and himſelf being at the *Half-Moon* Tavern, *John Mordant*, Eſq; being upon the *Exchange*, was ſent for to Mr. *Stapely*, and that he came. Thereupon Mr. *Stapely* preſented Captain *Mallory* to Mr. *Mordant* as a Gentleman that was intereſted in *Charles Stuart*'s Deſign, together with Mr. *Stapely*, that was his Brother: He ſaid that by that Brother he meant *John Stapely* Eſq; Thereupon he informed us That Mr. *Mordant* did demand of Captain *Mallory* in what Readineſs the Horſe that were to be raiſed in *Suſſex* were. Mr. *Mallory* informed us, That to that he returned an Anſwer, that they were not in ſo good a Poſture as he did believe Mr. *John Stapely* had repreſented to Mr. *Mordant*, but doubted that it would fall much ſhort. *Mallory* told us, That at that Anſwer Mr. *Mordant* did much wonder, becauſe he ſaid *Charles Stuart* the King was in a very good Poſture; and that there was a daily Expectation of his coming over with Forces; and that thereupon Mr. *Mordant* did deſire that there might be a Meeting in ſome convenient Place between him and Mr. *Stapely*, and ſome others of that County of *Suſſex*, as ſhould be thought fit. My Lord, it was (he ſaid) to this End, That they might confer together, and underſtand how the Affairs ſtood in reference to the Counties of *Suſſex* and *Surrey*, that they might the better aſſiſt each other in the intended Inſurrection. He did inform us, my Lord, That accordingly it was agreed there ſhould be a Meeting upon the Tueſday following at *Crawly*; and, in order thereunto, he ſaid that Mr. *Anthony Stapely* and himſelf did ſpeak with Mr. *John Stapely* to have a Meeting accordingly at *Crawly* upon the Tueſday following, and they did agree to it. He ſaid that they ſhould meet with Mr. *Mordant* at *Crawly*; but in the mean time Mr.

Mr. *John Stapely* being sent for to *Whitehall*, that meeting was prevented. My Lord, this is all.

Ld. President. Mr. *Mordant*, would you ask Mr. *Scobell* any Question?

Mr. *Scobell.* I suppose that Mr. *Mordant*'s asking me any Question will not advantage him, or that my Testimony is disadvantageous to him: For all that I have spoke was the same that *Mallory* declared unto me, and my Lord *Goffe*, as Justices of the Peace.

Mr. *Mordant.* My Lord, I neither know this Gentleman, nor Mr. *Mallory*, upon my Oath.

Mr. Attorn. Gen. Mr. *Anthony Stapely*, were you with Captain *Mallory* and Mr. *Mordant* at Dinner together at the *Half-Moon?*

Mr. *Anth. Stapely.* My Lord, Captain *Mallory* was once there; but not at Dinner.

Mr. Sol. *Ellis.* The Attorney-General hath exhibited a Charge of High-Treason against the Prisoner at the Bar; that was, to raise Force against the Government, and publish *Charles Stuart* to be King, and held Correspondence with him.

Mr. *Mordant.* My Lord, you have heard the Witnesses. The first Gentleman, Mr. *John Stapely*, he was pleased to urge against me, that I said *Charles Stuart* writ to me to engage my Friends, but said not that he saw the Letter, or that any one was by. He did not name the Time or Place, but at random; but that I said so. Being asked about Commissions, he denies that I told him I either had Commissions, or delivered any. He says I gave him Encouragement to this Engagement, or what he calls it, I know not; but he doth not say what kind of Encouragement it was; he doth not say I promised him Money or Preferment. He says he heard I engaged two other Gentlemen, Sir *Francis Vincent* and Col. *Brown*. He was asked, if any was by at these Discourses; he said none was by. My Lord, this is a single Evidence: he says it was a Year or more since; he says I said, I was entrusted by *Charles Stuart* about the latter end of the last Winter. For Mr. *Anthony Stapely*, he urges against me, that at his Lodging I discoursed with him, that the way to help us was to bring in *Charles Stuart:* he says, that I said in *Surrey* was a considerable Strength to join with *Charles Stuart*, which if true, might prove troublesome to me; but I have not been in *Surrey* this Year and half. He says, only to the best of his Remembrance, I said I had three or four Commissions; but he says it is to the best of his remembrance, but doth not say he saw the Commissions, and will not swear whether they were for Horse or Foot. He says, at the *Half-Moon* I spake with him and *Mallery*; who that is, I have already spoke to. He says, I did not name the Number of any Forces that were ready: He says, that we agreed to meet on the *Tuesday* following at *Crawly* with Mr. *Mallory*, but says that I was not there. My Lord, I do not know that Place; he says it is in our Country, but it is not: He says it was his Brother *John Stapely* that was to meet me. He says, it was not about any positive Thing why I was to meet there, but in general to carry on things about the intended Design. He says not that I said it, but that I said I heard that *Charles Stuart* would land with a considerable Party. He says, it was to debate things in general: He said, it was not said about *Charles Stuart*, that he was not mentioned, but he supposed it to be so. He says positively, that I never spake of any Number of Horse or Foot, or any thing of that kind. I asked him, when I first spoke of this; he returned no time, would not say any positive time, but said all was since the breaking up of the Parliament. I asked him who was by; he said no body, all was private. He says, the time when we were at the *Half-Moon* was near the time that those that served the late King were banished. He says positively I did not meet at the Place appointed, and he gives the Reason, a very insufficient one, because his Brother was sent for up; that could not hinder me. He waves his own Meeting: he says all was private. I submit it all to this Honourable Court.

Mr. Sol. *Ellis.* The Charge is for levying of War to alter the Government, and embroil us again in a new War: to which he pleads Not Guilty. For the Proof of this we have offered to you Witnesses: I shall take them in order as the Gentleman did at the Bar. *John Stapely* said, Mr. *Mordant* said the King writ to him to encourage and engage his Friends to assist him at his coming; but says not the time when this was done. He says he did not see the Letter, but says Mr. *Mordant* told him he had a Letter: all the Discourses (because he says there was no time) it agrees that they were since the tenth of *October* 1656, and so it is clear within this Act, and within your Jurisdiction. Now see how it was carried on: After he had told him this, how doth he encourage him in his telling him the Justice of the Cause, the Persons engaged therein, and of Sir *William Waller!* Then, my Lord, he told them, if the Forces of *Sussex* were not sufficient, that the *Surrey* Forces would come to assist them for the coming in of *Charles Stuart:* this both *John* and *Anthony Stapely*. So that we conceive, under favour, that *John Stapely* and *Anthony Stapely* do agree in most of the Circumstances. *Anthony Stapely* says, that Mr. *Mordant* came to him, tells him there were great Grievances. Ay, says he, but how shall it be remedied? Tells him that *Charles Stuart* intended to come to *England* with a great Force, which would redress them. He asked him how the Business was in *Sussex?* He said it was not in so good a posture as he expected: he said that *Surrey* Forces should join with *Sussex*. My Lord, I leave it nakedly to you; if you find this to be true, we submit it to you, and Mr. Attorney-General will pray what his Place requires.

Mr. Attorn. Gen. You have heard the Business, this Gentleman hath interposed himself where he was not called; it is a Happiness this Business was discovered. Upon this Evidence I leave it to your Justice, and as you shall judge. I shall say no more.

Mr. *Mordant.* My Lord, I will speak to you very short, it is this: That to all this, though it be urged against me by the ablest Men in the Land, yet there is but one Witness in a manner, and that differing in many Circumstances——[*Here he was interrupted*]. My Lord, I leave it to you, I remit my Life into your Hands; resting and believing your Lordships will deal with me as one of this Nation, an *English* Freeman. I leave it to you, and do submit.

Ld. President. Withdraw the Prisoner.

Proclamation to adjourn into the Painted Chamber.

After a little Debate in the Painted Chamber, they adjourned till the Morrow, the second of *June*.

June 2, 1658.

THE Lords Commissioners met in the Painted Chamber about Ten in the Morning, and there continued till about Four a-Clock in the Afternoon, and then adjourned into *Westminster-Hall*; where Proclation being made, the Names of the Lords Commissioners being read,

Mr. Serjeant was commanded to bring Dr. *Hewet*, Sir *Henry Slingsby*, and Mr. *Mordant* to the Bar.

Which was accordingly done.

Proclamation for Silence was made.

Mr. Attorn. Gen. My Lord, as for Sir *H. Slingsby* and Mr. *Mordant*, you have heard the Impeachment read, and their Pleas; I have given in the Evidence, I pray your Judgment as to them: as for the other, you have heard the Impeachment, and no Defence; I pray your Justice.

Ld. President. Sir *H. Slingsby* Knt. thou hast been impeached on the Behalf of the Lord Protector and this Commonwealth, of High-Treason: to which thou hast pleaded Not Guilty, which the Court hath taken into Consideration: What hast thou to say further, why this Court should not proceed to Judgment?

Sir *H. Slingsby.* My Lord, I humbly desire I may be tried by a Jury, for I must say you are my Enemies (pardon the Expression); if not so, why did you sequester me, and sell my whole Estate? And why did you deny me the Act of Oblivion? There is no man would willingly appeal to his Adversaries; there are some among you that have been instrumental in my Sequestration, and in the selling of my Estate, for which they gave me no Reason but this, That I would not compound, when I thought not fit so to do, when there was no Establishment or settled Peace: if I had compounded, I had not been sure whether I might not have compounded over again. My Estate hath been sequestred and sold. Now to be my Judge and Jury——I humbly pray, being a Commoner, I may be tried by Commoners.

Ld. President. Sir *H. Slingsby*, I am not to hear you as to any of these things (you have pleaded already); this is not a Time of Pleading, but a Time of Judgment; therefore I must require your Silence, and hear me a few Words.

The Lord President's Speech.

'SIR *Henry Slingsby*, I am really and truly afflicted for your sad Condition; but when I consider the Nature of your Offence, with the Circumstances and Aggravations of your Treason committed; when I consider your Person, and that such a Person, as you are should be instrumental in so detestable a Conspiracy, and when I think of that Judgment that must be given against you; methinks you are one of the saddest Spectacles that ever I beheld in all my Days: I beseech God that you may seriously lay it to your Heart with Sorrow and Repentance, and that you may be more sensible of what you have done, than of what you are to suffer.

'Sir, was it not a great Aggravation of the Sins of the *Egyptians*, that when God had declared himself by so many Signs and Wonders on the behalf of the *Israelites*, that yet notwithstanding they would still pursue *Moses* and *Israel?* Was not this a great Aggravation of their Sin?

'Who is so great a Stranger in this Nation, as to be ignorant what God hath done amongst us, by a Series of wonderful Providences so many Years together, against that very Party who are still hatching of Treasons and Rebellions amongst us? It grieves my very Soul to think of it, that after so many signal Providences, wherein God seems to declare himself (as it were by Signs and Wonders), that your Heart should be still hardened, I may say, more hardened than the very Hearts of the *Egyptians:* for they at length did not only see, but confessed that the Lord fought against them; but you, O that you would confess, and give Glory to God! You cannot chuse but see that the Lord fights against you, that the Stars in their Courses fight against you; and yet you will not see, you will not confess, until Destruction overtakes you. This is a sad Lamentation, and I beseech God that you may seriously consider it.

'Sir, if the signal and the wonderful Providences of God will not deter you, yet methinks National Considerations should deter you from such a Treason as this is. *Charles Stuart* is in Confederacy with *Spain* against *England*; he is in Confederacy with that great Popish Interest. Is it imaginable that an *Englishman*, that a Protestant should assist such a Confederacy as this is? Yet that which is not imaginable in itself, is here clearly and evidently proved before us.

'Sir *Henry Slingsby*, there are three Witnesses, Major *Waterhouse*, Captain *Overton*, and Lieutenant *Thompson*; two of them full in Evidence, as to every Charge against you, and three of them as to some of the Charges; and besides, your own Confession at the Bar, full in Proof against you. Did it not clearly appear in Proof before us, that you promoted *Charles Stuart* to be King of *England?* Did it not clearly appear before us, that you endeavoured to betray the Garrison of *Hull* to *Charles Stuart?* Did it not likewise clearly appear before us, that you endeavoured to withdraw the Officers, and some of the Soldiers of that Garrison from their Obedience to his Highness, and to make a Mutiny in that Garrison, and all the Circumstances did clearly appear? Was it not proved before us, that you offered a Commission to Major *Waterhouse*, and promised him a Commission in the first Place, and a second to Captain *Overton*, and a Deputation to the third? And what you promised, did you not make it good? Did you not with your own Hand offer a Commission sealed, and said it was from *Charles Stuart?* And did you not only encourage him, by telling him that he was coming into *England* with a considerable Force; but did you not promise also,

'alſo, that upon his Landing, 5000*l.* ſhould be paid to Major *Waterhouſe?* All theſe Things were clearly proved before us.

'Sir, What ſaid you to this Proof? You confeſſed upon the Matter all, in effect all; but only ſome Things you ſaid by Way of Excuſe, and I ſhall truly relate them all. All you did, you told us was but in jeſt. What, Sir, if thoſe diſcontented *Engliſh* that comply'd with *Spain* in Queen *Elizabeth*'s Days in Eighty-eight, had ſaid they had been in jeſt; what would you have thought of that, Sir? What if thoſe Jeſuited Papiſts that would have blown up the Parliament Houſe upon the 5th of *November*, with Barrels of Gunpowder, had ſaid that they had brought in thoſe Barrels in jeſt; what would you have thought of it? Sir, be not deceived: As a Man ſows, ſo ſhall he reap; you have ſow'd Treaſon and Rebellion, and you are now come to reap the Fruit of it.

'And, Sir, you told me you did not own the Government, you were a Priſoner, and therefore could not be bound by the Laws of that Government. Sir, doth not every *Engliſhman* owe a natural Allegiance to the Supreme Magiſtrate of *England?* Is not every *Engliſhman*, whether in Priſon or out of Priſon, bound by the Laws of *England?* Sir, if you own not the Government of *England*, that is an Offence in itſelf, a great Offence; and would you make an Offence againſt the Government to be an Excuſe or Juſtification for Treaſon?

'The laſt Thing you ſaid was this, You told us you were trepann'd into it. Sir, did not you yourſelf of yourſelf promiſe a Commiſſion to Major *Waterhouſe?* Did you not of yourſelf offer Five Thouſand Pound to be paid as ſoon as *Charles Stuart* landed upon *Engliſh* Ground? I ſhall name thoſe worthy Gentlemen, for Honour's ſake to them, that had a Hand in this Diſcovery. It was that prudent and faithful Governor of *Hull*, Colonel *Smith*, that had a Hand in it. There were thoſe worthy and faithful Commanders, who were here in Court, Major *Waterhouſe*, Captain *Overton*, and Lieutenant *Thompſon*: Sir, theſe faithful and worthy Gentlemen have carried themſelves in this Buſineſs like the Man of Underſtanding that *Solomon* ſpeaks of.

'I have done, only I would ſay one Word to you, becauſe I hear you are a Proteſtant: I would only aſk you this Queſtion, What think you would have become of the Proteſtant Intereſt of the Proteſtants of *England*, *Scotland*, and *Ireland*, if you had had your Will; if *Charles Stuart* had come in? If you had but Time (but the Lord knows you have not Time) to look over the Records of *England*, to look over the Declarations of Parliaments ſince 1640; if you could remember it, Sir, it would tell you what Family it was that betray'd the Proteſtants of *France*, when *Rochel* was taken; what Family it was that betray'd the Proteſtants in *Germany*, and in the *Palatinate*, when a Peace was made with *Spain* without conſent of Parliament. What could you think of that Family that did tolerate Popery for a Match with *Spain?* What then would that Family have done, if it could have gained them *England*, *Scotland*, and *Ireland?*

'And now, Sir, but one Word more to you, as you are an *Engliſhman*: I beſeech you conſider, what would have become of this Nation, if you had had your Will; you had brought a new Civil War upon *England*, at the leaſt. I cannot think of a new Civil War upon *England*, but I think of Deſolation upon Deſolation to this poor Nation, *&c.*

'I have but one Word to ſay to Dr. *Hewet*: And, Sir, when I look upon you as a Miniſter, I muſt confeſs I do not know how to ſpeak to you, becauſe it has always been my way to ſpeak to Men of your Profeſſion, as to Miniſters; I never ſpake to them but as a Child ſpeaks to his Father; ſuch Reverence and ſuch Regard I bear to their Office. But to ſpeak ſo to a Miniſter as a Judge ſpeaks to a Traitor, I muſt confeſs I know not how to do it. But, Sir, there muſt be Words ſpoken to you, though I do not ſpeak them; and not only to you as a Traitor, but a Traitor in the higheſt Degree; not as a Traitor (as you are intitled, for endeavouring to levy a new War, and to bring Deſolation and a War in this Nation), but ſuch an one as ſhould rather die a Traitor, than own the Authority of the Nation. But, Sir, I know not how to ſpeak to you, and therefore the Record muſt ſpeak to you; and I myſelf will not any further.

'I have now a Word to ſpeak to you, Mr. *Mordant*: God hath appeared in Juſtice, and God doth appear in Mercy; as the Lord is juſt to them, ſo he is exceeding merciful to you: And I may ſay to you, That God appears to you at this Time, as he ſpeaks to Sinners in Jeſus Chriſt; for, Sir, he doth clear Sinners in Chriſt Jeſus, even when they are guilty, and ſo God cleareth you: I will not ſay you are guilty, but aſk your own Conſcience whether you are or no. Sir, bleſs God as long as you live, and bleſs my Lord Protector, by whoſe Authority you are cleared. Sir, I ſpeak no more, but I beſeech you to ſpeak to God.

'And now let me add this Word to theſe two Gentlemen: Sirs, when I have done ſpeaking, I ſhall never have done praying for you, as long as you are alive; that is the laſt Thing I muſt ſay to you. And now let the Judgment of the Court be read.'

Thereupon the Clerk read the Judgment and Sentence of the Court againſt Sir *H. Slingſby* Knt. which was as follows:

"THAT the ſaid Sir *H. Slingſby*, as a falſe Traitor to his ſaid Highneſs the Lord Protector and this Commonwealth, ſhall be conveyed back again to the Tower of *London*; and from thence through the middle of the City of *London* directly ſhall be drawn unto the Gallows of *Tyburn*, and upon the ſaid Gallows there ſhall be hanged, and being alive, ſhall be cut down to the Ground, and his Entrails taken out of his Belly, and, he living, be burnt before him; and that his Head ſhall be cut off, and that his Body ſhall be divided into four Quarters, *&c.*"

In the next Place, the ſame Judgment and Sentence of the Court was read againſt Dr. *Hewet*, being ingroſs'd in like manner.

This being done, the Judgment of the Court was declared concerning Mr. *Mordant*, which (in ſhort) was, "That upon Conſideration of the whole Matter in reference to the Charge againſt him, and his Plea thereunto, they did adjudge him *Not Guilty*." And ſo the Priſoners were diſmiſs'd.

Proclamation being made, the Court adjourned back to the Painted Chamber, where they ordered the Execution of the Sentence upon Sir *Henry Slingſby* and Dr. *Hewet* to be on *Saturday* next. And Warrants were iſſued out to the Sheriffs of *London* to ſee Execution done accordingly.

Then the Court adjourned itſelf 'till *Thurſday* the tenth Inſtant.

Notwithſtanding the former Sentence paſſed by the High Court, yet his Highneſs being informed, that Dr. *Hewet*, Priſoner in the Tower of *London*, who ſtands attainted of High Treaſon, before the Commiſſioners appointed by Act of Parliament, for levying War againſt his Highneſs and the Commonwealth, had Judgment to be hanged, drawn and quarter'd at *Tyburn* this Inſtant *Saturday*; his Highneſs was graciouſly pleaſed, upon humble Suit made, to reprieve him 'till *Tueſday* the Eighth Inſtant, and to order, That the Judgment ſhould be remitted, except the cutting off his Head.

The like Favour alſo was extended to Sir *Henry Slingſby*.

They were both accordingly Executed on *Tower-Hill* the ſaid Eighth of *June*.

Sir *Henry Slingſby* was firſt brought about Eleven of the Clock from the *Tower* to the Scaffold on *Tower-Hill*; whither being come, he fell upon his Knees, and for a ſhort Space pray'd privately.

Then ſtanding up, he did in a ſhort Speech, and with a very low Voice, addreſs himſelf to Mr. Sheriff *Robinſon*, telling him, that what he had to ſay he would ſpeak to him; which was to this purpoſe:

That he had received Sentence to die, upon account of his endeavouring to betray the Garriſon of Hull: *But ſaid, All that he did in that Buſineſs he was drawn into by others.*

That the Officers of that Garriſon did believe he had ſome greater Deſign in hand, and therefore they would needs pump him to the bottom: But what he ſpoke to them in private was brought into Evidence againſt him. He likewiſe ſaid, *That he did no more than any Perſon would have done that was ſo brought on.*

That he had made many Applications (by his Friends) for a Reprieve, but found his Highneſs was inexorable.

He did confeſs, that he did deliver a Commiſſion (as it was charged againſt him): But ſaid, that it was an old Commiſſion, and what he meant was well known to himſelf; but what Conſtructions others had made of it might appear by his preſent Condition.

He diſcovered little Senſe of Sorrow, or Fear of Death; but ſaid: *He was ready to ſubmit*, or Words to like purpoſe.

Then he addreſſed himſelf to private Prayer again; and kneeling down to the Block, he pray'd privately for a ſhort Space: Then laid his Head upon the Block, and at the Sign given, the Executioner ſever'd his Head from his Body at one Blow: and his Friends put his Body into a Coffin, and removed it into a cloſe Coach, prepared near the Place.

As ſoon as Sir *Henry Slingſby*'s Body was removed as aforeſaid, Dr. *Hewet* was brought forth to the Scaffold; whither being come (together with Dr. *Wild*, Dr. *Warmeſtry*, and another Divine), he fell upon his Knees, and prayed privately for the Space of a Quarter of an Hour; after that he pray'd audibly for a good Space.

After which Prayer he addreſs'd himſelf to the People in the following Words:

I Am now become a public Spectacle to Men and Angels, and (I hope) God, who is Omniſcient, is now beholding me with much Pity, and great Mercy and Compaſſion, and the more, becauſe I am now come to that End that his own Son came into the World for, to bear Witneſs to the Truth; he himſelf ſaid, *For this End was I born, for this Cauſe came I into the World, that I ſhould bear witneſs to the Truth:* I was brought into the World (the Chriſtian World) for to bear Witneſs to the Truth of the Goſpel, as a common Chriſtian; I was brought into the World (the Church) as a Miniſter of his bleſſed Word and Sacraments [bleſſed be his Name for that great Honour and Dignity!]; and I came into the World to die more immediately for the Teſtimony of JESUS, which God hath now called me to. I came into this World (this Common-wealth) to be a Member thereof, to bear witneſs to the Truths of the Cuſtoms, the Laws, the Liberties, and Privileges thereof; ſo I am a Member of the Common-wealth: And methinks it ſeems to me a ſtrange Thing, that in as much as we all plead for Liberty, and Privileges, and I pleading for the Privileges, the Laws, the Statutes, and the Cuſtoms of this Land, yet I ſhould die by thoſe that ſhould ſtand for the Laws, the Statutes, and Privileges of the Land: And I am here beheld by thoſe that plead for their Liberties, and I hope I am pitied, becauſe I here give up myſelf willingly and freely to be a State-Martyr for the public Good; and I had rather die many Deaths myſelf, than betray my Fellow-Freemen to ſo many Inconveniencies, that they might be like to ſuffer by being ſubject to the Wills of them that willed me to this Death.

And it is worthy Remembrance, that Mr. *Solicitor* having impeached me of Treaſon to the Commiſſioners of the Court againſt his Highneſs, I did often (when brought before thoſe Commiſſioners) plead for the Liberties of the People of *England*; tho' I had no Knowledge of the Law, yet I had Inſtruction from thoſe that were learned in the Law, and had ſeveral Law Caſes and Precedents put into my Hand, tho' not by them, and urged ſeveral Law-Caſes; and made my Appeal: Firſt, for the Judicature that I was to be tried by, Whether it were according to Law? Whether it were according to the Act? And whether it were according to the Words of the ſaid Act? I did appeal to have the ſaid Act argued by learned Lawyers on both Sides, and then to be reſolved by his Highneſs's own Council, which was denied me: [This by the by] I preſſing

preſſing the Argument, made a ſecond Appeal, that thoſe Judges, if they would give ſingly their ſeveral Judgments that it was a juſt and lawful Court of Judicature, I would anſwer to my Charge. I did make another Appeal to thoſe that were his Highneſs's Council, and pleaded againſt me, that if they would deliver it to me under their Hands to be according to Law, I would then go on to plead and anſwer to the Charge. What was then ſaid further, my Spirits being faint, I ſhall not ſay much, but only this, I was taken in three Defaults upon Formality of the Court. It ſeems it is a Cuſtom in all Courts (which I did not know before), that if they anſwered not the third time ſpeaking by the Clerk, that then they are guilty of three Defaults, and proceeded againſt as mute: [I had no ſuch Knowledge of the Law.] So they found me guilty of thoſe Defaults: And when I would have pleaded, and reſolved to begin to plead, I was taken from the Bar. I did the next Day make my Petition to the Court in the Painted-Chamber; two Petitions were preſented, the ſame in Effect; in the former the Title was miſtaken: Yet becauſe the Title was miſtaken, and no Anſwer was given, therefore it was that another Petition was drawn up to the ſame Effect, with a new Title given (as I remember), preſented by the Serjeant at Arms; and one writ it over in ſuch Haſte, leſt they ſhould be drawn out of the Painted Chamber into the Court, that I had not time to read it over, only I ſubſcribed my Name; and there was in the Front of the Petition a Word left out, but what the Word was I know not; and this was taken ſo ill, as if I had put an Affront and Contempt on the Court; and it was thought they would have heard me plead; and then, becauſe of that Miſtake, they ſent Word I ſhould have my Anſwer when I came into the Court, and my Anſwer was the Sentence of Condemnation. And therefore, I pray with all my Soul, that God would forgive all thoſe that occaſioned the Charge to be drawn againſt me, to give ſuch unjuſt things againſt me: I pray with all my Soul, that God would forgive all thoſe that upon ſo ſlender and ſmall Grounds adjudged me to die, taking Advantage of ſuch ſimple Ignorance as I was in. And I had, at the very Beginning of my Pleading, engaged their Honours no Advantage ſhould be taken againſt me to my Prejudice, that in as much as I underſtood nothing of the Law, and having heard that a Man in the Nicety of the Law might be loſt in the Severity thereof, merely for ſpeaking a Word out of ſimple Ignorance; I made it my Prayer to them, that no Advantage might be taken againſt me, to the Prejudice of my Perſon; and there was to me a ſeeming Conſent, for the Preſident told me, there ſhould be no Advantage taken againſt me; and upon theſe Conſiderations I am afraid there was too great Uncharitableneſs: But I pray God forgive them, from the very Bottom of my Soul, and I deſire that even thoſe that ſhed my Blood, may have Bowels of the God of Mercy ſhed for them.

And now having given you the Occaſion of my coming hither, it is fit I ſhould give you ſomewhat as concerning myſelf, as I am a Chriſtian, and as I am a Clergyman: Firſt, as I am a Chriſtian, I thank God I was baptized to the Holy Church, ſo I was baptized to be a Member of the Holy Catholick Church; that is, the Church of *England*, which I dare ſay, for Purity of Doctrine, and orderly Diſcipline, till a ſad Reformation had ſpoiled the Face of the Church, and made it a Query, whether it was a Church or no: I ſay, it was more purely Divine and Apoſtolical than any other Doctrine or Church in the Chriſtian World, whether National, or Claſſical, or Congregational. And I muſt tell you, That as I am a Member of this Church, ſo I am a Member of the Holy Catholick Church, and ſhall give a moſt juſt Confeſſion of my Faith, both negatively and affirmatively. Negatively, I am ſo a Member of the Holy Catholick Church, that I abhor all Sects, Schiſms, Sedition, and Tyranny in Religion. Affirmatively, ſo that as I hold Communion with, ſo I love and honour all Chriſtians in the World that love the ſame Lord JESUS in Sincerity, and call on his Name, agreeing with thoſe Truths that are abſolutely neceſſary, and clearly demonſtrated in the Word of God, both in the Old and New Teſtament, though in Charity diſſenting from ſome others that are not neceſſary. And I, as I am thus a Chriſtian, I hope for Salvation, through the Merits of Chriſt Jeſus; his Blood I rely on, his Merits I truſt to, for the Salvation of my own Soul. Though to this Faith good Works are neceſſary, not meritorious in us, but only made meritorious by Chriſt his Death; by his All-ſufficiency, by his Satisfaction, and his Righteouſneſs, they become meritorious; but in us they are no other than as defiled Rags. And truly, as I am a Member of the Church, ſo I told you I was a Member of this Community, and ſo pleaded for the Liberties and Privileges thereof. I muſt now anſwer ſomething I am aſperſed withal in the World:

They talk of ſomething of a Plot, and a treaſonable Deſign, and that I had a great Intereſt in the Knowledge and Practice thereof, and that for the ſaving my Life I would have diſcovered and betrayed I cannot tell what: I hope my Converſation hath not been ſuch here in this City, where I have been a long time very well known, as to make any one imagine I ſhould intermeddle in ſuch an Action, and go ſo contrary to the Practice of my Profeſſion; and I hope there are none ſo uncharitable towards me, as to believe I had a Knowledge of that Deſign.

Here I muſt come to Particulars for a Plot, of having a Deſign upon the City of *London*, for the firing of it: I ſo much tremble at the Thought of the Thing that ſhould have been done, as they ſay, for the carrying on of ſuch a Deſign (if my Heart deceive me not)—had I known it, I ſo much abhor the Thing, I ſhould have been the firſt Diſcoverer of it: Nor ever had I a Correſpondency or Meetings with ſuch Perſons as would have carried on ſuch a Deſign. It is ſaid likewiſe, I entertained the Earl, the Marquiſs of *Ormond*; to my Remembrance, I never ſaw the Face of that honourable Perſon in my Life. It is ſaid, one Lord's Day I did preach at St. *Gregory's*, and the next Lord's Day I was at *Bruſſels*, or *Bruges*, and kiſſed the King's Hand, and brought I cannot tell what Orders and Inſtructions from him: This I ſhall ſay, for theſe three Years laſt paſt together I have not been ſixty Miles from this City of *London*, and I think it is ſomewhat further to either of thoſe Places than threeſcore Miles. It is ſaid that I kept Correſpondence with one * *Mallory* and *Biſhop*: They are Perſons I have heard of their Names, but never ſaw their Faces, and to my Knowledge I do not know they know me; nor do I know them at all, but only as I have heard of their Names. And whoever elſe hath ſuggeſted ſuch things againſt me, I know not.

* *Barrow.*

His Highneſs was pleaſed to tell me, I was like a flaming Torch in the midſt of a Sheaf of Corn: He meaning, I being a publick Preacher, was able to ſet the City on Fire by Sedition and Combuſtions, and promoting Deſigns. Here truly I do ſay, and have it from many of thoſe who are Judges of the High Court, that upon Examination of the Buſineſs, they have not found me a Meddler at all in theſe Affairs. And truly I muſt needs ſay therefore, that it was a very uncharitable Act in them (whoever they were) that brought ſuch Accuſations againſt me, and irritated his Highneſs againſt me: I will not ſay it was Malice, it might be Zeal; but it was raſh Zeal which cauſed me to be ſentenced to this Place: The God of Mercy pardon and forgive them all! And truly, as I am a Member of the Church, and as a Member of the Community where on Behalf I have been ſpeaking, I cannot but do as our Saviour himſelf did for his Diſciples; when he was to be taken from them, he bleſſed them, and aſcended up to Heaven. My Truſt is in the Mercy of the Moſt High, I ſhall not miſcarry; and however my Days are ſhortened by this unexpected Doom, and ſhall be brought untimely to the Grave; I cannot go without my Prayers for a Bleſſing upon all the People of this Land, and cannot but bleſs them all in the Name of God, and beſeech God to bleſs them in all their Ways, and his Bleſſing be upon them.

After this, he joined in publick Prayer with Dr. *Wild* and Dr. *Warmeſtry*, he all the while lying flat upon his Breaſt.

Then he addreſſed himſelf to private Prayer, wherein he continued a certain Time.

After this he prepared himſelf for the Block, and with a black Ribbon bound over his Eyes, lying with his Breaſt over the Block, he prayed again for a ſhort while; then laid his Neck upon the Block, and after ſome ſhort and private Ejaculations, the Executioner *(having Notice that he was ready)* at one Blow ſevered his Head from his Body; which was put into a Coffin, and conveyed away by his Friends.

LVII. *The Trials of Twenty-Nine Regicides, at the* Old Baily *for* High-Treaſon, *which began the 9th Day of* October, 1660. 12 Car. II.

AFTER the Reſtoration of King *Charles* the Second, ſeveral Perſons being apprehended for the Murder of his Father, the Judges and Counſel for the King aſſembled at *Serjeants-Inn*, in *Fleet-Street*, viz.

Lord Chief Baron *Bridgman.*
Juſtice *Foſter.*
Juſtice *Hide.*
Juſtice *Mallet.*
Sir *Geoffry Palmer*, Attorney-General.
Sir *Heneage Finch*, Solicitor-General.
Sir *Edward Turner*, Attorney to the Duke of *York.*
Mr. *Wadham Windham.* And
Mr. *John Kelyng.*

At which Meeting the following Points were reſolved as preparatory to the Trials of the *Murderers* of the late King.

1. That it was better to try thoſe Traitors at the Seſſions at *Newgate* by Commiſſion of *Goal-Delivery*, than only by Special Commiſſion of *Oyer* and *Terminer*, becauſe then they might be proceeded againſt more ſpeedily, and arraigned and tried immediately, by the Commiſſion of *Goal-Delivery*, and Caſes may be immediately returned at the *Goal-Delivery*. And accordingly Writs were ordered to be made and ſent to the Lieutenant of the *Tower*, in whoſe Cuſtody the Priſoners then were, to deliver them to the Sheriffs of *London*, and Writs to the Sheriffs of *London* to receive them, that they might be in *Newgate*; which was done accordingly. And becauſe by an Act of Parliament or Convention which ſat at the King's coming in, *Engliſh* Proceedings were continued until *Michaelmas* now cloſe at Hand, but not yet come; therefore thoſe Writs to the Lieutenant of the *Tower* and Sheriff of *London* were ordered to be *Engliſh.*

2. It was agreed that all the Priſoners ſhould be arraigned the firſt Day, before any of them were brought to Trial; and the next Day to proceed to Trial with one or more of them together, as ſhould be thought fit upon the Place.

3. It was reſolved that any of the King's Counſel might privately manage the Evidence to the Grand Inqueſt, in order to the finding of the Bill of Indictment, and agreed it ſhould be done privately; it being uſual in all Caſes, that the Proſecutors upon Indictments are admitted to manage the Evidence for finding the Bill, and the King's Counſel are the only Proſecutors in the King's Caſe; for he cannot proſecute in Perſon.

4. It

4. It was reſolved, that the Indictments ſhould be, for compaſſing the Death of the late King, (the very compaſſing and Imagining of the King's Death, being the Treaſon within the Statute 25 *Ed.* III.) and then that we might lay as many Overt-Acts as we would, to prove the compaſſing of his Death. But it was agreed, that the actual Murder of the King ſhould be preciſely laid in the Indictment, with the ſpecial Circumſtances as it was done; and ſhould be made uſe of as one of the Overt-Acts, to prove the compaſſing of his Death.

5. It was reſolved, that if any one Overt-Act, tending to the compaſſing he King's Death, be laid in the Indictment, That then any other Act, which tends to the compaſſing of the King's Death may be given in Evidence, together with that which is laid in the Indictment.

6. It was reſolved that there need not be two Witneſſes to prove every Overt-Act, tending to the compaſſing of the King's Death. But one Witneſe to prove one Overt-Act tending to the Compaſſing of the King's Death, and another Witneſs to prove another Act tending to the ſame End, are ſufficient; for compaſſing the King's Death, is Treaſon. And then if two ſeveral Witneſſes prove two ſeveral Acts; tending to the compaſſing the King's Death; the Treaſon is proved by two Witneſſes, as the Law in Caſe of Treaſon requireth.

7. It was reſolved, that if ſeveral Perſons be indicted together in one Indictment for one Crime, in caſe ſome of them be found guilty by one Jury, and afterwards ſome of the ſame Jury be returned for Trial of others in the ſame Indictment; it is no Challenge for thoſe Priſoners to ſay, that thoſe Jurors have already given their Verdict, and found others guilty who are indicted in the ſame Indictment for the ſame Offence; for though they are all indicted in the ſame Indictment for the ſame Offence, yet in the Law it is a ſeveral Indictment againſt every one of them, and the Crime is ſeveral, and one may be guilty, and not another; and the Jury are to give their Verdict upon particular Evidence, againſt every ſeveral Perſon, and therefore the finding one guilty is no Argument or Preſumption that thoſe Jurors will find another guilty.

8. It was reſolved, that if ſeveral Priſoners be put upon one Jury, and they challenge peremptorily, and ſever in their Challenges, that then he who is challenged by one, is to be drawn againſt all, becauſe the Pannel being joint, one Juror cannot be drawn againſt one, and ſerve for another. But in ſuch caſe it was agreed the Pannel might be ſevered, and that the ſame Jury might be returned betwixt the King and every one of the Priſoners, and then they are to be tried ſeverally; and there the Challenge of one Priſoner is no Challenge to diſable the Juror ſo challenged againſt another Priſoner. And the Caſe of Dr. *Ellis*'s Servant, *Plow. Com.* 100, 101, was agreed to be good Law, as to the ſevering of the Pannels in that Caſe; and accordingly, afterwards upon the Trial of *Harriſon* and others, who challenged peremptorily, and ſevered in their Challenges particular Jurors, the Pannels were ſevered.

9. It was reſolved, that when the Priſoners come to the Bar to be tryed, their Irons ought to be taken off, ſo that they be not in any Torture while they make their Defence, be their Crime never ſo great. And accordingly upon the Arraignment and Trial of *Hewlet* and others, who were brought in Irons, the Court commanded their Irons to be taken off.

10. It being agreed, that the Murder of the King ſhould be eſpecially found, with the Circumſtances, in the Indictment; and it being not known who did that Villainous Act; it was reſolved, that it ſhould be laid that *Quidam ignotus*, with a Viſor on his Face, did the Act; and that was well enough; and the other Perſons be laid to be preſent, Aiding and Aſſiſting thereunto.

11. The Compaſſing the King's Death being agreed to be laid in the Indictment, to be 29 *Jan.* 24 *Car.* I. and the Murder on the 30th of the ſame *Jan.* it was queſtioned in which King's Reign the 30th *Jan.* ſhould be laid to be, whether in the Reign of *King Charles the Firſt*, or *King Charles the Second*; and the Queſtion grew, becauſe there is no Fraction of the Day; and all the Acts which tended to the King's Murder, until his Head was actually ſevered from his Body, were in the time of his own Reign, and after his Death in the Reign of King *Charles* the Second. And though it was agreed by all, except Juſtice *Mallet*, that one and the ſame Day might in ſeveral Reſpects, and as to ſeveral Acts, be ſaid to be intirely in two King's Reigns, ſo that in ſome reſpects the whole Day may be aſcribed to one, and in other reſpects the whole Day aſcribed to the other, according to the Truth in the Matters of Fact which were acted, either in the Life or after the Death of the firſt King; yet becauſe Juſtice *Mallet* was earneſt that the whole Day was to be aſcribed to King *Charles* the Second; therefore it was agreed, that in that place, no Year of any King ſhould be named, but that the Compaſſing of the King's Death ſhould be laid on the 29th *Jan.* 24 *Car.* I. And the other Acts tending to his Murder, and the Murder it ſelf, laid to be *Triceſimo Menſis ejuſdem Januarii*, without naming any Year of any King, which was agreed to be certain enough.

12. It being agreed, that the Indictment ſhould be for Compaſſing the King's Death, and one of the Overt-Acts to be the actual Murder of the King: It was reſolved the Indictment ſhould conclude *contra pacem nuper Domini Regis Coron' & Dignitat' ſuas, Necnon contra pacem Domini Regis nunc Coron' & Dignitat' ſuas.*

13. The Queſtion was put, whether the Recorder of *London* ſhould give the Charge to the Grand Inqueſt at *Hick's Hall*, where the Indictment was to be found, the Fact being in *Middleſex*: and alſo whether Judgment at the Seſſions Houſe, where the Priſoners were to be tryed, ſhould be given by the Recorder; or whether the Charge and the Judgment ſhould be given by the Chief Judge. And it was agreed that both ſhould be given by the Judge.

The Proceedings *began at* Hick's Hall, *in the County of* Middleſex, *the 9th of* October, 1660.

THE Court being ſate, the Commiſſion of *Oyer* and *Terminer*, under the great Seal of *England*, was firſt read. It was directed to the Lords and others hereafter named, *viz.*

Sir *Thomas Aleyn*, Knt. and Baronet, Lord Mayor of the City of *London*.
The Lord Chancellor of *England*.
The Earl of *Southampton*, *Lord Treaſurer* of *England*.
The Duke of *Somerſet*.
The Duke of *Albemarle*.
The Marquiſs of *Ormond*, Steward of His Majeſty's Houſhold.
The Earl of *Lindſey*, Great *Chamberlain* of *England*.
The Earl of *Manchester*, *Chamberlain* of his Majeſty's Houſhold.
The Earl of *Dorſet*.
The Earl of *Berkſhire*
The Earl of *Sandwich*.
Viſcount *Say* and *Seal*.
The Lord *Roberts*.
The Lord *Finch*.
Denzill Hollis, Eſq;
Sir *Frederick Cornwallis*, Knight and Baronet, *Treaſurer* of His Majeſty's Houſhold.
Sir *Charles Barkely*, Knt. Comptroller of His Majeſty's Houſhold.
Mr. Secretary *Nichols*.
Mr. Secretary *Morris*.
Sir *Anthony Aſhley Cooper*.
Arthur Aneſly, Eſq;
The Lord Chief *Baron*.
Mr. Juſtice *Foſter*.
Mr. Juſtce *Mallet*.
Mr. Juſtice *Hide*.
Mr. Baron *Atkins*.
Mr. Juſtice *Twiſden*.
Mr. Juſtice *Tyrrel*.
Mr. Baron *Turner*.
Sir *Harbottle Grimſtone*, Knight and Baronet.
Sir *William Wild*, Knt. and Baronet, Recorder of *London*.
Mr. Serjeant *Brown*.
Mr. Serjeant *Hale*.
John Howel, Eſq;

Sir *Geoffry Palmer*, His Majeſty's *Attorney-General*.
Sir *Heneage Finch*, His Majeſty's *Sollicitor-General*.
Sir *Edward Turner*, Attorney to His Highneſs the Duke of *York*.
Wadham Windham, Eſq;

Edward Shelton, Eſq; *Clerk of the Crown.*

The Grand Jury ſworn were.

Sir *William Darcey*, Baronet, *Foreman*.
Sir *Robert Bolles*, Bart.
Sir *Edward Ford*, Knt.
Sir *Thomas Preſtwick*.
Sir *William Coney*, Knt.
Sir *Charles Sidley*, Bart.
Sir *Lewis Kirk*, Knight.
Sir *Henry Littleton*, Bart.
Sir *Ralph Bovey*, Bart.
Edward Chard, Eſq;
Robert Giddon, Eſq;
John Fotherly, Eſq;
Charles Gibbons, Eſq;
Thomas Geree, Eſq;
Richard Cox, Eſq;
Robert Bladwell, Eſq;
Henry Muſtian, Eſq;
John Markham, Eſq;
Edward Buckley, Gent.
Francis Bouchier, Gent.
Edward Lole.

Hart, *Crier.*

After Proclamation for Silence was made, it pleaſed Sir *Orlando Bridgman*, Lord *Chief Baron* of his Majeſty's High Court of *Exchequer*, to ſpeak to the *Jury* as followeth.

The Lord Chief Baron's Speech.

Gentlemen,

YOU are the *Grand Inqueſt* for the Body of this County of *Middleſex*. You may perceive by this *Commiſſion* that hath been read, that we are authoriz'd by the King's Majeſty to hear and determine all Treaſons, Felonies, and other Offences, within this County: But becauſe this *Commiſſion* is upon a ſpecial Occaſion, the execrable Murther of the Bleſſed King, that is now a Saint in Heaven, King *Charles the Firſt*, we ſhall not trouble you with the Heads of a long *Charge*. The Ground of this *Commiſſion* was, and is, from the *Act of Oblivion and Indempnity*. You ſhall find in that *Act* there is an Exception of ſeveral Perſons, who (for their Execrable Treaſons, in Sentencing to Death, and Signing the *Warrant* for the taking away the Life of our ſaid Sovereign) are left to be proceeded againſt as Traitors, according to the Laws of *England*; and are out of that *Act* wholly excepted and fore-priz'd.

Gentlemen, You ſee theſe Perſons are to be proceeded with according to the Laws of the Land; and I ſhall ſpeak nothing to you but what are the Words of the Laws. By the Statute of the Twenty fifth of *Edward the Third*, (a *Statute* or *Declaration* of Treaſon) it is made High-Treaſon to compaſs and imagine the Death of the King. It was the Ancient Laws of the Nation. In no Caſe elſe Imagination, or Compaſſing, without an Actual Effect of it, was puniſhable by our Law. *Nihil efficit Conatus niſi ſequatur Effectus*; that was the Old *Rule* of Law: But in the Caſe of the King, his Life was ſo precious, that the Intent was Treaſon by the *Common Law*; and declar'd Treaſon by this *Statute*. The Reaſon of it is this: In the Caſe of the Death of the King, the Head of the Commonwealth that's cut off; and what a Trunk, and *inanimate* Lump, the Body is when the Head is gone, you all know. For the Life of a ſingle Man, there's the Life of the Offender; there's ſome Recompence, Life for Life: But for the Death of the King what Recompence can be made? This Compaſſing and Imagining the cutting off the Head of the King is known by ſome *Overt-Act*. Treaſon it is in the wicked Imagination, though not Treaſon apparent; but when this Poiſon ſwells out of the Heart, and breaks forth into Action, in that Caſe it's High-Treaſon.

Then what is an *Overt-Act* of an Imagination or Compaſſing of the King's Death? Truly, it is any thing which ſhews what the Imagination is. Words, in many Caſes, are Evidences of this Imagination; they are Evidences of the Heart. Secondly, as Words; ſo if a Man, if Two Men do conſpire to levy War againſt the King (and, by the way, what I ſay of the King, is as well of the King Dead, as Living; for, if a Treaſon be committed in the Life of one King, it is Treaſon, and puniſhable in the Time of the Succeſſor); then, I ſay, in caſe not only of Words, but if they conſpire to levy War againſt the King, there's another Branch of this *Statute*, the *Levying of War* is Treaſon. But if Men ſhall go and conſult together, and this is to kill the King, to put him to Death, this Conſultation is clearly an *Overt-Act* to prove this Imagination, or Compaſſing of the King's Death.

But what will you ſay, then, if Men do not only go about to conſpire and conſult, but take upon them to judge, condemn, nay put to Death, the King? Certainly, this is ſo much beyond the Imagination and Compaſſing, as 'tis not only laying the Cockatrice's Egg, but brooding upon it

it till it hath brought forth a Serpent. I muſt deliver to you for Plain and True Law, That *no Authority, no ſingle Perſon, no Community of Perſons, not the People Collectively, or Repreſentatively, have any coercive Power over the King of* England. And I do not ſpeak mine own Senſe, but the Words of the Laws unto you. It was the Treaſon of the *Spencers* in King *Edward the Second*'s Time, in *Calvin*'s Caſe, Second *Report*. The *Spencers* had an Opinion, that all Homage and Allegiance was due to the King, by Reaſon of the Crown, as they call'd it. And thereupon (ſay the *Books* and *Records*) they drew out this execrable Inference (among others), That if the King did not demean himſelf according to Right, becauſe he could not be Reform'd by Law, he might *per aſpertee*, that is, *by ſharp Impriſonment*; but this was adjudg'd horrid Treaſon by Two *Acts of Parliament*.

Gentlemen, Let me tell you what our *Law-Books* ſay; for there's the Ground, out of which (and the *Statutes* together) we muſt draw all our Concluſions for Matter of Government.

How do they ſtyle the *King?* They call him, *The Lieutenant of God*, and many other Expreſſions in the Book of *Primo Henrici Septimi*; ſays that Book there, *the King is immediate from God, and hath no Superior*. The *Statutes* ſay, That *the Crown of* England *is immediately ſubject to God, and to no other Power*. *The King* (ſay our Books), *He is not only* Caput Populi, *the Head of the People*; *but* Caput Reipublicæ, *the Head of the Commonwealth, The Three Eſtates*. And truly thus our *Statutes* ſpeak very fully. Common Experience tells you, when we ſpeak of the King, and ſo the *Statutes* of *Edward the Third*, we call the King, *Our Sovereign Lord the King: Sovereign*, that is, *Supreme*. And when the Lords and Commons in *Parliament* apply themſelves to the King, they uſe this Expreſſion, *Your Lords and Commons, your faithful Subjects, humbly beſeech*. I do not ſpeak any Words of my own, but the Words of the Laws. Look upon the *Statute, primo Jacobi*, there's a Recognition, that the Crown of *England* was lawfully deſcended on the King and his Progeny.

[*The* Statute *itſelf was read, to which it is deſired the* Reader *will be referr'd.*]

Theſe are the Words of the *Act*. And this is not the firſt Precedent; for you ſhall find it *primo* Eliz. *cap.* 3. They do acknowledge the Imperial Crown lawfully deſcended on the *Queen*, the ſame Recognition with this. Before that (becauſe we ſhall ſhew you we go upon Grounds of Law in what we ſay) *Stat.* 24 Hen. VIII. *cap.* 12. *Whereas by ſundry Old Authentick Hiſtories and Chronicles it is manifeſtly declared and expreſſed, that this Realm of* England *is an Empire, and ſo hath been accepted in the World, govern'd by One Supreme Head and King, having the Dignity and Royal Eſtate of the Imperial Crown of the ſame*, &c.

25 Hen. VIII. *c.* 21. There it is the People ſpeaking of themſelves, That they *do recognize no Superior under God, but only the King's Grace.*

Gentlemen, You ſee, if the King be immediate under God, he derives his Authority from no body elſe; if the King have an Imperial Power, if the King be Head of the Commonwealth, Head of the Body Politick, if the Body Politick owe him Obedience, truly I think it is an undenied Conſequence, he muſt needs be Superior over them.

Gentlemen, This is no new thing to talk of an *Emperor*, or an *Imperial Crown*. Do not miſtake me all this while: It is one Thing to have an *Imperial Crown*, and another Thing to govern *Abſolutely*.

Gentlemen, The *Imperial Crown* is a Word that is ſignificative; you ſhall find in all *Statutes primo* Eliz. and the Firſt of King *James*, nay, even in the *Act* of Judicial Proceedings of this *Parliament* it is called an *Imperial Crown*. They that take the Oaths of Allegiance and Supremacy, they ſwear, that they will, to their Power, aſſiſt and defend all Juriſdictions, Privileges, Preheminences, and Authorities, granted or belonging to the King, his Heirs, and Succeſſors, or annex'd to the *Imperial Crown* of this Realm. What is an *Imperial Crown?* It is that, which, as to the Coercive Part, is ſubject to no Man under God. The King of *Poland* has a Crown; but what is it? At his *Coronation* it is conditioned with the People, That if he ſhall not govern them according to ſuch *Rules*, they ſhall be freed from their Homage and Allegiance; but the Crown of *England* is, and always was, an *Imperial Crown*, and ſo ſworn.

Gentlemen, As I told you, even now, the *Imperial Crown* is a Word ſignificative; that Crown, which, as to the Coercive Part, is not ſubject to any Human Tribunal, or Judicature, whatſoever. And truly that this is ſuch an *Imperial Crown*, though I have cited Authorities Ancient enough, you may find them much more Ancient. I remember in the Story of *William Rufus* (you ſhall find it in *Matthew Paris* and *Eadmerus*) ſome Queſtion was about *Inveſtiture* of Biſhops, and the like, the King writes his Letter, *That*, &c.

God forbid I ſhould intend any abſolute Government by this. It is one thing to have an *Abſolute* Monarchy, another thing to have that Government *Abſolutely* without Laws, as to any Coercive Power over the Perſon of the King; for as to *Things* or *Actions*, they will fall under another Conſideration, as I will tell you by and by.

Gentlemen, Since this is ſo, conſider the Oath of Supremacy, which moſt Men have taken, or ſhould take. All Men that enter into the *Parliament* Houſe, they are expreſly enjoined by *Statute* to take the Oath of Supremacy. What ſays that Oath? We ſwear that *the King is the only Supreme Governour within this Realm and Dominions*. He is *Supreme*, and the *only Supreme*; and truly if he be *Supreme*, there is neither *Major* nor *Superior*. I urge this the more, leſt any Perſon, by any Miſconſtruction or Inference which they might make from ſomething that hath been acted by the Higher Powers, they might draw ſome dangerous Inferences or Conſequences to colour or ſhadow over thoſe Murtherous and Traitorous Acts, which afterwards they committed. They had no Authority: But as I told you, tho' I do ſet forth this, and declare this to you, to let you know that the King was immediately ſubject to God, and ſo was not Puniſhable by any Perſon: yet let me tell you there is that excellent Temperament in our Laws, that for all this the King cannot rule but by his Laws. It preſerves the King, and his Perſon, and the People's Rights.

There are three Things touching, which the Law is converſant, *Perſonæ, Res, & Actiones*; Perſons, Things, and Actions. For the *Perſon* of the King, he is the Supreme Head, he is not Puniſhable by any Coercive Power: the Laws provide for that. *The King can do no Wrong*; it is a *Rule* of Law, it is in our *Law Books* very frequent; 22d of *Edward the Fourth*, Lord *Coke*, and many others. If he can do no Wrong, he cannot be puniſh'd for any Wrong. The King, he hath the Infirmities and Weakneſs of a Man; but he cannot do any Injury, at leaſt not conſiderable, in Perſon; he muſt do it by Miniſters, Agents, Inſtruments. Now the Law, though it provide for the King, yet if any of his Miniſters do Wrong, though by his Command, they are Puniſhable. The King cannot arreſt a Man, as he cannot be arreſted himſelf; but if he arreſt me by another Man, I have Remedy againſt this Man, though not againſt the King; and ſo he cannot take away my Eſtate. This as to the *Perſon* of the King: He is not to be touched, *Touch not mine Anointed*.

I come to *Things*. If the King claim a Right, the King muſt ſue according to his Laws; the King is ſubject to the Laws in that Caſe, his Poſſeſſions ſhall be tried by Juries. If he will try a Man for his Father's Death, you ſee he will try them by the Laws. The Law is the Rule and Square of his Actions, and by which he himſelf is judged.

Then for *Actions*, that is, ſuch *Actions* whereby Rights and Titles are proſecuted or recovered; the King cannot judge in Perſon betwixt Man and Man, he does it by his Judges, and upon Oath; and ſo in all Caſes whatſoever, if the King will have his Right, it muſt be brought before his Judges. Though this is an *Abſolute* Monarchy, yet this is ſo far from infringing the People's Rights, that the People, as to their Properties, Liberties, and Lives, have as great a Privilege as the King. It is not the ſharing of Government that is for the Liberty and Benefit of the People; but it is how they may have their Lives, and Liberties, and Eſtates, ſafely ſecured under Government. And you know, when the Fatneſs of the *Olive* was laid aſide, and we were governed by *Brambles*, theſe Brambles they did not only tear the *Skin*, but tore the *Fleſh* to the very Bone.

Gentlemen, I have done in this Particular, to let you ſee that the Supreme Power being in the King, the King is immediately under God, owing his Power to none but God. It is true (bleſſed be God) we have as great Liberties as any People have in *Chriſtendom*, in the World; but let us own them where they are due; we have them by the Conceſſions of our Princes. Our Princes have granted them; and the King, now; he in them hath granted them likewiſe.

Gentlemen, I have been a little too long in this, and yet I cannot ſay it is too long, becauſe it may clear Miſunderſtanding, ſo many Poiſonous Opinions having gone Abroad. To come a little nearer: If we conſider; ſuppoſe there were the Higheſt Authority; but when we ſhall conſider this horrid Murther (truly I cannot almoſt ſpeak of it, but——*Vox faucibus hæret*)---When we ſhall conſider, that a few Members of the *Houſe of Commons*, thoſe that had taken the Oath of *Supremacy*, and thoſe that had taken the Oath of *Allegiance*, that was to defend the King, and his Heirs, againſt all Conſpiracies and Attempts whatſoever, againſt his and their Perſon, their Crowns, and Dignities; not only againſt the *Pope*'s Sentence, as ſome would pretend, but, as otherwiſe, againſt all Attempts and Conſpiracies, not only againſt his Perſon, Crown and Royal Dignity, nor *Pope*'s Sentence, not only in order to the Profeſſion of Religion; but abſolutely or otherwiſe, that is, whatſoever Attempts, by any Power, Authority or Pretence whatſoever: I ſay, when a few Members of the *Houſe of Commons*, not an Eighth Part of them, having taken theſe Oaths, ſhall aſſume upon themſelves an Authority; an Authority, what to do? Shall aſſume to themſelves an Authority to make Laws, which was never heard before; Authority to make Laws? What Laws? A Law for an *High Court of Juſtice*, a Law for Lives, to ſentence Men's Lives; and whoſe Life? The Life of their Sovereign: Upon ſuch a King, who, as to them, had not only redreſſed long before, at the beginning of the *Parliament*, all Grievances that were, and were imaginable; taken away the *Star-Chamber*, *High Commiſſion-Court*, and about *Shipping*; ſuch a King, and after ſuch Conceſſions that he had made in the Iſle of *Wight*; when he had granted ſo much, that was more than the People would have deſired: When theſe few *Commons*, not only without, but excluding the reſt of the *Commons*; not only without, and excluding the reſt, but rejecting the *Lords* too, that then ſat: When theſe *few Commons* ſhall take upon them this Authority, and by Colour of this, their King, Sovereign Liege Lord, ſhall be ſentenc'd, put to Death; and that put to Death, even as their King, and ſentenc'd as their King; put to Death as their King, and this before his own Door, even before that Place where he uſed in *Royal Majeſty* to hear Embaſſadors, to have his honourable Entertainments; that this King ſhall be thus put to Death at Noonday, it is ſuch an Aggravation of Villany, that truly I cannot tell what to ſay. No Story, that ever was, I do not think any *Romance*, any Fabulous *Tragedy*, can produce the like. *Gentlemen*, If any Perſon ſhall now come, and ſhroud himſelf under this pretended Authority, or ſuch a pretended Authority, you muſt know, that this is ſo far from an Excuſe, that it is an Height of Aggravation. The Court of *Common-Pleas* is the Common Shop for Juſtice, in that Court an Appeal is brought for Murther, which ought to have been in the *King's-Bench*, the Court gives Judgment, the Party is condemned, and executed: In this Caſe it is Murther in them that executed, becauſe they had no lawful Authority. I ſpeak this to you, to ſhew you, that no Man can ſhroud himſelf by Colour of any ſuch falſe or pretended Authority. I have but one Thing more to add to you upon this Head, and that is (which I ſhould have ſaid at firſt), If Two or more do compaſs or imagine the King's Death; if ſome of them go on ſo far as to Conſultation; if others of them go further, they ſentence, and execute, put to death: In this Caſe they are all Guilty; the firſt Concluſion was Treaſon. I have no more to add, but one Particular, a few Words.

As you will have Bills preſented againſt thoſe for Compaſſing, Imagining, Adjudging the King, ſo poſſibly you may have Bills preſented againſt ſome of thoſe for Levying War againſt the King: Levying of War, which is another Branch of the *Statute* of the 25th of *Edward the Third*. It was but declarative of the Common Law; it was no new Law. By that Law it was Treaſon to *Levy War* againſt the King. But to Levy War againſt the King's Authority, you muſt know, is Treaſon too. If Men will take up Arms upon any publick Pretence; if it be to expulſe Aliens; if but to pull out Privy-Counſellors; if it be but againſt any particular Laws, to reform Religion, to pull down Encloſures: In all

theſe Caſes, if Perſons have aſſembled themſelves in a Warlike Manner to do any of theſe Acts, this is Treaſon, and within that Branch of Levying War againſt the King. This was adjudged in the late King's Time in *Benſtead*'s Caſe, Queen *Elizabeth*'s, *Henry the Eighth*'s, former Times, King *James*'s Time; much more, if Men will go not only to Levy War againſt the King, but againſt the Laws, all the Laws, ſubvert all the Laws, to ſet up New Laws, Models of their own. If any of theſe Caſes come to be preſented to you, you know what the Laws are. To conclude, you are now to enquire of Blood, of Royal Blood, of Sacred Blood, Blood like that of the *Saints* under the *Altar*, crying, *Quouſque*, *Domine*, *How long*, *Lord*, &c. This Blood cries for Vengeance, and it will not be appeaſed without a Bloody Sacrifice.

Cr. Car. 583.

Remember but this, and I have done: I ſhall not preſs you upon your Oaths; you are Perſons of Honour; you all know the Obligation of an Oath. This I will ſay, that he that conceals or favours the Guilt of Blood, takes it upon himſelf, wilfully, knowingly, takes it upon himſelf; and we know that when the *Jews* ſaid, *Let his Blood be on us and our Seed*, it continued unto them and their Poſterity to this Day.

God ſave the King. Amen, Amen.

His Lordſhip's *Speech* being ended, there was preſented to the Grand Jury a Bill of Indictment of *High-Treaſon* againſt the following Perſons:

1 Sir *Hardreſs Waller.*
2 *George Fleetwood.*
3 *Thomas Harriſon.*
4 *Adrian Scroop.*
5 *John Carew.*
6 *Thomas Scot.*
7 *Gregory Clement.*
8 *John Jones.*
9 *John Cook.*
10 *Hugh Peters.*
11 *Daniel Axtell.*
12 *Francis Hacker.*
13 *William Hulet.* *
14 *Edmund Harvey.*
15 *Iſaac Pennington.*
16 *Henry Martin.*
17 *Gilbert Millington.*
18 *Robert Tichburne.*
19 *Owen Roe.*
20 *Robert Lilburne.*
21 *Henry Smith.*
22 *John Downes.*
23 *Vincent Potter.*
24 *Auguſtine Garland.*
25 *Simon Meyn.*
26 *James Temple.*
27 *Peter Temple.*
28 *Thomas Waite.*
29 *Wil. Heveningham.*
30 *John Barkſtead.* †
31 *John Okey.* †
32 *Miles Corbet.* †

After which *Thomas Lee* of the *Middle-Temple*, *London*, Gentleman, was called to give in the Names of his *Witneſſes*. The Names of the *Witneſſes* then and there ſworn follow:

William Clark, Eſq;
James Nutley, Eſq;
Mr. *George Maſterton*, Clerk.
George Farringdon.
Hercules Huncks.
Dr. *William King.*
Martin Foſter.
John Baker.
Stephen Kirk.
Richard Nunnelly.
John Powel.
John Throckmorton.
John Blackwel.
Ralph Hardwick.
Thomas Walkley, Gent.
Holland Simpſon.
Benjamin Francis.
Col. *Matthew Thomlinſon.*
Mr. *Lee.*
Robert Ewer.
John King.
Griffith Bodurdo, Eſq;
Samuel Boardman.
Robert Carr, Eſq;
Richard Young.
Sir *Purbeck Temple.*
John Ruſhworth.
John Gerrard.
John Hearn.
Mr. *Coitmore.*
Mr. *Cunningham.*
Mr. *Clench.*
William Jeſſop, Eſq;
Edward Auſtin, *Darnel*, Eſq;
Mr. *Brown.*
Thomas Tongue.
John Bowler.
Mr. *Sharp.*
Edward Folley.
Mr. *Gouge.*
Anthony Mildmay, Eſq;

The *Grand Jury* returned the Indictment *Billa Vera*. *Court* adjourned to the *Old Baily* 10th of *October*.

The 10th of *October*, 1660.

SIR *John Robinſon*, Knight, *Lieutenant* of his Majeſty's *Tower of London*, according to his *Warrant* received, delivered to Mr. *Sheriff* the Priſoners hereafter named, who were (in ſeveral Coaches) with a ſtrong Guard of Horſe and Foot conveyed to *Newgate*, and about Nine of the Clock in the Morning delivered to the Keepers of that Priſon, and thence brought to the *Seſſions Houſe* in the *Old Baily*, *London*, where the Commiſſioners of *Oyer* and *Terminer* were in Court aſſembled, and where their *Indictment* was publickly read by *Edward Shelton*, Eſq; *Clerk of the Crown*.

Seſſions-Houſe in the *Old Baily*, *October* 10, 1660.

THE Court being aſſembled, and Silence commanded, the *Commiſſion* of *Oyer* and *Terminer* was again read. After which Sir *Hardreſs Waller*, Colonel *Thomas Harriſon*, and Mr. *William Heveningham*, were brought to the *Bar*, and commanded to hold up their Hands; which Sir *Hardreſs Waller* and Mr. *Heveningham* did; but *Harriſon* being commanded to hold up his Hand, anſwered, *I am here*, and ſaid,

My Lord, if you pleaſe I will ſpeak a Word——

Court. Hold up your Hand, and you ſhall be heard in due Time. Mr. *Harriſon*, the Courſe is, that you muſt hold up your Hand firſt. *And then he held up his Hand.*

The Indictment was read, purporting, That *he, together with others, not having the Fear of God before his Eyes, and being inſtigated by the Devil, did maliciouſly, treaſonably, and felonioufly, contrary to his due Allegiance, and bounden Duty, ſit upon and condemn our late Sovereign Lord, King* Charles the Firſt, *of Ever-bleſſed Memory; and alſo did upon the Thirtieth of* January, 1648, *Sign and Seal a Warrant for the Execution of his late Sacred and Serene Majeſty, of Bleſſed Memory. Where alſo*, &c.

Clerk of the Crown. How ſayeſt thou, Sir *Hardreſs Waller?* Art thou *Guilty* of that Treaſon whereof thou ſtandeſt *Indicted*, and for which thou haſt now been Arraigned, or *Not Guilty?*

Sir Hardreſs Waller. *My Lords, I dare not ſay*, Not Guilty; *but ſince that in a Buſineſs of this Nature we have no Counſel or Advice, and being not able to ſpeak to Matter of Law*——

Lord Chief Baron. I am loth to interrupt you; but this is the Courſe: You have heard the *Indictment* read, and the Courſe is, you muſt plead *Guilty* or *Not Guilty*. There is no *Medium*, *Guilty* or *Not Guilty*. It is that which is the Law, and the Caſe of all Men. Are you *Guilty?* Or *Not Guilty?*

Sir Hard. Waller. *I may confeſs myſelf* Guilty *of ſome Particulars in that* Indictment, *but not of all; for ſo, inſtead of diſcharging, I ſhall wound my Conſcience.*

Clerk. Are you *Guilty*, or *Not Guilty?*

Sir Hard. Waller. *If I might have that Liberty to*——

Court. You ſhall have that Liberty that any Subject of the Nation can have or can challenge. No Man, ſtanding at the Bar in that Condition you are, muſt make any other Anſwer to that *Indictment* than *Guilty* or *Not Guilty*. It's the common Caſe of all Men. Your Confeſſion muſt be plain and direct, either *Guilty* or *Not Guilty*.

Sir Hard. Waller. *My Lord, I deſire ſome time to conſider of it, for it is a great Surprizal.*

Court. You have had Time enough to conſider of it; you muſt follow the Directions of the *Court*, *Guilty* or *Not Guilty?* You muſt not thus diſcourſe of being ſurprized; for theſe Diſcourſes are contrary to all *Proceedings* of this Nature.

Clerk. How ſay you, Sir *H. Waller?* Are you *Guilty* or *Not Guilty?*

Sir Hard. Waller. *I dare not ſay*, Not Guilty.

Clerk. Will you confeſs, then?

Sir Hard. Waller. *I would be glad to be underſtood*——

Court. Your Plea muſt be direct, *Guilty*, or *Not Guilty?*

Sir Hard. Waller. *Shall I be heard, my Lord?*

Court. Yes, upon your Trial. There is but two Ways, Plead *Not Guilty*, or confeſs it. Sir *Hardreſs Waller*, we would not have you to be deceived. If you confeſs, and ſay, you are *Guilty*, there is nothing then but Judgment: If you ſay *Not Guilty*, then you ſhall be heard with your Evidence. Conſider with your ſelf. Plead *Not Guilty*, or confeſs, and ſay, you are *Guilty*.

Sir Hard. Waller. *My Lord, it puts me upon a great Conteſt with myſelf. I ſhall be very free to open my Heart*——

Court. Sir, you muſt plead *Guilty*, or *Not Guilty*.

Sir Hard. Waller. *My Lord, my Condition differs from others, I am a Stranger; I have been thirty Years tranſplanted into* Ireland, *which has made me unacquainted with the Affairs of the Law here.*

Court. You muſt keep to the Courſe of the Law, either *Guilty* or *Not Guilty*. There is but one of theſe two Pleas to be made.

Sir Hard. Waller. *I dare not ſay* Not Guilty.

Court. There are but theſe Three Things to be conſidered: Either you muſt ſay *Guilty*, which is *Confeſſion*, and then there remains no more but *Judgment*; or *Not Guilty*, and then you ſhall be heard; or *Judgment* will paſs for your ſtanding *Mute*, which is all one as if you had confeſſed.

Sir Hard. Waller. *Inſomuch as I have ſaid I dare not ſay* Not Guilty, *I muſt ſay* Guilty.

Clerk. You ſay you are *Guilty!* You confeſs the *Indictment*.

Sir Hardreſs Waller. ‡ *Yes.*

Clerk. *Thomas Harriſon*, How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and art now arraigned? Or *Not Guilty?*

Tho. Harriſon. *My Lords, have I Liberty to ſpeak?*

Court. No more (at this Time) than *Guilty* or *Not Guilty*. Mr. *Harriſon*, you have heard the Direction before. We can give you but the ſame *Rule*. If you plead *Not Guilty*, you ſhall be heard at large; if *Guilty*, you know what remains.

Tho. Harriſon. *Will you give me Leave to give you my Anſwer in my own Words?*

Lord Chief Bar. There is no Anſwer but what the Law directs; it is the ſame with you as with all others, or as I would deſire if I were in your Condition. You muſt plead *Not Guilty:* Or if you confeſs *Guilty*, there muſt be *Judgment* upon your Confeſſion. The ſame *Rule* for one muſt be for another.

Tho. Harriſon. *You expreſs your* Rule *very fair, as well to me as this Gentleman* (pointing at Sir *Hardreſs Waller*); *but I have ſomething to ſay to your Lordſhips, which concerns your Lordſhips as well as myſelf.*

Court. You muſt hold, and plead *Guilty*, or *Not Guilty*. If you go otherwiſe (as I told you before), it will be as if you pleaded not at all, and then *Judgment* will paſs againſt you. The Law gives the Words, frames your Anſwer, it is none elſe but the Laws, *Guilty*, or *Not Guilty?*

Tho. Harriſon. *My Lord, I have been kept cloſe Priſoner near theſe three Months, that no body might have Acceſs to me. Do you call me to give you a legal Anſwer, not knowing of my Trial till Nine of the Clock laſt Night, and brought away from the* Tower, to this Place, *at Six of the Clock this Morning?*

Court. You muſt give your direct Anſwer, *Guilty* or *Not Guilty*. You cannot ſay it is ſudden, or unprovided. You ſpend time in vain. You trouble the Court. You muſt plead *Guilty*, or *Not Guilty*. We muſt not ſuffer you to make Diſcourſes here. You muſt plead either *Guilty*, or *Not Guilty*.

Clerk. Are you *Guilty*, or *Not Guilty?*

Thomas Harriſon. *I am ſpeaking: Shall I not ſpeak two Words?*

Court. If you will not put yourſelf upon your Trial, you muſt expect that Courſe that the Law directs.

Tho. Harriſon. *May it pleaſe your Lordſhips, I am now*——

Clerk. Are you *Guilty*, or *Not Guilty?*

Tho. Harriſon. *I deſire to be adviſed by the Law, this is a Special Caſe.*

Court. The Law allows nothing now, but to plead *Guilty*, or *Not Guilty*.

Court. You muſt plead to your *Indictment*. If it be Treaſon, it cannot be juſtified; if it be juſtifiable, it is not Treaſon; therefore plead *Guilty*, or *Not Guilty*.

Tho. Harriſon. *Give me Advice in this*——

Clerk. Tho. Harriſon, are you *Guilty*, or *Not Guilty?*

Thomas Harriſon. *I would willingly render an Account of all my Doings*---

Clerk. Are you *Guilty?* Or *Not Guilty?*

Court. You have been acquainted with the Legal Proceedings. You never found in all your Experience that any Priſoner at the Bar, for Felony or Treaſon, was ſuffered thus to diſcourſe, or to anſwer otherwiſe than *Guilty*, or *Not Guilty?*

Clerk. Are you *Guilty?* Or *Not Guilty?*

Mr. Sol. Gen. *I do beſeech your Lordſhips he may plead; peradventure he knows his Caſe ſo well, that he thinks it as cheap to defie the Court, as ſubmit to it.*

Court. We muſt enter your ſtanding *Mute*; that's *Judgment*.

* His Indictment was not found till the 12th.

† Theſe three were fled, but being out-lawed, were afterwards taken in *Holland*, and though they pleaded they were not the ſame Perſons who were out-lawed, yet they were immediately tried (*Paſchæ* 14 *Car.* II.); and being found the ſame Perſons, received Sentence of Death, and were executed accordingly. *Kelyng.* 13. 2 Sid. 72 1 Lev. 61. 1 Keb. 244.

‡ He had at firſt pleaded *Not Guilty*, but was allowed by the Court to withdraw his Plea, Kelyng. 11.

Clerk.

Clerk. Are you *Guilty?* Or *Not Guilty?*
Tho. Harriſon. *Will you refuſe to give me any Satisfaction?*
Court. Are you *Guilty?* Or *Not Guilty?*
Tho. Harriſon. *Will you give me your Advice?*
Court. We do give you Advice. The Advice is, there is no other Plea, but *Guilty*, or *Not Guilty*. You ſhall be heard when you have put yourſelf upon your Trial.
Clerk. Are you *Guilty?* Or *Not Guilty?*
Tho. Harriſon. *You do deny me Counſel, then I do plead* Not Guilty.
Clerk. You plead *Not Guilty?* Is this your Plea?
Tho. Harriſon. *Yes.*
Clerk. How will you be Tried?
Tho. Harriſon. *I will be tried according to the Laws of the Lord.*
Clerk. Whether by *God* and the *Country?*
Lord Chief Baron. *Now I muſt tell you, if you do not put yourſelf upon your Country, you have ſaid nothing.*
Clerk. How will you be Tried?
Tho. Harriſon. *It is to put myſelf upon what you pleaſe to put me upon.*
Court. If you underſtand (you are not every Man, you are verſed in Proceedings of Law), you know you muſt put yourſelf upon the Trial of *God* and your *Country*; if you do not, it is as good as if you had ſaid nothing.
Tho. Harriſon. *You have been miſinformed of me.*
Court. You have pleaded *Not Guilty*; that which remains is, that you muſt be Tried by *God* and the *Country*, otherwiſe we muſt Record your ſtanding *Mute.*
Clerk. How will you be Tried?
Tho. Harriſon. *I will be tried according to the ordinary Courſe.*
Clerk. Whether by God and the Country? You muſt ſpeak the Words.
Tho. Harriſon. *They are vain Words---*
Court. We have given you a great deal of Liberty and Scope, which is not uſual. It is the Courſe and Proceedings of Law; if you will be Tried, you muſt put yourſelf upon *God* and the *Country.*
Clerk. How will you be Tried?
Tho. Harriſon. *I do offer myſelf to be tried in your own Way, by* God *and my* Country.
Clerk. God ſend you a good Deliverance.

Clerk. *William Heveningham*, hold up your Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty?*
Will. Heveningham. *Not Guilty.*
Clerk. How will you be tried?
Will. Heveningham. *By* God *and the* Country.
Clerk. God ſend you a good Deliverance.

Sir Hard. Waller *then preſented his Petition to the Court, directed* To the King's Majeſty and the Parliament, *which was received, but not at this Court read; and then the Three Perſons aforeſaid were diſmiſſed.*

Clerk. Bring to the Bar *Iſaac Pennington*, Eſq; *Henry Martin*, Eſq; *Gilbert Millington*, Gentleman, *Robert Tichburne*, Eſq; *Owen Roe*, Eſq; and *Robert Lilburn*, Gentleman; who were called, and appeared at the Bar, and being commanded ſeverally, held up their Hands.
The Indictment was read again as to the former Perſons.
Clerk. *Iſaac Pennington*, Hold up thy Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty?*
Iſaac Pennington. *Not Guilty*, my Lord.
Clerk. How will you be Tried?
Iſaac Pennington. *By* God *and the* Country.
Clerk. God ſend you a good Deliverance.

Clerk. *Henry Martin*, How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty?*
Hen. Marten. *I deſire the Benefit of the Act of* Oblivion----
Clerk. Are you *Guilty?* Or *Not Guilty?*
Court. You are to underſtand the Law is this, the ſame to you and every one; you are to plead *Guilty*, or *Not Guilty.* If you will demand the Benefit of the *Act of Oblivion*, it is a Confeſſion of being *Guilty.*
Hen. Marten. *I humbly conceive the Act of* Indemnity----
Court. You muſt plead *Guilty*, or *Not Guilty.*
Hen. Marten. *If I plead, I loſe the Benefit of that Act.*
Court. You are totally excepted out of the *Act.*
Hen. Marten. *If it were ſo, I would plead. My Name is not in that* Act.
Court. *Henry Martin* is there.
Mr. Sollicitor Gen. *Surely he hath been kept cloſe Priſoner indeed, if he hath not ſeen the* Act of Indemnity. *Shew it him.*
Mr. *Shelton* opening the *Act.*
Court. How is it written?
Clerk. It is *Henry Martin.*
And then the Act *was ſhewed to the ſaid Mr.* Marten.
Hen. Marten. Henry Martin. *My Name is not ſo* *, *it is* Harry Marten.
Court. The Difference of the Sound is very little. You are known by that Name of *Martin.*
Hen. Marten. *I humbly conceive all* Penal Statutes *ought to be underſtood literally.*
Clerk. Are you *Guilty?* Or *Not Guilty?*
Hen. Marten. *I am not* Henry Martin.
Clerk. Are you *Guilty?* Or *Not Guilty?*
Court. Be adviſed; the Effect of this Plea will be *Judgment.*
Here Mr. Sollicitor General cited ſomewhat Parallel to this in a *Caſe* formerly of *Baxter*, where the Name was *Bagſter*, with an *S*, and adjudged all one, being of the ſame Sound.
Clerk. Are you *Guilty?* Or *Not Guilty?*
Hen. Marten. *My Lord, I deſire Counſel; there will ariſe Matter of Law, as well as Fact.*
Court You are *Indicted* for *Treaſon*, for a Malicious, Traitorous Compaſſing and Imagining the King's Death; if you have any Thing of Juſtification, plead *Not Guilty*, and you ſhall be heard; for if it be Juſtifiable it is not *Treaſon.* The *Rule* is, either you muſt plead *Guilty*, and ſo confeſs, or *Not Guilty*, and put yourſelf upon your Trial; there is no *Medium.*
Hen. Marten. *May I give any thing in* Evidence *before* Verdict?
Court. Yes; upon your Trial you may give any Thing in *Evidence* that the Law warrants to be *Lawful Evidence.*
Clerk. Are you *Guilty?* Or *Not Guilty?*
Court. Underſtand one Thing, becauſe I would not have you miſtaken; you cannot give in *Evidence* the *Miſnomer*, but any thing to the Matter of *Fact.*
Hen. Marten. *I ſubmit, and plead* Not Guilty.
Clerk. How will you be Tried?
Hen. Marten. *By God and the Country.*
Clerk. God ſend you a good Deliverance.

Clerk. *Gilbert Millington*, Hold up your Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty?*
Gilb. Millington. *My Lord, I am an Ancient Man, and Deaf; I humbly crave your Lordſhip's Pardon to bear me a few Words; I will promiſe it ſhall be* pertinent *enough.*
Mr. Sol. Gen. Impertinent enough; *he means.*
Court. You muſt plead either *Guilty*, and ſo confeſs it; or *Not Guilty*, and then you ſhall be heard any Thing for your Juſtification.
Clerk. Are you *Guilty?* Or *Not Guilty?*
Gilb. Millington. *I deſire I may—*
Court. There is nothing you can ſay but *Guilty*, or *Not Guilty*; all other Diſcourſes turn upon yourſelf.
Clerk. Are you *Guilty?* Or *Not Guilty?*
Gilb. Millington. *You might enlighten me in ſome Scruples. Does my Pauſe trouble you much? I ſhould not be long.*
Court. Your particular Caſe cannot differ from others.
Clerk. Are you *Guilty?* Or *Not Guilty?*
Gilb. Millington. *There are ſome Things in the Indictment that I can ſay* Not Guilty *to; there are others that I muſt deal ingenuouſly, and confeſs them.*
Clerk. Are you *Guilty* in Manner and Form as you are Indicted? Or *Not Guilty?*
Gilb. Millington. *Not Guilty.*
Clerk. How will you be Tried?
Gilb. Millington. *By* God *and the* Country.
Clerk. God ſend you a good Deliverance.

Clerk. *Robert Tichbourn*, Hold up your Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt Indicted, and art now Arraigned? Or *Not Guilty?*
Tichbourn. *My Lord, I have been a very cloſe Priſoner, without any Advice; I am altogether unable in Law to ſpeak.*
Court. You know the Courſe hath been delivered to you by others, I will not trouble you with it. It is neither long nor ſhort; the Law requires your Anſwer, *Guilty?* Or *Not Guilty?*
Tichbourn. *Spare me but one Word. If upon the Trial there ſhall appear to be Matter of Law, ſhall I have the Liberty of* Counſel *for it? If I ſhall be put in my own Caſe to plead Matter of Law againſt thoſe Noble Perſons who plead on the other Part, I ſhall but prejudice myſelf, and therefore I crave* Counſel.
Court. You muſt plead *Guilty*, or *Not Guilty.*
Tichbourn. *I have no Reaſon nor Deſign to diſpleaſe you. I am ſure I am no ways able to plead with Equalneſs in Point of Law with thoſe Noble Gentlemen. To the Matter of* Fact *this is my Plea*, In Manner and Form that I ſtand Indicted I am *Not Guilty.*
Clerk. How will you be tried?
Tichbourn. *By* God *and the* Country.
Clerk. God ſend thee a good Deliverance.

Clerk. Owen Rowe, Hold up your Hand. How ſayeſt thou? Art thou Guilty of the Treaſon whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty?*
Owen Roe. *My Lord, there hath been ſo much ſaid already by others, I think I need ſay no more.* In Manner and Form as I am now Indicted I plead *Not Guilty.*
Clerk. How will you be Tried?
Owen Roe. *By* God *and the* Country.
Clerk. God ſend you a Good Deliverance.

Clerk. *Robert Lilburn*, Hold up your Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty?*
Robert Lilburn. *I deſire, in regard that being ſo cloſe a Priſoner for Twenty Days, that no body has been ſuffered to adviſe with me----*
Lord Chief Baron. I muſt interrupt you. You muſt not miſ-ſpend the Time. Underſtand the Law. You muſt Plead *Guilty*, or *Not Guilty.*
Robert Lilburn. *Will you give me leave to deſire Counſel before I plead, to adviſe me touching my Plea?*
Clerk. Are you *Guilty?* or *Not Guilty?*
Robert Lilburn. *I deſire Counſel----*
Court. Take heed, if that be your Anſwer, *You deſire Counſel*, and do not Plead, and that be Recorded, *Judgment* will paſs againſt you. There is nothing to Plead, but *Guilty*, or *Not Guilty.* If *Not Guilty*, what you have to ſay will be heard.
Rob. Lilburn. *If you over-rule me, I muſt ſubmit.*
Court. Do not let ſuch Language fall from you; it is improper.
The *Law* gives us a *Rule. The Priſoner muſt plead* Guilty, *or* Not Guilty.
Rob. Lilburn. *I ſay then, In* Manner *and* Form *as I am Indicted I am* Not Guilty.
Clerk. How will you be Tried?
Rob. Lilburn. *By* God *and the* Country.
Clerk. God ſend you a good Deliverance.

Clerk. Bring to the Bar *Adrian Scroop, John Carew, John Jones, Thomas Scot, Gregory Clement*, and *John Cook.*
Who were brought accordingly, and being commanded, ſeverally held up their Hands at the Bar.
The Indictment *was read to the Perſons at the* Bar *as before.*
Clerk. *Adrian Scroop*, Hold up thy Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty?*
Adr. Scroop. *My Lord*, Not Guilty.
Clerk. How will you be Tried?
Adr. Scroop. *By* God *and the* Country.
Clerk. God ſend thee a good Deliverance.

Clerk.

* Kelyng. 11.

Clerk. *John Carew*, Hold up thy Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou art *Indicted*, and art now Arraigned? Or *Not Guilty?*

John Carew. *There is ſome ſpecial Matter in that* Indictment, *that ought not to before*——

Clerk. Are you *Guilty*, or *Not Guilty?*

John Carew. *Saving to our Lord* Jeſus Chriſt *his Right to the Government of theſe Kingdoms*——

Court. Are you *Guilty*, or *Not Guilty?*

John Carew. *I ſay I am* Not Guilty.

Clerk. How will you be Tried?

John Carew. *How would you have me?*

Clerk. Will you be tried by *God* and the *Country?*

John Carew. *Aye, if you will.*

Clerk. You muſt ſay the Words. How will you be Tried?

John Carew. *By* God *and the* Country.

Clerk. God ſend you a good Deliverance.

Clerk. *John Jones*, Hold up thy Hand. How ſayeſt Thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? Or *Not Guilty?*

John Jones. Not Guilty, *my Lord.*

Clerk. How will you be Tried?

John Jones. By God *and the* Country.

Clerk. God ſend thee a good Deliverance.

Clerk. *Thomas Scot*, Hold up thy Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? Or *Not Guilty?*

Th. Scot. *Truly I cannot call it* Treaſon, *and therefore I Plead* Not Guilty.

Clerk. How will you be Tried?

Th. Scot. *By* God *and the* Country.

Clerk. God ſend you a good Deliverance.

Clerk. *Gregory Clement*, Hold up your Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? Or *Not Guilty?*

Greg. Clement. *My Lord, I cannot excuſe myſelf in many Particulars; but as to my* Indictment, *as there it is, I plead* Not Guilty.

Clerk. How will you be Tried?

Greg. Clement. *By* God *and the* Country.

Clerk. God ſend you a good Deliverance.

Clerk. *John Cook*, Hold up thy Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? Or *Not Guilty?*

John Cook. *I humbly conceive that this is now Time to move for* Counſel *for Matter of* Law—

Court. You know too well the Manner of the *Court.* Are you *Guilty?* Or *Not Guilty?*

John Cook. *Not Guilty.*

Clerk. How will you be Tried?

John Cook. *By* God *and the* Country.

Clerk. God ſend you a good Deliverance.

Clerk. Bring *Edmund Harvey, Henry Smith, John Downs, Vincent Potter*, and *Auguſtine Garland*, to the Bar.

Who were brought accordingly, and, being commanded, ſeverally held up their Hands. The Indictment *was read to them.*

Clerk. *Edmund Harvey*, Hold up your Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? Or *Not Guilty?*

Edmund Harvey. Not Guilty, *my Lord.*

Clerk. How will you be Tried?

Edmund Harvey. *By* God *and the* Country.

Clerk. God ſend you a good Deliverance.

Clerk. *Henry Smith*, Hold up thy Hand? How ſayeſt thou? Art thou *Guilt* of the Treaſon whereof thou art *Indicted*, and for which thou art now Arraigned? Or *Not Guilty?*

Henry Smith. Not Guilty, *my Lord.*

Clerk. How will you be Tried?

Henry Smith. *By* God *and the* Country.

Clerk. God ſend you a good Deliverance.

John Downs, Vincent Potter, Auguſtine Garland, *upon the Queſtion preſently pleaded* Not Guilty, *and put themſelves on* God *and the* Country *to be Tried.*

Clerk. Set to the Bar *George Fleetwood, Simon Meyn, James Temple, Peter Temple, Thomas Wait, Hugh Peters, Francis Hacker*, and *Daniel Axtel.*

Who being at the Bar, held up their Hands according to Order; afterward the Clerk read the Indictment *againſt the ſaid Perſons; which being ended, he proceeded in this manner:*

Clerk. *George Fleetwood*, Hold up thy Hand. What ſayeſt thou? Art thou *Guilty* of this horrid Treaſon whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty?*

George Fleetwood. *My Lord, I came in upon his Majeſty's* Proclamation.

Clerk. Art thou *Guilty*? Or *Not Guilty?*

George Fleetwood. * *I muſt confeſs I am* Guilty (*and thereupon he delivered a* Petition *in to the* Court, *which he ſaid was directed* To his Majeſty and the Parliament, *and the* Court *did receive it accordingly).*

Clerk. Set him aſide.

Clerk. *Simon Meyn*, Hold up thy Hand. What ſayeſt thou? Art thou *Guilty* of this horrid Treaſon whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty?*

Simon Meyn. *Not Guilty. I came in upon his Majeſty's* Proclamation, *my Lord.*

Clerk. How wilt thou be Tried??

Simon Meyn. *By* God *and the* Country.

Clerk. God ſend thee a good Deliverance.

Clerk. *James Temple*, Hold up thy Hand. What ſayeſt thou? Art thou *Guilty* of this horrid Treaſon whereof thou ſtandeſt *Indicted*, and art now Arraigned? Or *Not Guilty?*

James Temple. *Not Guilty.*

Clerk. How wilt thou be Tried?

James Temple. *By* God *and the* Country.

Clerk. God ſend thee a good Deliverance.

Clerk. *Peter Temple*, Hold up your Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? Or *Not Guilty?*

Peter Temple. *Not Guilty?*

Clerk. How wilt thou be tried?

Peter Temple. *By* God *and the* Country.

Clerk. God ſend thee a good Deliverance.

Clerk. *Thomas Wait*, Hold up your Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? Or *Not Guilty?*

Th. Wait. *I deſire to be heard a Word or two—*

Court. There is a *Rule* of *Law* which is ſet to us and you, that in all theſe *Caſes* you are to plead *Guilty*, or *Not Guilty.* When you have pleaded, if *Not Guilty*, you may ſpeak what you will in its proper Time.

Clerk. Are you *Guilty*, Or *Not Guilty?*

Th. Wait. *I pray let me be heard a Word. I am very unwilling to ſpend time, knowing you have a great deal of Buſineſs. I am very unwilling to deprive myſelf of my Native Right. I ſhall ſpeak nothing but that which is Truth.*

Court. Do not *Preface* then, but ſpeak what you would ſay.

Th. Wait. *My Lord, my Caſe is different from the reſt.*

Court. Whatſoever the Caſe be, you have no *Plea* to us, but *Guilty*, or *Not Guilty.* We can go no other Way. The *Law* ſets out your *Plea.*

Th. Wait. *My Lord, I would ſpeak one Word. There was a great* Peer *of this Nation Indicted at* Northampton, *within theſe Two Years, for killing a Man. The* Judges *there*—

Court. You muſt plead *Guilty*, or *Not Guilty.* Pray who are you that ſhould take this upon you more than all the reſt? You muſt go the ordinary Way; *Guilty*, or *Not guilty:* Are you *Guilty?* or *Not guilty?* We do not intend to prevent any Thing you have to ſay, but it muſt be proper.

Clerk. Are you *Guilty?* Or *Not Guilty?*

Th. Wait. *I cannot ſay I am* Guilty.

Court. How then?

Th. Wait. *I am Not Guilty.*

Clerk. How wilt thou be Tried?

Th. Wait. *By* God *and the* Country.

Clerk. God ſend thee a good Deliverance.

Clerk. *Hugh Peters*, Hold up thy Hand. How ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtanded *Indicted*, and for which thou art now Arraigned? Or *Not Guilty?*

Hugh Peters. *I would not for Ten Thouſand Worlds ſay I am* Guilty. *I am* Not Guilty.

Clerk. How will you be Tried?

Hugh Peters. *By the Word of God.* [*Here the People laughed.*]

Court. You muſt ſay, *By God and the Country.* Tell him, you that ſtand by him, what he ſhould ſay, if he doth not know.

Clerk. How will you be Tried?

Hugh Peters. *By* God *and the* Country.

Clerk. God ſend thee a good Deliverance.

Clerk. *Daniel Axtel*, Hold up thy Hand. What ſayeſt thou? Art thou *Guilty* of the Treaſon whereof thou ſtandeſt *Indicted*, and for which thou art now Arraigned? Or *Not Guilty?*

Dan. Axtel. *May it pleaſe your Lordſhips, I deſire to have the Freedom of an* Engliſhman; *that which is my Right by Law and Inheritance: I have ſomething to offer in Point of Law.*

Clerk. Art thou *Guilty?* Or *Not Guilty?*

Dan. Axtel. *My* Lords, *give me Leave to ſpeak. For the Matter of the* Indictment *I conceive is upon the King's Death; that there is a* Commiſſion *of* Oyer *and* Terminer *for you to Sit: But in regard it was in Purſuance of an* Act *of* Parliament, *I conceive no* Inferior Court *ought to judge of it: I deſire* Counſel, *it being of great and eminent Concernment in Law, That ever any* Judges, *or any* Inferior Court, *ſhould judge of the Powers and Privileges of a* Parliament; *and I pray that* Counſel *may be aſſigned me.*

Clerk. Are you *Guilty?* Or *Not Guilty?*

Dan. Axtel. *If the Court over-rule me, and I ſhall not have my Liberty, as an* Engliſhman—

Court. The Courſe of *Law* is this: *No Man can juſtify Treaſon.* If the Matter which you have to ſay be Juſtifiable, it is not Treaſon; if Treaſon, it is not Juſtifiable; therefore you muſt go the ordinary Courſe of the *Law.* You muſt plead *Guilty*, or *Not Guilty.*

Dan. Axtel. *I can produce many* Precedents—

Court. Are you *Guilty?* or *Not Guilty?* The Language is put into your Mouth. You have no other Words to expreſs yourſelf by at this Time, but *Guilty*, or *Not Guilty.*

Dan. Axtel. *Judge* Heath *had* Counſel *aſſign'd him upon the ſame* Caſe.

Court. That is very ſtrange; the *ſame Caſe?* What, was it for killing a King?

Dan. Axtel. *If the* Court *will over-rule me, I cannot help it.*

Mr. Solicitor Gen. It may be, this *Gentleman* may be deceived by a Miſtake. It may be, he knows not the *Law*, which your Lordſhips may be pleas'd to acquaint him with: That to ſtand *Mute* in High-Treaſon is all one as to *Confeſs* the Fact, and will have the ſame *Sentence* and Condemnation upon them, as if they had confeſſed it.

Lord Chief Baron. *Then I'll tell you the Law.* He that doth refuſe to put himſelf upon his Legal Trial of *God* and the *Country*, is a *Mute* in Law; *and therefore you muſt plead* Guilty, *or* Not Guilty. *Let his Language be what it will, he is a* Mute *in Law.*

Dan. Axtel. *I do not refuſe it.*

Court. Then ſay.

Dan. Axtel. *I am* Not Guilty.

Clerk. How will you be Tried?

Dan. Axtel. *By Twelve Lawful Men, according to the Conſtitutions of the Law.*

Court. That is by *God* and the *Country.*

Dan. Axtel. *That is not lawful. God is not locally here.*

Clerk. How wilt thou be Tried? You muſt ſay, *By God and the Country.*

Dan. Axtel. *By* God *and the* Country.

Clerk. God ſend you a good Deliverance.

Lord Chief Baron. *Mr.* Axtel, *have you your Papers again?*

Dan. Axtel. Yes, *my Lord.*

Lord Chief Baron. *When your* Indictment *is read the ſecond Time, when you come to your Trial, you may take what Notes you pleaſe.*

The Court *then adjourned to the ſame Place till the next Morning Seven of the Clock.*

October

* *He had firſt pleaded* Not Guilty, *but was permitted to withdraw his Plea.* Kelyng. 11.

October 11*th*, 1660.

The *Court* being aſſembled, the *Keeper* was commanded to ſet the *Priſoners* to the *Bar*.

Thomas Harriſon, *Adrian Scroop*, *John Carew*, *John Jones*, *Gregory Clement*, *Thomas Scot*, were brought to the *Bar* accordingly. After which Silence was commanded.

Court. You that are the *Priſoners* at the *Bar*, if you, or any of you, deſire *Pen*, *Ink*, and *Paper*, you ſhall have it; and if you, or any of you, will Challenge any of the *Jury*, you may when they come to be Sworn, and that before they are Sworn.

Sir Thomas Allen *being call'd, was deſired to look on the Priſoners, and lay his Hand on the Book: His* Oath *was then read to him*, viz. You ſhall well and truly Try, and true Deliverance make, between our Sovereign Lord the King, and the Priſoners at the Bar, whom you ſhall have in Charge, according to your Evidence. So help you God.

Sir Joſhua Aſh *being next call'd, Mr.* Scroop *excepted againſt him.*

Sir Jeremy Whichcot, *Baronet, being next to be Sworn, Mr.* Harriſon *excepted againſt him.*

James *Halley, Eſq*; *being next to be Sworn, Mr.* Scot *excepted againſt him.*

Court. If you will not agree (*ſpeaking to the Priſoners*) in your Challenges, we muſt be forc'd to Try you ſeverally.

Henry Mildmay, *Eſq*; *being call'd next, Mr.* Scroop *excepted againſt him.*

Court. We muſt needs Try them ſeverally, therefore ſet them all aſide but *Harriſon*.

Court. Gentlemen, you that are excepted muſt not depart the *Court*.

Sir Joſhua Aſh *being again call'd, was excepted againſt by Mr.* Harriſon.

Sir Jeremy Whichcot, *Bart.*
James Halley, *Eſq*;
Henry Mildmay, *Eſq*;
Chriſtopher Abdy, *Eſq*;
} *Being call'd again, were ſeverally excepted againſt by the Priſoner.*

Court. Mr. *Harriſon*, you know the Law. You muſt ſay, *I challenge him.*

Mr. Harriſon. *I ſhall, Sir.*

Ralph Hartley being next called, and being very Sick, humbly prayed to be excuſed by the *Court*, which was granted.

Arthur Newman was called next.

Mr. Harriſon. *May I not aſk of what Quality he is?*

Court. No, Sir; you are to challenge him, or not to challenge him.

Mr. Harriſon. *I challenge him.*

Thomas Blith was next call'd, and alſo challenged.

[*Here the People ſeemed to laugh.*]

Mr. Harriſon. *My Lord, I muſt make uſe of my Liberty in this Caſe.*

Court. God forbid.

Then *Grover*, *Robert Clark*, and *Richard Whalley*, were called, and by Mr. *Harriſon* challenged.

Court. Mr. *Harriſon*, you know how many to challenge; if you go beyond the *Number*, at your own Peril be it.

Mr. Harriſon. *My Lord, pray tell me what it is.*

Court. You ſay very well; God forbid but you ſhould know. You may challenge Five-and-Thirty *Peremptorily*; if you go beyond, you know the Danger.

Mr. Harriſon. *My Lord, I do not this to keep you off from the Buſineſs.*

William Vincent and *Henry Twiford* were then called, and challenged.

John Liſle was next called.

Mr. Harriſon. *I do not know him.*

Mr. Liſle. Nor I you, Mr. *Harriſon*. *He was Sworn.*

Thomas Franklin Sworn.

Thomas Winter Challenged.

Richard Nichol Sworn.

—— Moyce *being Sick, prayed Excuſe, which was granted accordingly.*

Richard Cheyney Challenged.

Allen Parſons Challenged.

Henry Edlin Called.

Mr. Harriſon. *I Challenge him.*

Mr. Harriſon. *Let him be Sworn.*

Court. No, no (*Whereupon he was ſet aſide*).

Mr. Harriſon. *If I have any Apprehenſion or Knowledge of them, that's the Thing that leads me to it, as touching* this *Man, he may be Sworn.*

Court. When he is *Challenged* he cannot be re-called.

Mr. Harriſon. *I am content.*

Samuel Greenhil Sworn.

Thomas Bede Challenged.

John Page Challenged.

Richard Rider Challenged.

Mr. Harriſon. *Leſt I may run into an Hazard, in making uſe of that Liberty which the Law gives me in this Caſe, and having not taken Notice of any Perſon Challenged, I mean as to the Number, I deſire your Officer that takes Notice may acquaint me with the Number.*

Court. You ſhall know it; God forbid the contrary.

Edward Rolph was called next.

Mr. Harriſon. *Mr.* Rolph *is his Name? Let him be Sworn.*

Francis Beal Challenged.
John Kirk Challenged.
Charles Pitfield Challenged.
John Smith Challenged.
—— *Bell* Sworn.
Edward Franklin Challenged.
William Whitcomb Challenged.
Samuel Harris Sworn.
John Collins Challenged.
Thomas Snow Sworn.
William Blunt Challenged.
George Rigth Challenged.
John Nichol of *Finchley* Sworn.
Timothy Taylor Challenged.
Thomas Fruin Challenged.
Richard Abel Challenged.
Thomas Morris Sworn.
Ambroſe Scudamore Challenged.
Ralph Halſel Challenged.
George Tirry Challenged.

Court. You have *Challenged* Thirty-three already.

Mr. Harriſon. *I pray the* Names *may be read to me, to ſee if it be ſo.*

Court. When you come to Thirty-five you ſhall have the *Names* Read.

John Galliard Challenged.

Thomas Swallow Challenged.

Court. Now read their *Names* to him.

Which were read accordingly. In all Thirty-five Challenged.

George Pickering was next called and *Sworn*.

Then they were called over who were admitted, *viz.*

Sir *Thomas Allen*, *John Liſle*, *Thomas Franklin*, *Richard Nichol*, *Samuel Greenhil*, *Edward Rolph*, —— *Bell*, *Samuel Harris*, *Thomas Snow*, *John Nichol*, *Thomas Morris*, *George Pickering*; and Sworn.

Proclamation was then made.

If any Man can inform my Lords, the King's Juſtices, *the King's* Serjeant, *or the King's* Attorney, *before this Inqueſt be taken, let them come forth, and they ſhall be heard, for now the* Priſoner *ſtands at the Bar upon his Deliverance. And all thoſe bound by* Recognizance *to appear, let them come forth, and give their* Evidence, *or elſe to Forfeit their* Recognizance.

George Maſterſon, *James Nutley*, *Robert Goytmore*, *Holland Simpſon*, and *William Jeſſop*, Witneſſes, were called.

Court. Gentlemen, that are not of the *Jury*, pray clear the Paſſage. The *Priſoner* is here for *Life* and *Death*, let him have Liberty to ſee the *Jury*.

Clerk. Thomas Harriſon, *hold up thy Hand.*

Clerk. *Look upon the* Priſoner, *you that are Sworn. You ſhall underſtand that the* Priſoner *at the Bar ſtands Indicted by the Name of* Thomas Harriſon, *late of* Weſtminſter, *in the County of* Middleſex, *Gentleman, for that he, together with* John Liſle, *&c.* (here the *Indictment* was read) *upon which* Indictment *he hath been Arraigned, and thereunto hath pleaded* Not Guilty, *and for his Trial hath put himſelf upon* God *and the* Country, *which* Country *you are. Now your Charge is to enquire, whether he be* Guilty *of the High-Treaſon in* Manner *and* Form *as he ſtands indicted, or* Not Guilty. If *you find that he is* Guilty, *you ſhall enquire what Goods and Chattels he had at the time of committing the ſaid Treaſon, or any Time ſithence. If you find that he is* Not Guilty, *you ſhall enquire whether he did fly for it; and if you find that he fled for it, you ſhall enquire of his Goods and Chattels, as if you had found him* Guilty: *If you find that he is* Not Guilty, *nor that he did fly, you ſhall ſay ſo, and no more. And take heed to your Evidence.*

Mr. *Keeling* enforced the *Charge* at large: After whom Sir *Heneage Finch*, his Majeſty's *Solicitor-General*, in theſe Words:

MAY it pleaſe your Lordſhips, We bring before your Lordſhips into Judgment this Day the *Murtherers of a King*. A Man would think the Laws of *God* and *Men* had ſo fully ſecured theſe *Sacred* Perſons, that the *Sons of Violence* ſhould never approach to hurt them: For (*my Lord*) the very *Thought* of ſuch an Attempt hath ever been preſented by all *Laws*, in *all Ages*, in *all Nations* of the World, as a moſt unpardonable Treaſon. *My Lord*, This is that that brought the Two *Eunuchs* in the *Perſian* Court to their juſt Deſtruction; *Voluerunt inſurgere*, ſays the *Text*, and yet that was enough to *Attaint* them. And ſo (*my Lords*) it was by the *Roman* Laws too, as *Tacitus* obſerves; *Qui deliberant, deſciverunt*. To *Doubt* or *Heſitate* in a Point of *Allegiance*, is direct *Treaſon* and *Apoſtaſie*. And upon this Ground it is, that the *Statute* upon which your *Lordſhips* are now to proceed hath theſe expreſs Words: *If a Man doth Compaſs or Imagine the Death of the King*, &c. Kings, who are *God's Vice-gerents upon Earth*, have thus far a kind of Reſemblance of the *Divine* Majeſty, that their Subjects ſtand accountable to them for the *very Thoughts* of their Hearts. Not that any Man can know the *Heart*, ſave God alone; but becauſe when the *Wicked* Heart breaks out into any *open* Expreſſions, by which it may be judged, 'tis the *Thoughts* of the Heart which makes the Treaſon; the *Overt-Act* is but the *Evidence* of it.

My Lords, This Care and Caution is not ſo to be underſtood, as if it were the *Single* Intereſt of *One* Royal Perſon only. The Law doth wiſely judge and foreſee, that upon the *Life* of the King depends the *Laws* and *Liberties*, the *Eſtates* and *Properties*, the *Wealth* and *Peace*, the *Religion*, and in Sum, the *Glory* of the Nation.

My Lords, This Judgment of the Law has been verified *by* a *ſad* Experience; for when that *Bleſſed King* (whoſe *Blood* we are now making *Inquiſition* for) was *untimely* taken away, *Religion* and *Juſtice* both lay buried in the *ſame* Grave with him; and there they had ſlept ſtill, if the *Miraculous* Return of our Gracious *Sovereign* had not given them a New *Reſurrection*.

My Lords, My Lord *Coke* in his *Comment* upon this *Statute* has one Conceit, which is ſomewhat *Strange*; I am ſure it is very *New*; he ſeems to think that it would have added to the *Perfection* of this *Law*, if there had been a Time limited for the *Party* to be accuſed. But certainly the Work of this Day has quite confuted that *Imagination*. For here is a *Treaſon* that has ſo long *out-fac'd* the *Law*, and the *Juſtice* of this Kingdom, that if there had been any Time of *Limitation* in the *Statute*, there would have been no *Time* nor *Place* left for *Puniſhment*. And if this Treaſon had but once grown up to an *Impunity*, it might perhaps have drawn the *Guilt* of that *Innocent* Blood, and with it the *Vengeance* due to it, upon the whole Nation.

The *Scope* of this *Indictment* is *for the compaſſing the Death of the King*; the reſt of the *Indictment*, as the *Uſurping Authority over the King's Perſon*, the *Aſſembling*, *Sitting*, *Judging*, and *Killing* of the King, are but ſo many ſeveral *Overt-Acts* to prove the *Intention* of the Heart. We are not bound (under Favour) to prove every one of theſe againſt *every* particular Perſon who is *Indicted*; for he that is in at *one*, is Guilty in *Law* of *all* the reſt, as much as if he had ſtruck the *Fatal Stroke* itſelf: Nay (under Favour) if we can prove any other *Overt-Act* beſides what is laid in the *Indictment*, as the *encouraging* of the *Soldiers* to cry out, *Juſtice*, *Juſtice*; or *Preaching* to them to go on in *this Work*, as *Godly* and *Religious*; or any other Act of all that *Catalogue* of *Villanies*, for which the *Story* will be for ever *Infamous*; this may be given in *Evidence* to prove the *Compaſſing* and *Imagining* the King's Death. The Concluſion of this *Indictment* alledges the *Fact* done to be *to the great Diſpleaſure of Almighty God*, and *to the Diſgrace of the People of* England. A *Truth* ſo clear and known, that it can neither be *heightened* by any *Aggravation*, or *leſſened* by any *Excuſe*.

As for the *Fact* itſelf, with the *Manner* of it, I ſhall not need to open it at large, for theſe Things were not done in a *Corner*; every *true Engliſh* Heart ſtill keeps within itſelf a bleeding *Regiſter* of this *Story*; only (*my Lords*) in the Way to our *Evidence*, with your *Lordſhips* Favour, this I think may be fit to be ſaid.

Firſt, for the Year 1648 (for that was the *Fatal* Year of this King, and beyond that Year we ſhall not now enquire), I ſay, whatſoever in the *Year* 1648 could have been done by a *Parliament* to ſave the *Life* of a King, was done in this *Caſe*.

They opened the Way to the *Treaty* in ſpight of the *Army*; and while theſe Sons of *Zerviah*, who were too hard for them, were engaged in *Service* in the *Remoter* Parts, they haſtened the *Treaty* as much as was poſſible; the *Debates* upon his Majeſty's *Conceſſions* were Voted a *good Ground for Peace*; notwithſtanding the *Remonſtrances* of the *Army* ſtill flew about their *Ears*, and notwithſtanding the *Oppoſitions* of a fearful and unbelieving Party of the *Houſe of Commons*, whom the *Army* had frighted into an *Awful* and a *Slaviſh* Dependance upon them. And when nothing elſe could be done *for* him, they were ſo true to the *Obligations* they lay under, that they reſolved to fall *with* him, and did ſo. For the *Army* who ſaw the *Treaty proceed* ſo faſt, made as great haſte to *break* it. They ſeize upon the Bleſſed *Perſon* of our Sacred King by *Force*, and bring him to *London*; and here they force the *Parliament*, *ſhut out* ſome *Members*, *impriſon* others, and then called this wretched little Company which was left, a *Parliament*. By this, and before they had taken upon them the Boldneſs to diſſolve the Houſe of *Peers*, they paſs a *Law*, and erect, forſooth! an *High Court of Juſtice*, as they call it, a *Shambles* of Juſtice, appoint *Judges*, *Advocates*, *Officers*, and *Miniſters*, ſit upon the *Life* of the King. Now they *Speak out* and *Expound* their own *Declarations*, and tell us what that was which before they had demanded in obſcure Terms, when they called for *Juſtice* againſt *all Delinquents*. Now they ſpeak plainly what they mean, and call this Bleſſed King, this Glorious *Saint*, the *Grand Delinquent*:

——*Hæc Acies victum factura Nocentem eſt.*

My Lords, When they had thus proceeded to appoint their *Judges*, *Officers*, and *Court*, then they call *this* Perſon, their only *Liege* Lord and Sovereign, to the *Bar*, and by a *Formal Pageantry* of Juſtice proceed to *Sit* upon him, *Arraign*, *Try*, *Sentence*, *Condemn*, and *Kill* (I had almoſt ſaid *Crucifie*) him, whom they could not but know to be their *King*; and all this againſt the *cleareſt* Light, the *ſharpeſt* Checks, and moſt *thorough* Convictions of *Conſcience*, that ever Men reſiſted. And yet in this *Moment* of *Time*, ſuch was the *Majeſty* and *Innocence* of our Gracious Sovereign, that the *People* followed him with *Tears* in their *Eyes*, and *Acclamations* in their *Mouths*. *God ſave the King*; even then, when the *Soldiers* were ready to *Fire* upon them who did either *look* ſadly, or *ſpeak* affectionately. And yet it will appear upon our *Evidence* too, that ſo few of the very *Common Soldiers* could be brought to approve theſe *Proceedings*, or to cry out *Juſtice*, that their *Officers* were fain by *Money*, or *Blows*, or both, to bring a great many to it.

My Lords, The *Actors* in this *Tragedy* were *many*, *very many*, *ſo many*, that ſure their Name is *Legion*, or rather many *Legions*. And certainly *(my Lords)* when we ſhall conſider the *Thing* that they have done, we cannot but look upon it as a *Villany* which had in it all the *Ingredients* to make it deteſtable, that it was poſſible for the *Counſel* of *Men*, or *Devils* either, to put together. But yet, if any Thing can be of a deeper Dye than the *Guilt* of that *Sacred Blood*, wherewith they ſtand *Polluted*, methinks their *Impudence* ſhould make them more odious than their *Treaſon*. It was the Deſtruction of *God's Anointed*, in the Name of the *Lord*. It was the Murder of a moſt Bleſſed and Beloved *Prince*, in the Name of his *People*. Him whom they had taken the tranſcendent Boldneſs to *impriſon*, as the Author of the *War*, they put to *death*, becauſe he would have been the Author of our *Peace*; and that with ſo much *Scorn* and *Indignity*, that ſome of them were not aſham'd to ſpit in the *Face* of our Lord and Sovereign. And when they had thus *quenched the Light of* Iſrael, *Darkneſs* and *Confuſion* did overſpread the Face of the *Land*; many Poor *Subjects* at *Home*, and ſome *Proteſtants* in *Foreign* Nations, at the very News of it fell down *Dead*; as if this Excellent King had been in a *Natural* as well as a *Religious* Senſe, *the Breath of our Noſtrils*, the *Anointed of the Lord*, who was *taken in their Pits*. The *Judges*, *Officers*, and other immediate *Actors* in this pretended *Court*, were in Number about Fourſcore: of theſe ſome Four or Five and Twenty are *Dead*, *and gone to their own Place*. The *God of Recompences* hath taken the Matter ſo far into his own Hands; and who knows but that it might be one dreadful Part of his *Vengeance* that they died in *Peace?* Some Six or Seven of them, who were thought to have ſinned with leſs *Malice*, have their *Lives* ſpared indeed, but are like to be brought to a ſevere *Repentance* by future *Penalties*. Some Eighteen or Nineteen have *fled* from Juſtice, and *wander* to and fro about the World with the Mark of *Cain* upon them, and *perpetual Trembling*, leſt every *Eye* that ſees them, and every *Hand* that meets them, ſhould fall upon them. Twenty-nine Perſons do now expect your *Juſtice*. Amongſt them, the firſt that is brought is the *Priſoner* at the *Bar*, and he deſerves to be the Firſt; for if any Perſon now left alive ought to be ſtyl'd the *Conductor*, *Leader*, and *Captain* of all this Work, that's the *Man*. He *(my Lord)* brought the King up a *Priſoner* from *Windſor*; but *how*, and in *what Manner*, with how *little Duty*, nay, with how *little Civility*, to a common Perſon, you will hear in Time. He *Sat* upon him, *Sentenced* him, he *Sign'd the Warrant* firſt to *call that Court* together, then the *Bloody Warrant* to cut off his Sacred Head. Againſt him, as againſt all the reſt, our *Evidence* will be of Two *Sorts:* Witneſſes *Viva voce*, that ſhall firſt prove to your *Lordſhips* that every Perſon now in *Queſtion* did *ſit* in that *Court*, when their King *ſtood* as a *Priſoner* at the Bar. We ſhall prove that the *Precept* by which this pretended *Court* was ſummon'd, was not obeyed and executed, till it had had the *Hands* and *Seals* of moſt of the pretended *Judges*; among the reſt the *Hand* of the Priſoner at the *Bar* will be found there. We ſhall prove his *Hand* to the *Bloody Warrant* for ſevering the Sacred Head of our Bleſſed Sovereign from the Body, and then ſome *Circumſtances* of his Malice, and of his Demeanour. And after we have done with our Witneſſes *Viva voce*, if we have Occaſion to uſe *Records* of *Parliament*, we ſhall ſhew them too; for we have the *Originals*, or Authentick *Copies*. But now we ſhall proceed to our *Evidence*.

Proclamation was made for Silence.

Sir *Edward Turner*. My Lords, *The Service of this Day doth call to my Memory the* Story *of good King* Amaziah. *We read in* Holy Writ, *that his Father*, *King* Joaſh, *was murthered*, *and murthered by his own Subjects*; *but we read further*, *that when* Amaziah *had regain'd the Crown*, *was ſettled in the Government*, *he ſlew thoſe who ſlew his Father*. *He did go down into* Edom, *the* Valley of Salt, *and there he did ſlay Ten Thouſand*. *The Work of this Day doth very much reſemble that Action*. *Our Good and Gracious King*, *his Father of Bleſſed Memory*, *and our Father*, *his Natural*, *and our Politick Father*, *to whom our Natural Allegiance was due*, *was* murthered, *and by his own Subjects*. *But*, my Lords, *this was not a* National *Crime*; *and our Good and Gracious Sovereign hath done us that Honour and Right to vindicate us in* Foreign *Nations*; *and now he is come* Home *in Power and Glory*, *he does continue in the ſame Mind: That's the Reaſon we are not now ſlain by Thouſands*, *but that theſe* Miſcreants *are gathered up here and there that did commit the Offence*, *and would have involved the Nation in a common Infamy*.

Gentlemen *of the* Jury, *Your Time to enquire of this Matter is precious*, *more precious than my Words*, *elſe I would repeat to you the* Hiſtory *of that* Tragedy, *at leaſt that* Summary *that was entred in the* Black Book, *or the* Journals *of that they then called a* Parliament. *It ſhall ſuffice to tell you*, *and that moſt truly*, *that it was but an Handful of Men in reſpect to the whole* Nation, *that did contrive and deſign this damnable and traiterous Plot*, *to ſubvert the* Laws, *and change the* Government *of this well-govern'd* Nation. *In Proſecution of which they did caſt abroad*, *and ſpread forth*, Jeſuitical Maxims, *Damnable and Diabolical* Principles, *to intoxicate the People*; *and when their Heads were troubled*, *they were eaſily led into Arms*, *where after ſome Time they grew drunk with Succeſſes*; *and when they had drunk too much of the Loyal Blood of the People*, *then they thirſted for the Royal Blood alſo*. *I do confeſs we read in* Stories, *that Kings have before this Time been murthered*; *ſome in our Nation*, *as King* Richard *the Second*, *and* Edward *the Third*; *and in other Nations*. *But the Actors of thoſe Murthers were modeſt to theſe*. *They did it in Private*; *theſe in the Face of the* Sun, *and the* People; *but it was thoſe People*, Gentlemen, *they had corrupted with Shares in their Robberies and Villanies*. *They pretended it was in a Way of* Juſtice; *but you muſt know*, *no* Juſtice *can be executed upon the Perſon of the King*. Touch not mine Anointed, *ſaith God himſelf*.

My Lords, *I do read in the* Roman *Story*, *that both amongſt them*, *and other Nations*, *there was no* Law *againſt* Parricide. *It was not thought that any Man was ſo Unnatural and Deviliſh to deſtroy his Father*. *But we do find among the* Romans *ſuch a Fact was committed*, *and then they were at a Loſs to puniſh it*. *The Way was this that was found out*; *the* Offender *they ſewed into a Mail of Leather*, *ſo cloſe that no Water could get in*; *when they had done*, *they threw him into the* Sea; *by this denoting*, *the* Offender *was not worthy to tread upon the* Ground, *nor to breathe in the* Air, *nor to have the Benefit of any of the Four* Elements, *nor the Uſe of any of God's* Creatures, *and ſo be ſtarved*.

Gentlemen, Parricide *and* Regicide *differ not in* Nature, *but in* Degree. Parricide *is the killing of the Father of* one, *or a* few *Perſons*; Regicide *the killing the Father of a* Country. *What Puniſhment then is ſuitable to this Offence? Gentlemen*, *the Priſoner at the* Bar *is accus'd of this Offence*, *and now to be Tried by you: But before we enter upon the Evidence*, *I muſt*, *with the Leave of the* Court, *inform you*, *that though the* Indictment *contains many* Circumſtances *and* Gradations *in the Treaſon*, *yet the* Imagining *and* Compaſſing *the Death of our late Sovereign*, *is the Treaſon to which we ſhall apply our* Evidence; *this being*, *both by the* Common-Law, *and by the* Statute *of the 25th of* Edward *the* IIId. *the Principal Treaſon to be enquired of*. *And the other Circumſtances in the* Indictment *are but ſo many Matters to prove the* Overt-Act; *the* Conſultations, *the Aſſuming Power to Try and Condemn the King*, *the Aſſault upon him*, *and the Fatal Blow that was given him*, *are but ſo many Demonſtrations*, *and open Acts*, *proving the firſt Treaſonable Deſign of the Heart*.

It will be enough for you, *and ſo my Lords will tell you*, *if we prove the Treaſon itſelf*, *which is the* Compaſſing *and* Imagining *the Death of the King*, *though we fail in ſome of the* Circumſtances *laid in the* Indictment. *I do not ſpeak this*, *as if we ſhould fail in any*; *but it is not neceſſary to prove them all*; *if we prove any*, *you are to find the Priſoner* Guilty. *I am not willing to hold your Lordſhips too long in the* Porch, *but deſire to deſcend into the* Body *of the Buſineſs*; *and ſo we ſhall call our* Witneſſes, *and doubt not but to prove*, *that this Man at the* Bar *was the firſt*, *and not the leaſt*, *of theſe* Offenders.

Mr. *George Maſterſon* was called.

Mr. Harriſon. *When I was before your Lordſhips Yeſterday*, *I offered ſomething very material*, *in reference to the Juriſdiction of the* Court; *but you told me*, *according to the* Rule, *I muſt plead* Guilty, *or* Not Guilty, *and what I had to offer ſhould be heard in its proper Place. I now deſire to know*, *whether it be proper now to deliver myſelf*, *before you proceed to the calling of Witneſſes*; *for I would go the beſt Way*, *and would not willingly diſpleaſe you*.

Lord Chief Baron. What was promiſed you Yeſterday, God forbid but you ſhould have it! But I think it will be beſt for you to hear the *Evidence*, and then what you have to ſay you ſhall be fully heard.

Mr. Harriſon. *I am content*.

Whereupon *George Maſterſon*, *Stephen Kirk*, *Francis Hearn*, *William Clark*, *Robert Coytmore*, and *James Nutley*, were called, and ſworn.

Council. Mr. *Maſterſon*, whether did the Priſoner at the Bar ſit in that which they called the *High Court of Juſtice*, to Sentence the King, or no? Pray tell my Lords and the Jury thereof, and what elſe you know of the Matter.

Mr. *Maſterſon*. Upon the Oath I have taken (my Lords, and Gentlemen of the Jury), I ſaw the Priſoner, *Tho. Harriſon*, ſit in that which they called *the High Court of Juſtice*, upon the 27th Day of *January*, in the Year 1648, to Sentence the King?

Council. Was it the Day the Sentence was paſſed againſt the King?

Mr. *Maſterſon*. It was the Day of the Sentence, the 27th of *Jan.* 1648.

Council. Can you ſay any Thing elſe?

Mr. *Maſterſon*. I do (Sir) further remember, that when the Clerk of the Court (as he was called) read the Sentence againſt the King, and ſaid, it was the Sentence of the whole Court, I ſaw the Priſoner at the Bar, together with others, ſtand up, to my Apprehenſion, as aſſenting to it.

Council.

Council. Was there not Direction that all ſhould ſtand up as Aſſenting?

Mr. *Maſterſon.* I do not know that; but when the Sentence was read ſeveral of them did ſtand up, and he among the reſt, as Aſſenting to the Sentence, as the Spectators underſtood.

Council. Mr. *Clark*, What do you ſay to the ſame Queſtion?

Mr. *Clark.* My Lords, and Gentlemen of the Jury, I remember I ſaw the Priſoner at the Bar ſit ſeveral times in the *Court of Juſtice*, as they called it; particularly on the 23d and 27th of *January*, 1648, as I took Notice of it in a Book.

Council. Was that the Day of the Sentence?

Mr. *Clark.* Yes, my Lord.

Council. What ſay you to that of the riſing of thoſe Perſons in the Court?

Mr. *Clark.* I remember they all roſe, but I did not take particular Notice then of the Priſoner.

Council. Mr. *Kirk*, You hear the Queſtion. Did you ſee the Priſoner at the Bar in *Weſtminſter-Hall*, ſitting upon the Bench in that which they called the *High Court of Juſtice*, when the King ſtood Priſoner at the Bar there?

Mr. *Kirk.* My Lord, I did ſee the Priſoner at the Bar ſit ſeveral Days in that which they called the *High-Court of Juſtice.* I was there every Day of their Sitting.

Council. Do you remember he was there on the 27th of *Jan.* 1648?

Mr. *Kirk.* I do, Sir.

Council. Tell the Jury what was the Work there.

Mr. *Kirk.* It was Sentence. I did take the Names of all thoſe Gentlemen that did appear in the Court on that Day, the 27th of *Jan.* 1648; and among the reſt I took a Note of that Gentleman's Name, as being preſent.

Council. Whereas theſe Gentlemen (Mr. *Maſterton* and Mr. *Clark*) have declared, that, as Aſſenting to the Sentence, they all ſtood up; did you ſee them ſtand? And whether by Direction, or no?

Mr. *Kirk.* As for the Direction, I know nothing of it; but the Members then preſent in the Court, (after Sentence was read) as far as my Eyes could perceive, ſtood up unanimouſly, I ſuppoſe, as Aſſenting to the Sentence.

Court. Mr. *Nutley.* Did you know the Priſoner at the Bar? Have you ſeen him ſit in *Weſtminſter-Hall* at any Time upon the Bench when the King was brought as a Priſoner to the Bar?

Mr. *Nutley.* My *Lords*, and Gentlemen of the *Jury*, I ſaw the *Priſoner* at the *Bar* ſeveral Days ſit there, amongſt the reſt of the *Judges*, as a *Judge*, I ſuppoſe. To the beſt of my Remembrance, he ſat there Four Days together.

Court. Was he there upon the Day of the Sentence?

Mr. *Nutley.* I did take Notes, *my Lord*, that Day in the *Court*, and I find he did ſit that Day.

Court. Do you know any thing more of the Priſoner at the Bar?

Mr. *Nutley.* Thus much I know concerning the Priſoner at the Bar, *my Lord.* The firſt Day they ſat in Publick was (as I remember) the 20th of *Jan.* 1648; ſome few Days afore that, there was a Committee that ſat in the *Exchequer-Chamber*, and of that Committee the Priſoner at the Bar was one of the Members. I do remember well it was in the Evening; they were Lighting of Candles, they were ſomewhat private. This Gentleman was there, I ſaw him; for through the Kindneſs of Mr. *Phelps*, who was then Clerk to that Committee, I was admitted, pretending firſt to ſpeak with the ſaid Mr. *Phelps*, and that I had ſome Buſineſs with him; and ſo (as I ſaid before) I was admitted into the Committee-Chamber: Being there, I did obſerve ſome Paſſages fall from the Priſoner at the Bar; the Words were to this Purpoſe: He was making a Narrative of ſome Diſcourſes that paſſed between his late Majeſty and himſelf in coming between *Windſor* and *London*, or *Hurſt-Caſtle*, I know not well whether. My Lord, that Paſſage that I obſerved to fall from him in that Diſcourſe was this: He ſaid, That the King, as he ſat in the Coach with him, was importunate to know what they intended to do with him.

Mr. Harriſon. *In the Coach was it?*

Mr. *Nutley.* Yea, Sir, it was in the Coach. He told the reſt of the Company (as I ſaid before), that the King aſked, *What do they intend to do with me? Whether to murther me, or no?* And I ſaid to him, *There was no ſuch Intention as to kill him, we have no ſuch Thoughts. But* (ſaid he) *the Lord hath reſerved you for a Publick Example of Juſtice.* There is one Word more, my Lords, and that is this, which I heard from this Priſoner at the Bar. The Reaſon and End of their Meeting together at that *Committee* was *concerning the Charge.* So much I obſerv'd. It was concerning the Contracting of the *Impeachment.* I obſerv'd that ſome found fault with the Length of that, as it was drawn. They were offering ſome Reaſons to Contract it, and I heard this Priſoner at the Bar vent this Expreſſion: *Gentlemen, it will be good for us to* Blacken *him what we can; pray let us* Blacken *him:* Or Words to that purpoſe. I am ſure *Blacken* was his Word.

Mr. *Windham.* Mr. *Nutley*, you ſpeak of an *Impeachment.* Againſt whom was that *Impeachment?*

Mr. *Nutley.* It was againſt his late Majeſty the King.

Council. And it was to draw up that *Impeachment* ſo as to *Blacken* him? Was it ſo?

Mr. *Nutley.* Yes, Sir.

Mr. Coytmore *Sworn.*

Mr. *Windham.* Did you ſee the Priſoner at the Bar ſitting in that which they call'd the *High-Court of Juſtice* on that Day when the King was Sentenced, or at any other Time? Pray tell my Lords and the Jury.

Mr. *Coytmore.* My Lords, and Gentlemen of the Jury, I was in that which they called the *High-Court of Juſtice* Three or Four Times. I ſaw this Gentleman either once or twice ſitting there.

Council. Do you know any Thing more?

Coytmore. No, really: I came only to hear and ſee what they were doing, and I did there ſee him, I think, ſeveral Days; I am ſure once.

Council. Did you ſee him on the Seven-and-twentieth of *January* 1648, ſitting there, which was the Day of the *Sentence?*

Coytmore. I cannot call that to Memory.

Council. Do you know of any *Expreſſions*, that the King ſhould be an *Example* of Judgment?

Coytmore. No, my Lords.

Mr. *Windham.* My Lords, in the next Place we ſhall ſhew that *Inſtrument* that was made under the *Hand* and *Seal* of the Priſoner at the Bar, as well as others, for Execution of the King, that *Bloody Warrant.* But firſt we will aſk this Witneſs another *Queſtion.*

Council. Did you ſee the Priſoner at the Bar ſit on the *Bench* as an ordinary *Spectator*, or as one of the *Judges?*

Coytmore. He was in the *Court*, ſitting among the reſt of the *Judges*, as one of them.

Mr. *Solicitor.* My Lords, we will prove that this Priſoner at the Bar was one of them that took upon him the conducting of the King, and that the King was in his Cuſtody; and to the *High-Court of Juſtice* alſo.

The Lord Newburgh *Sworn.*

Council. Pray, my Lord, give your ſelf the Trouble to raiſe your Voice, and to tell my Lords and the Jury what you know of the Priſoner at the Bar; the Part that he acted in bringing up the King.

Lord Newburgh. *I was then living at his Majeſty's Lodge at* Bagſhot, *when the Priſoner at the Bar brought the King from* Hurſt-Caſtle *to* London. *He was the Perſon that commanded the whole Party; and when the King by the Way went to Dinner, by his Orders there were* Centries *ſet at every Door where he was. When the King had dined he carried him to* Windſor, *and appointed ſeveral of his Officers to ride cloſe to the King, as he was riding, leſt he ſhould make his Eſcape from them.*

Council. That was an Impriſonment itſelf, and ſo a Treaſon.

Mr. *Windham.* My Lords, we ſhall now produce to you Two *Inſtruments* which were made, the one for Convening and Summoning the Aſſembling of that which they called the *High-Court of Juſtice*, and ſhew this Priſoner's *Hand* and *Seal* to that; and then ſhew you likewiſe that which was the Conſummating of all, that *Bloody Warrant* for *Execution* of his late Majeſty of Bleſſed Memory, with the *Hand* and *Seal* of the Priſoner at the Bar unto it amongſt others.

Mr. *Solicitor.* My Lords, it will be fit before this to give you an Account how we came by theſe *Inſtruments.*

Mr. Jeſſop *Sworn*

Council. Shew to Mr. *Jeſſop* the *Warrant* for ſummoning that Court.

Mr. *Solicitor.* Mr. *Jeſſop*, pray tell my Lords and the Jury how you came by that *Inſtrument* you have in your Hand.

Mr. *Jeſſop.* May it pleaſe your Lordſhips, I having the Honour to attend the *Houſe of Commons*, the *Houſe* was pleaſed to make an *Order* that Mr. *Scobell* ſhould deliver into my Hands all ſuch *Books* and *Records*, *Papers*, and other Things, as did belong to the *Houſe of Commons*; and in Purſuance to that *Order* I did receive amongſt other Things this *Inſtrument*, as a Thing that had been formerly in his Hands, as *Clerk* of the *Houſe of Commons.*

Mr. *Solicitor.* We deſire it may be read, my Lords.

Court. Pray firſt prove his Hand.

Mr. Harriſon. *I deſire to know what is offered to be read.*

Court. It is a *Warrant* that you Sealed, amongſt other pretended Judges of your *High Court of Juſtice* (as you call'd it), for Trial of the King, and for ſummoning that Court.

Council. Mr. *Kirk*, have you ſeen the Hand-writing of the Priſoner at any Time?

Mr. *Kirk.* I have very often ſeen it, and am well acquainted with it; and ſo far as it is poſſible a Man can teſtify touching the Hand of another Perſon, I do verily believe this to be his *Hand.*

Council. How came you to be acquainted with his *Hand?*

Mr. *Kirk.* As he was a *Member* of the *Houſe of Commons*, and my Employment having relation thereto, I have ſeen him ſet his *Hand* ſeveral Times.

Mr. Farrington *Sworn.*

Council. Do you believe that this is the Hand-writing of the Priſoner at the Bar? [*The* Inſtrument *being ſhewed him.*]

Mr. *Farrington.* I did not ſee him write it, my Lords, but I believe it to be his, for I have often ſeen his *Hand-writing.* It is his *Hand* ſo far as poſſibly a Man can know any Perſon's *Hand* that did not ſee him write.

Mr. Harriſon. *I deſire to ſee the Inſtrument.* Which being ſhew'd to him, he ſaid, *I believe it is my own Hand.*

Council. That's the Warrant for Summoning that *Court* that he owns his *Hand* to.

Court. Shew him the other *Inſtrument.*

That being for Execution *of the* Sentence; *it being ſhew'd him,*

Mr. Harriſon. *I do think this is my* Hand *too.*

Council. If you think it, the Jury will not doubt it. That's the *Bloody Warrant* for Execution; and we deſire they may be both read.

Mr. Harriſon. *My Lords, do theſe Learned Gentlemen offer theſe as being any* Records?

Council. No, but as your own *Hand-writing.*

Mr. Harriſon. *If you do not read it as a* Record, *I hope your* Lordſhips *will not admit of any thing of that kind againſt me.*

Council. He knows that a *Letter* under his *Hand* and *Seal* may be read in a *Court.* We do not offer it as a *Record*, but prove it by Witneſſes that it is your *Hand-writing.*

Court. You have confeſſed theſe to be your *Hands.* Whether they are *Records*, or no; whether *Papers*, or *Letters*, they may be read againſt you. You Sign'd the *Warrant* for Convening together thoſe which you call'd the *High-Court of Juſtice*, and you Sign'd the other *Warrant* for putting the King to Death. You do confeſs theſe Two Things. We do not ſee what further Uſe may be made of them.

Court. You might obſerve how the *Indictment* was for the *Imagining*, *Compaſſing*, and *Contriving* the King's Death. To prove that, there muſt be ſome *Overt-Act*; and a *Letter* under the Party's Hand is a ſufficient *Overt-Act* to prove ſuch *Imagination*; to that End theſe are uſed.

Mr. Harriſon. *I do not come to be denying any Thing that in my own Judgment and Conſcience I have done or committed, but rather to be bringing it forth to the Light.*

Court. Sir, you muſt underſtand this, by the way, this you muſt take along with you, that theſe are read, not as any Thing of Authority in themſelves, or as us'd to any other Purpoſe, but as an Evidence of the *Fact* againſt you: Take that along with you.

(The Two Bloody Warrants *for* Trial, *and for* Execution *of his Majeſty, were here read, the latter of which is as followeth.)*

At

At the High-Court of Juſtice *for the Trying and Judging of* Charles Stuart, *King of* England, *Jan.* 29, 1648.

WHereas *Charles Stuart*, King of *England*, is and ſtandeth Convicted, Attainted, and Condemned, of High-Treaſon, and other High Crimes; and *Sentence* upon *Saturday* laſt was pronounced againſt him by this Court, to be put to Death, by the Severing his Head from his Body, of which *Sentence* Execution yet remaineth to be done: Theſe are therefore to will and require you to ſee the ſaid *Sentence* executed in the open Street before *White-hall* upon the Morrow, being the 30th Day of this Inſtant Month of *January*, between the Hours of Ten in the Morning, and Five in the Afternoon of the ſame Day, with full Effect; and for ſo doing this ſhall be your ſufficient *Warrant*. And theſe are to require all Officers and Soldiers, and other the good People of this Nation of *England*, to be aſſiſtant unto you in this Service Given under our Hands and Seals.

To Colonel *Francis Hacker*, Colonel *Hunks*, and Lieutenant-Colonel *Phayre*, and every of them.

Sealed and Subſcribed by

John Bradſhaw, Lord Preſident.

Jo. Hewſon.	*Jo. Moor.*	*Aug. Garland.*
Per. Pelham.	*Hardreſs Waller.*	*Edmund Ludlow.*
John Danvers.	*Gilbert Millington.*	*Hen. Marten.*
Mich. Liveſay.	*Geo. Fleetwood.*	*Vincent Potter.*
Jo. Bourchier.	*Jo. Alured.*	*Will. Conſtable.*
Hen. Ireton.	*Rob. Lilburn.*	*Rich. Ingoldſby.*
Thomas Grey.	*Will. Say.*	*Will. Cawley.*
Oliver Cromwell.	*Rich. Dean.*	*Joh. Barkſtead.*
Edward Whalley.	*Rob. Tichbourn.*	*Anth. Stapely.*
John Okey.	*Hum. Edwards.*	*Greg. Norton.*
Thomas Pride.	*Dan. Blagrave.*	*Tho. Challoner.*
Hen. Smith.	*Owen Roe.*	*Tho. Wogan.*
Peter Temple.	*Will. Purefoy.*	*Jo. Ven.*
Tho. Harriſon.	*Thomas Maleverer.*	*Greg. Clement.*
Iſaac Ewer.	*Jo. Blakeſtone.*	*Jo. Downs.*
Val. Wauton.	*Jo. Hutchinſon.*	*Tho. Wayt.*
Simon Meyn.	*Will. Goff.*	*Tho. Scot.*
Tho. Horton.	*Adrian Scroop.*	*Jo. Carew.*
Jo. Jones.	*James Temple.*	*Miles Corbet.*

Mr. Windham. *Gentlemen* of the *Jury*, We have done our *Evidence*; and you muſt know, *Gentlemen*, that the Principal Point of the *Indictment* is for *Compaſſing*, *Imagining*, and *Contriving* the Death of his late Majeſty of Glorious Memory. There lyes the Treaſon; ſo ſays the *Statute* of the 25th *Ed.* III. It hath nothing of *Killing* the King there, but of *Imagining* and *Compaſſing* the Death of the King. The going about it, that's the Treaſon, as hath been learnedly opened to you; the reſt are but *Overt-Acts*: If there be ſuch an *Imagination* or *Compaſſing* the Death of the King once declared, though no Fruit at all follow, it is Treaſon. Here certainly you have a very full Evidence given. We ſhew you a *Conſultation*, this is one *Overt-Act*, which would do the Work, if there were nothing elſe. I muſt tell you (and that with Submiſſion to my Lords the *Juſtices*), if they had *adviſed*, and gone no further, that had been Treaſon in the *Letter* of the Law. They conven'd and met together, and ſuppoſe then they had abſolved and acquitted him, do you think they had abſolved themſelves from Treaſon? With Reverence be it ſpoken, if they had *acquitted* him, they had been Guilty of Treaſon. *Aſſuming a Power* to put the King to Death is an *Overt-Act* declaring ſuch an Imagination. You ſee this Priſoner was no ordinary Actor in it; his Hand is in at all Games. Taking of him, Impriſoning of him, bringing him to *London*, and Setting Guards on him. You ſee alſo his Malice, *let us* Blacken *him*; for they knew his *Innocency* would ſhine forth, unleſs it was *Blackened* by their Imputations. He Sate many Times, as you hear, and *Sentenced him*, and aſſented to that *Sentence* by ſtanding up, and likewiſe by concluding the *Cataſtrophe* of that ſad Beginning of Sufferings, his making a Warrant for his *Execution*; and accordingly you know what did follow: I think a clearer *Evidence* of a *Fact* can never be given than is for theſe Things.

[Here the Spectators *Humm'd*.]

Lord Chief Baron. Gentlemen, this *Humming* is not at all becoming the Gravity of this *Court*. Let there be Free Speaking by the *Priſoner* and *Council*. It is more fitting for a *Stage-Play* than for a *Court* of *Juſtice*.

Mr. Harriſon. *It is now Time*, my Lords, *to offer what I have to ſay. Have theſe Learned Gentlemen offered what they will ſay?*

Council. We have no more till he hath given us Occaſion; not for *Evidence* of the *Fact*.—Mr. Harriſon. *My Lords*, the Matter that hath been offer'd to you, as it was touch'd, was not a Thing done in a Corner. I believe the ſound of it hath been in moſt Nations. I believe the Hearts of ſome have felt the Terrors of that Preſence of God that was with his Servants in thoſe Days (however it ſeemeth good to him to ſuffer this *Turn* to come on us), and are Witneſſes that the Things were not done in a Corner. I have deſired, as in the Sight of him that ſearcheth all Hearts, whilſt this hath been done, to wait, and receive from him Convictions upon my own Conſcience, tho' I have ſought it with Tears many a Time, and Prayers over and over, to that God to whom you and all Nations are leſs than a Drop of Water of the Bucket; and to this Moment I have receiv'd rather Aſſurance of it, and that the Things that have been done as aſtoniſhing on one Hand, I do believe e'er it be long it will be made known from Heaven, there was more from God than Men are aware of. I do profeſs that I would not offer of myſelf the leaſt Injury to the pooreſt Man or Woman that goes upon the Earth. That I have humbly to offer is this to your Lordſhips; you know what a Conteſt hath been in theſe Nations for many Years. Divers of thoſe that ſit upon the *Bench* were formerly as active——

Court. *Pray, Mr.* Harriſon *do, not thus reflect on the* Court: *This is not the Buſineſs.*

Mr. *Harriſon.* I follow'd not my own Judgment; I did what I did, as out of Conſcience to the Lord; for when I found thoſe that were as the Apple of mine Eye to turn aſide, I did loath them, and ſuffer'd Impriſonment many Years. Rather than to turn as many did, that did put their Hands to this Plough, I choſe rather to be ſeparated from Wife and Family than to have Compliance with them, tho' it was ſaid, *Sit at my Right-Hand*, and ſuch kind Expreſſions. Thus I have given a little poor Teſtimony that I have not been doing Things in a Corner, or from my ſelf. May be I might be a little miſtaken; but I did it all according to the beſt of my Underſtanding, deſiring to make the Revealed Will of God in his *Holy Scriptures* as a Guide to me. I humbly conceive that what was done, was done in the Name of the *Parliament* of *England*, that what was done was done by their Power and Authority; and I do humbly conceive it is my Duty to offer unto you in the Beginning that this *Court*, or any *Court* below the *High-Court of Parliament*, hath no Juriſdiction of their Actions. Here are many Learned in the Law, and to ſhorten the Work, I deſire I may have the Help of *Counſel* Learned in the Laws, that may in this Matter give me a little Aſſiſtance, to offer thoſe Grounds that the Law of the Land doth offer. I ſay, what was done was done by the Authority of the *Parliament*, which was then the *Supreme* Authority, and that thoſe that have acted under them are not to be queſtioned by any Power leſs than them. And for that I conceive there is much out of the Laws to be ſhewed to you, and many *Precedents* alſo in the *Caſe*. Much is to be offered to you in that; according to the Laws of the Nations, that was a due *Parliament*. Thoſe *Commiſſions* were iſſued forth, and what was done was done by their Power; and whereas it hath been ſaid we did aſſume and uſurp an Authority, I ſay this was done rather in the Fear of the Lord.

Court. Away with him. Know where you are, Sir; you are in the Aſſembly of *Chriſtians*; will you make God the Author of your Treaſons and Murthers? Take heed where you are. *Chriſtians* muſt not hear this. We will allow you to ſay for your own *Defence* what you can; and we have with a great deal of Patience ſuffered you to ſally out, wherein you have not gone about ſo much for Extenuation of your Crimes, as to juſtifie them, to fall upon others, and to Blaſpheme God, and commit a New Treaſon: For your having of *Counſel*, this is the Reaſon for allowing of *Counſel:* When a Man would Plead any Thing, becauſe he would Plead it in *Formality*, *Counſel* is allowed. But you muſt firſt ſay in what the Matter ſhall be, and then you ſhall have the *Court*'s Anſwer.

Lord *Finch.* Tho' my *Lords* here have been pleaſed to give you a great Latitude, this muſt not be ſuffered, that you ſhould run into theſe damnable Excurſions, to make God the Author of this damnable Treaſon committed.

Mr. *Harriſon.* I have Two Things to offer to you, to ſay for my Defence in Matter of *Law*. One is, That this that hath been done was done by a *Parliament* of *England*, by the *Commons* of *England* Aſſembled in *Parliament*; and that being ſo, whatever was done by their Commands or their Authority, is not queſtionable by your *Lordſhips*, as being (as I humbly conceive) a Power Inferior to that of *High-Court* of *Parliament*; that's One. A Second is this, That what, therefore, any did in Obedience to that Power and Authority, they are not to be queſtioned for it; otherwiſe we are in a moſt miſerable Condition, bound to obey them that are in Authority, and yet to be puniſhed if obeyed. We are not to judge what is Lawful, or what is Unlawful. *My Lords*, upon theſe Two Points I do deſire that thoſe that are Learned in the Laws may ſpeak to on my Behalf. It concerns all my Country-men. There are *Caſes* alike to this, you know, in King *Richard the Second*'s Time, wherein ſome Queſtion had been of what had been done by a *Parliament*; and what followed upon it I need not urge in it. I hope it will ſeem good to you that *Counſel* may be aſſigned, for it concerns all my Country-men.

Council. You are miſtaken, if you appeal to your Country-men; they will cry you out, and ſhame you.

Mr. Harriſon. *May be ſo*, my Lords; *ſome will, but I am ſure others will not.*

Mr. *Solicitor Gen.* Theſe Two Points, *my Lords*, are but One, and they are a New Treaſon at the Bar, for which he deſerves to Die, if there were no other *Indictment*. It is the Malice of his Heart to the Dignity and Crown of *England*. I ſay, this is not Matter for which *Counſel* can be aſſigned. *Counſel* cannot put into Form that which is not Matter Pleadable itſelf. It is ſo far from being true, that was the Act of the Supreme *Parliament* of the People of *England*, that there was nothing receiv'd with more Heart-bleeding than this Bloody Buſineſs. But that the World may not be abuſed by the Inſinuations of a Man, who acts as if he had a Spirit, and in Truth is poſſeſs'd; I will ſay, that the *Lords* and *Commons* are not a *Parliament*; that the *King* and *Lords* cannot do any Thing without the *Commons*; nor the *King* and *Commons* without the *Lords*; nor the *Lords* and *Commons* without the *King*, eſpecially *againſt* the King. If they do, they muſt anſwer it with their Head; for the King is not accountable to any Coercive Power. And for the Priſoner to juſtify his Act, as if it were the Act of the *Commons* of *England*, he is very much to be reproved: Shall he pretend that One Houſe, nay, the Eighth Part of a *Houſe* (for ſo it was), can condemn a King, when both *Houſes* cannot condemn One Man in ſpight of the King? I deſire, *my Lords*, it may paſs with a due Reproach, and a Sentence upon it.

Lord Chief Baron. It is true, your Queſtions are but One Point. You pretend the *Parliament*'s Authority, and when you come to ſpeak of it, you ſay the *Commons* of *England*. They were but One *Houſe of Parliament*. The *Parliament*, what is that? It is the *King*, the *Lords*, and the *Commons*. I would fain know of you where ever you read, by the Light you ſay you have in your Conſcience, that the *Commons* of *England* were a *Parliament* of *England*, that the *Commons* in *Parliament* us'd a Legiſlative Power alone. Do you call that a *Parliament* that ſat when the Houſe was *Purged*, as they call it, and was ſo much under the Awe of the *Army*, who were then but Forty, or Forty-five at moſt? Then

Then you say it was done by Authority of them. You must know where there is such an Authority, (which indeed is no Authority,) he that confirms such an Authority, he commits a double Offence; therefore consider what your *Plea* is. If your *Plea* were doubtful, we should, and ought, and would, ourselves be of *Council* for you. That which you speak concerning *Conviction of your own Conscience*, remember that it is said in *Scripture*, that *they shall think they did God good Service when they slay you*, as it is in St. *John*. He hath a great deal of Charity that thinks that what you did was out of a Conscientious *Principle*; it was against the Light of Noon-day and common Practice. You make yourself a *Solicitor* in the Business. *Let us* Blacken *him as much as we can.* I have not touched at all upon the *Evidence*, I will not urge it now. I say you justifie it upon *Convictions of Conscience*, and pretend it upon Authority; a Thing never known or seen under the Sun, that the *Commons*, nay a few *Commons* alone, should take upon them, and call themselves the *Parliament* of *England*. We have been cheated enough by Names and Words; there is no Colour for what you say. I do think and hope my Brethren will speak to this *Case*, that none of us do own that Convention, whatsoever it be, to be the *Parliament* of *England*. There was another Aggravation; at this Time that this pretended Authority usurped that Power, the *Lords* were then sitting. You had not taken this usurp'd Power to dissolve those *Lords*. No; you did this Act in Despight of the *Lords*; you had sent up an *Ordinance* to the *Lords*, and they rejected it, and thereupon these *Members* took it upon themselves; Amongst those there were some *Negatives*, and those *Members* were under the Awe and Power of your Forces at that Time. What you plead, the *Court* are of Opinion tends to the Subversion of the Laws; for you to usurp Power over the People without their Consents, to call this the People, we never knew the like before; but the *Parliament* of *England* was the *King*, *Lords* and *Commons*. For you to speak of this Power, and justifie this Power, is an Aggravation, adding one Sin and Treason to another. We shall tell you, that neither *both Houses* of *Parliament*, if they had been there, not any *single Person*, *Community*, not the *People* either *collectively*, or *representatively*, had any Colour to have any Coercive Power over their King. And this *Plea* which you have spoken of, it ought to be over-ruled, and not to stand good.

Mr. *Annesley*. I do the more willingly speak to this Business, because I was one of those that should have made up that *Parliament* that this Prisoner pretends to. I was one of that *Corrupt Majority* (as they call'd it) that were put out of the *House*. He cannot forget that at that Time there were *Guards* upon both *Houses of Parliament* to attend them, that were of their own Appointment; and that those *Guards* were forcibly removed by the Prisoner at the Bar, and his Fellows, and other *Guards* put there, who instead of being a Defence unto them when those *Commons* stood at the Door, were by them threatened. Yet the *Lords* and *Commons* of *England* in *Parliament* Assembled, a full House of *Commons*, did resolve, notwithstanding what was aforesaid, that the Treaty in the *Isle of Wight* was a *Ground for Peace*. Afterwards the major part of the *House of Commons* having resolved on this, sent it up to the *Lords*; that very Day when they were Adjourned there were *Forces* drawn down to the *House of Commons* Door, and none suffered to come into the *House* but those that they pleased. All those that had a Mind for Peace, that minded their Duty, and Trust, and Allegiance to their King, were seized on by this Gentleman and his Fellows. When this was done, what did he and those Fellows do? They sat and put a Check upon all those that should come in. None must come in but those that would renounce their Allegiance and Duty to their King and the People, for whom they served, and then declar'd against that Vote which had been passed upon *Debate* of Twelve or Fourteen Hours; and then to call this an *House of Commons*, nay, the *Supreme Authority of the Nation*, he knows is against the Laws of the Land. For the *House of Commons* alone cannot so much as give an *Oath*. It hath not Power of *Judicature* of Life and Death: This he knows well to be according to the Laws of *England*. He knows that no Authority less than an *Act of Parliament* can make a Law; and he knows an *Act of Parliament* must be passed by the *King*, *Lords*, and *Commons*. I wonder much to hear a Justification in this kind by one that knows the Laws of *England* so well. There will none of the *Court* allow that that was a *Parliament:* The Majority of the House did all disavow it. These Things have been already discoursed of; I shall only say, that he knowing the Laws so well, I hope he shall suffer for Transgression thereof.

Mr. *Hollis*. You do very well know that this that you did, this horrid, detestable Act which you committed, could never be perfected by you till you had broken the *Parliament*. That *House* of *Commons*, which you say gave you Authority, you know what yourself made of it when you pulled out the *Speaker*; therefore do not make the *Parliament* to be the Author of your black Crimes. It was innocent of it. You know yourself what Esteem you had of it, when you broke and tore it in sunder, when you scattered, and made them hide themselves, to preserve them from your Fury and Violence: Do not make the *Parliament* to be the Author of your Crimes. The *Parliament* are the Three *Estates:* It must not be admitted that one *House*, Part of the *Parliament*, should be called the *Supreme Authority*. You know what that *Rump* that you left did, what Laws they made. Did you go home to advise with your Country that chose you for that Place? You know that no *Act* of *Parliament* is binding but what is Acted by *King*, *Lords*, and *Commons:* And now as you would make *God* the Author of your *Offence*, so likewise you would make the *People* Guilty of your *Opinion*; but your *Plea* is over-ruled.

To which the Court *assented.*

Mr. Harrison. *I was mistaken a little. Whereas it was said the Points were one, I do humbly conceive they were not so. I say what was done, was done in Obedience to the Authority. If it were but an* Order *of the* House *of* Commons, *thus under a Force, yet* this Court *is not Judge of that Force. I say, if it was done by One* Estate *of* Parliament, *it is not to be questioned.*

Court. It was not done by One *Estate*, they were but a Part; nay, but an Eighth Part.

Denz. Hollis. It was not an *House* of *Commons*; They kept up a Company by the Power of the Sword: Do not abuse the People, in saying it was done by the *Supreme Power.*

Council. My Lord, if it were an *House* of *Commons*, neither *House* of *Commons* nor *House* of *Lords*, nor *House* of *Lords* and *Commons* together; no Authority upon Earth can give Authority for murthering the King; this that he alledgeth is Treason; my Lord, this that is said is a clear *Evidence* of that which is charged; there is only this more in it, he hath done it, and if he were to do it again, he would do it.

Lord Chief Baron. It is clear as the Noon-day, that this was not the *House* of *Commons*. Suppose it had been an *House* of *Commons*, and full, and suppose (which far be it from me to suppose) they should have agreed upon such a Murtherous *Act*; for the *House* of *Commons* to do such an *Act*, it was void in itself: nay, any Authority without the *House* of *Lords* and *King* is void. You plead to the *Jurisdiction* of the Court, whether we should judge it, or no. Yes, I tell you, and proper too: We shall not speak what Power we have; the *Judges* have Power after *Laws* are made to go upon the *Interpretation* of them. We are not to judge of those Things that the *Parliament* do. But when the *Parliament* is *purged* (as you call it), for the *Commons* alone to act, for you to say that this is the *Authority of Parliament*, it is that which every Man will say *intrenches highly upon his Liberty and Privilege:* And what you have said to your Justification, what doth it tend to but as much as this, *I did it, justifie it, and would do it again*; which is a New Treason. The greatest Right that ever the *House* of *Commons* did claim is but over the *Commons*. Do they claim a particular Right over the *Lords?* Nay, over the *King?* Make it out if you can, but it cannot possibly be made out. What you have said doth aggravate your Crimes: It is such an Approvement of your Treason, that all *Evidences* come short of it: *King*, *Lords*, and *Commons*, is the Ground of the *English Law*; without that no *Act of Parliament* binds.

Justice *Mallet*. I have been a *Parliament-Man* as long as any Man here present, and I did never know or hear that the *House of Commons* had *Jurisdiction* over any, saving their own *Members*, which is as much as I will say concerning the *Parliament*. I have heard a *Story* of a *Mute*, that was born *Mute*, whose Father was slain by a Stranger, a Man unknown. After Twenty Years, or thereabout, this *Mute Man* fortuned to see the Murtherer of his Father, and these were his Words, *Oh! here is he that slew my Father*. Sir, the *King is the Father of the Country*, *Pater Patriæ*, so saith Sir *Edward Coke*. He is *Caput Reipublicæ*, the *Head of the Commonwealth*. Sir, what have you done? Here you have cut off the *Head* of the whole *Commonwealth*, and taken away him that was our *Father*, the Governour of the whole Country. This you shall find *Printed* and *Published* in a Book of the greatest *Lawyer*, Sir *Edward Coke*. I shall not need, *my Lord*, to say more of this Business. I do hold the Prisoner's *Plea* vain and unreasonable, and to be rejected.

Justice *Hide*. I shall not trouble you with many Words. I am sorry that any Man should have the Face and Boldness to deliver such Words as you have. You, and all, must know, that the *King* is above the *Two Houses*. They must propose their Laws to him: The Laws are made by him, and not by them; by their Consenting, but they are his Laws. That which you speak as to the *Jurisdiction*, you are here *Indicted* for High-Treason; for you to come to talk of *Justification* of this by Pretence of Authority, your *Plea* is naught, illegal, and wicked, and ought not to be allowed. As to having of *Council*, the *Court* understand what you are upon; *Council* is not to be allowd in that *Case*, and therefore your *Plea* must be over-ruled.

Mr. Justice *Twisden*. I shall agree with that which many have already said; only this, you have eas'd the *Jury*, you have confessed the Fact. I am of the same Opinion, that you can have no *Council*, therefore I over-rule your *Plea*, if it had been put in never so good *Form* and *Manner*.

Earl of *Manchester*. I beseech you, *my Lords*, let us go some other Way to work——

Sir *William Wild*. That which is before us, is whether it be a Matter of *Law* or *Fact:* For the Matter of *Law*, your Lordships have declar'd what it is; his Justification is as high a Treason as the former. For Matter of *Fact*, he hath confess'd it. I beseech you, *my Lord*, direct the *Jury* for their *Verdict*. This Gentleman hath forgot their Barbarousness; they would not hear their King.

Court. No *Council* can be allowed to justifie a Treason; that this is a Treason, you are *Indicted* by an Act of the 25th of *Edw.* III. That which you speak of the *House of Commons*, is but part of the *House of Commons*; they never did, nor had any Power to make a *Law*, but by *King*, *Lords*, and *Commons*; and therefore your *Plea* is naught, and all the Court here is of the same Opinion; if they were not, they would say so; therefore what you have said is over-ruled by the *Court*. Have you any thing else to offer?

Mr. Harrison. *Notwithstanding the Judgment of so many Learned ones, that the Kings of* England *are no ways accountable to the* Parliament, *the* Lords *and* Commons *in the Beginning of this War having declared the King's beginning War upon them; the* God of Gods——

Court. Do you render yourself so desperate, that you care not what Language you let fall? It must not be suffered.

Mr. Harrison. *I would not willingly speak to offend any Man; but I know God is* no Respecter of Persons. *His setting up his* Standard *against the People*—

Court. Truly, Mr. *Harrison*, this must not be suffered: This doth not at all belong to you.

Mr. Harrison. *Under Favour this doth belong to me. I would have abhorr'd to have brought him to* Account, *had not the Blood of* Englishmen, *that had been shed*—

Council. Methinks he should be sent to *Bedlam*, till he comes to the *Gallows* to render an *Account* of this. This must not be suffered. It is in a Manner a New *Impeachment* of *this* King, to justifie their Treasons against his late Majesty.

Mr. *Solicitor-General.* My *Lords*, I pray that the *Jury* may go together upon the *Evidence.*

Sir *Edw. Turner.* My *Lords*, this Man hath the *Plague* all over him; it is Pity any should stand near him, for he will infect them. Let us say to him as they used to write over an House infected, *The Lord have Mercy upon him*, and so let the *Officer* take him away.

Lord Chief Baron. Mr. *Harriſon*, we are ready to hear you again; but to hear ſuch Stuff, it cannot be ſuffered. You have ſpoken that which is as high a Degree of Blaſphemy, next to that againſt God, as I have heard. You have made very ill Uſe of theſe Favours that have been allowed you to ſpeak; your own Conſcience cannot but tell you the Contradiction of your Actions againſt this that you have heard as the Opinion of the *Court*. To extenuate your Crimes you may go on, but you muſt not go on as before.

Mr. Harriſon. *I muſt not ſpeak ſo as to be pleaſing to Men; but if I muſt not have Liberty as an* Engliſhman——

Court. Pray do not reflect thus; you have had Liberty, and more than any *Priſoner* in your Condition can expect; and I wiſh you had made a good Uſe of it. Keep to the Buſineſs, ſay what you will.

Mr. Harriſon. *My* Lords, *thus: There was a Diſcourſe by one of the Witneſſes that I was at the* Committee *preparing the* Charge, *and that I ſhould ſay*, Let us *Blacken* him. *This Thing is utterly untrue; I abhorred the doing of any thing touching the* Blackening *of the King. There was a little Diſcourſe between the King and myſelf. The King had told me that he had heard that I ſhould come privately to the* Iſle of Wight *to offer ſome Injury to him; but I told him I abhorred the Thoughts of it. And whereas it is ſaid that my Carriage was hard to him when I brought him to* London, *it was not I that brought him to* London, *I was commanded by the* General *to fetch him from* Hurſt-Caſtle. *I do not remember any hard Carriage towards him.*

Court. Mr. *Harriſon*, You have ſaid, that you deny that of *Blackening* which the *Witneſs* hath ſworn; and ſomewhat elſe touching the King in his Way to *London*, that the *Witneſs* hath ſworn to alſo. The *Jury* muſt conſider of it, both of their *Oaths* and your *Contradictions*. If you have nothing more to ſay, which tends to your Juſtification, we muſt direct the *Jury*. The End of your Speech is nothing but to infect the People.

Mr. Harriſon. *You are uncharitable in that.*

Juſtice *Foſter*. *My Lords*, This ought not to come from the *Bar* to the *Bench*; if you *ſalley out* thus about your Conſcience; if your Conſcience ſhould be a darkened Conſcience, that muſt not be the Rule of other Men's Actions. What you ſpeak of that Nature is nothing to the Buſineſs. If you have any thing to ſay, by Way of Excuſe for yourſelf for Matter of *Fact*, you may ſpeak: But if you will go on as before, it muſt not be ſuffered.

Mr. Harriſon. *The Things that have been done, have been done upon the Stage, in the Sight of the Sun*——

Court. All this is a Continuance of the Juſtification and Confeſſion of the *Fact*. We need no other *Evidence*.

Council. He hath confeſſed his *Fact*, *my Lords*. The Matter itſelf is Treaſon upon Treaſon; therefore we pray Direction to the *Jury*.

Lord Chief Baron. Mr. *Harriſon*, I muſt give Direction to the *Jury*, if you will not go further touching the *Fact*.

Mr. Harriſon. *My* Lords, *I ſay what I did was by the* Supreme Authority. *I have ſaid it before, and appeal to your own Conſciences, that this Court cannot call me to queſtion.*

Lord Chief Baron. Mr. *Harriſon*, you have appealed to our Conſciences. We ſhall do that, which, by the Bleſſing of God, ſhall be juſt; for which we ſhall anſwer before the *Tribunal* of God. Pray take Heed of an *Obdurate*, *Hard* Heart, and *Seared* Conſcience.

Mr. Harriſon. *My* Lords, *I have been kept ſix Months a cloſe Priſoner, and could not prepare myſelf for this Trial by* Council. *I have got here ſome* Acts *of* Parliament *of that* Houſe *of* Commons, *which your Lordſhips will not own; and the* Proceedings *of that* Houſe, *whoſe Authority I did own.*

Lord Chief Baron. This you have ſaid already. If you ſhew never ſo many of that Nature, they will not help you: You have heard the Opinion of the *Court* touching *that* Authority. They all unanimouſly concur in it.

Gentlemen of the Jury, You ſee that this *Priſoner* at the *Bar* is Indicted for *Compaſſing*, *Imagining*, and *Contriving* the Death of our late Sovereign Lord, King *Charles* the Firſt, of Bleſſed Memory. In this *Indictment* there are ſeveral Things given but as Evidences of it; they are but the *Overt-Acts* of it. The one is, Firſt, that they did meet and conſult together about the putting the King to Death; and that alone, if nothing elſe had been proved in the *Caſe*, was enough for you to find the *Indictment*; for the *Imagination* alone is Treaſon by the Law. But becauſe the *Compaſſing* and *Imagining* the Death of the King is ſecret in the Heart, and no Man knows it but God Almighty, I ſay, That the Imagination is Treaſon; yet it is not ſuch as the Law can take hold of, unleſs it appears by ſome *Overt-Act*. Then the firſt *Overt-Act* is their *Meeting*, *Conſulting*, and *Propoſing* to put the King to Death. The Second is more open; namely, their *Sitting* together, and *Aſſuming an Authority* to put the King to Death. The Third is *Sentencing* the King. And I muſt tell you, that any one of theſe Acts prove the *Indictment*. If you find him guilty but of any one of them, either *Conſulting*, *Propoſing*, *Sitting*, or *Sentencing* (though there is full Proof for all), yet notwithſtanding you ought to find the *Indictment*. You have heard what the *Witneſſes* have ſaid, and the *Priſoner*'s own Confeſſion. Witneſſes have ſworn their Sitting together; and that he was one: One ſwears he ſat *Four* times, another *Twice*; ſome *ſeveral times*. There are ſeveral Witneſſes for this, as Mr. *Maſterſon*, Mr. *Clark*, Mr. *Kirk*, and Mr. *Nutley*. And then you have another Thing too, which truly the *Priſoner* did not ſpeak of. Witneſs was given againſt him, that he was the Perſon that Conducted the King; this was before that which he would have to be done by a *Legiſlative Power*, and that is another *Overt-Act*. If a Man will go about to *Impriſon* the King, the *Law* knows what is the ſad Effect of ſuch Impriſonment. That hath often been adjudged to be an Evidence of *Imagining* and *Compaſſing* the Death of the King. That Man, the *Priſoner* at the *Bar*, it hath been proved to you, did *Impriſon* the King; as appears by his own Hand to the *Warrant* for ſummoning of that Traitorous Aſſembly, the *High Court of Juſtice*, as they called it. And alſo it appears by his Hand to the *Warrant* for Execution; that *Bloody Warrant*. He hath been ſo far from denying, that he hath juſtified theſe Actions. The *Evidence* is ſo clear and pregnant as nothing more. I think you need not go out.

The Jury *went together to the* Bar, *and preſently unanimouſly agreed on their* Verdict; *whereupon they were demanded by the* Clerk,

Clerk. Are you agreed on your Verdict?

Jury. *Yes.*

Clerk. Who ſhall ſay for you?

Jury. *Our Fore-man.* (Which was Sir *Tho. Allen.*)

Clerk. *Thomas Harriſon*, Hold up thy Hand. Gentlemen of the *Jury*, look upon the *Priſoner*. How ſay ye? Is he *Guilty* of the Treaſon whereof he ſtands *Indicted*, and hath been Arraigned? Or *Not Guilty?*

Fore-man. Guilty.

Then the Keeper was charged to look to the Priſoner.

Clerk. What *Goods* and *Chattels* had he at the Time of Committing this Treaſon, or at any Time ſithence?

Fore-man. None to our Knowledge.

Which Verdict *being repeated to the* Jury *by Mr.* Clerk of the Crown, *the* Jury *owned it unanimouſly.*

Mr. *Solicitor-Gen.* My *Lords*, upon this *Verdict* that hath been given againſt the *Priſoner* at the *Bar* I humbly move, that we may have *Judgement* given.

Your *Seſſions* will be long, and your Work will be great; his Demeanour hath been ſuch that he doth not deſerve a *Reprieve* for ſo many Days that you are like to ſpend in this *Seſſion*.

Court. Mr. *Harriſon*, they deſire *Judgment* upon the *Verdict*. What do you ſay for yourſelf why *Judgment* ſhould not paſs againſt you?

Clerk. Thomas Harriſon, hold up thy Hand. What haſt thou to ſay for thyſelf why *Judgment* ſhould not paſs againſt thee, to Die according to *Law?*

Mr. Harriſon. *I have nothing further to ſay, becauſe the* Court *have not ſeen meet to hear what was in my Heart to ſpeak, I ſubmit to it.*

The *Crier* made *Proclamation* for *Silence* whilſt *Judgment* was in giving.

Lord Chief Baron. You that are the *Priſoner* at the *Bar*, you are to paſs the *Sentence* of Death, which *Sentence* is this: The *Judgment* of this *Court* is, and the *Court* doth award, *That you be led back to the Place from whence you came, and from thence to be drawn upon an Hurdle to the Place of Execution; and there you ſhall be hanged by the Neck, and being alive ſhall be cut down, and your Privy Members to be cut off, your Entrails to be taken out of your Body, and (you living) the ſame to be burnt before your Eyes, and your Head to be cut off, your Body to be divided into four Quarters, and Head and Quarters to be diſpoſed of at the Pleaſure of the King's* Majeſty, *and the Lord have Mercy upon your Soul!*

And then *Proclamation* was made for *Adjournment* of the *Court* to this Place till Seven of the Clock To-morrow Morning; and all *Jury-Men* and *Witneſſes* were commanded to be at the ſaid *Place* and *Time* upon Forfeiture of an Hundred Pounds a-piece.

October 12, 1660.

The Proclamation for Silence.

The Jury called.

Priſoners brought to the Bar, *viz.*

John Jones, Adrian Scroop, Thomas Scot, Gregory Clement, John Carew.

Crier. Sir *Thomas Allen.*

Clerk. Sir *Tho. Allen*, lay your Hand upon the Book, look upon the Priſoner at the Bar.

Scroop. *I challenge him, my Lord.*

Lord Chief Baron. That you may not miſtake, if you challenge in this Manner, and do not join in your Challenges, we muſt try you ſeverally one after another; I muſt tell you the Courſe of the Law; if one challenge one, and another challenge another, we muſt ſever, and go to Trial one by one. Call the next.

Clerk. Sir *Henry Wroth.*

Scroop. *I challenge him.*

Lord Chief Baron. Then we muſt go on ſeverally. Set all aſide but Mr. *Scroop*. Mr. *Scroop*, you may challenge particularly whom you will till you come to Thirty-five; if you go beyond that Number, you will loſe the Benefit of the Law.

Scroop. *I deſire, my Lord, that whoſoever was challenged Yeſterday, may not be called again.*

Court. No, that cannot be, that is nothing to you. The Court thereupon proceeded, and called——

Challenged, *John Liſle, Nich. Raynton, Thomas Wynter, Thomas Frankelyn, Randal Nichol, Jo. Kirke, Ambroſe Scudamore, George Tirrey*, who were all challenged.

Jury. *Thomas Willet, Hen. Marſh, Charles Pitfield, Chriſtopher Avdy, Richard Cheny, Tho. Bid, Jo. Smith, Richard Abel, Ralph Halſal, Jo. Gallyard, Tho. Swallow, Sam. Starnel*, were admitted, and ſworn on the Jury.

Clerk. Cryer, make Proclamation. *If any man can inform my Lords, the King's* Juſtices, *the King's* Serjeant, *or the King's* Attorney, *before this Inqueſt be taken between our Sovereign Lord the King, and the Priſoner at the Bar, let them come forth and they ſhall be heard, for now the Priſoner ſtands at the Bar upon his Delivery; and all others bound by Recognizance to give Evidence againſt the Priſoner at the Bar, let them come forth and give their Evidence, or elſe they ſhall forfeit their Recognizance.*

Clerk. Adrian Scroop, Hold up thy Hand; you Gentlemen that are Sworn, look upon the Priſoner, and hearken to his Charge; you ſhall underſtand, *&c.* upon this Indictment he hath pleaded Not Guilty.

Mr. *Sol. Gen.* May it pleaſe your Lordſhips, and you Gentlemen of the Jury, this Priſoner at the Bar ſtands Indicted for Compaſſing and Imagining the Death of the late King, of Bleſſed Memory. The Indictment ſets out, that to that End and Purpoſe the Priſoner at the Bar did, with others, aſſemble and ſit together at *Weſtminſter-Hall*, conſulting upon him, and uſurped an Authority to proceed againſt the Life of our ſaid late Sovereign, and in Purſuance of that our late Sovereign was brought to his Death. Theſe Things are alledged in the Indictment as ſeveral *Overt-Acts*, to ſhew the Treaſon of his Heart, which was the Compaſſing and Imagining the Death of the King; Compaſſing and Imagining are the Words of the Statute; the reſt of the Indictment is but as ſo many Overt-Acts, Evidences and Manifeſtations of that corrupt and wicked Heart of his, by which he firſt thought ſuch a Thought againſt his Sovereign. The Manner of our Evidence ſhall be this: Before they could come to accompliſh this damnable deſign, it was neceſſary to meet in a Traitorous Aſſembly, which they called the *High Court of Juſtice*, that

that under the Pageantry and Mockery of that, they might pretend to Murder him by a Sentence; and before that Aſſembly could come to ſit, there was a Precept ſet forth very formally to ſummon them to ſit. This Priſoner at the Bar is one of thoſe Perſons, who under his Hand and Seal did ſummon that Court to ſit upon the Life of our late Sovereign. When the Court, in Obedience to that Summons (as they called it), did meet, they ſate ſeveral times, and he among them; they did proceed with a wonderful Impudence (as they had begun) to pronounce Sentence of Death upon our late Sovereign; my Lords, this Priſoner at the Bar was amongſt them, and was at that Court, and gave the Sentence. When they had done, that they might compleat their Villany, they made a Bloody Warrant for Severing the Head of his late Majeſty from his Body, and the Hand of the Priſoner is to that Warrant alſo; and this is the Scope of our Indictment.

Scroop. *My Lords, may I have Liberty to ſpeak?*

Court. If you do confeſs that which is opened in Evidence againſt you, we ſhall not need to examine any Witneſſes.

Scroop. *Examine what you think fit. If I underſtand that worthy Gentleman that ſpake laſt, he ſaid that my Hand was to the Warrant for Execution; my Lord, if I can ſee my Hand I can tell, and I will not deny my Hand.*

Court. Shew it him: Which was done accordingly.

Scroop. *My Lords, I will not deny but that it is my Hand, but it is not my Seal.*

Council. Crier, call Mr. *Maſterſon*, Mr. *Kirke*, Mr. *Clarke*, Mr. *Carr*; who were all Sworn.

Mr. *Maſterſon*, pray tell my Lords and the Jury whether you did ſee the Priſoner at the Bar in that which they called the *High Court of Juſtice* ſitting as Judge upon the late King.

Mr. *Maſterſon.* My Lords, and Gentlemen of the Jury, I ſaw upon the 22d or 23d of *Jan.* in the Year 1648, the Priſoner at the Bar ſitting upon the Bench as one of the Judges in that which they called the *High Court of Juſtice*, the King ſtanding a Priſoner at the Bar; I ſay either the 22d or 23d. But I ſay particularly upon the 27th of *Jan.* 1648, in which the Sentence was paſſed upon the late King, I ſaw the Priſoner at the Bar ſitting upon the Bench, in that which they called the *High Court of Juſtice.*

Council. How did he demean himſelf when the Sentence was read?

Mr. *Maſterſon.* When the Sentence was read, it was by the Preſident (as he was called) of that Court, ſaid to be the Sentence and Judgment of the whole Court, upon which the Priſoner at the Bar roſe up, as to my Apprehenſion, teſtifying his Aſſent. All their Aſſents were taken ſo, and no otherwiſe, to us that were as Spectators.

Scroop. *I beſeech your Lordſhips that I may ſpeak without Offence, and anſwer to this.*

Court. Mr. *Scroop*, you may pleaſe to have Paper, and Pens, and Ink, to take Notes, or to aſk any Queſtions.

Scroop. *My Lords, give me Leave to aſk him this Queſtion: Whereabouts did he ſee me ſit in the Court?*

Court. Mr. *Maſterſon*, you hear the Queſtion, pray anſwer to it.

Mr. *Maſterſon.* My Lords, I cannot particularly ſay where he ſat, but I ſaw him in the Court, and to the beſt of my Remembrance it was on the Second Seat on the Left-hand of *Bradſhaw.*

Scroop. *I would not give Offence to the Court in any Kind; I am now pleading for my Life. I deſire to take a little Liberty to aſk this Gentleman if ever he and I were in Company together, that he knows me ſo well.*

Mr. *Maſterſon.* For my part I do not remember I ſaw his Face before the ſitting of that Court: If this Gentleman aſk me if I were ever in his Company, I know not how I may conſtrue the Word Company; but I am ſure I never eat nor drank with him; I have ſeen him very many Times at Committees, more than twenty Times ſince that Buſineſs.

Mr. *Clark* called.

Council. Mr. *Clark*, you have heard the Queſtion, did you ever ſee the Priſoner at the Bar in that which they called the High Court of Juſtice?

Mr. *Clark.* I do remember in the Year 1648, I ſaw the Priſoner ſitting in that which they called the High Court of Juſtice upon the Trial of the King.

Scroop. *My Lords, you may deſiſt in examining Witneſſes touching my Sitting.*

Court. Do you acknowledge you did ſit in that which they called the High Court of Juſtice?

Scroop. *Yes, I ſee it proved, and I ſee a Gentleman here in my Eyes that I know very well. I will not deny it.*

Court. Did you ſit upon the Sentence-Day, that is the Evidence, which was the 27th of *January?* You are not bound to anſwer me, but if you will not, we muſt prove it. Do you confeſs that?

Scroop. *I do not confeſs that I ſtood up as aſſenting to the Sentence.*

Mr. *Clark* called.

Council. Mr. *Clark*, what ſay you to that?

Clark. I did not take particular Notice of him that Day, that he ſtood up; but the whole Court ſtood up, to my Apprehenſion, but I took Notice that he was there then preſent.

Council. Mr. *Clark*, do you remember that you ſaw any of them ſit?

Clark. I did not take Notice of any that ſate then, but all ſtood up, to my Thoughts.

Mr. *Carr* called.

Council. Mr. *Carr*, Tell my Lords and the Jury whether you did ſee the Priſoner at the Bar ſitting in that which they called the High Court of Juſtice.

Carr. My Lords, and Gentlemen of the Jury, the 22d, 23d, and 27th of *January* 1648, I was preſent when the Names of that they called the High Court of Juſtice were called, and amongſt others that were Judges of that Court, as was printed in a Paper, which I then had in my Hand, I found the Name of Mr. *A. Scroop*, who I ſaw did there ſit and appear.

Mr. Carr looked in that Paper when he gave his Evidence.

Scroop. *I hope you will not take any Evidence from a printed Liſt.*

Council. The Manner of his Evidence is, he ſaith, this: That he had this Printed Paper in his Hand when the Names of that Court were called, and marking the Perſons in that Paper who were Preſent, and that you were One of them who did appear.

Scroop. *My Lord, I ſhall not diſpute, in Regard of my Want of Skill in the Law, the Lawfulneſs of bringing in any Paper in Evidence into the Court, I ſhall not diſpute againſt your Lordſhips; but by your Favour, I do ſuppoſe there is no Witneſs ought to uſe any Paper, or look upon any Paper when he gives Evidence; but I ſhall ſubmit it to your Lordſhips.*

Mr. *Sol. Gen.* Aſk him the Queſtion without his Paper; but yet nothing is more uſual than for a Witneſs to make Uſe of a Paper to help his Memory.

Scroop. *The Gentleman that ſpake laſt I cannot hear him.*

Mr. *Sol. Gen.* We do not need his Paper in this Caſe, he will tell it without a Paper; Mr. *Carr*, ſpeak without a Paper.

Carr. My Lords, upon the calling of thoſe that were Judges in that Court which they called the *High Court of Juſtice* then ſitting, this Gentleman the Priſoner at the Bar did anſwer to his Name then called.

Scroop. *Did you ſee me?*

Carr. I heard you anſwer, and ſaw you.

Scroop. *I pray he may be aſk'd whereabout I ſate in that Court.*

Council. Mr. *Carr*, you hear the Queſtion, anſwer to it.

Carr. I am not able particularly to tell now, it being many Years ſince.

Scroop. *My Lord, obſerve of what Value this Evidence is; I am ſure I never was in his Company, I do not know that ever he ſaw me in his Life; I beſeech you give me Leave to plead for myſelf in all Humbleneſs and Modeſty, my Lord.*

Lord Chief Baron. Notice is taken of it, Mr. *Scroop*, God forbid you ſhould be debarr'd of it.

Scroop. *I ſay he comes with Evidence of a Paper, he heard my Name call'd, and marked it: It is ſtrange that a Gentleman whom I never ſaw, I know not his Name, nor do I think he knew my Name if he had met me.*

Lord Chief Baron. I told you that was laid aſide, and you heard him ſpeak *viva voce* without a Paper.

Council. Mr. *Kirk*, did you ſee the Priſoner at the Bar in that Court which they called the *High Court of Juſtice* for Trial of the late King?

Kirk. My Lords, and Gentlemen of the Jury, I did ſee the Priſoner there, and I did wonder to ſee him there, which was the Reaſon I took the more ſpecial Notice of his being there.

Scroop. *Pray, my Lord, let me intreat one Thing before he ſpeaks, That your Lordſhips will be pleas'd to ſpeak to him to give in his Evidence without any Speech.*

Council. How can that be? Can he give Evidence without ſpeaking?

Scroop. *I beſeech you, my Lords, give me Leave to ſay this, Let him give in his Evidence in plain Words without any Speech.*

Lord Chief Baron. Mr. *Scroop*, he muſt be excuſed; there are Circumſtances inducing which are as much as the Principal; this that he hath ſaid is very material; ſaith he, *I did ſee the Priſoner at the Bar there; I did not expect it, and wondered at it, and therefore took the more Notice*—— Let him go on, aſk him what Queſtion you will.

Scroop. *My Lord, I ſubmit.*

Lord Chief Baron. Mr. *Kirk*, you muſt ſpeak the Truth, and the whole Truth; go on.

Kirk. I ſay as I ſaid before, I ſaw this Gentleman ſitting in that which they called the *High Court of Juſtice*, and I did therefore wonder at it, becauſe I did not expect him there. I came to know him formerly as he was called Captain *Scroop.*

Council. Go on.

Kirk. And, as I ſaid before, I ſaw this Perſon, this Priſoner at the Bar, ſit amongſt the reſt of thoſe Perſons, Judges, as they called themſelves, of the *High Court of Juſtice for the Trial of the King*; I did more particularly take Notice of this Perſon, becauſe I did not expect him there: I knew him formerly upon this Report, being an Eminent Man, by the Name of Captain *Scroop*, and at that Time was an Aſſociate of one Captain *Vivers*, and Captain *Wingham*; I had not ſeen him ſome Years before this Buſineſs, and ſeeing of him there, I did the more particularly take Notice of him.

Scroop. *Have you done, Sir? I beſeech your Lordſhip aſk him what Employment he had there himſelf when he ſaw me there.*

Kirk. My Lord, I was there to hear the Trial.

Lord Chief Baron. Mr. *Scroop*, I am not willing you ſhould have any Thing of Interruption, unleſs you reflect upon any Perſon that concerns not you. Mr. *Scroop*, do not think it will be for your Advantage, nor is it proper for you to aſk.

Scroop. *In all Humbleneſs I do ſpeak it to your Lordſhips, that your Lordſhip will pleaſe to conſider, that if he had any Employment in that Buſineſs himſelf, how unfit a Witneſs he is againſt me.*

Court. Much fitter.

Scroop. *If it be ſo, I have done.*

Kirk. My Lord, I was there only as a Spectator, I went only there to ſee and hear what was there to be ſeen and heard; I ſtood there and took Notes in Characters of the Proceedings, and ſeveral others with myſelf did the like, and we compared them together, that was all my Buſineſs at that Time, and I ſaw him ſit there the 27th Day of *Jan.* 1648, which was the Day of Sentence againſt the King.

Scroop. *Whereabouts did you ſee me ſit there?*

Kirk. It is not, I think, imaginable that any Perſon ſhould be able after ſo many Years poſſibly to ſay where any Perſon ſate; but to the beſt of my Remembrance you ſate upon the Second Bench next the Preſident. But I dare not be poſitive in that, I dare not juſtifie it upon my Oath, it is but my Remembrance.

[*Here Mr.* Scroop *talked to one that ſtood near him.*]

Lord Chief Baron. We muſt deſire that of you, Mr. *Scroop*, that you will not ſpeak to any here but what the Court may hear.

Scroop. *I ſhall obſerve your Commands.*

Mr. *Coytmore* Sworn.

Council. Did you ſee the *Priſoner* at the *Bar* ſitting in that which they called the *High Court of Juſtice* as a Judge upon the King?

Coyt. I did ſee him.

Council. When? What Day?

Coyt.

Coyt. I cannot name the Day; I was there Three Days of their Sitting, there I saw him once or twice; once I am sure.

Scroop. *What Day?*

Coyt. I cannot remember.

Council. Did he sit there as a Judge upon the King?

Coyt. He sate among the rest as a Judge.

Scroop. *Give me leave to ask him whereabouts he saw me sit.*

Council. Where did you see him sit?

Coyt. I cannot remember the Place, he was among them; I saw him either One or Two Days; there was a great Company of them together.

Council. Mr. *Nutley*, did you see the Prisoner at the Bar sitting in that which they called the *High-Court of Justice?*

Nut. If it please your Lordships, I was there in the Court those Four several Days that they sate in Judgment. I heard the *Prisoner* at the *Bar* called by his Name. I did take Notice he was there, truly I think he was there twice or thrice, to my Remembrance.

Council. Can you tell what Day, whether the 27th of *Jan.* 1648?

Nut. I cannot say positively, but to the best of my Remembrance he was there; that was the last Day when Judgment was given.

Mr. *Baker* sworn.

Council. Mr. *Baker*, what say you? Did you see the Prisoner at the Bar sitting in that which they called the High-Court of Justice?

Baker. Yes, I did see Col. *Scroop* on *Tuesday* the 23d of *Jan.* 1648, very particularly stand up and answer to his Name.

Council. Mr. *Coytmore*, are you acquainted with Colonel *Scroop*'s Hand?

Coyt. I have had several Letters from him.

Council. Mr. *Scroop*, have you a mind to see the Warrant for summoning the Court?

Scroop. *I desire to see it; I do not remember I set my Hand to it.*

Court. Shew it him. [it being shewed him]

Scroop. *I cannot say it is my Hand.*

Council. It is too true; we shall prove it to you.

Court. Shew it to Mr. *Coytmore.*

Scroop. *Be pleas'd to let me see it once more:* Which was again shew'd him: *Truly, my Lord, I will save him the Labour.*

Council. You do acknowledge it was your Hand?

Scroop. *I'll save him the Labour; for I confess I do not love Men should be put to their Oaths more than needs.*

[*Here likewise the Warrant for Execution was read.*]

Council. My Lords, we shall conclude our Evidence with Major-General *Brown*, the Lord Mayor Elect.

The Lord Mayor Elect sworn.

Council. My Lord, be pleased to tell my Lords what Discourse hath lately passed between the Prisoner at the Bar and you concerning the Death of the King.

Lord Elect. My Lords, upon some Occasion I was accidentally at the Chamber of the Speaker, there I met this Gentleman, whom indeed I knew not; he told me who he was; and when I understood who he was, I said to him (or Words to this Purpose, I cannot tell the Words), because I would not distaste him, and say *You* have done this, therefore I put it thus, *We* have done this, What a sad Case have *we*, said I, brought this Kingdom unto! *Why*, saith he? You see, said I, how it is ruined now the King is murthered, *&c.* Saith he, *Some are of one Opinion, and some of another.* Sir, said I, do you think it was well done to murther the King? Saith he, *I will not make you my Confessor, Sir*; it was much to this Purpose.

Council. When was this spoken?

Lord Elect. Truly I do not know the Day, but it was that Day that Sir *H. M.* rendered himself to the Speaker; it was since the coming in of the King.

Mr. Sol. Gen. Neither Time, nor the Hand of God appearing in this Business, nor the Condition he was in, was ever able to bring this Gentleman to be sorry for his Offence; but we do not give it as any Evidence of his Crimes: You have heard the Prisoner confess the two Warrants: You have heard by several Witnesses produced, that he did sit in that which they called the High-Court of Justice, by Three that he sat particularly on that Day they called the Day of their Judgment; you have heard how little Penitence he hath had, by his Declaration to the Lord Mayor Elect.

Scroop. *I hope now that you have heard the Evidence against me, that you will give me leave to make some Defence for my self.*

Lord Chief Baron. God forbid otherwise but that you should have free Liberty.

Scroop. *Truly, my Lords, though my Breeding hath not been in the Way of the Laws, and therefore I have a great Disadvantage when there be such Learned Gentlemen as these are to plead against me, I must confess to you I have something for Matter of Law to plead for the Justification of the Fact, tho' I would not undertake to justifie the Person; this I humbly intreat, if it may be granted, that I may have some Time given me, and some Council, that I may answer Matter of Law.*

Lord Chief Baron. Mr. *Scroop*, if you have any Thing of Matter of Law for which you would have Council, you must alledge that Matter first; the Use of Council is only to put in Certainty what you have of Matter of Law, and then the Court and Judges must judge of it. If you have Matter of Law, you must tell what it is; if it be Matter that there is Cause to over-rule it, there is no Cause of making further Use of Council. If one be indicted for Murther, when he comes to Trial he will say, I have Matter of Law to plead; what is that? That Murther is no Felony: Do you think Council will be admitted in this? If you do alledge what this Matter is wherein you desire Council, you shall have your Answer.

Scroop. My Lords, as well as I am able to do it I shall do it; my Lord, I was not in the Parliament; take Notice of that; and that which was done in the High-Court of Justice, it was done by a Commission from the Parliament. My Lord, it was that Authority, which was then, I will not say it was so, because I would not give Offence; it was that Authority which was then accounted the Supreme Authority of the Nation; and that Authority, my Lord, that a great many of the Generality of the Nation submitted to. My Lord, I having received a Command from that Authority, what I did was in Obedience to that Authority: My Lord, I have not had Time to consider of these Things, because I have been for these Six Weeks Time shut up a close Prisoner, and that I could neither come at Council nor any Thing else, nor to get any Thing to prepare for it; therefore I desire your Lordships to do me the Favour, if you see any Weight in it, to let me have Time and Council assigned me.

Lord Chief Baron. Have you done, Sir?

Scroop. *Yes.*

Lord Chief Baron. Then I take it, this is the Effect of what you have said; if I have not taken it aright, tell me so: You say you justify the Fact, though not your Person; that you were not of the Parliament; that what was done was by Commission from the Parliament: Be pleased not to mistake me, for I say you said this: That that which I have to plead in Justification of it, I do not say that I justify my self, but that which I have to say is for Justification of the Fact: I was, first, no Contriver of the Business; and then, secondly, I did it by Virtue of the Command, and in Obedience to the Authority of the Parliament: That that Authority was then accounted the Supreme Authority of the Nations, and that the Generality of the Nations did submit to their Authority; I think I have repeated all you have said. Then, Mr. *Scroop*, you must know this, that there is no Cause at all why Council should be given for what you speak; I profess it rather tends to the Aggravation than Extenuation of what you did. First, you say you did it by Authority of Parliament; I am afraid you have been mistaken as well as others; by the Word Parliament, what doth that mean? I am sure you, and every one knows, that there was not one Precedent ever heard of till this, that the House of Commons should take upon them the Legislative Power, and make such an Act as this was; there was no Colour for it. Then for Men upon their own Heads, never heard of before, and against the Liberty and Freedom of the People, that they should call it the Parliament, when there was but 46 sate, whereas there was above 240 excluded; and how you can call this a House of Commons is a great Wonder to me; but I tell you this, take it for granted, that if they were the most perfect House of Commons that could be, did ever the House of Commons, before this single Act, take upon them the Legislative Power without the Lords? The Acts are begun in the Commons House; when they have done, if the Lords do not pass it, it is Abortive; if it be done by both Houses, there ought to be a Royal Assent: But the Lords had rejected this Act; then they must take upon them, these 46 Men, whereof I do believe there was not above 25 or 26 Men that did Vote this, and this must be called the Parliament, the Commons of *England*. I would fain know whether any Man hath heard that the House of Commons took upon them the Legislative Power before this Act; but this hath been over-ruled in the like Case, and I shall say no more to it. What is the Oath of Allegiance? Is it not that you would defend the King, his Crown, Rights and Liberties, against all Persons whatsoever? It was not only against the Pope (as some would have it), but the Word is, *or otherwise:* They broke the Oath of Supremacy, which was, *That the King was Supreme Governor of these Nations.* They swore that they would maintain and keep all Privileges, Immunities, Preheminences, annexed to the Imperial Crown of this Realm; there is Difference between some Crowns and Imperial Crowns: An Imperial Crown, it was that which was not to be touched in the Person: We do not speak any Thing of the Absolute Power of the King, for you see he cannot judge concerning the Death of his Father, but by *Laws.* When you swore this Allegiance, all those Members to break this at once, this would be so far from having any Colour of Authority, that he that justifies it, justifies it against the Light of the Conscience and Laws. You say you did it by Commandment from them; he that doth a Command by such an Authority, it is his Guilt; our *Law-Books* say, That if a Court at Common-Law exceed their Jurisdiction, in that Case he that obeys that Command is punishable. In the Court of Common-Pleas, if there be an Appeal there for Murther, it is only proper to the Upper-Bench; and therefore if the Party be Condemned, Sentenced, and Executed thereupon, the Executioner in that Case is Guilty of Murther for obeying that Authority, which was indeed no Authority: And therefore whereas you would go about to justifie the Fact, because you did it by Command of that Authority, that is an Aggravation: That when Men shall assume an Authority which is a Devil at the Noon-day, appearing without Vizors; I say, shall assume an Authority never heard of before; if Men will countenance their Acts by obeying them, it is an Aggravation: We have already declared this in the Case of the Prisoner yesterday; we are all satisfied in the Law in that Case: It is so clear a Point in Law, that my Brethren here and we did over-rule it Yesterday in the like Case, and so we must now; and I hope that all do concur in this Opinion that hath been delivered.

Lord *Finch.* I hope all do concur in this Opinion delivered by my Lord Chief Baron. You shelter yourself under a Command of the House of Commons; but let me tell you, and all the World, That if the House of Commons (let it have been never so compleat) had given a Command, it had been a Thing no Ways justifiable; the Justification is an Aggravation.

Scroop. *My Lord, I do see that every Thing I speak, though it be for clearing of myself from your ill Opinion, I see it is taken in an ill Sense (I humbly beseech Pardon for the Expression); if I err, I will crave your Lordship's Pardon; but, my Lord, I say this, if I have been mis-led, I am not a single Person that have been mis-led. My Lord, I could say (but I think it doth not become me to say so), That I see a great many Faces at this Time that were mis-led as well as myself, but that I will not insist upon: I say this, That I hope an Error in Judgment shall not be accounted Malice, or an Error of the Will: Truly (my Lord) I never went to the Work with a Malicious Heart; I humbly desire your Lordships to take Notice of it, That I never bore any Malice at all against his late Majesty.*

Lord Chief Baron. Mr. *Scroop*, have you done?

Scroop. *My Lord, I do beseech your Lordships to take Notice, that an Error in Judgment is not an Error in the Will.*

Lord Chief Baron. Mr. *Scroop*, I am very glad to hear you say so: but let me tell you what the Law saith; the Law in this Case creates the Malice.

Malice. If a Man do an Act of this Nature, that may be ſome Kind of Excuſe to God, but towards Man you are to look to the Fact, the Law implies the Malice. If there be any Thing you will ſay in the Extenuation of your Offence, we will be very glad to hear that may tend to your Help.

Scroop. *My Lord, there is one Evidence comes in againſt me that I muſt confeſs I am very ſorry to ſee; and, my Lord, there was a ſaying, and it is by my* Lord Mayor Elect: *Truly he is a Worthy Gentleman, but I deſire the Lord may forgive that which he hath ſpoken: Truly, my Lord, I did never intend any Thing in this, neither can I directly remember that I ſpake thoſe Words directly, as my* Lord Mayor Elect *doth ſpeak: I do believe my* Lord Mayor *cannot very well remember them himſelf; for he ſaith, ſo far as he can remember; I muſt confeſs that when I was there, and had appeared according to the Proclamation, that ſuch Diſcourſe ſomewhat like it was raiſed, not of my procuring; I did not procure the Diſcourſe; I never intended the Juſtification of the Fact; but it was my ill Succeſs that I ſhould meet with that Worthy Gentleman to have ſo much Diſcourſe with him.*

Lord Chief Baron. Mr. *Scroop*, my Lord Mayor Elect ſaith no more than this, *ſo far as he remembers*, and the Words that you ſhould ſay were theſe, *That ſome are of one Opinion, and ſome are of another.*

Scroop. *Upon the Death of the King*, (my Lord) *I muſt confeſs to you, that ſomewhat I ſaid to him, but I cannot own that I ſaid thoſe Words.* My Lords, *He is a worthy Perſon, I do not deſire to ſpeak any Thing to degenerate in the leaſt kind from him; it is but his Yea, and my No; there was no Body there.*

Lord Chief Baron. Have you any Thing more to ſay for yourſelf?

Scroop. *My Lord, if your Lordſhip do over-rule it ſo that I may not have Council, I have little more to ſay.*

Lord Chief Baron. You have heard the Senſe of the Court in that Particular, you cannot have Counſel allowed you as to the Matter you have pleaded.

Scroop. *I have done; but only this, my Lords, I know not whether it be ſeaſonable to mention it; I came in upon the Proclamation; and, my Lords, by Means of theſe unhappy Words that have been reported of me in the Houſe of Commons, whereas before I was no excepted Perſon, I came to be excepted, and upon the very laſt Day of paſſing that Act, never was excepted before the very laſt Day: I beſeech you take Notice of this.*

Lord Chief Baron. Mr. *Scroop*, That is a Thing that is not before us, but there will be a proper Time to conſider of it in another Place; that is nothing to the Trial; have you any more to ſay, Sir?

Scroop. *No, my Lord; Will your Lordſhip pleaſe to let me ſpeak a Word to the Jury?*

Lord Chief Baron. If you ſpeak to the Court the Jury will hear it.

Scroop. *Truly, my Lord this I do perceive, that I am under a very great Prejudice as to this Fact. It hath been the Caſe of many Gentlemen beſides myſelf; I deſire that theſe Gentlemen would take my Caſe into Conſideration, as they would their own, and I deſire that the Lord would give them Direction that they may do that which is according to Juſtice and Mercy; that is all that I have to ſay, my Lords.*

Lord Chief Baron. You Gentlemen that are ſworn of this Jury, you ſee the Priſoner Mr. *Scroop* hath been Indicted for Imagining and Contriving the Death of his late Majeſty, of Bleſſed Memory, King *Charles* the First. You ſee there are ſeveral Things in this Indictment; the Charge is the Imagining and Compaſſing the Death of the King. In the Indictment there are ſeveral Matters of Fact to prove this Imagination. The Imagination is the Treaſon, the Matters of Fact to prove it are but the Evidences of that Imagination; if any one of them be proved to you, it is ſufficient; the one is Conſulting and Meeting together how to put him to Death, the other Sitting and Aſſuming Authority to bring him to Trial. Then you have a Sentence by the Court to put the King to Death thereupon; afterwards he was put to Death: Any one of theſe Matters are Evidence enough for you to prove the *Indictment*; for though the *Indictment* concludes that ſo they did *Imagine* and *Compaſs* the Death of the King, and that the King was put to Death in Manner and Form as aforeſaid; the Manner and Form aforeſaid goes to this, to the Imagination of the Heart; for the *Law* did not think any one would put the King to Death, they thought it ſo a Crime, they thought it not convenient to bring it into the Statute. But the *Compaſſing* and *Imagining* the Death of the King is made Treaſon: Then to apply it, this Fact, to the Gentleman, it appears to you here by the Proofs againſt him. Here is Mr. *Maſterſon* ſwears he ſaw him ſit in that pretended Court; there was your Evidence of the firſt, the firſt was their *Meeting together*; and of the ſecond too, they did *aſſume Authority* upon them; and he ſwears further to the *Sentencing*, That the Priſoner was there. Here were the Three *Overt-Acts* all proved. He confeſſes he did Sign the *Warrant* for putting the King to Death: This, without any Witneſs at all, was a ſufficient Proof, a Proof of Proofs. The other Witneſſes, you hear what they ſay; you hear Mr. *Kirke*, Mr. *Clark*, Mr. *Nutley*, ſwear all to his Sitting there. It is true, when this comes to the Particulars where he ſate, you muſt remember it was Twelve Years ago; when a Man ſees a mixt Number of about Eighty Perſons, it is impoſſible a Man ſhould be able to anſwer this Particular after Twelve Years, where ſuch a one ſate; but you may ſee by his Sentencing what he did. They all witneſs they ſaw him poſitively; and one tells you, *He wondered he ſaw him there*; and indeed it might be a Wonder; for Mr. *Scroop* (to give him his Right) was not a Perſon as ſome of the reſt, but he was unhappily engaged in that Bloody Buſineſs, I hope miſtakenly; but when it comes to ſo high a Crime as this, Men muſt not excuſe themſelves by Ignorance or miſguided Conſcience. As to God, for this *Horrid Murther of the King*, ſomewhat may be, but there is no Excuſe or Extenuation before Man; there may be, I ſay, before the Lord. You ſee the Proof is full againſt this Gentleman, as full as may be; Witneſſes ſaw him Sit, and he himſelf confeſſed he Signed the *Warrants*. I have no more to ſay to you, but, *Gentlemen*, you ſee what it is; I think for Matter of *Fact* you need not go from the *Bar*; but I leave it to you.

Scroop. *My Lord* ——

Lord Chief Baron. Mr. *Scroop*, if you have any thing to ſay when the Jury have brought in their Verdict, if you will ſay any Thing for Matter of *Mercy*, the Court will hear you.

Scroop. *I thank your Lordſhip.*

The Jury went together, and preſently ſettled themſelves in their Places.

Clerk. Adrian Scroop, hold up thy Hand. Look upon the Priſoner. How ſay you? Is he Guilty of the Treaſon whereof he ſtands Indicted and hath been Arraigned, or Not Guilty?

Jury. Guilty.

Clerk. What Goods and Chattels, *&c.*

Jury. None that we know.

Lord Chief Baron. If you will ſay any Thing, the Court will hear you.

Scroop. *I have no more, my Lord, but refer myſelf to this Honourable Court.*

Clerk. Set *John Carew*, *Tho. Scot*, *John Jones*, and *Gregory Clement* to the Bar; who were ſet accordingly; and being commanded, they ſeverally held up their Hands.

Clerk. Theſe Men that that were laſt called, *&c.*

Sir *Thomas Allen*, Lay your Hand on the Book: Look, *&c.*

Carew. *I challenge him.*

Lord Chief Baron. Are you all agreed as to your Challenges?

Priſoner. *No, my Lord.*

Lord Chief Baron. Then we muſt do as before, ſever you, and go to Trial ſeverally: Take the Three away, and let Mr. *Carew* ſtand at the Bar.

Challenged, *Charles Pitfield*, —— *Wille*, *Will. Smiths*, *Rich. Rider*, *Edward Ralph*, *James Shercroft*, *Thomas Uffman*, *Francis Beal*, *Will. Whitcombe*, *Samuel Harris*, *Jo. Nichol* of *Finchley*, *George Right*, *Thomas Fruen*, *Ab. Newman*, *Thomas Blithe*, *Will. Vincent*, *James Hawley*, *Chr. Abdy*, *Tho. Bide*, *John Smith*, *Ab. Sudamore*, *Ralph Halſel*, *John Galliard*. In all 23.

Jury Sworn, *Robert Clarke*, *Thomas Grover*, *Richard Whaley*, *Samuel Greenhil*, *Nicholas Raynton*, *Thomas Winter*, *Richard Cheney*, *John Kerk*, *Rich. Abel*, *Thomas Morris*, *George Tirrey*, *Tho. Swallow*; in all 12.

If any Man can inform my Lords the King's Juſtices, *&c.*

Clerk. John Carew, hold up thy Hand.

You that are Sworn look upon the Priſoner: You ſhall underſtand, *&c.*

Sir *Edward Turner.* May it pleaſe your Lordſhips, our Hue and Cry ſtill proceeds againſt the Murtherers of our late Sovereign Lord King *Charles* the Firſt of Bleſſed Memory, and this Gentleman the Priſoner at the Bar is apprehended as one among others for ſhedding that Precious Blood. Gentlemen of the Jury, he ſtands Indicted before you, for that he (I cannot expreſs it better) not having the Fear of God before his Eyes, but being ſeduced by the Inſtigation of the Devil, he did Imagine and Compaſs the Death of his ſaid late Majeſty. In Proſecution of this, Gentlemen, there be ſeveral Things that are mentioned in the Indictment, which are the open Acts to diſcover to you theſe Secret and Private Imaginations. He did meet and conſult with divers Perſons touching the Death of the King, that did uſurp and take upon them to exerciſe a Power and Juriſdiction to Try the King; and finally, moſt horribly put him to Death. The Treaſon by the Statute of 25 *Edw.* III. and which you are to enquire of, is, the Imagination and Compaſſing the Death of the King; the reſt of the Indictment are but Particulars to prove that he did ſo Imagine and Compaſs the Death of the King. If we ſhall prove theſe, or any of theſe Facts, you have then ſufficient to convict him. There was a Thing they called a High Court of Juſtice, that was ſet up, wherein they did intend to try our late Sovereign Lord, and a Precept made, and that under the Hand and Seal of the Priſoner at the Bar, amongſt others, for ſummoning and convening that Bloody Court, where (among the reſt of the Miſcreants) the Priſoner at the Bar did ſit, and had Confidence, nay, Impudence, to pronounce Judgment againſt his Sovereign. In this he reſted not, but he, among them, ſet his Hand and Seal to that Bloody Roll or Warrant for putting him to Death, which accordingly was done; and to theſe ſeveral open Acts we ſhall call our Witneſſes, and ſo proceed.

Mr. *Maſterſon*, Mr. *Clark*, and Mr. *Kirk* ſworn.

Council. Mr. *Maſterſon*, look upon the Priſoner, did you ſee him ſit in that they called the High Court of Juſtice?

Lord Chief Baron. Mr. *Carew*, if you will have Pen, Ink, and Paper, you may have it, pray call for it.

Carew. *I have no need of it.*

Council. Mr. *Maſterſon*, did you ſee, *&c.*

Maſterſon. My Lords, and Gentlemen of the Jury, I was preſent at that Aſſembly, which they called the High-Court of Juſtice for Trial of the King, upon the 22d, 23d, and 27th Days of *January* 1648, and there I ſaw the King ſtand a Priſoner at the Bar. I ſaw this Gentleman, the Priſoner at the Bar, ſit upon the Bench in that Court, as one of his Majeſty's Judges; particularly upon the 27th Day of *January*, which was the Day of Sentence, I ſaw him ſitting there.

Council. Mr. *Clark*, you hear the Queſtion; Do you remember that you ſaw the Priſoner at the Bar ſitting in that which they called the High-Court of Juſtice?

Mr. *Clark.* I remember I ſaw the Priſoner at the Bar ſitting in that which they called the High-Court of Juſtice for the Trial of the late King, and particularly I took Notice upon the 23d and 27th of *January* 1648, that he was preſent.

Council. What was done upon the 27th Day?

Mr. *Clark.* The 27th Day the late King was Sentenced to Death.

Jury. What is your Name, Sir?

Council. His Name is *William Clark.*

Council. Mr. *Kirk*, What ſay you to the former Queſtion touching the Priſoner, his being at that which they called the High-Court of Juſtice?

Mr. *Kirk.* My Lords, and Gentlemen of the Jury, I was preſent at the Trial of his late Majeſty of Bleſſed Memory. I ſaw that Gentleman, the Priſoner at the Bar, ſeveral Days there, particularly the Day of the Sentence, which was the 27th Day of *January* 1648; when the Sentence was paſſed he roſe up, aſſenting to it. [*Then the Warrant for ſummoning that pretended Court was ſhewed to Mr.* Kirk.]

Council. Do you believe that Hand to be the Hand of Mr. *Jo. Carew*, Priſoner at the Bar?

Kirk. My Lords, I do believe it to be his Hand; I have ſeen his Hand to ſeveral Orders, and being very well acquainted with his Hand-

writing, I believe it to be his Hand as much as any Man can poſſibly know another Man's Hand.

[*Then the Warrant for Execution of the King was likewiſe ſhewn him.*]

Council. Is that the Hand alſo of the Priſoner at the Bar?

Kirk. It is the ſame Hand, my Lord.

Court. Was Mr. *Carew* a Member of the Long Parliament?

Kirk. Yes, my Lord.

Council. Had you Occaſion to be acquainted with his Hand?

Kirk. My Lord, I have ſeen him ſet his Hand ſeveral times to Orders and other Papers.

Mr. *Farrington* Sworn.

Council. Do you know [*the Warrants being ſhewn him*] thoſe Hands to be the Writing of the Priſoner at the Bar?

Far. My Lords, really I believe theſe are his Hand.

Court. Are you acquainted with his Hand?

Farrington. Yes, my Lord, and I do believe theſe to be his Hand-writing. I did not ſee him write them, but ſo far as poſſibly a Man can know another's Writing I do believe theſe to be his.

Court. If you will aſk to ſee them, you may ſee them, Mr. *Carew.*

Carew. *Pleaſe you to go on.* Here they were both read.

Council. May it pleaſe your Lordſhips, we ſhall not need to trouble the Jury any further: we have proved that the Priſoner did Sign that Warrant for ſummoning that Court of Injuſtice, that he ſate there and ſentenced the King to Death among others, and that he ſigned the Warrant for Execution.

Lord Chief Baron. Mr. *Carew*, you have heard the Evidence; you may pleaſe to ſpeak what you think fit for your ſelf.

Carew. *My Lords, the Crimes that are here laid to my Charge in this Indictment are Treaſon and Murther.*

Lord Chief Baron. I would not have you to be miſ-informed, it is *Treaſon* only, but it carries the other in with it, *Murther.*

Carew. *Becauſe you ſay it carries the other incluſively.*

Lord Chief Baron. It doth; the Charge is the Compaſſing and Imagining the Death of the King, the other is but Evidence.

Carew. *Then the Thing that I ſtand upon before the Lord, and before you all, I ſay before the Lord, before whom we muſt all ſtand, and give an Account of this Action, which is a very great and weighty one: And whereas it is charged there (for I ſhall not trouble you with many Words as to the Particulars, or as to the Proofs, but I ſhall ingenuouſly acknowledge what the Truth is, and how far I can believe it;)—and therefore I ſay, as to the Beginning of what was charged by the Council, and according to the Co[illegible] of the Indictment, that what was done in theſe Things, that it was not [illegible] the Fear of God before mine Eyes, but being moved by the Devil, and that [illegible] done with a Traitorous, Malicious, and Deviliſh Heart, and all the [illegible] mentioned in the Indictment: As for that, I can ſay in the Preſence [illegible] Lord, who is the Searcher of all Hearts, that what I did was in his Fear, and I did it in Obedience to his Holy and Righteous Laws.*

[*Here the People hummed.*]

Lord Chief Baron. Go on. He ſtands for his Life, let him have Liberty.

Carew. *It is Part of my Charge not to have the Fear of God, &c. I did ſuch and ſuch Things. I hope I may have Liberty.*

Lord Chief Baron. Go on, you ſhall not be interrupted.

Carew. *I ſay, that I did it in the Fear of the Lord, and I will begin with that, and confeſs ingenuouſly the Truth of it. When this came into Queſtion, there was an Ordinance brought in to Try the King, where my Name was not as one of the Judges. There was another afterwards, an Act which I ſhall mention upon what Ground by and by, what that was, and that Act was brought in and committed, and Names brought in, and my Name was not brought in, and ſo afterwards my Name was put in, and ſeeing it I did ſtrike it out. After the Committee was up, I told them I did deſire to be excuſed in ſuch a Buſineſs. I have told you, how, wherein, and the Ground that I did it, which I ſhall leave with the Lord, in whoſe Hand your and my Breath, and all our Breaths, are; and therefore when it was ſo, I did, becauſe of the Weight of it, as being a very great and ſpecial Thing, and ſo I was very unwilling, becauſe of there being enow, which I thought had more Experience every Way for ſo great a Concernment as that was, to be employed rather than I; yet being ſatisfied with that Authority that did it, this is to ſhew you how that I had the Fear of the Lord, and did weigh the Things: After that, when the Bill was brought into the Houſe, my Name was put in there with ſeveral others, ſo I came to be in; and what I did was upon theſe two Accounts: Firſt, in Obedience (as I told you) to the Lord, which was the chief Thing, and in Obedience to that which was then the Supreme Authority of this Nation; and therefore I ſhall mention theſe Grounds very briefly, becauſe indeed the Things that are controverted here at this Time, they have been controverted in the Face of the whole World in ſeveral Nations; and the Lord hath given an Anſwer upon ſolemn Appeals to theſe Things; I ſhall therefore mention them very briefly, becauſe they have been ſo publick. The* Declarations *and* Remonſtrances *that have paſſed between the King and Parliament concerning the beginning of the Wars*———

Lord Chief Baron. Mr. *Carew*, I would be very loth to interrupt you, but I ſee what Courſe is taken, and the Peoples Eyes are upon you: You ſeek Delays, and againſt the Courſe of Priſoners: You ſay you will confeſs, but you don't confeſs the Fact, after you have ſpent all this Time; and all the Witneſſes are heard for this that you ſpeak of now; if you go about to juſtifie *as in the Fear of the Lord*, or any Thing of that Nature, that we cannot allow of; but we do allow you to ſpeak and give the Heads of what you will ſay as to the Matter of Fact; but to hear you make Diſcourſes and Debates which are a Juſtification of a horrid and notorious Treaſon, we cannot hear it; we ought not to hear the maintaining of open Treaſon; cannot hear you to ſpeak that upon your opening, which is Treaſon: We are willing that you open the Heads what you have to ſay; we are upon our Conſciences, and to appear before God for what we do, and ſo are you too; but remember, the Devil ſometimes appears in the Habit of an Angel of Light. If you will couch your Matter in a few Words, the Court affords you Liberty, which is indeed beyond the ſtrict Rules of Law.

Carew. *You ſay you ſit here by the Laws of the Land, and are ſworn to maintain the Laws. We ought not, that we ſhould plead to this Indictment, for what we did was by an Act of Parliament.*

Court. Pray, Sir, this muſt not be let fall without Reproof, or rather Puniſhment.

Carew. *I believe there is no Precedent for it.*

Court. Sir, we know the Act of Parliament as well as you, and moſt of the Standers-by: You go upon a falſe Ground, there was no ſuch Act of the Supreme Authority as you pretend to; theſe are but Phantaſms of your own Brain, and muſt not be ſuffered; theſe Things have been controverted and decided many a time again and again.

Carew. *I deſire to have Time to ſpeak how it was begun and carried on, or elſe how ſhall I be able to make my Defence, or to tell you what are the Heads I will inſiſt upon: I ſhall declare the Grounds upon which the Parliament did proceed.*

Lord Chief Baron. Mr. *Carew*, If that be your Ground, the Parliament did it, the Houſe of *Commons* did it, I have ſomething to offer (not to interrupt you) to the then *Commons*———

Carew. *In my humble Opinion for the maintaining of this, it was by Authority, the Supreme Authority, by which it was done.*

Lord Chief Baron. Did you ſign this Warrant for the Summoning and Warning of that Court? And did you ſign the Warrant for Executing the late King?

Carew. *I deſire I may go on with my Defence.*

Lord Chief Baron. We would not have you be miſtaken: You ſeem to confeſs the Act, and now you juſtifie it; you cannot ſpeak any Thing for your Juſtification till you confeſs the Fact.

Carew. *I ſhall ſpeak to that in its Time.*

Lord Chief Baron. You muſt ſpeak to that firſt, that is Matter of Fact, whereupon the Jury are to go.

Carew. *There is Matter of Law.*

Court. You muſt ſpeak to Matter of Fact firſt.

Carew. *I ſay, this is that I was about to ſay, That the Supreme Authority—*

Court. You muſt ſpeak to the Fact firſt, Whether you did Compaſs, &c. the King's Death, or not? That is the firſt Ground; if you did not, there's an End of the Buſineſs: It is proved againſt you that you did it; if you come to juſtifie it, it muſt be when you have firſt agreed the Matter of Fact.

Carew. *I deſire I may have Liberty to proceed, either for Matter of Fact, or Law, as I liſt.*

Court. No, no, you muſt firſt ſpeak to the Fact; you may be after heard. You know in all Caſes they muſt begin with the Fact, either denying or extenuating; for Matter of Law in this Caſe muſt ariſe from the Fact.

Carew. *But I humbly conceive there is a Matter of Law in this Caſe, and it is Matter of Law that is above the Juriſdiction of this Inferior Court.*

Mr. Sol. *Finch.* I pray that he may be held to the Iſſue, *Guilty*, or *Not guilty:* If he deny the Fact, let us rely upon our Evidence, and he upon his; he cannot come to Law till he hath confeſſed the Fact. The Queſtion is, Whether you did, or not? There is the Fact; if you have any Thing to juſtifie, that follows.

Carew. *I was upon that, and going on to ſhew the Reaſons and Grounds of it.*

Court. Firſt you muſt confeſs it, if you will ſhew the Reaſons why you did it.

Carew. *I told you there was ſome Things I did.*

Court. What are thoſe ſome?

Carew. *I do acknowledge that I was there at the Court.*

Council. Did you Sign the Warrants for Summoning that Court, and for Execution of the King?

Carew. *Yes, I did Sign them both.*

Council. Then ſay what you will.

Lord Chief Baron. Now go on.

Carew. *In the Year* 1640, *there was a Parliament called according to the Laws and Conſtitutions of this Nation, and after that there was ſome Difference between the King and the Parliament, the Two Houſes of Parliament, Lords and Commons, and thereupon the King did withdraw from the Two Houſes of Parliament, as appears by their own Declaration,* The Great Remonſtrance, *Printed in* 1642; *and thereupon the Lords and Commons did declare*———

Lord Chief Baron. Mr. *Carew*, the Court are of Opinion not to ſuffer you to go on in this; they ſay it tends not only to juſtifie your Act, but you caſt in Bones here to make ſome Difference. You talk of the Lords and Commons; you have nothing to do with that Buſineſs; your Authority that you pretend to was an Act of Parliament (as they called themſelves), and that where there was but 46 Commons in the Houſe, and but 26 Voted it.

Carew. *I ſay, that the Lords and Commons by their Declaration*——

Mr. *Juſtice Foſter.* Hold your Hand a while, Sir, not ſo faſt; you go to raiſe up thoſe Differences which I hope are aſleep; New Troubles, to revive thoſe Things which by the Grace of God are extinct; you are not to be ſuffered in this; it is not the ſingling out of a few Perſons that makes a Parliament. We ſee as before, ſo ſtill, it is your Courſe to blow the Trumpet of Sedition. Did you ever hear, or can you produce Inſtances of an Act of Parliament made by the Houſe of Commons alone? though this was not the Houſe of Commons, as you heard before.

Carew. *Neither was there ever ſuch a War, or ſuch a Precedent.*

Court. Nor we hope never will be: Pray remember, you were returned to ſerve in the Houſe; what was that Writ that ſummoned your Appearance? You had no Manner of Ground in the World to go that Way that you did.

Council. We pray that the Priſoner at the Bar give us Patience a little to repeat that to him which your Lordſhips have been ſo often troubled with declaring; this is not the Firſt or Second Time that in this Publick Aſſembly it hath been ſaid, That neither the Lords nor the Commons, jointly nor ſeverally, have any Power at all to proceed upon the Perſon of the King; that it is not in their Power to condemn any Man in *England* without the good Pleaſure of the King, much leſs the King himſelf; and that this is the great Liberty of the People of *England*

land that it ſhould be ſo; and it was the Firſt Breach and Invaſion of our Liberty that that Firſt Parliament made, and which you juſtifie in the Name of the Lord. In this Caſe to throw us upon Debates of the War, and to talk here of the Cauſes and Reaſons of that Quarrel which ended in ſuch a Tragedy; for this Perſon to come here with this Confidence, and to juſtifie it, but that he knows he cannot be in a worſe Condition, one would wonder it ſhould fall from any Man that hath any regard of himſelf. It is all one to them that Periſh, whether they fall by one Sin, or Multitudes: He makes no Scruple to multiply Treaſons. I do beſeech your Lordſhip he may not offer as he hath begun, but that the Jury may proceed.

Court. All the Court are of the ſame Opinion, not to hear any thing like the former Diſcourſes.

Carew. *I deſire I may be heard; I have not Compaſſed the Death of the late King, Contrived the Death of the King; what I did, I did by Authority.*

Court. This is not to be heard; you have heard what hath been ſaid to you, there could be no ſuch Authority, neither was, nor could be; but you would by a Wire-lace bring it in by this. You have confeſſed the Fact, which muſt be left to the Jury.

L. Anſley. I think you were preſent in the Houſe of Commons when that Vote paſſed for Agreement with the King in the Treaty at the *Iſle of Wight*. You know the King having condeſcended to moſt of the Deſires of his Parliament, there was a Debate in the Houſe, and a Concluſion that they were Grounds for Peace. You know the Lords and Commons did reſolve to agree with their King; when that was done, that would not ſatisfie you, and other Members of the Houſe; then you go and contrive new Ways; you contrive a New-faſhioned Parliament, the driving away many Members by Power, which you could not do by the Law of the Land: Nay, the Parliament had declared againſt: That which you pretend is by Authority, is no Authority; for a few of you ſet up an Arbitrary Parliament of a few of yourſelves, when you had driven away the reſt: This kind of Parliament gives you the Authority you pretend to. You were ſaying that the Parliament was called at firſt, the Lords and Commons, by the King, according to the ancient Conſtitutions of the Laws: Did ſuch a Parliament give you ſuch Authority as you pretend to? an Act of Parliament, as you call it, which was but an Order of ſome of the Commons, and but a few of them; you can have no Manner of Juſtification, and therefore your Plea muſt be over-ruled, as Yeſterday it was in the like Caſe. You are Indicted upon a clear Act of Parliament of 25 *Edward* III. and you defend yourſelf upon Pretence of an Act of Parliament, which hath been over-ruled as no Act.

Carew. *I am a Stranger to many of theſe Things which you have offered, and this is ſtrange, you give Evidence ſitting as a Judge.*

Lord Chief Baron. You are miſtaken, it is not Evidence; he ſhews you what Authority that was, an Authority of 26 Members: How is this Evidence? Mr. *Carew*, if you have any Thing more of Fact, go on: If you have nothing but according to this kind of Diſcourſe, I am commanded to direct the Jury.

Carew. *I am very willing to leave it with the Lord, if you will ſtop me that I cannot open the true Nature of thoſe Things that did give me ground of Satisfaction in my Conſcience that I did it from the Lord.*

Mr. *Sol. Gen.* I do pray, for the Honour of God, and our King, that he may not be ſuffered to go on in this manner. You have been ſuffered to ſpeak; you have ſaid but little, only Sedition, you pretend a Conſcience, and the Fear of the Lord, when all the World knows you did it againſt the Law of the Lord, your own Conſcience, the Light of Nature, and the Laws of the Land, againſt the Oaths you have taken of Allegiance and Supremacy.

Carew. *Gentlemen of the Jury, I ſay I ſhall leave it with you. This Authority I ſpeak of is right, which was the Supreme Power; it is well known what they were.*

Council. It is ſo indeed, many have known what they were.

Lord Chief Baron. Mr. *Carew*, You have been heard what, and beyond what, was fit to ſay in your own Defence; that which you have ſaid, the Heads of it you ſee the whole Court hath over-ruled. To ſuffer you to expatiate againſt God, and the King, by Blaſphemy, is not to be endured; it is ſuffering Poiſon to go about to infect the People; but they know now too well the Old Saying, *In Nomine Domini, in the Name of the Lord*, all Miſchiefs have been done; that hath been an Old Rule. I muſt now give Directions to the Jury.

Lord Chief Baron. Gentlemen of the Jury ——

Carew. *I have deſired to ſpeak the Words of Truth and Soberneſs, but have been hindered.*

Lord Chief Baron. Gentlemen of the Jury, you ſee the Priſoner here at the Bar hath been Indicted of Treaſon, and this was for Compaſſing and Imagining the Death of our Sovereign Lord King *Charles* the Firſt of Bleſſed Memory. This Indictment ſets forth ſeveral *Overt-Acts* to prove this Imagination, for otherwiſe it is Secret in the Heart; the Fact itſelf, the Treaſon itſelf, is the Imagination of the Heart: The *Overt-Acts* that are laid down in the Indictment to prove this, *That they did conſult and meet together how to put the King to Death, That they did ſit upon him:* And Thirdly, *That they did Sentence him to Death, and afterwards he Died.* You heard what is proved againſt the Gentleman, the Priſoner at the Bar, by ſeveral Witneſſes, his own Confeſſion, That he ſigned the Warrant for Summoning and Convening that Court together, whereby the King was to be brought to his Trial; and that he ſate at his Sentence, and iſſued the Warrant for his Execution: You ſaw that this Gentleman did the Fact, did Compaſs and Imagine the King's Death. That which you are to try is this Iſſue, being indicted for *High-Treaſon*, and pleading *Not guilty*; whether this Gentleman that went ſo far, Sate upon him, Condemned him, Signed the Warrant for his Execution, did not *Compaſs* and *Imagine* the King's Death? I think you need not ſtir from the Bar where you are, but I leave that to you.

After a very ſmall Time of Conſultation by the Jury amongſt themſelves at the Bar, they agreed in a Verdict.

Silence was commanded.

Clerk. *John Carew.* Hold up thy Hand. Gentlemen of the Jury, look upon the Priſoner: How ſay you? Is he Guilty of the horrid Treaſon whereof he ſtands Indicted, or Not guilty?

Fore-man, Guilty.

Clerk. What Goods and Chattels, *&c.*

Jury. None that we know of.

Mr. Scot's *Trial, on Friday* October 12, 1660, *at the* Seſſions-Houſe *aforenamed.*

Clerk. Set *Thomas Scot* to the Bar (which was accordingly done): *Thomas Scot, Hold up thy Hand.* Theſe Men that have been of the laſt Jury are to try, *&c.* If you will Challenge all, or any of them, you muſt Challenge them before they are Sworn.

Scot. *I deſire that thoſe Men who have been of the former Jury may not be named. I know my Liberty of excepting againſt my Number.*

Lord Chief Baron. Mr. *Scot*, That which you do deſire is a Thing not right; the Offence with one is not the ſame with others: I ſpeak not but that the Court will do you all Right; the Court will grant it, if you will wave your Challenges; but if you mean thoſe that have been by others Challenged, it is againſt Law.

Scot. *I am willing to bring my ſelf upon my Trial, and I will take the ordinary Way of Excepting and Challenging.*

Sir *Hen. Worth*, Sir *Jer. Whichcote*, *James Hawley*, *Rich. Rider*, *Fra. Beale*, *Chr. Abdy*, *Nicho. Raynton*, *Tho. Winter*, *John Kirke*, *Rich. Abel*; Sir *Tho. Aleyn*, *Abr. Scudamore*, *Ralph Halſall*, *George Tirrey*, *Tho. Swallow*, *Charles Pickerne*, *Arthur Newman*, *Tho. Blithe*, *William Vincent*, *Rich. Whaley*, were called and challenged.

Thomas Grover, *Edw. Rolfe*, *Tho. Uſman*, *William Whitcombe*, *Rich. Cheney*, *Tho. Bide*, *Charles Pitfield*, *John Smith*, *Tho. Morris*, *Tho. Fruen*, *Henry Twyford*, *Samuel Starnel*, were the Jury Sworn.

Clerk. Crier, make Proclamation.

Cryer. O Yes, if any Man can inform my Lords the King's Juſtices, *&c.*

Clerk. Tho. Scot, Hold up thy Hand. You that are ſworn of this Jury, you ſhall underſtand that the Priſoner at the Bar ſtands Indicted by the Name of *Tho. Scot*, late of *Weſtminſter*, in the County of *Middleſex*, Gent. *For that he, together with* John Liſle, *&c.* [*Here the Indictment was read.*] Unto which Indictment he hath been arraigned, and thereunto hath pleaded Not guilty, and for his Trial hath put himſelf upon God and the Country, which Country you are. Now your Charge is to enquire whether, *&c.*

Mr. *Sol. Gen.* You that are ſworn of this Jury, this Inquiſition for Blood, Royal Blood, goes on againſt the Priſoner at the Bar; he ſtands Indicted for Compaſſing, Imagining, and Contriving the Death of the late King, of Bleſſed Memory: It is laid to his Charge in the Indictment, that he did Aſſemble at *Weſtminſter*, and that he, with other Perſons, uſurped the Authority of Sitting and Sentencing to Death his ſaid late Majeſty, and that in Conſequence and Purſuance of that the King came to his Death: The Treaſon he ſtands charged with is the Compaſſing and Imagining the King's Death; the other Parts of the Indictment are but Overt-Acts, that do but evidence and prove the Corruption of his Heart. If we prove but ſome of theſe Overt-Acts, then you muſt find him Guilty. Our Evidence againſt this Gentleman will be thus: We ſhall call Witneſſes to prove his Sitting in the Court, Sentencing his King, while his King ſtood a Priſoner at the Bar; the Warrant for Execution of the King, directed to certain Perſons to ſee Execution done accordingly, was under Hands and Seals, and among thoſe Hands and Seals the Hand and Seal of the Priſoner at the Bar is one: And then we ſhall produce to your Lordſhips Witneſſes to ſhew you with what a hard and impenitent Heart this hath been committed; for he ſo gloried in the Act, that he deſired it might be writ upon his Tomb——

Mr. *Nutley*, Mr. *Kirke*, Mr. *Maſterſon*, and Mr. *Clark*, ſworn.

Council. Mr. *Maſterſon*, be pleaſed to tell my Lords and the Jury if you have ſeen the Priſoner at the Bar ſit in that which they called the *High-Court of Juſtice.*

Mr. *Maſterſon.* My Lords, and Gentlemen of the Jury, I ſaw the Priſoner at the Bar preſent at the High-Court of Juſtice (as they called it) for the Trial of the late King ſome Days; that is to ſay, either upon the 22d or 23d Day of *January* 1648; but particularly upon the 27th Day of that Month in the ſaid Year, when the Sentence of Death was pronounced againſt his late Majeſty, I ſaw the Priſoner at the Bar preſent.

Council. As one of the Judges, do you mean?

Mr. *Maſterſon.* As one of the Judges ſitting upon the Bench.

Scot. *Do you know whereabouts I ſate?*

Mr. *Maſterſon.* I cannot ſatisfie you in that, but I ſaw you ſitting upon one of the Benches.

Council. Mr. *Clark*, you hear the Queſtion, pray anſwer what you know touching it.

Mr. *Clark.* My Lords, and you Gentlemen of the Jury, I was preſent in the Year 1648, when his late Majeſty ſtood a Priſoner at the Bar in that which they called the *High-Court of Juſtice*, and among other Perſons there preſent in that Buſineſs, I obſerved Mr. *Scot*, the Priſoner at the Bar, to ſit as one of the Judges, and particularly upon the 23d and 27th Days of *January* in the ſaid Year, upon which laſt Day the Court pronounced Judgment upon the late King.

Council. Did he ſtand up as aſſenting to the Sentence?

Mr. *Clark.* They all ſtood up, to my Apprehenſion, I know not particularly whether the Priſoner at the Bar did.

Council. Mr. *Kirke*, tell my Lords and the Jury your Knowledge in this Buſineſs touching the Priſoner at the Bar.

Mr. *Kirke.* I was preſent at the Trial of his late Majeſty ſeveral Days; among the reſt of the Perſons that ſate in the Court as Judges, I ſaw the Priſoner at the Bar, and particularly upon the Day of the Sentence, the 27th of *January* 1648, the Court ſtood up unanimouſly as aſſenting.

Council. Shew him the Warrant for Execution.

Kirke. This is his Hand.

Council.

Council. Have you ſeen his Hand often?

Kirke. Yes, Sir, and am well acquainted with it.

George Farrington Sworn.

Council. Shew Mr. *Farrington* the Warrant; do you know that to be Mr. *Scot*'s Hand-writing?

Mr. *Farrington.* I did not ſee him write it, but I do verily believe it to be his; I have often ſeen his Hand-writing.

Council. Mr. *Nutley*, do you know Mr. *Scot*'s Hand-writing? Is that Mr. *Scot*'s Writing? [*The Warrant ſhewn him.*]

Mr. *Nutley.* I do verily believe it is.

Council. Have you been acquainted with the Writing of his Name?

Mr. *Nutley.* I have ſeen him write his Name, and do verily believe it to be his Hand.

Council. Clerk, read the Warrant. *He read it accordingly.*

Council. That which remains of our Evidence is to prove his boaſting of this Villainy; we ſhall deſire you to hear Sir *Theophilus Biddolph.*

Sir *Theophilus Biddolph* Sworn.

Council. Pray tell my Lords and the Jury what you have heard the Priſoner ſay touching this Buſineſs of putting the King to Death.

Sir *Theophilus Biddolph.* I did hear him confeſs that he did ſit as one of the Judges of the late King; and that he was ſo far from repenting of the Act, that he did deſire when he died that a Tomb-ſtone might be laid over him with this Inſcription, *Here lies* Thomas Scot, *who adjudged to Death the late King.*

Council. Where did he ſay this?

Sir *Theo. Biddolph.* In the Parliament Houſe.

Colonel *Copley*, Eſq; Sworn.

Council. Pray, Mr. *Copley*, tell my Lords what you know of this Buſineſs.

Mr. *Copley.* My Lord, I was one of the Secluded Members; when we were called to ſit in the Houſe again, the Priſoner at the Bar, Mr. *Thomas Scot*, (I think it was the laſt Day we ſate,) there being ſome ſpeaking of the Horridneſs of the Fact, he made a long Harangue about that horrid Act; and he ſaid, *He hoped he ſhould never repent of it*, and deſired that when he died it might be written upon his Tomb-ſtone, *Here lies* Thomas Scot, *who adjudged to Death the late King.*

Council. We have done with our Evidence.

Court. Sir *Theophilus Biddolph*, When was it you heard him ſpeak thoſe Words?

Sir *Theo. Biddolph.* To my beſt Remembrance it was in *Richard*'s Parliament; it was about *January* or *February* was Twelve-months.

Council. Were not you a Member for the City of *London* in that Parliament?

Sir *T. Biddolph.* Yes.

Council. Mr. *Copley*, When was it that you heard it?

Mr. *Copley.* It was in *April* laſt.

Mr. *Sol. Gen.* It was a ſettled Perſuaſion of his Heart, and he thought it fit to be gloried in.

The Lord Mayor Elect Sworn.

Council. Pray, my Lord, tell my Lords what you know concerning the Priſoner at the Bar.

Lord Mayor Elect. My Lords, I was one of thoſe Secluded Members that were returned again a little before the coming in of his Majeſty: Upon the laſt Day of our Sitting, Mr. *Scot* ſeeing the Houſe muſt break, ſaid, *Their Heads muſt be laid to the Block if there was a new Parliament*, for ſaid you, [looking on Mr. *Scot*] *I confeſs I had a Hand in putting the King to Death, and I deſire all the World may take Notice of it, and I deſire when I die it may be written on my Tomb. I do not repent of any Thing I have done; if it were to do, I could do it again.*

Mr. Sol. Gen. Do it again! He follows his Blows home.

William Lenthall, Eſq; Sworn.

Council. Mr. *Lentball*, pray be pleaſed to tell my Lords and the Jury, what you do remember of any Diſcourſe of Mr. *Tho. Scot*, (the Priſoner at the Bar,) tending to the glorying in this Act, or any Thing in Juſtification of that Act.

Mr. *Length.* My Lords, the laſt Day it was, the laſt inſtant of Time, we were reſolving of breaking the Houſe, there was ſome Oppoſition in it, not very much: The general Conſent of the Houſe was to diſſolve it; I muſt confeſs at that Time I did hear Mr. *Scot* much juſtifie that Act of the Death of the King (which truly I was much offended at). I confeſs to you upon my Oath, touching his Speech of the Inſcription upon his Tomb, I did not hear that: Juſtifying the Death of the King he made a long Harangue about, and he ſate at the upper end of the Gallery; but theſe Words, *Of having it written upon his Tomb, and to have all the World take Notice of it*, I do not remember.

Council. My Lords, my *Lord Mayor Elect* omitted ſomething; pray let him ſpeak to it.

Lord Mayor Elect. My Lords, the Concluſion of his Speech ended thus: *Being it is your Pleaſure to have it ſo*, (the Houſe Diſſolved) *I know not how to hinder it; but when that is done, I know not where to* hide *this* hated HEAD *of mine.*

Council. We deſire to hear what the Priſoner will ſay for himſelf.

Scot. *I have no Certainty from the Witneſſes that I was there, but in a Wandering Way; they know not where I ſate, nor my Poſture.*

Mr. *Baker* Sworn.

Council. We do not call this Witneſs as material, for we muſt inſiſt upon it quite through, that after twelve Years Time it is not poſſible a Witneſs ſhould remember where every particular Perſon ſate. Pray hear this Witneſs.

Mr. *Baker.* I do perfectly remember that Mr. *Scot* ſate Two Rows above Mr. *Bradſhaw* on his Left Hand in that which they called the *High-Court of Juſtice.*

Scot. *As to the Warrant you ſpeak of, I know not what it ſignifies, I deſire to know what the Nature of it is.*

Council. The Warrant hath been read; it is not produced againſt him as a Record, for then it needed not be proved: But it is produced againſt him as an Evidence in Writing under his own Hand, that he was conſenting to the Death of the King.

Scot. *They may very much miſtake my Hand; you ſpeak of Words that I ſhould utter in Parliament, I do humbly inſiſt upon it that I am not to anſwer, nor they alledge, any Thing of that Nature: It is a high Breach of Privilege.*

Council. There is no Privilege of Parliament for Treaſon. Firſt, ſome of the Words were ſpoken in *Richard*'s Parliament, and that you do not own to be a Parliament; then another Thing (a known Rule in Law), there is no Privilege of Parliament for Treaſon.

Scot. *I have heard the Rule, but do not ſo well underſtand it, of that ſpoken in* Richard's *Parliament; it will be a Nice Thing for me to diſtinguiſh between that and another Parliament; but this I think, that Convention of the People ought to have the Privilege of the Parliament, as well as any other. I humbly conceive it was Teſtimony ought not to be given to you; whatever I ſay in Parliament, the Privilege extends to no more than this, that I may be lawfully ſecured till the Parliament hath been acquainted with it, but not finally concluded till the Parliament have heard it.*

Lord Chief Baron. You are indicted for *Compaſſing* and *Imagining* the Death of the King: I would have you underſtand, that in caſe a Man ſhould commit an Act of Treaſon, be it in what Place ſoever, there is no Place of Sanctuary for Treaſon: In caſe of Felony, if a Man be Indicted for Felony in the Parliament-Houſe, during the Time of Parliament, this is not to be tried in Parliament, but according to the Rule of Common Law; ſo in caſe of Treaſon, the Houſe of Commons in Parliament doth not try Treaſons: That Diſtinction which you make is nothing.

Scot. *I humbly conceive there is ſuch a Privilege, that no Man ſhall ever be called to Account for any thing ſpoken in Parliament, if he be not called to Account by the Houſe before any other Member be ſuffered to ſpeak.*

Lord Chief Baron. That is, the Houſe will not determine; but that doth not extend to your Caſe; you are not charged here criminally for ſpeaking thoſe Words that have been teſtified againſt you; but for Compaſſing and Imagining the King's Death, of which there are other Evidences, and this but an Evidence to prove that.

Scot. *My Lord, I never did ſay theſe Words with that Aggravation which is put upon them, I have a great deal of hard Meaſure; as to ſay,* I hope I ſhall never repent, *I take God to witneſs I have often, becauſe it was ſpoken well of by ſome, and ill by others, I have by Prayers and Tears often ſought the Lord, that if there were Iniquity in it he would ſhew it me; I do affirm I did not ſay ſo.*

Mr. *Baker.* My Lord, I omitted ſomething, which was this; I had occaſion to ſpeak with Mr. *Scot* whilſt *Richard*'s Parliament was Sitting, and among other Diſcourſe inſiſting upon ſome Things that *Richard* had done, ſaith he, *I have cut off one Tyrant's Head, and I hope to cut off another.*

Scot. *My Lord, this is but a ſingle Witneſs.*

Mr. Sol. Gen. I ſuppoſe he meant *Richard*, for he was a Tyrant.

Lord Chief Baron. Speak on, Mr. *Scot*, whatever you have to ſay.

Scot. *If that be laid aſide as an Impertinency, I have the leſs to ſay.*

Lord Chief Baron. The next thing you have to do is to anſwer to the Fact, whether you did it, or did it not.

Scot. *I ſay this, whatever I did, be it more or leſs, I did it by the Command and Authority of a Parliamentary Power; I did ſit as one of the Judges of the King, and that doth juſtifie me, whatever the Nature of the Fact was.*

Lord Chief Baron. We have had theſe Things alledged before us again and again: The Court are clearly ſatisfied in themſelves that this Act could not be done by any Parliamentary Power whatſoever. I muſt tell you what hath been delivered, that there is no Power on Earth that hath any Coercive Power over the King, neither Single Perſons nor a Community, neither the People collectively nor repreſentatively. In the next Place, that which you offer to be done as by Authority of Parliament, it was done by a few Members of the Houſe of Commons; there were but 46 there at that Time, and of thoſe 46, not above 26 that voted it; at that Time the Houſe of Lords was ſitting, who had rejected it, and without them there was no Parliament; there was a Force upon the Parliament, there was excluded Seven Parts of Eight: Suppoſing you were a full Houſe of Commons, and that without Exception, there was not Authority enough; and it is known to you, (no Man better) that there never was a Houſe of Commons, before this Time that this Foul Act was made for erecting that High-Court of Juſtice, (as you call'd it,) aſſumed that Authority of making a Law; you cannot pretend to act by Authority of Parliament; and becauſe you would excuſe it, you did it by Authority of Parliament, whether it were good or no: If any Man do that which is unlawful by an unlawful Authority, the aſſuming to do it by that Authority is an Aggravation, not an Extenuation, of the Fact: It was over-ruled; I think my Lords will tell you, That they do not allow of that Authority at all, either to be for Juſtification or Plea.

Scot. *My Lords, I humbly pray leave to ſay, that without Offence to the Court, (every Perſon whereof I honour) this Court hath not Cognizance to declare whether it were a Parliament or no.*

Lord Chief Baron. That was objected too; and we muſt acquaint you, That firſt of all, it is no Derogation to Parliaments, that what is a Statute ſhould be adjudged by the Common Laws. We have often brought it into Queſtion, whether ſuch and ſuch a Thing was an Act of Parliament, or not; any Man may pretend to an Authority of Parliament: If Forty Men ſhould meet at *Shooter's-Hill*, as the *Little Convention* did at *Weſtminſter*, and ſay, *We do declare ourſelves a Parliament of England*; becauſe they do ſo, ſhall not this be judged what is a Statute, and what not? It is every Day's Practice, we do judge upon it; the Fact is ſo known to every Body, they did aſſume to themſelves a *Royal Authority*; it hath been over-ruled already; it hath been the Miſtake of many; the vulgar Acceptation of the Word Parliament. A Parliament conſiſts of the King, Lords, and Commons; it is not the Houſe of Commons alone, and ſo it is not by Authority of Parliament: It is not, unleſs it be by that Authority which makes up the Parliament: You cannot give one Inſtance that ever the Houſe of Commons did aſſume the King's Authority.

Scot. *I can many, where there was nothing but a Houſe of Commons.*

Court. When was that?

Scot. *In the* Saxons *Time.*

Court. You ſay it was in the *Saxons* Time; you do not come to any Time within 600 Years; you ſpeak of thoſe Times wherein Things were obſcure.

Scot. *I know not but that it might be as lawful for them to make Laws as this late Parliament, being called by the Keepers of the Liberties of* England: *My Lords, I have no Seditious Deſign, but to ſubmit to the Providence of God.*

Court.

Court. This is Notorious to every Man; this we have already heard and over-ruled.

L. Finch. That that I hope is this, That Mr. *Scot* will contradict that which he hath said before; that is, that he hopes he should not Repent, I hope he doth desire to Repent. Mr. *Scot*, for this we must over-rule it, as we have done before; there is nothing at all to be pleaded to the Jurisdiction, and this Point hath been determined before.

Scot. *The Parliament in former Times consisted not so much of King, Lords and Commons, but King and Parliament. In the beginning of the Parliament in* 1641, *the Bishops were one of the Three Estates; if it be not properly to be called a Parliament, a Legislative Power, though it be not a Parliament, it is binding: If Two Estates may take away the Third, if the Second do not continue to execute their Trust, he that is in Occupancy may have a Title to the whole: I do affirm I have a Parliamentary Authority, a Legislative Power, to justifie me.*

Lord Chief Baron. Mr. *Scot*, what you speak concerning the Lords Spiritual is nothing to your Case, be it either one Way or other; it was done by an Act of Parliament, with Consent of the King, Lords, and Commons; though you will bring it down to make these Commons have a Legislative Power, I told you it was over-ruled before. We have suffered you to expatiate into that which was a thing not intended by many of my Lords, that you should have any such Power to expatiate into that which is nothing but indeed to make a new Government, which is the highest Treason next to the Murthering of the King, in the World; to subvert the Laws, and to make a few of the Commons, nay, if they had been the whole, to make them to have the Legislative Power. Mr. *Scot*, if you have any Thing in Extenuation of the Fact, we shall hear you; further we cannot.

L. Finch. If you speak to this purpose again, for my part I will profess myself I dare not hear further of it; it is so Poisonous Blasphemous a Doctrine, contrary to the Laws, if you go upon this Point, I shall (and I hope my Lords will be of that Opinion too) desire the Jury may be directed.

Scot. *I thought, my Lord, you would rather be my Council; it is not my single Opinion, I am not alone in this Case, therefore I think I may justifie myself in it; it was the Judgment of many of the Secluded Members to own us to be a Parliament.*

Lord Annesley. What you said last doth occasion my Rising; you seem to deliver my Opinion, who you know could never agree to what you have alledged; truly I have been heartily sorry to hear the Defence you have made to-day, because you know I have had Letters from you of another Nature; I was very confident to have heard you an Humble Penitent this Day, instead of Justifying yourself. As to that which you say of the Secluded Members owning you to be a Parliament, they were so far from it, that you know for how many Years they lay under Sufferings and Obscurity because they could not acknowledge that an Authority which was not so: You cannot forget the Declaration of both Houses that was published upon a Jealousie that the People had, they would change the Government of King, Lords and Commons; it was so far from their Thoughts, it was called in that Declaration, *A Black Scandal cast upon them:* This Declaration you know was by Order of both Houses affixed in all Churches of *England*, that People might take Notice what they held to be the Fundamental Government of this Kingdom, *King, Lords, and Commons:* After this for you to set up another Government, and under them to act such Things that one would think should hardly enter into the Heart of any Man! You know very well, all along they declared themselves Faithful Subjects to the King, and so would have lived and died: and you might have had your Share of the Happiness of that Peace, if you could have had an Inclination to submit to that which both Houses had resolved. When you and others could not bring your Hearts to stoop to your Fellow Subjects, when you could not submit to that equal Rule to take your Share with them, when Pride carried some so high, then was the beginning of your Fall and others; and none could expect other than what is now come to pass, that they should come to that Shame and Sorrow that this Day hath brought upon you: I could have wished to have heard nothing but an humble Confession of the Fault that hath been clearly proved, and no Justification of it: You have sworn, among others, to preserve the Laws and People of this Kingdom: but you drove away not only the House of Lords, but most of the Commons; and then to give the Name of a Parliament to the Remainder, this is a great Aggravation of your Treason. I think we of the Secluded Members could not have discharged our Duty to God and the Kingdom, if we had not then appeared in Parliament to have Dissolved that Parliament, and so by our joint Assent put an End to all your Pretences, which if we had not done, we had not so soon come to our Happiness, nor you to your Miseries.

Lord Chief Baron. The Court hath told you before their Opinions in the Thing, and no further Debate is to be allowed in this; the Justification of it doth comprehend Treason; we our selves are not by Law to allow the Hearing of it. If you have nothing to say for yourself, I must give Direction to the Jury.

Scot. *I humbly crave Leave to move the Jury that they bethink themselves, and consider of it rather as a special Verdict, than of a definitive one. I think there is Cause of a Special Verdict.*

Court. If there was need of a Special Verdict (we are upon our Oaths), I should give Direction to the Jury. What we do, we do upon our Oaths, and must answer it before God Almighty. The Court hath delivered their Opinions before, that in this Case the pretended Authority under which you did derive that Power which you did execute, that it is no Authority, it is void in Law, it is a Foundation (if it were true) of subverting all Laws, and indeed of all Religion; a Power that you assume to yourselves of Judging and Condemning your King; that you would countenance such an Authority, is a great Aggravation of the Fault. They are Judges whether you did Imagine or Compass the King's Death, that is all the Jurors have to do. Gentlemen of the Jury——

Scot. *I would know what particular Law I have transgressed in this Thing.*

Court. The Law of God and Man, 25 *Edw.* III.

Scot. *I humbly conceive that reaches not to this Case.*

Court. To satisfie you in that, the very Words of the Statute are, *If any Man do Compass or Imagine the King's Death, it is Treason*; the Indictment is, That you did Imagine and Compass the Death of the King: If the Fact be proved against you, you are within the Statute.

Scot. *You will not say the King shall be a Traitor if he shall Compass the Death of the Queen.*

Court. The Queen is a Subject.

Scot. *I am not yet convinced.*

Lord Chief Baron. Gentlemen of the Jury——

Scot. *I do plead and claim that I am within the Compass of several Pardons, and desire Council in that particular; I do come within the Compass of his Majesty's Pardon.*

Lord Chief Baron. If you had not gone on to Matter of Justification, you might have been more heard to this of Pardon; but after a Justification then to come for a Pardon, which implies a Confession of Guilt, they are Contradictory; I must tell you we are now upon Point of Law. That Proclamation I doubt not but his *Majesty* will inviolably make good; but we are not to judge of that, it is nothing to a Legal Proceeding: You are now in a Court of Law, it is not to be pleaded in a Court of Law; the King's Pardon in Law must be under his Broad Seal: How far you are under that Proclamation Care will be taken, and what is fitting to be done will be done; but it is nothing in the Matter of the Charge to this Jury.

Scot. *I desire Council touching the Statute* 25 Edw. III.

Court. You should have done it before you had confessed the Fact.

Scot. *I may do it in Arrest of Judgment.*

Lord Chief Baron. Mr. *Scot*, for that of the King's Proclamation, if you be within the Benefit and Compass of it, according to his Royal Word and Honour in it, you will have the Benefit of it; but it is not a Plea in Law, but it must be a Pardon under Seal; whatsoever concerns that Proclamation will be considered, it is nothing to the Matter whereupon the Jury are to go.

Lord Chief Baron. Gentlemen of the Jury, you see the Prisoner, *Tho. Scot*, stands indicted for Compassing and Imagining the Death of our Dread Sovereign King *Charles* the First of most Glorious and Blessed Memory: He is Indicted for Compassing and Imagining his Death, there is the Treason; and what is set afterwards in this Indictment is only to manifest this Compassing and Imagining, because that being in the Heart alone, without some Overt-Act Nobody can prove it: There are several Overt-Acts laid in the Indictment; one is, A Traitorous Consulting and Meeting together how to put the King to Death: Then a sitting upon the King as a Prisoner, being before them about his Life and Death: The third is Sentencing to Death; that which followed is, that he was Murthered: If any of these Acts should be proved, the Indictment is proved; for the Proof, there are several Witnesses have fully proved that he did sit there several Times, particularly upon *Jan.* 27. which was the Day of the Sentence; that he did sit there, all of them agree to that; it is true, as to the Circumstances where he sate, one Gentleman saith he sate in the Second Row, on the Left hand of *Bradshaw*; you will remember it is 12 Years ago, how any Man upon the View, and after so long a Distance of Time, would be able to remember in what Posture one Man was from the rest, I think neither you nor I can remember: Here is one proves to you that he did Sign the Warrant for Executing the King; he saith, *How can another know his Hand?* You see what the Witnesses say, they knew it; a Man can prove nothing more of another Man's Hand than that, unless they see it written; there is nothing to put upon you but his Words: You see what Words are aggravated against Mr. *Scot*; whereas he saith, it is a Breach of the Privileges of Parliament; if it were so, it is nothing to this Fact; though another Man should break the Privileges of Parliament, it is nothing to you; but besides, it is not a Breach of the Privilege of Parliament. You have heard the Witnesses what they have said against him. Mr. *Lenthall* swears that he did speak at large fully in owning that Business of the King's Death; the rest swear positively to the same Effect, and that at several Times; what was that? He gloried in it, defended it, and said, *He could wish it were Engraven on his Tomb-Stone*; he hath denied this that the Witnesses have proved: That which is left to you is, whether the Prisoner at the Bar is Guilty of Compassing and Imagining the King's Death; and so go together——*After a little Consultation together they settled in their Places again.*

Clerk. Tho. Scot, Hold up thy Hand. Look upon the Prisoner at the Bar; how say you, is he Guilty of the Treason whereof he stands Indicted? Or Not Guilty?

Jury. Guilty.

Clerk. Look to him, Keeper.

Clerk. You say the Prisoner is Guilty, *&c.* and so you say all?

Jury. Yes.

Clerk. Set Mr. *Scot* aside.

Clerk. Set *John Jones* and *Gregory Clement* to the Bar.

Which was done accordingly.

Thereupon the said *Gregory Clement* preferred his Petition to the Court.

Indictment read against them both.

Lord Chief Baron. If you do confess your Offence, your Petition will be read.

Clem. *I do, my Lord.*

Lord Chief Baron. Mr. *Clement*, if you do confess (that you may understand it), you must when you are called, and when the Jury are to be charged; you must say, (if you will have it go by Way of Confession,) that you wave your former Plea, and confess the Fact.

Clerk. Gregory Clement, you have been Indicted of High Treason, for Compassing and Imagining the Death of his late Majesty, and you have pleaded Not Guilty; are you contented to wave that Plea, and confess it?

Clem. *I do confess myself to be Guilty, my Lord.*

Clerk. Set him aside.

Clerk. John Jones, hold up thy Hand. These Men that were last called, *&c.* if you will Challenge all, or any of them, you must Challenge them when they come to the Book, and before they are Sworn.

Jones. *I confess I sate amongst them some Days, but not maliciously contrived the Death of the King.*

Council. He is troubled at the Form; he confesseth the Matter, that he was there sitting in the High-Court of Justice. If he will not con-

fesſ it, he knows we can prove his Hand and Seal to that Bloody Warrant. He is troubled that he is ſaid to have Traitorouſly and Maliciouſly contrived the King's Death: He that doth theſe Acts towards it is by Law reſponſible as to the Malice.

Jury Sworn.

Sir *Tho. Allen*, Sir *Henry Wroth*, Sir *Jer. Whitchcott*, *James Hawley*, *Henry Mildmay*, *Chriſt. Abdy*, *Nich. Raynton*, *Richard Cheney*, *Tho. Byde*, *Charles Pitfield*, *Abraham Scudamore*, *Charles Pickerne*: In all Twelve.

Clerk. Crier, make Proclamation.

Crier. If any Man can inform, *&c.*

Clerk. *John Jones*, hold up thy Hand. Look upon the Priſoner, *&c.*

Mr. *Sol. Gen.* My Lords, and Gentlemen of the Jury, I muſt open to you, as to other Juries, that the ſhort Point of this long Indictment is but this, that the Priſoner at the Bar did Imagine and Compaſs the Death of the King, which is your Iſſue to Try. We ſhall prove it by thoſe Overt-Acts which the Law doth require. To prove the Sitting, Sentencing, and Signing the Warrant for Execution by the Priſoner at the Bar,

Council. Call Mr. *Clark*, and Mr. *Carr*, and *Holl. Sympſon*, who were ſworn.

Mr. *Sympſon*, did you ſee the Priſoner at the Bar ſitting in that which they called the *High Court of Juſtice?*

Sympſon. I did ſee Mr. *Jones* ſit divers Times, both there and in the *Painted Chamber.*

Jones. *I do confeſs I ſate divers times.*

Council. Did he ſit the Day of Sentence?

Sympſon. I cannot ſay it.

Council. Mr. *Clark*, you hear the Queſtion, pray anſwer my Lord.

Clark. My Lord, and Gentlemen of the Jury, I was there the 27th of *January*, 1648. I ſaw Colonel *Jones* there ſeveral Days before, but I did not ſee him that Day; his Name was called, but I do not know whether he was preſent.

Council. Mr. *Carr*, did you ſee him ſit on the 27th Day, which was the Day of Sentence?

Carr. My Lords, he anſwered to his Name ſome Days, I am not able to tell what Day.

Mr. *Nutley* ſworn.

Council. Can you tell whether the Priſoner at the Bar was preſent in that which they called the *High Court of Juſtice?*

Nutley. The Priſoner at the Bar was ſeveral times in the Court which was called the *High Court of Juſtice*; truly I cannot ſay whether he was there the 27th Day, the Day of the Sentence.

The Warrant for Summoning the Court being ſhewed.

Council. Is that Mr. *Jones*'s Hand (the Priſoner at the Bar) ſet to that Warrant?

Nutley. I have been acquainted with his Hand, I do believe it is.

The Warrant for Execution alſo ſhewed.

Council. Is that the ſame Hand-writing?

Nutley. Yes, I believe it is; he hath written ſeveral Letters to me.

Mr. *Hartlib* ſworn.

Court. Mr. *Hartlib*, do you know Mr. *Jones*'s Hand?

Hartlib. I never did ſee him write, but I have ſeen ſeveral Letters out of *Ireland*, and other Papers which have been ſuppoſed to be his Hand-writing; this ſeems to be like that which was reputed to be his Hand.

Council. Mr. *Clark*, do you know Mr. *Jones*'s Hand-writing?

Clark. I have ſeen ſeveral Letters of Col. *Jones*'s, and theſe are like his Hand-writing; I do believe they are his Hand-writing.

Mr. *Jones* looks upon them both, and confeſſes they are like his Hand-writing.

Council. We have given our Evidence: What do you ſay for yourſelf before Charge be given to the Jury?

Jones. *I have little to ſay, your Lordſhips have already heard what is to be ſaid in this Caſe, I have nothing to ſay to the Point; I am not fit to plead any Thing, eſpecially in Matter of Law; I muſt wholly put myſelf upon the Lord, and this Honourable Court and Jury.*

Lord Chief Baron. Gentlemen of the Jury, here is this Priſoner, *John Jones*, ſtands Indicted, for that he, with others, did Compaſs and Imagine the King's Death; that is the Subſtance of the Indictment. The Indictment ſets forth ſeveral Acts, each proving the Compaſſing and Imagining the King's Death: One of them is, that he did conſult and meet together, and propound how the King ſhould be put to Death: The Second is, they did aſſume a Power to Judge the King: The Third is, that they did actually ſit upon him: And the laſt of them is, that they ſentenced the King, and afterwards the King was murthered. The whole Subſtance is, whether he did Compaſs and Imagine the King's Death. If any one of theſe Particulars that are alledged for the Overt-Acts be proved, you are to find the Indictment. He hath confeſſed very Ingenuouſly, that he did ſit upon the King, that he did ſit in that Court, and ſo there is an Overt-Act proved; if nothing elſe, you ought to find him guilty of this Treaſon. There is further Evidence (though not any Evidence of his ſitting the laſt Day of the Sentence), you have had Three comparing Similitudes of Hands to prove that he did Sign that Sentence, that horrid Inſtrument, whereby the King was ordered to be put to Death; one of them having received Letters from *Ireland*, and others acquainted with his Hand, ſay, that it is like his Hand; he hath ſo confeſſed the Likeneſs of his Hand, but he ſaith he doth not remember he ſigned it. As to you of the Jury, there is no more to be conſidered, if any one of the Acts do appear true to you, that is ſufficient to find him guilty (though he were not guilty of all); but that he did Compaſs and Imagine the King's Death is clear, in Sitting and Signing the Warrant; for the other, whether you ſhall find that he did Sentence the King, that muſt be left to you. Whatſoever it is, ſtill it is the ſame; if any one be proved, you ought to find him guilty of the Indictment, which is the Compaſſing and Imagining the King's Death. I think you need not ſtir from the Bar, for he hath confeſſed it.

The Jury went together, and after a little Conſultation returned to their Places.

Clerk. Are you agreed of your Verdict?

Jury. Yes.

Clerk. Who ſhall ſay for you?

Jury. Our Fore-man.

Clerk. *John Jones*, Hold up thy Hand. Look upon the Priſoner at the Bar. How ſay ye, is he guilty, *&c.*

Fore-man. Guilty.

Clerk. Look to him, Keeper.

Clerk. You ſay the Priſoner at the Bar is guilty, *&c.* and ſo you ſay all?

Jury. Yes.

Clerk. Set all that have been tried this Day to the Bar.

Lord Chief Baron. Mr. *Scot*, I muſt ſpeak a Word to you; you made mention of the King's Proclamation for Pardon, and you did deſire the Benefit of it. As I told you before, ſo now again, that it was not proper for us upon that Proclamation to give any Allowance by way of Plea, becauſe the Pardon ought to be under the Broad Seal; but God forbid but juſt and due Conſideration ſhould be had of it with Honour, ſo far as you are comprehended within it; though Judgment ſhall paſs, no Warrant for Execution ſhall go out againſt you till Conſideration be had, how far you are within the Compaſs of that Proclamation; and the like to you, Mr. *Scroop.*

Clerk. Adrian Scroop, Hold up thy Hand. Thou haſt been indicted of High-Treaſon, and haſt thereof been found Guilty: What canſt thou ſay for thyſelf why Judgment ſhould not paſs for thee to die according to Law?

Scroop. *I do humbly ſubmit to his Majeſty's Mercy.*

Clerk. *John Carew*, Hold up thy Hand. Thou art in the like Condition with the former, what canſt thou ſay, *&c.*

Carew. *I commit my Cauſe unto the Lord.*

Clerk. *Thomas Scot*, Hold up thy Hand. Thou art in the like Condition with the former, what canſt thou ſay, *&c.*

Scot. *I ſhall only ſay, I do only caſt myſelf upon his Majeſty, and pray Mercy.*

Clerk. *John Jones*, Hold up thy Hand. Thou art in the like Condition with the former, what haſt thou to ſay, *&c.*

Jones. *I pray his Majeſty's Clemency.*

Clerk. *Gregory Clement*, Hold up thy Hand. Thou ſtandeſt Indicted of High-Treaſon, and thereunto haſt pleaded Guilty, what canſt thou ſay, *&c.*

Clement. *I pray Mercy from the King.*

Lord Chief Baron. You that are Priſoners at the Bar, ye ſee the Sentence of Death is to paſs againſt you; and for aught you know, or we know yet, may be nearer than you are aware: How ſoon it will be executed we know not; when you have reflected upon your own Conſciences, many of you could not chuſe but look there, and ſee as in a Glaſs, the Foulneſs of this horrid Offence: It is the *Murder of our moſt Gracious Sovereign King* Charles *the Firſt of Bleſſed Memory*; a Prince whom we (ſuch of us as had the Honour perſonally to attend him) knew was of ſuch Parts and Virtues, if he had been a private Man, more could not have been deſired; truly what he did as a King, his Clemency, how it appeared at firſt in this Prince's Time: If you look what Peace and Proſperity we enjoyed in his Days, we will not find it in other Kings' Times; you had not a Nobleman put to Death, ſave one, and that for an Offence which muſt not be named; a Prince that had granted ſo much: You may remember what was granted before the Beginning of theſe Wars; Grievances complained of, Star-Chamber, High-Commiſſion Court, Ship-money, the *Claim* of Stannery, *&c.* all theſe were taken away: What Conceſſions he made after in the *Iſle of Wight*; how much he wooed and courted the People for Peace. I urge this unto you, only that you would lay it to your Hearts, that you would conſider what it is to *Kill a King*, and to Kill ſuch a King. If any of you ſhall ſay, that we had no Hand in the actual Murther of the King, remember that they that brought him to the Bar, were all one as if they had brought him to the Block; as St. *Paul* confeſſed, tho' he held but the Clothes, he killed the Martyr *Stephen*. You are ſhortly to appear before God's Tribunal, and I beſeech God Almighty that he will give you, and us all, thoſe Hearts, that we may look into ourſelves; no Fig-leaves will ſerve the Turn; whatſoever you have ſaid now as Priſoners, or allowed to ſay for your own Preſervation in Point of Fact; *notwithſtanding* it will not ſerve before God Almighty: All Things are naked before him. Lay it to your Hearts; God Almighty, tho' you have committed theſe foul and horrid Sins, yet he can pardon you, as he pardoned that Murther of *David:* I ſpeak it to you, that you may lay it to your Hearts. I am heartily ſorry, in reſpect you are perſons of great Civility, and (thoſe that I know) of very good Parts; and this I muſt ſay, That you will conſider with yourſelves, if any of you have been led away, though it were with his own Conſcience, if any of you did it, as you conceived, in Conſcience, remember that our Saviour ſaith, *The time ſhall come when they will perſecute you, and kill you, and think they do God good Service.* I have the Judgment of Charity, poſſibly ſome of you did it in this Kind, and this is leſs than doing it wilfully; others might do it by a miſ-guided Conſcience; there is a Spiritual Pride; Men may overrun themſelves by their own Holineſs, and they may go by pretended Revelations: Men may ſay, I have prayed about ſuch a Thing (I do not ſpeak it with Reproach to any). If a Man ſhould commit a Robbery, or Murther, merely becauſe he will, and ſhould come and ſay, I have prayed againſt it, and cannot underſtand it to be a Sin, as one in *Shropſhire* did, and yet notwithſtanding killed his own Father and Mother. Try your own Spirits, you muſt not think that every Fancy and Imagination is Conſcience; Men may have a ſtrange Fancy and Preſumption, and that they may call Conſcience: Take heed, there is a Spiritual Pride; the Devil doth many times appear like an Angel of Light; do not reſt upon that Self-confidence: Examine your Hearts, conſider the Fact by the Word of God; that is the Rule, the Law is to be applied to it, *Eccleſ.* viii. *Where the Word of a King is, there is Power; and who can ſay unto him, What doſt thou?* That is to ſhew the Power of Kings in Scripture: Remember withal that of *David* in *Pſalm* li. that Penitential *Pſalm*, when he had committed that horrid Sin againſt *Uriah*; remember what he ſaid, being a King, *Tibi ſoli peccavi, Againſt thee only have I ſinned.* Truly it being in ſuch a Caſe, I ſpeak it as before God Almighty, according to my Duty and Conſcience, I wiſh moſt heartily as to your Perſons; I pray God to give you that Grace that you may ſeriouſly conſider it, and lay it to Heart, and to have Mercy upon you, and to forgive you, and this is all that I have to ſay; and now not I, but the Sentence of the Law, the Judgment which I have to give againſt you, is this: *You Priſoners at the Bar, the Judgment of the Court is, and the Court doth award,*

award, that you be led back, &c. and the Lord have Mercy on your Souls.

Clerk. Crier, make Proclamation.

Crier. O Yes, *&c.* All manner of Perſons, *&c.* Jurors and Witneſſes, to appear To-morrow Morning at Seven of the Clock, at this Place; ſo *God ſave his Majeſty.*

Seſſions-Houſe in the *Old-Baily*, *October* the 13th, 1660.

The Court being Aſſembled, Proclamation was made.

Clerk of the Court. Set *Cook*, *Peters*, *Hacker*, and *Axtel*, to the Bar: They being brought, the Keeper was afterwards ordered to take back all, except Mr. *Cook*.

Clerk. John Cook, hold up thy Hand, *&c.*

Jury. Sir *J. Whitchcot*, *James Hawley*, *Jo. Nichol* of *Henden*, *Tho. Nichol*, *F. Thorn*, *Edw. Wilford*, *Will. Gumbleton*, *Jo. Shelbury*, *Tho. Jenney*, *Tho. Willet*, Sir *H. Wroth*, *Richard Cheney*, of the Jury called and ſworn.

Mr. Cook. *May it pleaſe your Lordſhip, I do not know any of theſe Perſons. I beſeech your Lordſhip, that in regard the Safety of my Life depends upon the Indifferency of theſe Perſons, that your Lordſhip may demand of the Sheriff to know whether he hath not heard them ſay, or any of them, that they are preingaged; I hope they are not, and thereupon I have not Challenged any.*

Lord Chief Baron. Sir, the Officer reads their Names out of his Papers, I ſuppoſe he doth not pick and chuſe them; I would not have him; and I am ſure he will not do you any Wrong in that Particular.

Cook. My Lord, I am ſatisfied.

Clerk. If any Man can inform, *&c.*

Clerk. *J. Cook*, Hold up thy Hand.

Cook. My Lords, I deſire Pen, Ink and Paper.

Lord Chief Baron. Give it him.

Clerk. *J. Cook*, Hold up thy Hand. You that are Sworn look upon the Priſoner; you ſhall underſtand, *&c.* [*Here the Indictment was read as before.*]

Mr. *Sol. Gen.* May it pleaſe your Lordſhips, and you Gentlemen that are Sworn of this Jury, the Priſoner at the Bar ſtands Indicted for High-Treaſon, for Compaſſing and Imagining the Death of the late King of Bleſſed Memory: The Indictment ſets forth, That he, together with others, did aſſemble at *Weſtminſter-Hall*, and ſets forth many other Particulars of Sitting, Sentencing, and of the conſequent Death and Murder of the King. The Matter and Charge of the Indictment is, for Compaſſing and Imagining the Death of the King; the reſt of the Circumſtances of the Indictment are but alledged as Overt-Acts to prove the Imagination, which only is the Treaſon. This Priſoner at the Bar ſtands here Indicted for this Treaſon of Compaſſing and Imagining the late King's Death. My Lord, his Part and Portion in this Matter will be different from thoſe that have been Tried before you; they ſat as Judges to Sentence the King, and he, my Lord, ſtood as a wicked Inſtrument of that Matter at the Bar, and there he doth with his own Hand ſubſcribe and exhibit a Charge of High-Treaſon, a Scandalous Libel, againſt our Sovereign, to that pretended Court, to be read againſt him, as an Accuſation in the Name of all the People of *England*; when he had done that, he makes large Diſcourſes and Aggravations to prove (if it had been poſſible) Innocency itſelf to be Treaſon. When he had done, he would not ſuffer his Majeſty to ſpeak in his Defence, but ſtill took him up, and ſaid, that he did ſpin out Delays, and deſired that the Charge might be taken as if he had confeſſed it: He preſſed the Court that Judgment might be given againſt the King; he was the Man that did demand that wicked Judgment before the Court pronounced it; and he was the Man that did againſt his own Conſcience, after he had acknowledged that he was a Wiſe and Gracious King, yet ſays he, *That he muſt die, and Monarchy with him*; there in truth was the Treaſon, and the Cauſe of that Fatal Blow that fell upon the King. This was his Part to carry on; how he did it as a wicked Counſellor we ſhall prove to you, and the Wages and Reward of the Iniquity that he did receive.

James Nutley Sworn.

Council. Pray tell the Circumſtances of the Priſoner's Proceedings at *Weſtminſter-Hall*, when he did exhibit a Charge againſt the King.

Mr. *Nutley.* My Lords, the firſt Day of bringing his Majeſty to his Trial was *Saturday*, *Jan.* 20, 1648. Before they ſate in publick, they that were of the Committee of that which they called the *High Court of Juſtice*, did meet in the *Painted-Chamber*, which was in the Forenoon of that Day. Being there, I did obſerve that there was one *Price* a Scrivener that was writing of a Charge; I ſtood at a great diſtance and ſaw him write, I ſaw this Gentleman, the Priſoner at the Bar, near thereabouts where it was writing, I think it was at the *Court of Wards*. This Charge afterwards (a Parchment Writing) I did ſee in the Hands of this Gentleman, the Priſoner at the Bar. A very little after that they called their Names, they did adjourn from the *Painted-Chamber* into *Weſtminſter-Hall*, the Great Hall. The Method that they obſerved, the firſt thing was to call the Commiſſioners by Name in the Act; the pretended Act for trying the King was read; that is, when the Court was ſate the Commiſſioners were called by their Names, and as I remember they ſtood up as their Names were called: The next thing was reading the Act for trying of his late Majeſty. After that was read, then this Gentleman, the Priſoner at the Bar, preſented the Parchment Writing, which was called the *Impeachment*, or Charge, againſt his *Majeſty:* Mr. *Bradſhaw* was then Preſident of that Court, and ſo called Lord Preſident; he commanded that the Priſoner ſhould be ſent for, ſaying, *Serjeant* Dendy, *ſend for your Priſoner*; thereupon the King was brought up as a Priſoner, and put within a Bar: And when the Court was ſilenced, and ſettled, this Gentleman, the Priſoner at the Bar, did deliver the Charge, the Impeachment to the Court, and it was read; the King was demanded to plead to it preſently. Here I ſhould firſt tell you, that upon the King's firſt coming in there was a kind of Speech made by Mr. *Bradſhaw* to the King in this Manner, I think I ſhall repeat the very Words: *Charles Stuart, King of* England, *the Commons of* England, *aſſembled in Parliament, taking Notice of the Effuſion of Blood in the Land, which is fixed on you as the Author of it, and whereof you are guilty, have reſolved to bring you to a Trial and Judgment, and for this Cauſe this Tribunal is erected:* There was little Reverence given to his Majeſty then, which I was troubled at: He added this further, *that there was a Charge to be exhibited againſt him by the Solicitor-General*; I think this *Gentleman* was ſo called at that Time, and he called to him to exhibit the Charge; and this *Gentleman* (the Priſoner at the Bar), did deliver an Impeachment, a Parchment Writing, which was called a Charge againſt the King at that Time, which was received, and read againſt him.

Council. Did you ever ſee the Charge? [*which was now ſhewn to Mr.* Nutley.]

Mr. *Nutley.* My Lords, I do believe that this is the very Charge, I am confident it is the ſame Writing; I have often ſeen him write, and by the Character of his Hand this is the ſame.

Council. Go on with your Story.

Mr. *Nutley.* My Lords, immediately upon the Delivery of this Charge of Impeachment, which was delivered in the King's Preſence, after it was read the King was demanded to give an Anſwer to it. His Majeſty deſired to ſpeak ſomething before he did Anſwer to the pretended Impeachment (for ſo his Majeſty was pleaſed to call it), he did uſe Words to this purpoſe; ſaith he, I do wonder for what Cauſe you do convene me here before you: He looked about him, ſaith he, I ſee no Lords here, where are the Lords? Upon this Mr. *Bradſhaw*, the Preſident, for ſo he was called, did interrupt His Majeſty, and told him, *Sir*, ſaith he, you muſt attend the Buſineſs of the Court; to that Purpoſe you are brought hither, and you muſt give a poſitive Anſwer to the Charge; ſaith the King, you will hear me ſpeak, I have ſomething to ſay before I Anſwer; after much ado, he was permitted to go on in the Diſcourſe he was in, ſo far as they pleaſed. His Majeſty ſaid, I was in the Iſle of *Wight*, and there I was treated with by divers Honourable Perſons, Lords and Commons, a Treaty of Peace between me and my People; the Treaty was ſo far proceeded in that it was near a Perfection: Truly (ſaith he) I muſt needs ſay they treated with me honourably, and uprightly; and when the Buſineſs was come almoſt to an End, then (ſaith he), was I hurried away from them hither, I know not by what Authority; now I deſire to know by what Authority I was called to this Place? That is the firſt Queſtion I ſhall aſk you before I anſwer the Charge. It was told him by Mr. *Bradſhaw*, the Preſident, that the Authority that called him hither was a Lawful Authority. He aſked him what Authority it was, the Second Time. It was anſwered him by the Preſident, that it was the Authority of the Commons of *England*, Aſſembled in Parliament, which he affirmed then to be the Supreme Authority of this Nation. The King ſaid, I do not acknowledge its Authority: Authority, if taken in the beſt Senſe, it muſt be of Neceſſity underſtood to be Lawful, therefore I cannot aſſent to that; I am under a Power, but not under an Authority; and there are many unlawful Powers, a Power that is on the Highway; I think I am under a Power, but not under an Authority; you cannot judge me by the Laws of the Land, nor the meaneſt Subject. I wonder you will take the Boldneſs to Impeach me, your Lawful King. To this purpoſe his Majeſty was pleaſed to expreſs himſelf at that Time, with more Words to that Purpoſe. The King went on to further Diſcourſe concerning the Juriſdiction of the Court. *Bradſhaw*, the Preſident, was pleaſed to interrupt him, and told him ſeveral times, that he trifled out the Court's Time, and they ought not to indure to have their Juriſdiction ſo much as queſtioned.

Court. Pray go on.

Mr. *Nutley.* This Gentleman at the Bar, I did hear him demand the King's Anſwer ſeveral times; a poſitive Anſwer was required of the King; the King often deſired to be heard, and he interrupted him again and again, ſeveral times; and at length it was pray'd that the Charge that was exhibited againſt him might be taken *pro confeſſo*.

Court. By whom?

Nutley. By the Priſoner at the Bar, if ſo be that he would not Anſwer. This, my Lord, is the Subſtance of what I have to ſay againſt him.

Council. Mr. *Nutley*, pray what Diſcourſe have you had at any Time with the Priſoner at the Bar concerning this Impeachment?

Nutley. Truly, my Lord, I know the Gentleman well, I was well acquainted with him, and for the Satisfaction of my own Conſcience, (for I was very tender in the Buſineſs, and ſorry he was engaged in it,) I went to him, and did deſire him to deſiſt; I had Diſcourſe with him (for I was then a young Student in the *Temple*, and had a little Knowledge in the Laws): I deſired him to conſider the dangerous Conſequences of ſuch a Proceeding; I may ſay I did it with Tears in my Eyes, for I had a very good Reſpect to the Gentleman for his Profeſſion-Sake, being learned therein: Truly, my Lord, he did Anſwer me thus: *I acknowledge it is a very baſe Buſineſs, but they put it upon me; I cannot avoid it, you ſee they put it upon me.* I had ſome Diſcourſe with him concerning the Oath of Allegiance, truly he was ſatisfied that this Oath was againſt the Buſineſs in Queſtion: I ſaw he was troubled at it.

Council. Can you ſpeak of the manner of calling for Judgment againſt the King?

Nutley. That (I have already anſwered to it) was ſeveral times done; the King was brought ſeveral Times to the Bar, and at every Time he was brought he was preſſed to anſwer whether Guilty? Or Not Guilty?

Court. By whom?

Nutley. By the Solicitor then, the Priſoner now at the Bar. My Lord, I remember his Majeſty was pleaſed, when he ſaw he could not be heard to the Diſcourſe that he did intend to make of the whole Buſineſs; ſaith the King, if you will needs preſs me to Anſwer, I muſt Demur to your Juriſdiction: My Lord, the Anſwer that was given to that was this: Mr. *Bradſhaw*, their then Preſident, did ſay, Sir, ſaith he, if you Demur to the Juriſdiction of this Court, I muſt let you know that the Court do over-rule your Demurrer; this was ſaid, my Lord, and Judgment was preſſed very often.

Court. By whom?

Nutley. By the Priſoner at the Bar.

Cook. *My Lord, may I aſk him a Queſtion?*

Court. Yes.

Cook

Cook. *The firſt Queſtion is, Whether the Parchment was delivered by me unto the Court, or brought into the Court by Mr.* Broughton *the Clerk.*

Mr. *Nutley.* I do incline to believe (my Lord), that it was brought into the Court, and delivered by ſome Hand or other to the Priſoner at the Bar; I do believe it was, for I do remember it was written by one *Price*; I was told that was his Name; that may be true; I believe it was brought into the Court, and delivered to the Priſoner now at the Bar.

Council. But did he exhibit it?

Nutley. Yes, my Lords.

Cook. *Did you ſee me ſet my Hand to that Parchment?*

Nutley. No, my Lords; but I believe it to be his Hand.

Cook. *Another Queſtion, Whether Mr.* Nutley *did hear me ſay concerning the Opinions of thoſe Gentlemen, what they intended to do in that Buſineſs?*

Nutley. My Lords, I do remember that I had often Conference with the Gentleman at the Bar. I deſired him to deſiſt from the Buſineſs, conſidering the dangerous Conſequences of it: Truly, my Lord, I do well remember, that he did ſay he did hope they did not intend to take away the King's Life. Said I, if they go about any ſuch Thing, do you uſe your utmoſt Endeavour to preſerve his Life: Saith he, I did Labour to that Purpoſe, but they tell me they only intend to bring him to ſubmit to the Parliament.

Cook. *It is ſaid that I demanded Judgment of his Life; Mr.* Nutley, *I demand of you, whether I uſed the Words of Judgment againſt his Life, but only I demanded their Judgment?*

Nutley. My Lords, for that I cannot remember poſſibly to a Syllable, but Judgment was demanded.

Court. By whom?

Nutley. By this Perſon.

Cook. *I ſaid the Judgment of the Court, not againſt him, I meant Judgment for his Acquittal.*

Court. Did you never hear him deſire the Court that the Charge might be taken *pro Confeſſo.*

Nutley. That I have ſaid, my Lord, it was urged by the Priſoner at the Bar againſt His Majeſty, that if he would not plead to the Charge, that then the Matter charged in it might be taken *pro Confeſſo.* But, my Lord, if you pleaſe to give me leave to add this one Word more, my Lord, I did hear him ſay at that Time; he ſhewed me a Paper that contained an Order of the Court, that did direct the very Words that he ſhould uſe when he came to deliver the Charge; whether thoſe Words were in the Order I do not know.

Cook. *Whether was I not directed by thoſe Gentlemen the very Words I ſhould ſpeak?*

Court. We are ſatisfied in that; he ſaith by an Order that you ſhewed him, you were ſo directed. If you have any Thing more, aſk it him.

Mr. *Farrington* Sworn.

Mr. Sol. Gen. Pray tell my Lords, and the Jury, what was the Carriage of the Priſoner at the Bar at *Weſtminſter*, at the Place they called the High-Court of Juſtice.

Farrington. My Lord, I was preſent about the 20th of *Jan.* 1648, at that which they called the High-Court of Juſtice, and Mr. *Bradſhaw* ſate then as Preſident; ſo much as I remember concerning the Priſoner at the Bar. I ſhall acquaint your Lordſhip. This Gentleman at the Bar, after the reading of the Commiſſion, and Directions by the Preſident to bring his Majeſty (the Priſoner they called him) to the Bar; the King being brought, after Silence made, and ſome Speeches made by the Preſident, this Gentleman, the Priſoner at the Bar, having then a Parchment in his Hand, the Subſtance of it was for levying War againſt the Kingdom, he prayed that it might be read, and accepted as a Charge, in Behalf of the good People of *England.* It was accordingly read, and afterwards being demanded to Anſwer, after His Majeſty having given ſeveral Reaſons as to the Juriſdiction of the Court Four Days, every Day the Priſoner at the Bar demanded the Judgment of the Court: And if His Majeſty would not Anſwer to the Charge, it might be taken *pro Confeſſo.*

Council. Do you know his Hand if you ſee it?

Farrington. I have not ſeen his Hand a long Time. [*Then the Impeachment was ſhewn to the Witneſs.*]

Farrington. Truly, Sir, this is like his Hand.

Council. Do you believe it?

Farrington. It is very like it; I do not know poſitively.

Council. Did you hear the Words *pro confeſſo?*

Farrington. Yes, my Lord, ſeveral Times after the firſt Day.

Council. Did he interrupt the King in his Diſcourſe, as to ſay theſe Words, that the Charge might be taken *pro confeſſo?*

Farrington. I do remember one Day there was ſome Interruption between the King and him, the King laying his Cane upon his Shoulder, deſiring him to forbear.

Cook. You cannot ſay that I interrupted his Majeſty.

Farrington. I remember that the King laid his Cane upon your Shoulders.

Cook. Whether did I the firſt or the laſt Day demand Judgment, or that any Thing might be taken *pro confeſſo?*

Farrington. The firſt Day? No; but after the firſt Day he did ſeveral Days; you did the laſt Day.

Griffith Bodurdo, Eſq; Sworn.

Council. Sir, you have heard the Queſtion, give an Account to my Lord, and Gentlemen of the Jury, of the Carriage of the Priſoner at the Bar towards his Majeſty during the Time of the Trial.

Mr. *Bodurdo.* My Lord, I was all the Time that the King was brought there before the Court as a Priſoner; I was preſent all the Day, having a Conveniency out of my Houſe into a Gallery that was ſome Part of it over that Court. I do remember that the Priſoner at the Bar (whom I never ſaw before that Time) did exhibit a Charge the firſt Day againſt the Priſoner at the Bar, which was the King, in theſe very Terms, *the Priſoner at the Bar:* The Charge I heard it read then, I have not ſeen it ſince; the Subſtance was this: That for levying War againſt the Parliament and People of *England*, and namely, at ſuch and ſuch a Place killing of the People of *England*, (I think *Naſeby* and *Keinton* Field was named in it, and divers other Places were named in the Charge,) and the Concluſion was, that he had done thoſe Things as a Tyrant, Traitor, Murtherer, and a Publick and Implacable Enemy of the *Commonwealth.* But this Priſoner at the Bar did exhibit the Charge, and the King did then, as you have heard he did, plead to the Juriſdiction of the Court. The King would fain have been heard, but I think they did adjourn for that Time. The next Day he pleaded the ſame thing; I remember the Anſwer that was ſeveral Times given; twice given by *Bradſhaw* to the King thus, *That the Court did aſſert their own Juriſdiction*; the Second and Third Day, I do not remember any Day after the Firſt, but that the Priſoner at the Bar did demand Judgment for the King's not pleading, and did ſeveral Times make Complaints to the Court of the King's Delays; that he intended Delays, and nothing elſe.

Cook. Pray, my Lord, one Queſtion: Whether, my Lord, before he heard me ſpeak of demanding Judgment againſt the King, whether he did not hear Mr. *Bradſhaw* ſeveral Times ſay that the Court own'd their Authority, and that the Matter would be taken *pro confeſſo?*

Mr. *Bodurdo.* I did hear the Priſoner at the Bar deſire of the Court, that it might be ſo; and I heard the Priſoner tell the King that it muſt be ſo.

Joſeph Herne Sworn.

Council. Mr. *Herne*, tell my Lords what you know of the Priſoner's Carriage at the High-Court of Juſtice, as they called it.

Mr. *Herne.* Upon *Saturday*, the 20th of *January*, 1648, it was the Firſt Day his Majeſty was convened before them. I could not come near the Court, only I ſaw him at a Diſtance; I heard nothing but the Acclamations of the People, crying out, *God ſave your Majeſty*; what was done in Court I know nothing of. On *Monday* I was there, and had a Conveniency to ſee and hear what was acted; and ſo His Majeſty being come to the Seat appointed for him, the Priſoner at the Bar being called upon by the then Preſident *Bradſhaw*, he demanded of him what he had to aſk of the Court. He was then talking with *Doriſlaus*, and ſeem'd not to mind the Buſineſs of the Court. His Majeſty ſitting near, takes his Stick, and thruſts the Priſoner at the Bar upon his Shoulder; and the Priſoner looking back with a great deal of Indignation turned about: I did hear *Bradſhaw* ſpeaking to him in theſe Words, Mr. *Solicitor*, have you any Thing to demand of the Court? Whereupon the Priſoner at the Bar did uſe theſe or the like Words: May it pleaſe your Lordſhips, I have formerly in the Name of the Commons aſſembled in Parliament, and the good People of *England*, exhibited a Charge of High-Treaſon, and other High Crimes, againſt *Charles Stuart*, the Priſoner at the Bar; (flinging his Head back in this manner to him) he had there further to require of the Court, that he might be demanded to make poſitive Anſwer by Confeſſion or Denial; if not, that the Court would take it *pro Confeſſo*, and proceed according to Juſtice; this was on the Firſt Day I was in the Court. The Preſident *Bradſhaw* told his Majeſty, that he heard what was craved in the Name of the Commons Aſſembled in Parliament, and the good People of *England*, againſt him, by the now Priſoner at the Bar. The King ſtood up, but *Bradſhaw* prevented him in what he had to ſay, telling of him that the Court had given him Time to that Day to know when he would plead to the Charge. His Majeſty proceeded to object againſt the Juriſdiction, and ſaid he did Demurr to the Juriſdiction of the Court; upon which the Preſident anſwered him, If you Demurr to the Juriſdiction of the Court, you muſt know that the Court hath over-ruled your Demurrer; and you muſt plead to your Charge, Guilty, or Not Guilty: Upon that the King aſked their Authority, and deſired he might give Reaſons againſt it; he was denied it by the Preſident; the Preſident at laſt was content to tell him, that though he was not ſatisfied with their Authority, they were, and he muſt; but to ſatisfy him, he told him in ſhort, they ſate there by the Supreme Authority of the Nation, the Commons Aſſembled in Parliament, by whom his Anceſtors ever were, and to whom he was accountable; then the King ſtood up, By your Favour, ſhew me One Precedent. *Bradſhaw* ſits down in an angry manner: Sir, ſaith he, we ſit not here to anſwer your Queſtions; plead to your Charge, Guilty, or Not Guilty: Clerk, do your Duty: Whereupon *Broughton* ſtood up, and aſked what he had to ſay, Whether Guilty or Not Guilty? And Preſident *Bradſhaw* ſaid, that if he would not plead, they muſt record his Contempt. His Majeſty turned about to the People, and ſaid, Then remember that the King of *England* ſuffers, being not permitted to give his Reaſons, for the Liberty of the People. With that a great Shout came from the People, crying, *God ſave the King*; but there was an Awe upon them, that they could not expreſs themſelves as they would have done, I believe.

Council. What did *Cook* ſay to the Judgment? Did you hear him preſs for Judgment?

Mr. *Herne.* Yes, I heard theſe Words from the Priſoner at the Bar, That if the King would not plead, his Charge might be taken *pro Confeſſo*, and that the Court might proceed according to Juſtice.

Cook. One Queſtion more, Whether he often heard me ſpeak thoſe Words, *that it might be taken* pro Confeſſo, and to proceed according to Juſtice?

Mr. *Herne.* You deſired he might be held to his Plea, Confeſſion or Denial, that he might not be ſuffered to uſe any Words to the Juriſdiction of the Court.

Cook. Whether he heard the Charge read?

Herne. I did not hear the Charge read; I was not there the firſt Day. I heard you confeſs you had exhibited a Charge of High-Treaſon againſt the Priſoner at the Bar, which was then the King's Majeſty.

Cook. Whether I did not in the Charge conclude, that all Proceedings might be according to Juſtice?

Court. Read the Title and laſt Article of that Charge. Which was accordingly read, and follows in *hæc Verba:*

The Title of the Charge.

The Charge of the Commons of England *againſt* Charles Stuart, *KING of* England, *of High-Treaſon, and other Crimes exhibited to the High-Court of Juſtice.*

The laſt Clauſe in the Charge.

And the ſaid *John Cook* by Proteſtation (ſaving, on the Behalf of the People of *England*, the Liberty of exhibiting at any time hereafter

hereafter any other Charge againſt the ſaid *Charles Stuart*, and alſo of replying to the Anſwers which the ſaid *Charles Stuart* ſhall make to the Premiſſes, or any of them, or any other Charge that ſhall be ſo exhibited) doth for the ſaid Treaſons and Crimes on the Behalf of the ſaid People of *England* Impeach the ſaid *Charles Stuart* as a Tyrant, Traitor, Murderer, Publick and Implacable Enemy to the Commonwealth of *England*, and prayeth that the ſaid *Charles Stuart* King of *England* may be put to anſwer all and every the Premiſſes; that ſuch Proceedings, Examinations, Trials, Sentences, and Judgment, may be hereupon had, as ſhall be agreeable to Juſtice.

Court. Mr. *Cook*, will you have any Witneſſes examined touching the Queſtion you laſt aſked?

Cook. *No, be pleaſed to go on.*

Mr. *Baker* Sworn.

Mr. *Baker.* My Lords, and Gentlemen of the Jury, I was at the *High-Court of Juſtice*, as they called it, the Firſt, Second, and Third Days. Not to trouble you with the Proceedings of *Bradſhaw*, I will tell you what I obſerved of this Gentleman; I have the Notes that I took there, and pray that I may read them to help my Memory. [*Which was granted, and then he proceeded in this Manner*] That Day, my Lord, Mr. *Cook* told the Court, that he charged the Priſoner at the Bar (meaning the KING) with Treaſon and High Miſdemeanours, and deſired that the Charge might be read; the Charge was this, That he had upheld a Tyrannical Government, *&c.* and for that Cauſe was adjudged to be a Tyrant, *&c.* and did then preſs that the Priſoner might give an Anſwer to that, and that very earneſtly. The Second Day, my Lord, he told the Court, that he did the laſt Day exhibit a Charge of High-Treaſon againſt the Priſoner at the Bar, (meaning the *King)* and that he did deſire he might make Anſwer to it; and he told them alſo, that inſtead of making an Anſwer to the Court, the *King* had delayed the Court, but deſired the *King* might make a poſitive Anſwer, or otherwiſe that it might be taken *pro Confeſſo.* The Third Day, my Lord, he came and told the Court as before, that the *King* had delayed them, and then he Charged him with the higheſt Treaſons and Crimes that ever were acted upon the Theatre of *England*, and then preſſed that Judgment might be given againſt him; and another Expreſſion was, that it was not ſo much he, but the Innocent and Precious Blood that was ſhed, that did cry for Judgment againſt the Priſoner at the Bar: This, my Lord, is the Subſtance; there were other Paſſages.

Cook. *Whether before this Time he had not heard ſomething of an Act or Order Proclaimed at* Weſtminſter? *Whether there was any other Word in Effect uſed in that Charge more than in the Proclamation?*

Mr. *Baker.* I did hear of the Proclamation and Charge, and the Subſtance of it; I have given an Account of it, and I did hear you preſs upon it very much; the Proclamation, I heard of it, that it was made for the Summoning of the Court, but I did not hear the Proclamation made.

Cook. *That that was called the Act of the Commons for Trying of the King?*

Mr. *Baker.* I did hear of the Act, but did not take Notice of it.

Mr. *George Maſterſon* Sworn.

Council. Mr. *Maſterſon*, pray inform my Lords and the Jury what you know touching the Carriage of the Priſoner at the Bar at the Trial of his late Majeſty.

Mr. *Maſterſon.* My Lords, and you Gentlemen of the Jury, I was preſent in that they called the High-Court of Juſtice, upon the 22d, 23d, and 27th Days of *January*, in the Year 1648. I ſhall wave thoſe Circumſtances which you have heard, and many of which I well remember, and what I heard likewiſe between the King, who was then a Priſoner, and the then Preſident *Bradſhaw*; but concerning the Priſoner at the Bar, this I very well remember, that upon *Monday* I heard him ſay he had exhibited a Charge of High-Treaſon againſt the Priſoner, (then the *King)* and demanded now that he might plead to his Charge; I do very well remember, that after ſome Paſſages between the King and the Court, the Priſoner at the Bar deſired the King might plead to his Charge, or elſe it might be taken *pro Confeſſo:* I remember upon the laſt Day, the Day of that Fatal Sentence, I heard the Priſoner at the Bar demand in the Name of the Commons aſſembled in Parliament, and all the good People of *England*, Judgment upon the Priſoner at the Bar, pointing to the King; *this is all.*

Mr. *Burden* Sworn.

Council. Do you know who did examine the Witneſſes againſt the King? And were you examined? And by whom?

Burden. By Judge *Cook*, for ſo he was called in *Ireland.*

Council. Did he examine you as a Witneſs againſt the King? Did he give you an Oath?

Burden. Yes, my Lord, and many others.

Cook. *This is a New Thing, I never heard of this before; where was it that I examined him? I had no Power.*

Council. No, we know that, but you were Active.

Court. Where was it?

Cook. *Whether there were not any others with me in the Room? And where was it?*

Burden. It was at *Weſtminſter-Hall*, within the High-Court of Juſtice.

Cook. *Who was there beſides me?*

Burden. I cannot tell; *Axtel*, he was there, and I am ſure *Cook* was there.

Council. Mr. *Burden*, pray tell my Lords and the Jury what Queſtions you were examined upon, and what they tended to.

Burden. He examined me, and gave me my Oath; there was Eight or Nine of us, we had been in the King's Army in former Times; this Gentleman (Colonel *Axtel* brought us in, commanded us out of our Company; I was in his Company, and this Gentleman) himſelf gave us our Oaths; he aſked us where we ſaw the King in Action? I did reply to him, and told him, I ſaw him in the Field with his Army; he aſked me many other Queſtions that I could not tell him; he aſked me whether I did ſee the King at *Nottingham* ſet up his Standard? And I was never at *Nottingham* in my Life; theſe were the Queſtions.

Mr. *Starkey* Sworn.

Council. Pray inform my Lords and Gentlemen of the Jury what paſſed between you and the Priſoner at the Bar concerning the Trial of his late Majeſty.

Mr. *Starkey.* My Lords, this Gentleman, now Priſoner, and myſelf, have been acquainted a great while, being of the ſame Society of *Gray's-Inn*; and truly, my Lord, I confeſs I owe all my Knowledge in the Laws to that Gentleman; when I came firſt he was accus'd for Debt, and was pleaſed to do me, and ſeveral other Gentlemen, now and then the Favour to reaſon the Law with us, and aſſiſt us in the Beginning of the Long Parliament; that is, to give you an Account of his being indebted, he did deſire I would do my Endeavour to get his Protection. Near the Time of the King's Trial there was a Gentleman with myſelf, one *Samuel Palmer* of *Gray's-Inn*, which frequented his Company, had ſeveral Nights the Opportunity of underſtanding the Affairs at *Weſtminſter*, and truly he himſelf did ſeem to us to count that a very ridiculous Council: I remember what he ſaid one Night, I think they are all mad, which was within Two or Three Days before the King's Trial; and inſtanced how a Fellow cried out to the Lord *Fairfax*, that if he did not conſent to the Proceedings, he would kill Chriſt and him. After that I did not think he did go to this Council for Employment, but out of Curioſity. When the King came to Trial, we heard that Mr. *Cook* was the Perſon that was Solicitor, and acted that Part that you have heard of; and during that Trial, whether the Second or Third Day, I cannot ſay that certainly, Mr. *Cook* came to *Gray's-Inn* that Evening about Ten or Eleven of the Clock at Night, only upon ſome particular Occaſion, as he ſaid; I being walking in the Court in the Walk before my Chamber with another Gentleman, I did ſee him paſs out of a Houſe to go back again; I thought it was he, called after him; Mr. *Cook*, ſaid I; upon that he turned back and met me; I took him by the Hand; ſaid I, I hear you are up to the Ears in this Buſineſs; No, ſaith he, *I am ſerving the People:* Truly, ſaid I, I believe there's a Thouſand to One will not give you Thanks. Said I, I hear you charge the King for the Levying War againſt the Parliament; how can you rationally do this, when you have pull'd out the Parliament to make Way to his Trial? He anſwered me, *You will ſee ſtrange Things, and you muſt wait upon God.* I did aſk him, but firſt he ſaid this of himſelf; Said he, he *was as Gracious and Wiſe a Prince as any was in the World*; which made me reflect upon him again, and aſked how he could preſs thoſe Things as I have heard? What Anſwer he made to that I cannot tell. I did by the Way inquire what he thought concerning the King, Whether he muſt ſuffer or no? He told me *he muſt die, and Monarchy muſt die with him.*

Cook. *Whether was this after or before the Sentence?*

Mr. *Starkey.* It was before the Sentence; for it was either the Second or Third Trial; or rather in ſome interim of Time before the Sentence; for there was an Adjournment for a Day or Two; but I am ſure it was before the Sentence.

Court. Mr. *Cook*, they have concluded their Evidence, plead for yourſelf what you think fitting.

Cook. My Lord, I have been a Priſoner Three Months, I humbly deſire to acknowledge his Majeſty's and his Council's Favour, that I was not put into a *Jeremy*'s Priſon, but in the *Tower*, and not in *Irons*; I give your Lordſhips humble Thanks for that; and truly, conſidering the Nature of the Charge, had it been in ſome other Kingdom, they would have ſerved us as *John Baptiſt* in Priſon; I thank you that I have a fair Trial with the *Judges* of the *Law*, who are upon their Oaths to do equal Right and Juſtice between our Sovereign Lord the King, and every Priſoner, concerning Matters of Life and Death; and likewiſe thoſe Noble Lords, that though they are not put upon their Oaths, but upon their Honour, if they know any Law to preſerve my Life, I truſt they will rather ſave than deſtroy. My Lords, I do therefore ſay as *Paul* ſaid, my Plea is much of that Nature, *Againſt the Law, and againſt* Cæſar, *I hope I have not offended at all*, and ſo I have pleaded Not Guilty. The Learned Council have examined ſeveral Witneſſes againſt me; and I humbly conceive that the Matter will reſt in a very narrow Compaſs; the Subſtance of the Charge (ſo far as my Memory will ſerve) doth reſt in theſe Three Things, the other being but Matter of Form: *That I, with others, ſhould Propound, Conſult, Contrive, and Imagine the Death of the King.* Secondly, *That to the Perfecting and bringing about this wicked and horrid Conſpiracy, that I, with others, did aſſume a Power and Authority*, (as I remember) Power, I am ſure, *then to Kill and Murther the King*; and Thirdly, *That there was a Perſon unknown that did cut off the King's Head, and that we were abetting, aiding, aſſiſting, countenancing, and procuring the Perſon*, (or Words to that Effect) *againſt the Form of the Statutes, and ſo forth.* I have Twelve poor Words to offer for myſelf in this Buſineſs, wherein if I do not Anſwer every Thing that hath been particularly objected, I hope you will give me leave afterwards to offer it. Firſt, I humbly propound this, That if it was not made appear to your Lordſhips that I did ever propound, conſult, adviſe, contrive, attempt, or any way plot or counſel the Death of his Majeſty, then I hope I cannot be found Guilty within the Statute of 25 *Edward* the Third; for the Naked Truth Mr. *Nutley* hath in a great Part ſpoke to; I was appointed upon the Tenth of *January*, 1648, for to give my Advice concerning a Charge, there having been upon the Ninth a Proclamation for the Trial; and upon the Tenth Mr. *Steel*, Dr. *Doriſlaus*, and Mr. *Aſk*, and myſelf, were appointed, and ordered to be of Council to draw up a Charge; here I have the Order atteſted by Mr. *Jeſſop*, and pray it may be read.

Court. They do admit the Thing, that you were ſo aſſigned.

Cook. Then I humbly conceive, that that cannot be ſaid to be done maliciouſly, or adviſedly, or with any wicked Intention in me, which I was required and commanded to do; acting only within my Sphere and Element as a Counſellor, and no other- *Kelyng* 12, & 25.
wiſe. The next Thing is this, my Lord, that by Law, Words will not amount unto Treaſon; we uſually ſay, that Words may declare an Heretick, but not a Traitor; there were ſome Statutes formerly, 1 *Edw.* VI. where Words are made Treaſon; but they are all repealed by 1 *Mariæ*, that nothing ſhall be Treaſon but what is expreſſed in 25 *Edw.* III. This Objection will ſeem to lye, that theſe were Words put in Writing; and

that I humbly conceive to be the greateſt Matter objected; to which I anſwer, 1. Whether there be any full, certain, clear Proof, that that is my Hand to the Charge, I muſt leave to you; Two or Three Witneſſes ſay they believe it, and that it is like my Hand; that I leave to you, if that appear; yet (my Lord) that that is put in writing as done by another that is the Dictator, and does dictate unto me; I humbly conceive, that for any Man to write Words, which in their own Nature may be treaſonable, if he doth but write them by the Command of another, by ſpeaking them after another; taking them upon rebound, that is not Treaſon, becauſe they do not diſcover a traitorous Heart; thoſe Words of compaſſing the Death of the King in the 25 *Edw.* III. they are ſecret Imaginations in the Heart, and they muſt be manifeſt by ſome Overt-act; that which was dictated (my Lord) unto me, that I had expreſly preſcribed me, what I ſhould ſay, what Words I ſhould ſay; that I did not invent any thing of mine own Head, of my own Conceit; and therefore cannot properly be ſaid to be malicious. The next thing that I crave Leave to offer is this: That the pure and plain demanding and praying of Juſtice, though Injuſtice be done upon it, cannot poſſibly be called Treaſon within the Statute, then I hope nothing that has been ſaid againſt me will amount to Treaſon: For the Words in the Natural, Grammatical, Plain, Genuine, and Legal Senſe, will bear no other Conſtruction, as I humbly conceive, but (that whereas thoſe Gentlemen had his Majeſty then in their Power a Priſoner) that it was prayed by me that they would do him Juſtice; I do hope that it will appear that I did give *bonum & fidele Conſilium*. It will appear, I hope, that ſome would have had a very voluminous and long Charge; that I was utterly againſt it, as conceiving that it was not fit and requiſite that any thing ſhould be put in; at leaſt I durſt not invent one Word myſelf, but what was expreſſed in the Act for Trial; if your Lordſhips will not admit it an Act, you will an Order, and ſo it will bear me forth, at leaſt to excuſe me from Treaſon, becauſe I kept myſelf to the Words; whereas in that it was ſaid, that they ſhould proceed according to the Merits of the Cauſe, I was againſt that, that I did not underſtand that; but according to Juſtice, and that is but according to Law, becauſe the Law is the Rule of Juſtice. I do humbly hope (my Lord), that if by Law, when Words may be taken in a double Senſe, they ſhall always have the more favourable Interpretation, much more when the Words in the legal Senſe will bear it; when it is prayed they will proceed according to Juſtice, I hope it will not be inferred there was any Intention of doing Injuſtice, when Juſtice was required. And therefore (my Lord) the next Word that I would offer is this: If, my Lord, in all Tragedies which are, as we call them, judiciouſly or colourably, there are but theſe four Actors, Accuſers or Witneſſes, the Jury, Judges, and Executioner; if I be none of theſe, I cannot be guilty of Treaſon. I hope I may ſafely ſay according to Law, that I had not a Hand at all in his Majeſty's Death. My Lord, the Court and Council, it is very true, they do aim at the ſame thing; the Council *Requirendo Juſtitiam*, the other *Exequendo Juſtitiam*, the End being the ſame, to have Juſtice. If when Juſtice be demanded, and Injuſtice be done, what is that to the Council? We read in the xixth of *John*, concerning *Pilate*, *Knoweſt thou not* (ſpeaking to Chriſt) *that I have Power to crucify thee, and have Power to releaſe thee?* My Lord, I humbly anſwer this to that which ſeems to be the moſt material Part in the Indictment, That we did aſſume a Power; my Lords, I did not aſſume a Power; I hope it will not be ſaid that the Council had any Power; *Eloquentia* in the Council, *Judicium* in the Judges, and *Veritas* in the Witneſſes. xxvth of *Acts*, *Tertullus*, that eloquent Orator, accuſed *Paul*; *Paul* anſwered for himſelf, and it is ſaid, *Feſtus being willing to do the Jews a Courteſy, he left Paul bound*; it was not the Council that left him bound. His Majeſty was never a Priſoner to me, and I never laid any Hands upon him; if any Witneſſes have ſpoke of any Irreverence, I muſt appeal to God in that I did not in the leaſt manner carry myſelf undutifully to his Majeſty, though one of the Witneſſes was pleaſed to ſay that I ſaid theſe Words, *That there is a Charge againſt the Priſoner at the Bar*; it was not ſaid the *Priſoner at the Bar*; there was not one Diſreſpective Word from me. There is a Caſe in the Third *Inſtitutes* of my Lord *Coke*; it is to this Purpoſe, that one wilfully and knowingly foreſwore himſelf; the Caſe was put to inveigle the Court; and though the Court does Injuſtice upon a falſe Oath, it is not Injuſtice at all in the Witneſs, it is Perjury in him; if there can be no Injuſtice in a Witneſs, much leſs a Counſellor can be ſaid to have his Hand in the Death of any, becauſe he has no Power at all; this muſt needs follow, that if it ſhall be conceived to be Treaſon for a Counſellor to plead againſt his Majeſty, then it will be Felony to plead againſt any Man that is condemned unjuſtly for Felony. The Counſellor is to make the beſt of his Client's Cauſe, then to leave it to the Court. It is ſaid, I ſhould demand Judgment; I do not remember that; I leave it to you, but ſtill to demand Juſtice. Counſellors, they do engage in Buſineſs before they do rightly underſtand the true Matter of the Fact; it is Part of a *Serjeant's Oath*, that ſo ſoon as he does diſcover the Falſity of the Cauſe, he ſhould forſake the Cauſe. My Lord, by what Mr. *Nutley* hath ſaid it appears, and I have many Witneſſes in the Country, Three or Four in *Leiceſterſhire*, would have ſpoken full to this, that (My Lord) there was not before the Sentence of the King (to the beſt of my Knowledge) a Word ſpoken by any that they did intend to put him to Death; I ſay, to my Knowledge; and, my Lord, when Judgment is demanded, is it not Twofold, of Acquittal or Condemnation? If thoſe that then were entruſted with the Power of Judicature, if they did not know any Law to proceed by to take away his Majeſty, then I demanding their Judgment, it doth not appear to be my Judgment; and I refer it to the learned Council, that Council many times at the Aſſizes and other Courts have been ſorry that the Verdict have been given for their Clients, when they have known the Right lay on the other Side, and ſo I might in this. The next thing I humbly offer, is, that if in right Reaſon, conſidering the Condition his Majeſty was then in, the adviſing to draw up the Charge was rather to be looked upon as a Matter of Service than Diſſervice, then it cannot be called Treaſon; it is very true, my Lord, that a very little ſmall Overt-act will amount to a Treaſon; and, my Lord, had this been in times of Peace, and had his Majeſty been no Priſoner (now he was under the Power of an Army), this had been great Treaſon; but he being a Priſoner (not by my Means, for I was no Swordman), what can a Man that knows himſelf innocent, being a Priſoner, deſire more than a ſpeedy Trial? So that making the Trial more ſpeedy cannot be ſaid to be done traitorouſly. A Trial doth follow Impriſonment as naturally and neceſſarily as the Shadow doth the Body. If any Man ſhall deſire and be inſtrumental in bringing him to a Trial which might acquit, rather than condemn him, and ſo humbly pray Proceedings according to Juſtice, this will have, I hope, a better Name than Treaſon. I am much beholden to his Majeſty, and this Honourable Parliament, for the penning of the *Act of Indempnity*, which, I hope, my Lord, you will give me Leave to take Notice of.

Court. *Open as much as you will of it.*

Cook. My Lords, the Words that I would make Uſe of are in the Beginning; Treaſon, Murder, and other Felonies that are ſpoken of, they are ſaid to be counſelled, commanded, acted or done; in the Preamble, which is as the Key to open the Mind and Meaning of the Law-makers, it is ſaid, that all Perſons ſhall be pardoned for all, excepting ſuch as ſhall be named, and in ſuch Manner as they ſhall be excepted; and then it comes, Provided that this Act ſhall not extend to pardon ſuch and ſuch Perſons, and by Name I am one; and it is ſaid, all which Perſons, for their execrable Treaſon, in ſentencing to Death, or ſigning the Inſtrument for the horrid Murder, or being inſtrumental in taking away the precious Life of our late Sovereign Lord, *Charles* the Firſt, of glorious Memory, are left to be proceeded againſt as Traitors to his late Majeſty, according to the Laws of *England*, and are out of the ſaid Act wholly excepted and foreprized. There is not any thing offered againſt me upon the two firſt great Words, which are Sentencing and Signing; that which I have to do to endeavour to clear myſelf is this, being inſtrumental in taking away the Life of his ſaid Majeſty: Firſt, I humbly offer this to the Jury's Conſideration, That where the Parliament doth begin to fix the treaſonable Part, there, I hope, and no otherwiſe, this Honourable Court will fix it: If it had been the Intention that Counſellors, Adviſers, and ſuch as ſpoke their Minds ſometimes in the Buſineſs (you know that was epidemical), many Words were ſpoken which cannot be juſtified; whether naturally it would not have followed, that all ſuch Perſons, for their Counſelling, Adviſing, or being inſtrumental, are left to be proceeded againſt as Traitors, I hope you will take that into Conſideration; concerning the Words, or being inſtrumental, obſerve it is not ſaid, or being any otherways inſtrumental; but ſentencing, ſigning, or being inſtrumental; if therefore the Word Inſtrumental be not of a general comprehenſive Nature, then all this Evidence which hath been given in againſt me, being before the ſentencing and ſigning, will fall to the Ground; that this is the legal, genuine and grammatical Senſe, and cannot be any otherways than as particular, as if it were the Sentencer, Signer, and Executioner; which if it had been ſo, nothing of the Evidence would have reached me. My Argument is this: Such a Uſe is to be made of an Act of Parliament, that no Word may be fruſtrate and inſignificant; but if this Interpretation ſhall be put upon it, ſentencing, ſigning, or being any way inſtrumental, then the Words Sentencing and Signing need not have been. If Inſtrumental will carry the Words Sentencing and Signing, then theſe Words will carry no Force at all; eſpecially, my Lord, when there is no need of any Retroſpect at all; if it be ſo, I know not how far it may look back; there is no Neceſſity of putting any comprehenſive Generality upon this Word Inſtrumental, but that the plain natural Senſe will be this, that thoſe that did ſentence and ſign, and thoſe that were inſtrumental in taking away his Life, that is, thoſe that did abet and comfort that Perſon unknown, or juſtifie, or countenance him, which is after the Sentencing, and not before, in the legal Senſe. Next, I conceive, that a Counſellor cannot be ſaid to do any thing *vi & armis*.

It is ſaid, that by Force and Arms I did abet, *&c.* It is rhetorical to ſay that Words may be as Swords, but legal it is not, unleſs there be ſomething *vi & armis*; in the grammatical Senſe, inſtrumental in taking away the King's Life; it is not ſaid inſtrumental in order to take away the King's Life, or inſtrumental in adviſing to take away the King's Life, but inſtrumental in taking away the King's Life. My Lord, the next thing is, that there cannot be any thing be ſaid to be done by me, firſt not *falſo*, becauſe in that Senſe it muſt have the Operation of Mendacity; that there muſt be a Lie told in it; I did nothing but what I was required to do, to ſet down ſuch and ſuch Words; I did not invent nor contrive them, I heard nothing of it till the 10th Day of *January*. My Lord, for *malitioſe*, that I did not any thing maliciouſly, I hope it will appear in this; what I then ſpoke it was for my Fee; it may be called *avaritia*, but not *malitia*; for the Law will imply a Malice, when there is no other expreſs Ground or Reaſon why the Thing was done, but here was an expreſs Ground to ſpeak for my Fee. I hope the Jury will take that into Conſideration. Then, ſecondly, I was not Judicial in the Caſe, I was not Magiſterial as any Officer, but Miniſterial. As touching examining of Witneſſes, it is a great Miſtake, the Court had Power to give an Oath; I might be there, but I had no Power to give an Oath; but whether I might aſk any Queſtion, I do not remember, but that I ſhould give an Oath, that is a Falſity. Then, my Lord, for *proditorie*, I hope there is nothing at all that appears to the Jury; ſo that there was no Malice nor traitorous Intention in the Thing. There are ſome Matters of Law which I deſire your Lordſhips will give me Leave to ſpeak to, and that your Lordſhips will be of Counſel with me. I would offer ſomething concerning his Majeſty's gracious Declaration from *Breda* to the Parliament (I was then in *Ireland*); I did put in a Petition to the Honourable Commiſſioners before any Exception was, that I might have the Benefit of that Declaration; I did lay hold of it: My Lords, there are two Things in that Declaration that I would offer. His Majeſty ſaith, that for the reſtoring of the King's Peers, and People of the Kingdom to their juſt Rights and Liberties, he will grant a free and general Pardon to all, excepting ſuch as ſhall be by Parliament excepted; and within three or four Lines after it is ſaid, a Free Parliament; though I do not in the leaſt queſtion the Legality of this Parliament, yet, my Lords, to this particular Purpoſe, whether the Parliament that was to except ought not to be a Parliament that was to be called according to his Majeſty's Writ, according to the Laws of the Kingdom, I humbly conceive it will bear that; though his Majeſty is pleaſed to confirm this, yet it is not ſuch a Parliament that was to except; that I offer to your Lordſhips. My Lords, That that I would humbly make bold to put for myſelf, becauſe it is the Privilege of one in my Condition, is this: There is, my Lords, many Lords, the Earl of *Eſſex*, the Earl of *Southampton*, and others, that were adjudged in the 44 of *Eliz.* 3. *Inſtitutes*. They did traitorouſly and maliciouſly conſpire to take her Majeſty Priſoner, and to remove her Counſellors from her, which were found guilty, and ſuffered accordingly;

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The Reaſon is, That becauſe thereby, if it had been done, they had deſpoiled her Majeſty of her Regal Government; and the Caſe is inſtant in *Philip*, who was a Nominative King, that it was not Treaſon to have attempted any thing againſt him. My Lords, his Majeſty being a Priſoner without any Hand of mine, I giving Advice according to what was dictated to me to bring him to that Trial, whereby he might have been acquitted, and ſo ſet at Liberty, I hope that will not be ſaid as inſtrumental.

My Lords, I humbly ſhall offer but two Words, 1. To the Honourable Court, then to the Jury. The Words 25 of *E.* III. and ſo the Expoſition of the Learned Judges have been from time to time, that there ſhall be no Semblable Treaſons made by Preſumptions or Strains of Wit, but thoſe Treaſons ſpecified there: It is ſaid, if a Huſband do kill his Wife, or a Wife kill her Huſband, a Maſter ſhould kill his Servant, or the Servant ſhould kill his Maſter, that that ſhall be petty Treaſon; a Child did kill his Father, though that was looked upon as a great Sin, yet the Judges did not preſume that to be Treaſon, becauſe it was not in the very Words; this being an extraordinary Caſe, to write a Thing after another doth not appear that there was a malicious Heart in him that did write. There hath been the Act of Parliament that doth call theſe Courts Tyrannical and Unlawful Courts; but, my Lords, a Tyrannical and Unlawful Court is a Court *de facto*, though not *de jure*; if a Court be not a Juſt and Lawful Court, it cannot be ſaid but that it is a Court: We ſay a Thief is a true Man, though Morally he is not ſo; this was a Court, Officers attending on them; ſome ſaid they had Authority; and therefore for one to come and act within his Sphere, not to act out of that, nor do any thing but what he had a Preſcript Form appointed him, I hope that will not be found to be within the Letter of the Law. I have been told (how true I cannot tell), that there have been ſome Votes in the Honourable Parliament, that thoſe that did only counſel or adviſe, that thoſe were not to be looked upon as Traitors; I have been told ſo, that thoſe that did only ſpeak as Counſel for their Fee, who were not the Contrivers of it, the Parliament did not intend they ſhould be left to be proceeded againſt.

Court. That Letter that was ſent from the Commons to the King at *Breda*, they ſpeak firſt of the Violation that was put upon the Parliament, and of the baſe and horrid Murther of his late Majeſty. It is ſaid that the Parliament (I conceive they meant of the remaining Part), they were not guilty, but ſome few ambitious, bloody, guilty Perſons, who contrived the ſame, and others miſ-led by them.

Cook. The other Matter of Law is this: I ſay, that I do hope that tho' that Order, which I was about to produce concerning my acting, that if it may not in a Legal Senſe any way be ſaid to be an Act of the Parliament and Commons, yet it may be ſaid to be ſuch an Order to bear out thoſe that did act according to it, becauſe there was an Authority *de facto*, otherwiſe it were not lawful for any Man to exerciſe his Profeſſion during their Power. I hope Counſellors might then exerciſe ſuch Profeſſion, as well as others. My Lord, though I ſhould ſuffer myſelf in this Caſe, I ſhould be loth the Honourable Profeſſion of the Law ſhould. I think I was in my Sphere, acting as a Counſellor. Now, Gentlemen of the Jury, that which I have to ſay to you is an Evidence concerning Matter of Life, it muſt be ſo clear, that every one that hears it may underſtand it. It is called an Evidence, becauſe it is evident; it is one Reaſon why Priſoners for their Lives are not allowed Counſel for Matter of Fact, becauſe the Evidence is, and ought to be, ſo clear and plain that every one ſhould be ſatisfied, both Jury and Standers-by; and it is a proper Word to ſay the Priſoner is convicted, that is as much as, his Mouth is ſtopped; and therefore I ſay, truly as I hope I may ſpeak it to you without Offence, as *Jeremy* in another Caſe when ſome of the People would have had them put him to Death, *As for me, behold I am in your Hand, do with me as ſeemeth good and meet unto you*, Jer. xxvi. ver. 14, 15. Saith he, *But know ye for certain, that if ye put me to Death, ye ſhall ſurely bring innocent Blood upon yourſelves.* I hope you will not willingly be guilty of any ſuch Thing; I muſt leave it to your Conſciences, whether you believe that I had an Hand in the King's Death, when I did write but only that which others did dictate unto me, and when I ſpoke only for my Fee; and this I would be bold to ſay, though the Argument is not ſo directly confeſſed, that Humane Juſtice (I do firſt ſay as this my Principle and Opinion is), that as every Man ought to pay his moral Debts, ſo all political Debts; there is a Debt due to Humane Juſtice, ſo political: If the Lord ſhould have ſuffered me to have been drunk, and killed a Man, for which I ought to have died, inſtead of ſpeaking for myſelf, I would have rather intreated the Jury to have found me guilty; I think theſe Things ought to be anſwered, political Debts. When I was in *Ireland*, and had Opportunity of going away, if I thought I had been guilty I might have done it; my Name is put into his Majeſty's Proclamation. It is true, I was a Priſoner Three or Four Months before, ſo that I could not render myſelf. To what End ſhould that Proclamation mention my Name? It was ſaid I obſcured myſelf, but I did not. Humane Juſtice doth never puniſh ſo much for Expiation as for Prevention; the Judgments of the Learned *Aquinas*, *Grotius*, and *Ameſius*, and many others, that if a Man doth kill a Man, commit any Thing worthy of Death, though he doth repent never ſo much, yet that others may be deterred from committing ſuch Acts, the Magiſtrate is bound to put him to Death. But where there is not ſuch a Thing, there it is different; though it is ſaid the Land is defiled, that is, where there is Danger that the like may be committed again; now all Things are ſettled, there is no Danger at all; now there can never come ſuch a Caſe as this again; I ſay, my Lord, what I acted I did as a Counſellor, I had no malicious Intention in it. Mr. *Nutley* bare Teſtimony ſo far, that I told him, *there was not Intention of putting his Majeſty to Death*; I only did ſay, that *I deſired them to do Juſtice*; and I hope what was done was their Act, not mine, and ſo I leave myſelf to your Lordſhips.

Court. Silence commanded.

Mr. Solicitor General. My Lords, this Gentleman who is the Priſoner at the Bar requires ſuch an Evidence of the Fact as may be evident, he ſaith ſo evident as may be as clear as the Sun; I think that Evidence is not to ſeek; but if he muſt never be convicted till he be ſo far convinced as to be ſpeechleſs, I believe we may ſtay long enough; nevertheleſs if he be willing (as he ſaith he is) to pay his Debts to political Juſtice, we ſhall quickly give him the total Sum. That which he hath ſaid hath been like a *Lawyer*, the beſt that his Caſe will bear, but withal it is a great Aggravation to his Crime, that he that knew the Law ſo well, ſhould ſo much tranſgreſs it. He began, *Words do not make Treaſon*; he miſtakes; his Charge is not for Words; Gentlemen, his Charge is for *Compaſſing and Imagining the Death of the King*, and the Evidence of that Charge is meeting in that Aſſembly, and the Part that he bore in that Aſſembly. And yet, my Lords, he will be much miſtaken too (under Favour, and with Submiſſion to your Lordſhips Judgments, and thoſe that hear him), if they think that in all Caſes it is a general Rule that Words are no Treaſon; for when a Man ſhall proceed to declare the Imagination of his Heart, as to exhort and perſwade Men to effect that wicked Thing, the *killing of the King*, certainly there cannot be a greater Overt-Act than theſe Words, nor a clearer Evidence of ſuch an Imagination, for *out of the Abundance of the Heart the Mouth ſpeaks*. My Lord, to ſay that the demanding of Juſtice is not Treaſon, though Injuſtice do follow, is a very weak Gloſs upon a wicked Action. The Subject Matter was a Charge of *High-Treaſon againſt the King*; the Concluſion of the Charge was a *Proteſtation*, by which he ſaved to himſelf a Liberty to put in a new Charge, if that was not ſufficient; upon the whole he deſires, that the King, *as a Traitor*, may be brought to Juſtice. Judge ye now, Gentlemen, upon the Nature of this Demand, whether this were ſuch a Demand of Juſtice as might end in Acquittal; whether he that preſſes that this Charge may be taken *pro Confeſſo*, did mean that when the Court had recorded it, they ſhould acquit him when they had done? My Lords, to ſay there are four Actors in this Caſe, the Witneſs or Accuſer, the Judge, the Jury and the Executioner, and that he is none of them, and therefore in this Caſe he cannot be a Traitor; ſtill, my Lord, that is to beg the Queſtion; for if he be one of them that did aſſemble in the Place, and were any Inſtrument of that Aſſembly, he hath thereby given an Evidence of an Overt-act of his wicked Heart; and when all is done, this poor Gloſs amounts but to this, *I am none of thoſe four Ranks, that is, there were others worſe than myſelf, and therefore I am none at all.* My Lord, the Thing that he hath mainly inſiſted upon is the *Act of Indempnity*; my Lord, he doth obſerve that his Name is excepted in that Act; that he doth hope that it is ſo penned, as by the Favour of the Parliament it may reach his Caſe; and he hath argued very much upon it, and he ſpeaks as if he did believe it himſelf. But ſurely there is no Colour for that Interpretation, that he ſhould ſtep out of this Proviſo, by the very *Act of Indempnity*, that was made on Purpoſe to bring him in by Name; the Words are, *Provided that this Act, nor any Thing therein contained, ſhall extend to pardon, or give any Benefit to* John Cook, *&c.* "all which Perſons, for their execrable "Treaſons in Sentencing to Death, or Signing the Inſtrument for the "horrid Murder, or being Inſtrumental in taking away the precious Life "of our late Sovereign Lord *King Charles* the Firſt, of Glorious Memory, "are left to be proceeded againſt as Traitors, *&c.*" Firſt, my Lord, this general and clear Anſwer, I conceive, is to be given, That the Priſoner at the Bar being by Name excepted out of the *Act of Indempnity*, by the *Proviſo* mentioned in it, although the ſubſequent Lines that follow be the Reaſons why the Parliament do except; yet if it be within the very Words of the Exception, whether he be in the Reaſons that moved them to that Exception, is not material; if he could diſtinguiſh that he was not inſtrumental in that Senſe, to which he labours to reſtrain this *Proviſo*, he can but ſay this: The Parliament was miſtaken in their Reaſon, but not in their Concluſion; but he is directly within the Exception, and the Reaſon of it too, for the Word Inſtrumental goes as far as can be, and he is properly and literally, in the ſtrict Notion of the Word, an Inſtrument of the Death of the King: The King could never have been brought to Death, if not to the Bar; never had been ſentenced, if he had not been impeached; that Impeachment could never have been taken *pro Confeſſo*, nor the Impeachment itſelf delivered, if he had not delivered the one, and preſſed the other: He that brought the Ax from the *Tower* was not more inſtrumental than he: And beſides, a Lawyer as he of great Underſtanding, and of good Parts, he knows very well there are no Acceſſaries in Treaſon, but he that acts any Part in ſo wicked a Conſpiracy, let him begin at what End he will, he ſtands reſponſible for the utmoſt Conſequence of it; and in Effect the very penning of this *Proviſo* is an expreſs Judgment of Parliament, that he was Inſtrumental; but that is not to be preſſed.

The next Thing he doth inſiſt upon is the Declaration of his Majeſty, that he ſent from *Breda*, which he ſaith he laid hold upon; here lies the Weight of his Anſwer: The King writes his Letter to the Parliament now ſitting, that he doth purpoſe, for the quieting of the Hearts of Men that may be in Doubt, to pardon all Perſons all Crimes of what Nature ſoever, either againſt himſelf or Royal Father, excepting thoſe which ſhall be by Act of Parliament excepted; and, my Lord, he doth ſay, and modeſtly preſſes, that he doth conceive the Meaning of that is, to pardon all Perſons what Crimes ſoever they have committed, except ſuch as by a free Parliament ſhall be excepted; a legal Parliament, called by the Writ of the King, which this Parliament is not. To that I give theſe Anſwers: Firſt, my Lord, I do ſay that this Letter of our Gracious Sovereign from *Breda* in itſelf undoubtedly is no Pardon in Law for Treaſon; that cannot be without the Broad-Seal. Next, a Pardon under the Great-Seal in ſuch a Form of Words as this is, would not be a Pardon for Treaſon, for that muſt not be pardoned by Implication, but by poſitive Words; ſo in the Caſe of Sir *Walter Raleigh*, a Commiſſion directed to our Well-beloved Subject would not pardon the Treaſon of which he was condemned. In the next Place, this Letter at the moſt is but a Pardon in Honour, which muſt always be taken according to the Meaning; and that the King's Honour may be for ever ſacred, I ſay, this Letter doth no Way help the Priſoner at the Bar.

Firſt, it is plain by the very Superſcription of this Letter in which the Declaration was incloſed, that it is directed to the Speaker of our Houſe of Commons in Parliament aſſembled; which cannot poſſibly be expounded of any other Parliament than that which was then ſitting, to whoſe Speaker it was written.

Secondly, The Letter itſelf ſays, We have left it to you to provide for Security and Indempnity; and again, If there be a crying Sin for which the Nation may be involved in Infamy, we cannot doubt but you will be as ſolicitous to vindicate it as we can be. And then in this very

very Letter encloſeth that Declaration, upon the Penning of which the Priſoner ſo much relies: Now lay all together, and it is clear the Parliament meant by the Declaration, muſt be the ſame Parliament which was meant by the Letter; and that was this very Parliament whom the King intended to truſt, both with Indempnity, and with the Vindication of his Father's Death, and to be the Diſpenſers both of Mercy and Juſtice in this particular. Another Thing is this, This very Parliament, as the Priſoner obſerves, they did go to the King according to his Gracious Letter, and in the Behalf of all the Good People of *England*, they did lay hold of the King's Mercy in his Letter and Declaration, and prayed that this Claim by their Speaker, in Behalf of all the reſt of the Commons of *England*, might be effectual to all Purpoſes, and for all Perſons other than thoſe that ſhould be by themſelves afterward excepted, according to their Requeſts: His Majeſty accepts their Petition, and makes Proclamation, that his Pardon ſhould extend to all but ſuch as they ſhould except: What can be more clear and evident, than that this is the Parliament which the King did mean to be the very Parliament to which the Letter ſhould have Reference till the Act of Oblivion was paſſed? Again: The late Tranſactions of theſe Twelve Years paſt had involved ſo many Perſons, that we could ſcarce find a Man but he had need of Mercy; nay, this very Parliament to which this Letter was written had need of Indempnity; and is it probable in the Nature of the Thing, or can it be underſtood by any Man, that the King writing to this Parliament, and offering them Pardon and Indempnity, ſhould mean ſuch a Pardon and Indempnity as a future Parliament, to be called by his own Writ, ſhould be willing to afford them? Whoſe Hearts would have been ſatisfied with ſo contingent a Security?

My Lords, upon the whole matter, by what the King hath ſaid in this Letter, and by what the Parliament hath done in purſuance thereof, and by what the King hath proclaimed, it is to my Underſtanding as clear as the Noon-day, that the Honour of the King is not concern'd at all in the Exemption of the Priſoner at the Bar; and for the Caſes of my Lord of *Eſſex* and *Southampton*, which he hath cited, they make againſt him; they were condemned becauſe they endeavoured to impriſon the Queen, and to remove her Counſellors, of which very Fact the Priſoner is in Law Guilty too; and then the Caſe of King *Philip*, the Huſband of Queen *Mary*, makes nothing for him neither, unleſs he will ſpeak out, and tell us plainly, that becauſe by a former Violence the King was made a Priſoner, he became but like a Titular King, as King *Philip*.

In the next place he ſaith, My Caſe is out of the Law, I acted as a Counſellor in my own Particular for my Fee; it was *Avaritia*, but not *Malitia*, nor *Falſo*, *Malitioſe*, or *Proditorie*: But he muſt know, that no Man hath, or can have, a Lawful Calling to purſue the Life of his King; and the Law implies Malice; for *Malitioſe* and *Proditorie* are not only Words of Courſe, but of Truth too, in this Caſe; elſe it were as much as to ſay, that no Counſel can be guilty of High-Treaſon, than which nothing can be more abſurd: My Lord, for that which he ſaid laſt (for I muſt omit ſome Things, and give him leave to take the Advantage of it), to ſtand upon it, that the place was a Court, ſuch a one it was that he was not anſwerable for the Conſtitution of it; if it were not in a Legal Senſe, it was ſuch an Order as might bear him out, that is, with Modeſty and good Manners to juſtifie High-Treaſon; it is not with ſuch Inſolency as ſome others before him did it, but it amounts to that, That an Order of a few Perſons that firſt made themſelves a *Parliament*, and then made a Court of Juſtice, had Officers, and met together, and perfected ſo great a Treaſon; I ſay, that this Order to bear him out is impoſſible. He that is a Lawyer, he muſt account to the Laws for what he hath done; if the Authority were not lawful, he cannot but know that this which he calls the *Parliament* was ſo far from a Legal Authority, that it was one part of the Treaſon that he did aſſiſt ſuch an Aſſembly.

Gentlemen of the Jury, This is your own Caſe, here is a Charge that is exhibited by the Priſoner at the Bar, as he ſaith, in the Name of all the People of *England*. Look on it, for you are ſome of them if you own it; then it may be true what he hath ſaid; but I hope you meet here to tell this Nation, and all the World, that the People of *England* had no Hand in that Charge; do but conſider how that this Priſoner at the Bar had hunted the Life of the *King*, how he did fiſh out and examine Evidence, whether the *King* ſet up his Standard at *Nottingham*, was at ſuch a place, and ſuch a place; to what End is all this, but with Deſign of Blood? Were theſe Things to be produced againſt the *King*, and then Judgment to be demanded that he may be ſaved? Is it not plainly proved to you by Witneſſes, how he did exhibit the Charge, preſs it, aggravate it, deſired it might be taken *pro Confeſſo*, was afflicted with the Delays, how angry he was when he was interrupted? Is it not proved to you, that he was at firſt againſt the Thing, and ſaid, *It was a baſe Buſineſs?* When he was engaged in it ſaid, that he was *a Servant of the People of this Kingdom?* What doth he do at laſt, when the Thing had gone far? He ſpeaks that which is the only Truth which I have heard yet from him, *He muſt die, and Monarchy then muſt periſh with him*; from which Event, Good Lord, deliver us.

Sir *Edward Turner*. My Lord, the Subſtance of the Defence that the Priſoner hath made at the Bar, with much Skill and Cunning, may be referred to Two Heads. The Firſt to the Statute of the 25th of *Edward* the IIId, the Second to the late Act of Oblivion: For the Firſt, my Lord, he ſaith, that his Fact is not comprized within that Statute; ſaith he, I did never Conſpire or Imagine the Death of the King; nor did believe that would be a Conſequent of their Actings. It was expreſly proved, that himſelf did ſay that the King muſt Die, and Monarchy with him: but, Gentlemen, though he had ſaid true, that it had not been proved, or that he did not believe that would be a Conſequent, yet, my Lord, I muſt tell you, that every Step of this Tragedy was Treaſon; the Summoning themſelves, that was Treaſon; every Proceeding upon that was Treaſon; the Summoning of their Meetings in the *Painted-Chamber*, coming into *Weſtminſter-Hall*, every Perſon as Inſtrumental, thoſe that came to Act the leaſt Part in that Tragedy, were every one Guilty of Treaſon; what, ſaith he, I acted as a Counſellor for my Fee: It was that Fee that *Judas* had, the 30 Pieces of Silver, that made him hang himſelf. He goes further, and tells you, there muſt be no Semblable Treaſons, this is clear; the Conſpiring and Imagining the Death of the King, that's the Treaſon that is mentioned in the Act; Treaſon by the Common Law; though this be not named the killing of the King; yet all theſe Proceedings are Demonſtrations to you there was a Secret Imagination to kill him. Then to the Act of *Oblivion*, his Argument is, That becauſe the Act ſaith, that if they had Sentenced, Signed, or been Inſtrumental in the Death of the King, that they ſhould be excepted; but it is not ſaid, or *otherwiſe Inſtrumental*; that this therefore ſhould refer to ſubſequent, not precedent Acts, that's a ſtrange Expoſition; take it Grammatically, it hath the moſt large Conſtruction, Inſtrumental, more large than if they had ſaid otherwiſe, for it doth comprehend every Thing: There having been ſo full an Anſwer already, I will be ſhort; I will not meddle with his Civil Debts, but with his Political: if a Man kill another, though he do repent, the Magiſtrate muſt do Juſtice *in Terrorem*. Though he doth repent (I hope in God he doth ſo), the Magiſtrates, your Lordſhips, muſt do Juſtice *in Terrorem*; I deſire that Juſtice may be done upon that Man. He ſaid it was no Treaſon to demand Juſtice againſt the King, becauſe he did but demand it; I hope he will think it no Unkindneſs in me to deſire Judgment againſt him, becauſe it is Juſt.

Mr. *Wadham Windham*. As I underſtand the Priſoner at the Bar, the chief Argument which he ſhelters himſelf under was his Profeſſion, which gives a Blaſt to all of us of the Long Robe; I will not mince his Arguments; ſaith he, here was a Court, I was appointed Solicitor; and ſaith he, for Men to practiſe before thoſe that have not a proper Judicature, it is not Felony, Murther, or Treaſon (I would not willingly mince his Argument), and that I was appointed, and the Words dictated to me; and a Counſellor carrying himſelf within the Compaſs of his Profeſſion is not Anſwerable; but if he will exceed his Bounds, his Profeſſion is ſo far from ſheltering him, that, as it has been opened, it is very much an Aggravation; it is the Duty of a Counſellor to give Counſel; if a Man ſhall come to me and aſk Counſel, and I ſhall Counſel him to kill a Man, am not I acceſſary to that Murder? Words, by his Argument, will not amount to Treaſon; if the Fact follows, I am as Guilty as if I did the Fact; in point of Treaſon, it is all one as if I had done that very Act. If Mr. *Cook* did adviſe that Act, or was Inſtrumental, he is as much a Traitor as the Man in the Frock that did the Execution. For his Profeſſion, truly, my Lord, I do not think that a Counſellor is always bound to know the Patent of him that ſits as Judge, that will not be his Caſe; here was no ordinary Warrant of Law to carry on Juſtice: *Grotius* ſaith, in Caſe of Neceſſity for carrying on Juſtice, there may be many things allowed: I pray where did Mr. *Cook* read of ſuch a Court as a High-Court of Juſtice? There was never ſuch a High-Court of Juſtice read of in the Law; then as this was a Mock-Court, ſo under good Favour it was a Mock Juriſdiction. Was there any Law under Heaven to put the King to Death? Is it not out of the Compaſs of all Courts whatſoever to do it? And under good Favour, my Lord, this is but to ſhelter a Man's ſelf under Colour of Juſtice to do the moſt Execrable Treaſon in the World; I have no more to ſay to you.

Lord Chief Baron. I would repeat the Evidence and your Anſwer to you; if you have any thing New, ſpeak to it.

Cook. This is New; it was ſaid by one, that if there had been no Charge, there had been no Sentence given in the Caſe; I ſay, that the Indictment or Charge is no part of the Trial, by the Statute of *Magna Charta*: The Peers of the Land ſhall be Tried by Peers, but are Indicted by the Country; I conceive, by what they have ſaid, they do make me cauſal of the King's Death. It is ſaid in the Indictment, there was a Power; I ſay this, I did not aſſume any Power; it cannot be ſaid, if Counſel be come in to an unlawful Power, that he takes the Power, but ſtands with Reſpect at the Bar. At Aſſizes Judgment paſſes, the Clerk of the Aſſizes he is not Inſtrumental in taking away Life. For that which Mr. *Starkey* ſhould ſay, that I ſhould ſay *The King muſt die, and Monarchy with him*, I humbly beg that the Jury would take Notice of what Mr. *Nutley* ſaid, that I told him there was no Intention of taking away the King's Life; and beſides, it is but a ſingle Witneſs. I hope there muſt be Two Witneſſes in Point of Law to Convict a Man of High-Treaſon.

Lord Chief Baron. Mr. *Cook*, you ſaid right but even now, that if there was any Thing in Matter of Law which the Court knows of, which may be of Advantage to you, they are of Counſel to you, and ſo they ought to be.

Cook. I thank your Lordſhips.

Lord Chief Baron. I ſhall repeat the whole Evidence, and begin with that firſt (we are upon our Oaths): The Witneſſes that are againſt you, I took Notice of them; you have had a great deal of Liberty, which you have made uſe of civilly; but, Sir, for the Fact, I think it is a great deal more full than as you have anſwered. Firſt, The Firſt Witneſs produced againſt you was Mr. *Nutley* (I ſhall ſpeak only the Material parts that concern your Charge); he ſwears expreſly, that he ſaw *Price* a Scrivener writing a Charge in the *Court of Wards*, that he ſaw his Charge in your Hands; he ſaw afterwards, when the King of Bleſſed Memory was brought as a Priſoner, that there you delivered the Charge in; there is more than Words; you delivered that Charge in, that alone is an Overt-Act; then if there were nothing elſe in that Caſe, that a Man in a Paper ſhould call the King Traitor, Tyrant, Murtherer, and Implacable Enemy, as there the Words are, and he deliver this Paper, and this be read; if this be not an Overt-Act of Imagining and Compaſſing the King's Death, I do not know what an Overt-Act is: and he gives further Evidence; if I miſtake, take free Liberty to interrupt me.

Cook. Sir, they were not my Words, but their Words that commanded me.

Lord Chief Baron. This I ſay, that this very Thing alone, ſuch a Paper approved by you, delivering this Paper to an Aſſembly, and requiring it may be read, this is an Overt-Act to prove the Imagination of your Heart for the Death of the King; the Reaſon is, if the King ſhould be a Tyrant,

Tyrant, a Traitor, &c. it ſtirs up Hatred in the People, and the Conſequences of that Hatred is the Death of the Prince. The next Thing that Mr. *Nutley* ſaid was this, he ſaid that you demanded poſitively Judgment againſt him, againſt the Bleſſed King, then Priſoner at the Bar. I remember you ſaid that you did demand Judgment, but that you did not demand Judgment againſt the King; take it ſo, whether you did, or not, (though you ſhall find in ſome other Witneſſes that I ſhall repeat, that you ſaid Judgment againſt the King); the Conſequence will be the ſame; who could you demand Judgment againſt but the King? He was the Priſoner: Becauſe he did demand a further Hearing by the *Parliament*, you urged that his Charge might be taken *pro Confeſſo*, then it muſt needs be Judgment againſt the King; it is effectively and implicitly the ſame. He went further, and that was, that being your Friend and Acquaintance, and acknowledging your Parts as a Lawyer (which truly I do very much know myſelf, and do know this Gentleman to be a Man of very great Parts in his Profeſſion), he had familiar Acquaintance with you; he told you what a baſe Buſineſs it was, and you did yourſelf acknowledge it; ſaid the Priſoner to Mr. *Nutley* himſelf, it is a baſe Buſineſs, but they put it upon me. He did diſcourſe further to him of the Oaths of Allegiance and Supremacy, which he knew very well, no Man better; this, Gentlemen, he very ingenuouſly confeſſed it, ſaying, I confeſs it is ſo, they put me upon it, I cannot avoid it; but then excuſes it, I am the Servant of the People: Afterwards he preſſed the King to anſwer poſitively, whether Guilty or Not Guilty; the preſſing of the King to anſwer, what was it in Effect but to haſten Judgment? And that was to haſten his Death; ſo that this is the Subſtance of Mr. *Nutley*'s Teſtimony, that he preſſed Judgment; Judgment was demanded by the Priſoner now at the Bar; it is not only demanded, but preſſed, and all the Current of the Witneſſes at ſeveral Days are to this purpoſe. It is true (that I may repeat the whole for you, and againſt you), that this Gentleman, the Priſoner at the Bar, when Mr. *Nutley* did urge this to him, ſaid he hoped they did not intend to take away the King's Life; I verily believe they do not intend to take away the King's Life; I hope they do not. But, Mr. *Cook*, it is no Excuſe to ſay you hope, or you believe, they will not, &c. How far it may be in ſuch a Crime ſomething in Extenuation *in Foro Cæli*, but not *in Foro Civili*; you opened it yourſelf, that if a Man ſhould go about to take the King Priſoner, it is Treaſon; the Law adjudg'd that to be Treaſon; when you knew they would condemn him as a Tyrant, Murtherer, &c. you muſt eaſily believe what would follow ſuch a Condemnation, truly Death; that is no Colour of Excuſe in *Foro Civili*. *Farrington* ſwears to the ſame Purpoſe, that he ſaw you having a Parchment in your Hands, delivering it in, and prayed it might be read as a Charge of the People; you did not ſpeak, I deliver this in, from thoſe that deliver'd it to me; that was not in the Paper, that you ſaid of yourſelf; my Brethren will tell you, all this is an apparent Point of the Imagination of your Heart; at that Time he ſwears the ſame Thing, that you did deſire it might be taken *pro Confeſſo*. Mr. *Bodurdo* is the Third, he ſwears the ſame Thing too, that you exhibited a Charge of High-Treaſon againſt the Priſoner then at the Bar, and tells you the Subſtance of it; he ſaith that all but the Firſt Day you demanded Judgment for not pleading to the Charge; he adds, that you complained of the Delays; I am ſure that was not dictated to you; that could not be thought that you ſhould deſire Judgment for the Priſoner: It is very true which you ſay for yourſelf in that, that you did not demand it firſt, till it was demanded by the Court; Mr. *Bodurdo* tells you, and ſo it was granted the Firſt Day, that *Bradſhaw* only ſaid it, but afterwards that you always demanded it: The next was Mr. *Herne*, he ſwears the ſame Words again, that you did in the Name of the Commons Aſſembled in Parliament, and the People of *England*, exhibit a Charge, &c. Theſe are your own Words; if you did exhibit a Charge againſt the King, to exhibit a Charge of High-Treaſon the very Thing followed; if it were ſo, there was Death; ſo certainly there cannot be a greater Expreſſion of the Imagination of a Man's Heart than that is: It is true, you aſked then a Queſtion, and that was, Whether that that you concluded was not that you deſired them to proceed according to Juſtice? It is true, the Words of the Charge are ſo; but before you come to Concluſion you Charge him as a Traitor, Tyrant, &c. *Communis Hoſtis*; after you had given that Charge you demanded Juſtice; thoſe that ſpit in his Face, they demanded Juſtice; every one knew what belonged to that Juſtice: Then *Baker*, he ſwears poſitively that you did exhibit the Charge in this Manner; he ſaid this, that you ſaid, you had exhibited a Charge of High-Treaſon, &c. and that the King ſought Delays; there is your inſiſting upon it; he ſays further that you ſaid theſe Words, that you did deſire Judgment ſhould be given againſt him, and not ſo much you, as the Blood that had been ſhed that cried for Judgment; truly whether that was a Judgment that you intended for Acquittal, that muſt be left to the Jury. You aſked (becauſe I will repeat it in order as my Memory will give me leave) whether there was any other Words in the Charge than was in the Proclamation? Mr. *Cook*, Whether there was any other Words, or no, that differed in the Proclamation; as it was a great Sin and foul Fact in the Proclamation, ſo it was as foul in the Charge. Maſter *Maſterſon* ſwears the ſame too, he heard you ſay the Second Day you had delivered a Charge (the Day before) againſt the King; and that he had delayed his Anſwer; you deſired he might plead Guilty, or Not Guilty; the laſt Day, that you did in the Names of the Commons Aſſembled in Parliament, and the People of *England*, demand Judgment againſt the King; and then another ſwears thoſe Words, Judgment againſt the Priſoner at the Bar, which was the King. *Burden* ſwears you Examined him as a Witneſs againſt the King, in what Place he was with the King; it ſeems he was in the King's Army; he ſwears you gave him an Oath; (it is Teſtimony fit to be believed) but however, if you did not give the Oath, by what you ſay yourſelf you may be by, and aſked him the Queſtion. Maſter *Starkey*, he tells you, that during the Trial, and before the Sentence, that you, being an Old Acquaintance of his in *Gray's-Inn*, and ſpeaking with him, he ſpake like a Friend to you, *I hear you are up to the Ears in this Buſineſs*; and *whereas you talk of the People, there is a Thouſand for One againſt it*; that you ſhould tell him again, *You will ſee ſtrange Things, but you muſt wait upon God*; theſe Words of waiting upon God are Words of that Nature, People do uſe them now-a-days when they would do ſome horrid Impiety, which hath been the Sin of too many; it is but a Canting Language, that is the beſt Term I can give it: You told him then *He muſt Die*, this was before the Sentence; (that is to be obſerved, Gentlemen of the Jury) you ſay you did not know of the Sentence, you ſaid *He muſt Die, and Monarchy with him*. You muſt here know that ſome of thoſe Perſons that ſate upon him ſaid, the King was a Gracious and Wiſe King; and as Mr. *Cook* did ſay, and they were the beſt Words they ſpoke, and I think he thinks ſo in his Conſcience; but in Concluſion He muſt Die, and Monarchy muſt Die with him; others ſaid, they did not hate King *Charles*, but they hated Monarchy and Government; but Monarchy was the Thing that they would Behead. I think I have done with that Evidence that was given againſt you; the Indictment itſelf was read, the Overt-Acts was the Meeting, Propounding, and Conſulting about it. It appears he was in the Chamber about the Charge, that he did propound it, he delivered the Charge, and it appears withal, that he demanded Judgment, he deſired the King might anſwer, or that it might be taken *pro Confeſſo*. Theſe are Overt-Acts to declare the Imagination of his Heart. The Anſwer of Mr. *Cook* I will repeat it as clearly as I can, becauſe nothing ſhall go to the extenuating of the Fact but it ſhall be ſpoken. Mr. *Cook*, in your Anſwer, your Defence that you make, you ſet forth the Heads of this Indictment, and you ſet them forth very truly; the Heads are the Aggravations of the Indictment, the Indictment was the Compaſſing and Imagining the Death of the King; it ſaid it was upon theſe Grounds; that you did Propound, Abet, and Conſult the Death of the King; that you with others did aſſume Power and Authority to kill the King, and that thereupon a Perſon unknown in a Frock did accordingly kill the King. You ſay to the firſt Part, if it did not appear that you did adviſe the Death of the King, that you were not Guilty: For that, Sir, as I told you before, taking them either complexly or ſingly, if any of the Particulars reached to one of theſe Acts, it was enough, but it reaches to all: You required Judgment againſt the King as a Traitor, and that with a Reaſon, and certainly Death muſt follow: You ſay you were appointed to give your Advice; you had a Proclamation firſt for Trial of the King; you had the Order of *January* 10, whereby you were appointed to give your Advice; if it were ſo, it will be no Excuſe at all; the Proclamation gives you no Warrant at all; he that obeys ſo wicked a Proclamation it will not ſave him; it appears you were privy to this before the Proclamation; if you were not at all, when ſuch a thing as this is, ſuch a Proclamation and Act, and ſuch a manner of Trial, as I believe, though you have read very much, you never heard of ſuch a Thing in our Law, or Foreign Nations, that you thereupon ſhould take upon you to be of Council againſt the King, it aggravates the Fact: Other Men may be Impudent and Ignorant, but you that were a Learned Lawyer, your being of Council doth aggravate the Thing. You ſay, Secondly, By Law, Words will not amount to Treaſon; for that, I would not have that go for Law by no means, though it be not your Caſe; for you are not Indicted for Words, but Words are Treaſon, and Indictments are often for it; but the Difference is this, the Indictment is not for Words, but Compaſſing and Imagining the Death of the King; Words are Evidence of the Compaſſing and Imagining the King's Death; it is the greateſt Evidence of the Imagination of the Heart; Words do not make a Treaſon, that is, if it be by Inference or Conſequence, but reductively; but if it be immediately, I ſhall ſay to a Man, Go kill the King, by that which is an abſolute, immediate neceſſary Conſequence, to ſay this is no Treaſon, I would not have that go for Law; your Caſe is not for Words, but for delivering a Charge, the Ground that you ſpeak of; Words may make a Heretick, but not a Traitor; it was a witty Saying, but you have no ſufficient Authority for it; theſe are Words put in Writing; We all know, if a Man put his Words in Writing, if a Man ſpeak Treaſonable Words, and put them in Writing, they have been ſeveral Times adjudged Treaſon; and ſo in my Lord *Coke's* 3 *Inſtitutes*, the Caſe of *Williams* of the *Temple*; there was a Book of Treaſon in his own Study of his making, and he was Indicted for it; Words put in Writing is an expreſs Evidence of the Imagination of the Heart; you ſay it was dictated to you, but when Words are written in a Charge, and your Name to it (which I had almoſt forgotten), that's more than Words; the Witneſſes ſwear the Likeneſs of your Hand; they do but ſwear the Likeneſs of your Hand; no Man can ſwear more, unleſs he was preſent and ſaw it; but you owned the Charge, and there your Name is; that beſides the Two Witneſſes, there is your own Actions to prove it. When Two Witneſſes ſhall ſwear it is like your Hand, and you own that Charge, I muſt leave it to the Jury: You ſay you did this after Command, the Words were dictated to you; the Words were *conceptis Verbis*, appointed and ordered by the Court, but the preſſing was yours; he ſtands upon Delays, let it be taken *pro Confeſſo*, demanding Judgment; theſe were your Words; another Man may dictate a Thing, but you are not forced to ſpeak it; you urged it, owned it; you demanded not in the Name of the Court, but in the Name of all the People of *England*; you ſay further, that your demanding Juſtice is not within the Statute; as I ſaid before, what can be the Effect of demanding Juſtice, but that the King ſhould die upon thoſe Premiſſes? You ſay farther that it was in behoof of the King, as you would urge it; to do the King a Courteſie, in aſking the King might have Juſtice; but you did not name what Juſtice it was; but you did him a Courteſie; truly the King was but a little beholden to you for that Requeſt; all the World knows what that demanding of Juſtice was, it was to have the King's Head cut off; you went as far as you could; it ended with you when you demanded Juſtice; that is, as far as you could you cut off the Head. St. *Paul*, when the Witneſſes laid down the Cloaths at his Feet, he ſaid, I killed *Stephen* the Martyr. You ſay further, that in all Tragedies, the Accuſer or Witneſs, the Jury, the Judge, and Executioner, are the only Perſons; and you are none of theſe; you are only of Council; if

Juſtice was not done, what was it to you? You ſaid you did not aſſume a Power, there was only Eloquence required in the Council; it hath been truly ſaid, that this is a great Aggravation to be of Council againſt the King; you ſaid his Majeſty was then a Priſoner and accuſed; Council cannot be heard againſt the King; you undertake to be Council againſt the King in his own Perſon, and in the higheſt Crime; if the Council at the Bar in behalf of his Client ſhould ſpeak Treaſon, he went beyond his Sphere; but you did not only ſpeak (but acted) Treaſon; you ſaid you uſed not a diſreſpective Word to the King; truly, for that you hear what the Witneſſes have ſaid; you preſſed upon him; you called it a Delay; you termed him not the King, but the Priſoner at the Bar, at every Word; you ſay you did not aſſume an Authority; it is an Aſſumption of Authority, if you countenance or allow of their Authority; you ſay you do not remember you demanded Judgment againſt the King; that is fully proved againſt you; you yourſelf aſked the Queſtion; whether you did ſay againſt the King he did not remember; but others poſitively, that you demanded Judgment againſt the King and Priſoner at the Bar; you ſaid, that before Sentence there was not an Intention to put the King to Death; to that Mr. *Starkey* ſwears that you expreſly ſaid, the King muſt die, and Monarchy with him, and this before the Sentence: Whereas you ſay this is but one Witneſs, that there is to be in Treaſon Two Witneſſes; but that there ſhould be Two Witneſſes to every Particular that is an Evidence of the Fact, that is not Law; if to one Particular that is an Evidence there be one Witneſs, another to another, here are Two Witneſſes within the Meaning of the Statute; Two Witneſſes to the Indictment, Compaſſing and Imagining the Death of the King; being accompanied with other Circumſtances, this One Witneſs, if you believe him, is as good as Twenty Witneſſes, becauſe other Overt-Acts are expreſly proved by ſeveral Witneſſes. You ſay next, For the drawing of the Charge, in right Reaſon, it ought to be counted for the Service of the King: Firſt you do acknowledge, and truly very ingenuouſly, that in the Time of Peace to bring him to the Bar, not being a Priſoner, is Treaſon (you ſay it) according to the Law, and that you delivered the Charge for the accelerating of the Trial; and that it was not done by you traitorouſly; you ſay the King was a Priſoner before; and you ſay what Hands he was in, in the Hands of Men of Power and Violence; it had been your Duty to have delayed it, not accelerated it, that there might have been ſome Means of Prevention of that Bloody Act that followed; if you knew that to be Treaſon to make him a Priſoner, Subjects do not uſe to make Kings Priſoners, but Death follows. You urge in the next Place the Act of Imdempnity, and that you are not excepted; for that you have made as much of it as the Matter will bear; yet you muſt conſider, Firſt, as a Rule in Law, that where they are General Words, when they come to be explained by the Particulars, you ſhall not include them within the General: Mark the very Words, they are theſe: *Provided that this Act, nor any Thing therein contained, ſhall extend to Pardon, Diſcharge, or give any other Benefits whatſoever unto ſuch and ſuch, (among whom you are named), nor any of them, nor thoſe Two Perſons, or either of them, who being diſguiſed by Frocks and Vizards, did appear upon the Scaffold erected before* Whitehall, *upon the Thirtieth of* January 1648. *All which Perſons* [theſe are the Words]. *Firſt*, It ſhall not extend to you; then it comes, *All which Perſons for their execrable Treaſon in ſentencing to Death, or ſigning the Inſtrument for the horrid Murther, or being Inſtrumental in taking away the Precious Life of our late Sovereign Lord* CHARLES *the Firſt of Glorious Memory, are left to be proceeded againſt as Traitors to His late Majeſty, according to the Laws of* England, *and are out of this preſent Act wholly excepted and foreprized.* Firſt, as I told you before, and as it was very well ſaid by Maſter *Solicitor*, admitting the Reaſon had been miſtaken, and that you had not been comprehended in the Reaſon, you are excepted out of the Body, *Provided it ſhall not extend*, &c. Many times Laws do make Recitals, which in themſelves are ſometimes falſe in point of Fact; that which is the Law is Poſitive Words, the other Words are for the Reaſon; *excepting all which*, that is, Maſter *Cook*, which Perſon is excepted, not for Doing of it, but for his execrable Crimes in being inſtrumental. It is clear without that, if it were not ſo; we ſay when a Sentence is, or ſuch a one, or ſuch a one, the Third Or makes all disjunctive: Here are Three Ors, firſt in Sentencing to Death, or Signing the Inſtrument, then comes this, or being Inſtrumental in taking away the Precious Life of our late Sovereign, &c. This Or doth clearly exclude the other Two; or Inſtrumental not only in Point of Death, but farther, being either a Sentencer, Signer, or being Inſtrumental in taking away the King's Life; that is, being any way Inſtrumental. Truly, whether it be not Inſtrumental to exhibit a Charge againſt him, or complain of his Delays; to aſk Juſtice againſt him in the Name of the People, to do all this, and deſire that the Charge might be taken *pro Confeſſo*, if this be not Inſtrumental, I know nothing elſe but Sentencing and Signing: Some ſigned the Sentence, ſome the Inſtrument for Death: The next Degree of being Inſtrumental, the higheſt Degree of that, is to Accuſe him, to deliver in the Charge againſt him in the Name of the People; do it again and again, be angry at the Delays. The next thing is this, that you did not do this *falſo* or *malitioſe*, but for your Fee; and that though there might be *avaritia*, there was not *malitia* in it; it was done by your Profeſſion, you were not Magiſterial in it; you thought the Conſequences that did follow, would not follow. If a Man does but intend to beat a Man, and he die upon it, you know in Law it is all one: You muſt underſtand there is a Malice in the Law; if a Man beat One in the Streets, and kill him, though not maliciouſly in him, yet it is ſo in Law. That you deſire to have the Benefit of the King's Declaration; that you did put in your Petition proving the ſame; that you were a Priſoner before; that the Commons in Behalf of themſelves and the People of *England*, they craved the Benefit of it, which was granted, excepting ſuch as ſhould be by Parliament excepted; and that the King ſhould mention a Free Parliament; for this, it hath been fully anſwered to you, and clearly, by Mr. *Solicitor*, that you are not at all concerned in the King's Declaration at *Breda*. For Firſt, it is nothing in Law, it binds in Honour; and we have given the ſame Directions Yeſterday upon the like Occaſion, that is; that the King's Declaration binds him in Honour and in Conſcience, but it does not bind him in Point of Law, unleſs there were a Pardon granted by the Broad Seal; the Thing is cleared to you what Parliament the King meant by it; they were ſitting at that Time, had acknowledged their Duty and Allegiance to their King; they went *ad ultimum potentiæ* for a Free and Abſolute Parliament, whilſt the King was abſent, though the King was away; yet notwithſtanding the King declared whom he meant; he directed one of thoſe Declarations to Our Speaker of the Houſe of Commons, and another to the Speaker of our Peers: In this Caſe it was *loquendum ut vulgus*; it was owned by him as having the Name of a Parliament; it was done with great Wiſdom and Prudence, and ſo as it could be no otherwiſe; that they were Loyal Subjects, acting in the King's Abſence; he conſenting to it; the King owning that Authority; ſo he was obliged in Honour no further than his own Meaning and Words; but there is another Clauſe in the Act which excludes all theſe Perſons. The next Thing is this, you ſay the Statute of 25 *Edward* III. and it is very true, you ſay if it be any Semblable Treaſon, we were not to judge upon that, unleſs they were the Treaſons in the Act; and it is moſt true; now you would urge but this, that this is but a Semblable Treaſon; but you are Indicted for the Compaſſing and Imagining the Death of the King: If theſe Acts did not tend to the Compaſſing and Imagining the King's Death, I know not what does; I am ſatisfied you are convicted in your Conſcience. The next Thing (for you have ſaid as much as any Man can in ſuch a Cauſe, it is Pity you have not a better), you ſay, though it was a Tyrannical Court, as it is called, but ſuch a Court it was, and there were Officers you ſay, it had *figuram judicii*; that aggravates the Act to you, to your Profeſſion. There is a difference between a ſtanding Court, and that which is but named to be a Court; this was but One of a Day or Two's growth before, and you know by whom; by ſome that pretended to be only the Commons; your Knowledge can tell you, that there was never an Act made by the Commons aſſembled in Parliament alone; and you may find it in my Lord *Coke*, that an Act by the Lords and Commons alone was naught, as appeared by the Records; Sir *James Ormond* was Attainted of Treaſon; the Act was a private Act, by the King and Commons alone; the Lords were forgot; when the Judges came to try it, it was void; and another in *Henry* the VIth's Time; you know this was no Court at all; you know by a Printed Authority, that where a ſettled Court, a true Court is, if that Court meddle with that which is not in their Cognizance, it is purely void; the Miniſter that obeys them is puniſhable; if it be Treaſonable Matter, it is Treaſon; if Murder, it is Murder: So in the Caſe of *Marſhalſea*, and in the *Common Pleas*, if a Man ſhall begin an Appeal of Death which is of a Criminal Nature, and ought to be in the *King's-Bench*, if they proceed in it, it is void; if this Court ſhould condemn the Party Convicted, and he be executed, it is Murder in the Executioner; the Court had no Power over ſuch Things. You ſpeak of a Court: Firſt, it was not a Court: Secondly, no Court whatſoever could have any Power over a King in a coercive Way, as to his Perſon. The laſt Thing that you have ſaid for yourſelf is this, that admitting there was nothing to be conſtrued of an Act or an Order, yet there was a Difference; it was an Act *de facto*, that you urged rightly upon the Statute of 11 *Hen.* VII. which was denied to ſome, God forbid it ſhould be denied you; if a Man ſerve the King in the War, he ſhall not be puniſhed, let the Fact be what it will. King *Henry* the VIIth took care for him that was King *de facto*, that his Subjects might be encouraged to follow him, to preſerve him, whatever the Event of the King was: Mr. *Cook*, you ſay, to have the Equity of that Act, that here was an Authority *de facto*; theſe Perſons had gotten the Supreme Power, and therefore what you did under them you do deſire the Equity of that Act; for that clearly the Intent and Meaning of that Act is againſt you; it was to preſerve the King *de facto*, how much more to preſerve the King *de jure*; he was owned by theſe Men, and you, as King; you Charged him as King, and he was Sentenced as King. That that King *Henry* the VIIth did was to take Care of the King *de facto* againſt the King *de jure*; it was for a King and Kingly Government, it was not for an Antimonarchical Government; you proceeded againſt your own King, and as your King, called him in your Charge *Charles Stuart* King of *England*. I think there is no Colour you ſhould have any Benefit of the Letter, or of the Equity of the Act. They had not all the Authority at that Time, they were a few of the People that did it, they had ſome Part of the Army with them; the Lords were not diſſolved then when they had adjourned ſome Time, they did ſit afterwards, ſo that all the Particulars you alledge are againſt you. The laſt Thing was this, You ſay, that it having pleaſed God to reſtore the King, Judgment ſhould be given for Example for Terrour to others that this could not be drawn into Example again; why? Becauſe by the Bleſſing of God Peace was reſtored; no Probability that if your Life was ſpared, that it would be drawn again into Example; this is the weakeſt Thing you have urged; you muſt know the Reaſon: There are Two Things, there is the Puniſhment, and Example; Puniſhment goes to the Priſoner, but Example to the Documents of all others; God knows what ſuch Things may be in After-Ages, if there ſhould be Impunity for them; it would rather make Men Impudent and Confident afterwards. If you have any more to ſay I will hear you, if not, I muſt conclude to the Jury: You hear the Evidence is clear for Compaſſing and Imagining the Death of the King; you have heard what he has ſaid, and what he hath done; he was within, and examined Witneſſes againſt the King, that he was by at the drawing of the Charge where it was drawn; you hear he exhibited this Charge in the Name of the Commons Aſſembled in Parliament, and the good People of *England*, and what this Charge is; it is High-Treaſon, and other High Miſdemeanours; you find that he does complain of Delays, does again and again ſpeak of this Charge, deſire it may be taken *pro Confeſſo*; in the cloſe of all, it was not ſo much he as Innocent Blood that demanded Juſtice; this was more than was dictated to him. You have heard

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the Witneſſes; he was perſuaded to forbear; acknowledged the King to be a Gracious and Wiſe King; the Oaths alledged againſt him, and you have heard his Excuſe; I have nothing more to ſay; I ſhall be very willing to hear you further; I have not abſolutely directed the Jury.

Cook. I do humbly acknowledge your Patience in hearing me, and that your Lordſhips have truly and juſtly ſtated both Proofs and my Anſwer. If your Lordſhips are pleaſed to lay aſide theſe Acts, or Orders, or Authority, whereby I did at that Time truly conſcientiouſly act, and did think that it would bear me out; if you lay aſide that, and look upon it as ſo many Men got together without Authority, and as well thoſe that were Inſtrumental, though not Sentencers or Signers, and that Clauſe in the Act, I confeſs I humbly make bold to ſay, I have not received Satisfaction in my Judgment; thoſe very Words of *not ſo much I as the Innocent Blood cries for Juſtice* were dictated to me; there was nothing at all left to me, becauſe his Majeſty did not plead; there was no Trial; that which I did was according to the beſt, though it may be according to the weakeſt Part of my Judgment: I have no New Matter.

Lord Chief Baron. You have ſaid no New Matter, unleſs it be worſe than before, for now you warrant that Authority.

Cook. Do not miſtake me (my Lord), I mean ſo far as to excuſe me in the Point of High-Treaſon.

Lord Chief Baron. We delivered our Opinions as to that formerly; we were of Opinion, that the acting by Colour of that pretended Authority was ſo far from any Extenuation, that it was an Aggravation of the Thing; the Meeting by that Authority was Treaſon, and in them that acted under them, and approving of it; the making of that traitorous pretended Act, making the Proclamation, ſitting upon it, they were all ſo many Treaſons; that was the Reaſon why that was urged againſt you, aſſuming upon you the Power, that was, you approving of their Power by acting under them, ſo that there is nothing more to be ſaid.

Gentlemen of the Jury, You have heard the Indictment was for Compaſſing and Imagining the Death of the King; you have heard the ſeveral Overt-Acts repeated, and whether theſe are guilty of Treaſon to deliver in a Charge againſt the King, ſuch a one as that was in theſe Words, as againſt a Traitor, Tyrant, Murderer, and Implacable Enemy to the Commonwealth; in theſe very Words to deſire Judgment againſt the Priſoner (then the King) at the Bar, angry at Delays, to deſire that the Charge might be taken *pro confeſſo*, to have it expreſly, again and again to demand Judgment; if theſe be not Overt-Acts of Compaſſing and Imagining the Death of the King, and that which hath been ſaid by the Witneſſes, it muſt be left to you: I think you need not go from the Bar. *Jury went together: Silence is commanded.*

Clerk. Are you agreed in your Verdict?

Jury. Yes.

Clerk. Who ſhall ſpeak for you?

Jury. The Foreman.

Clerk. John Cook, Hold up thy Hand. Look upon the Priſoner at the Bar. How ſay you, is he Guilty of the Treaſon in Manner and Form as he ſtands Indicted? Or Not Guilty?

Fore-man. Guilty.

Clerk. Look to him, Keeper.

Clerk. What Goods and Chattels?

Jury. None that we know of.

The Trial of Hugh Peters, *the ſame 13th of* October.

Clerk of the Crown. Set *Hugh Peters* to the Bar: Which was done accordingly.

Clerk. Hugh Peters, Hold up thy Hand; thou ſtandeſt Indicted, *&c.* If you will challenge any of the Jury, you muſt challenge them when they come to the Book, before they are ſworn.

Lord Chief Baron. Mr. *Peters*, you may challenge to the Number of 35 peremptorily, but beyond that you cannot, without good Cauſe ſhewn; and you may have Pen, Ink, and Paper.

Peters. *My Lord, I ſhall challenge none.*

Jury Sworn 12, Sir *Jer. Which, James Hally, Chriſt. Abdy, Nich. Rainton, Rich. Cheney, Jo. Smith, Rich. Abol, G. Terry, Char. Pickern, Jo. Nichol, Fran. Dorrington, Anthony Hall.*

Clerk. Hugh Peters, Hold up thy Hand. Look on the Priſoner, you that are Sworn, *&c.*

Sir *Edward Turner* to the Jury. You have often heard repeated to you, that the Subſtantial Part of the Charge is the Compaſſing and Imagining the Death of the King, and all the reſt will be but Evidence to prove that Imagination againſt the Priſoner at the Bar, whom we will prove to be a Principal Actor in this ſad Tragedy, and next to him whom God hath taken away, and reſerved to his own Judgment; and we ſhall endeavour to prove, that he was a Chief Conſpirator with *Cromwell* at ſeveral Times, and in ſeveral Places; and that it was deſigned by them: We ſhall prove that he was the Principal Perſon to procure the Soldiery to cry out, Juſtice, Juſtice, or aſſiſt or deſire thoſe for the taking away the Life of the King. He did make Uſe of his Profeſſion, wherein he ſhould have been the Miniſter of Peace, to make himſelf a Trumpeter of War, of Treaſon and Sedition, in the Kingdom: He preached many Sermons to the Soldiery, in direct Terms for taking away the King, comparing the King to *Barabbas:* He was Inſtrumental when the Proclamation for the High-Court of Juſtice (as they called it) was proclaimed, directing where it ſhould be proclaimed, and in what Place. When the King was brought upon the Stage, that Mock Work, he was the Perſon that ſtirred up the Soldiery below to cry for Juſtice; we ſhall ſhew you as he preached at ſeveral Times upon ſeveral Occaſions, ſtill he was in the Pulpit to promote this Buſineſs; the next Day after he was brought to Trial he commends it; you ſhall hear all out of the Mouth of the Priſoner, therefore I ſay no more; call the Witneſſes.

Dr. *William Young* Sworn.

Council. Tell my Lords and Jury what the Priſoner at the Bar has declared to you concerning the Contrivance of bringing the King to Trial.

Dr. *Young.* My Lords, and Gentlemen of the Jury, it was near about (and that the Priſoner may remember) the Month of *July*, 1648, ſince we came firſt acquainted, when he went over to *Ireland*; it was about the Siege of *Pembroke* Caſtle; but afterwards in the Year 1649, we renewed our Acquaintance; he went over into *Ireland* with that Uſurper, the late Protector, as he was called, after the Town of *Wexford* was taken; coming over he fell ſick of the Flux, and ſaid he received it by Infection, praying over Captain *Horton:* Coming into *Milford*, that Captain ſends a Summons to me to come on Board; that was to fetch this Priſoner at the Bar, who was ſick. I found him there grovelling upon the Deck, and ſick he was indeed; with much Difficulty we got him on ſhore; within a very few Days (to the beſt of my Remembrance five Days) I perfected his Cure: We became very familiar; I obſerved in him that he had ſome ſecret Thoughts that I could not well diſcover, neither well underſtand; whereupon I thought it might tend to my Security that I ſhould ſo much ſympathize with him, to get within him to know his Intentions. After ſome Weeks (for he continued with me ten Weeks, or near thereabouts, ſome few Days rather over than under); we grew ſo familiar, that at laſt I found he began to enlarge his Heart to me. Many times I ſhould hear him rail moſt inſufferably againſt the Blood Royal, not only againſt our Martyred King, but againſt his Off-ſpring; ſtill as we continued our Acquaintance, he became more and more open to me; ſo we would ſit up diſcourſing (till about Twelve or One of the Clock at Night very often) about theſe unhappy Wars late in *England*. At laſt, my Lord, I found him that he began to tell me how he came into *England*, and upon what Account he came out of *New-England*. I ſhall deſire that in regard his Diſcourſes were various, that I may deliver them orderly; they were delivered to me within the Compaſs of ten Weeks; but the Days and Weeks I cannot remember. Firſt, he told me (diſcourſing of *New-England* and the Clergy there, and much of the Clergy here in *England*, and of the Buſineſs here of Reformation), he told me, that for the driving on of this Intereſt of this Reformation, he was imployed out of *New-England* for the ſtirring up of this War, and driving of it on; this I ſhall, my Lord, ſpeak to in the firſt Place, and that upon the Oath I have taken: And, Secondly, he was pleaſed at another time to acquaint me, and that by Way of Compliment, complaining then againſt the Parliament, ſaying, that ſome time after he was come into *England* he was ſent over into *Ireland* by the Parliament to receive further Inſtructions to drive on the Deſign, to extirpate Monarchy; ſaith he, I did diſpend a great deal of my own Money, yet never had that Satisfaction from them which they promiſed me; that was, they promiſed 2 or 3000 *l.* for my Journey, and yet they have given me no more but only a ſmall Pittance of Land out of my Lord of *Worceſter*'s Eſtate in *Worceſterſhire*. I have ſeen his Letters directed to his Kinſman here in *London*; as I take it his Name was *Parker*, adviſing him for the ſettling of his Land, and ſelling it. Thirdly, my Lord, I have obſerved, that by way of Vilification of the Monarchical Government, I have found him jocundarily ſcoffing at it, and would ordinarily quibble in this Manner, ſaying, this Commonwealth will never be at Peace till 150 be put down. I aſked him what this 150 was, he told me Three L's, and afterwards interpreted the meaning to be the Lords, the Levites, and the Lawyers: with that, ſaid I, we ſhall be like *Switzers*, *Tinkers* and *Traitors*. Now, my Lord, we are come to the laſt Particular; we diſcourſing thus frequently, and withal he was then a Colonel, and had a Commiſſion under that Uſurper *Oliver*, and brought over his Commiſſion for raiſing of Soldiers to foment that War in *Ireland*; that it was ſo I appeal to the Dictates of his own Conſcience, and whether he did not preſs me very importunately to accept of a Commiſſion of Major, or a Captain; he did iſſue forth Two Commiſſions under his own Hand, one of them to bring over from *Devonſhire* Two Foot Companies unto *Cork*. My Lord, becauſe we were Militarily affected, amongſt the Diſcourſes of our unhappy Wars, I know not how it came from him, it being near Eleven Years ſince, and I have had many Sufferings incumbent on me, ſo that I may fail in ſome Particulars, but in general thus it was: We were diſcourſing concerning our Martyred King, as then we called him, and of his Impriſonment in *Holmeby*-Houſe, which I wondered at; thus we diſcourſed; he told me the Story how they had uſed him at *Holmeby*; and at laſt came up to this, when he was taken away from *Holmeby*-Houſe, the Parliament had then a Deſign to have ſecured *Oliver Cromwell*, and myſelf, being then in *London*; ſaith he, we having Intelligence of it, eſcaped out of *London*, and rode hard for it, and as we rode to *Ware* we made a Halt, and adviſed how we ſhould ſettle this Kingdom in Peace, and diſpoſe of the King; the Reſult was this, They ſhould bring him to Juſtice, try him for his Life, and cut off his Head: Whether this was the Expreſſion of *Cromwell* I cannot tell; but to the utmoſt of my Remembrance, and I am miſtaken if it was not the Advice of Mr. *Peters* to *Cromwell*; and I believe it, becauſe his former Relations of his Inſtructions out of *Ireland* did tend to that Effect.

Mr. *Sol. Gen.* I will aſk you this Queſtion; we will not preſs you particularly upon your Memory, whether *Cromwell* or *Peters* ſaid the Words? Do you remember he confeſſed to you they were agreed upon that Matter?

Young. They did conſult and agree upon it.

Peters. *My Lord, I deſire to ſpeak a Word* [his Voice being low, he was brought to the Second Bar]. *I am the bolder to ſpeak to your Lordſhips at this Time a Word, and it is high Time to ſatisfy my Conſcience; if theſe things were true, there is enough ſaid to deſtroy me; I deſire Leave to tell you what Offence I take at the Witneſs, thus, my Lord. This Gentleman I do know—*

Council. What ſay you to him?

Peters. *That which I have to ſay is this, that in his Story he hath told that which is not true; but I will not find Fault with him, becauſe he was my Hoſt, I will not reflect and recriminate; I ſhall give your Lordſhips in Simplicity as much Satisfaction myſelf as any Witneſs; this I ſay to the Man that ſpeaks, and this is certain, I did ſpend ſome time at this Gentleman's Houſe, he is called there Dr.* Young; *and my Trouble at this Diſcourſe is this, I do not know, my Lord, that I found a more violent Man for the Parliament than himſelf; ſo far he undertook to be a Spy on one Side; this I find to be ſo, he will not deny it; he was very fierce in that Way; I think Words of ſuch a Man ought to be little attended to. The Second is this,*

this, this Gentleman is not a competent Witneſs, and that upon a Twofold Ground. Firſt, becauſe I know he is under a very great Temptation and Trouble in this very Thing, and it is upon this Account he was put out of his Living in the Country, and here he came to me to help him in again, and was very highly offended becauſe I did not do it. Secondly, it is not that I would invalidate his Witneſs, but give me leave to tell you, it is his way to ſnap and catch at every Man, which is the Complaint of the People in his own Country. I know that ſame which is ſpoken is falſe; I ſpeak it in the preſence of God, I profeſs, I never had any near Converſe with O. C. *about ſuch Things; I ſpeak this to the Jury, that they would have a care of the Witneſs; I was in Sickneſs then; thoſe that have known me do know likewiſe that I have much Weakneſs in my Head when I am Sick, and to take Words that are ſpoken in a Sick Condition, he ought not to do it; for the Words themſelves I do here profeſs againſt them, for the Generality of them; and that he hath been freer in my Judgment in any Communication this Way than I have been; it is marvellous, here I profeſs the Things Untruths, I call God and Angels to witneſs they are not true. I will give you an Account of my whole Condition by and by, if I may be heard.*

Court. You ſhall be heard at large; that which you have been heard now is concerning the Competency or Incompetency of the Witneſs: the Incompetency againſt him is this, that when you came thither none more violent for the Parliament than himſelf, and that he was a great Spy, and you ſay it was uſual with him to take ſuch Courſes: theſe are but Words; if you have any Witneſſes we will hear them; the Man may be traduced and ſlandered, and ſo all Witneſſes may be taken away.

Mr. *Peters*, if you take this Courſe God knows when this Buſineſs will end; if you have a mind, take Pen, Ink, and Paper, and take Notes of the Witneſſes, and make Exceptions to them one after another; but interrupting one, and ſo another, we ſhall never have done.

Young. I do recollect my ſelf of ſome other Conferences between us; as to my being malicious, I know he never did me any Wrong, and therefore I cannot be malicious; and as for my Reputation, having reſided Two Years in *London*, I can have Certificates both from my Country, and ſome of this City, to vindicate me in that particular: But, my Lord, that which I would inform your Lordſhip is this, he told me he took Duke *Hamilton* a Priſoner himſelf in his own Chamber, ſeized on his Goods, and took his *George* and Blue Ribbon off his Shoulder, and the *George* he ſhewed me.

Wybert Gunter Sworn.

Council. Mr. *Gunter*, what can you ſay concerning a Meeting and Conſultation at the *Star* in *Coleman-ſtreet?*

Gunter. My Lord, I was a Servant at the *Star* in *Coleman-ſtreet*, with one Mr. *Hildeſley*; that Houſe was a Houſe where *Oliver Cromwell* and ſeveral of that Party did uſe to meet in Conſultation; they had ſeveral Meetings; I do remember very well one among the reſt, in particular that Mr. *Peters* was there; he came in the Afternoon about Four a-Clock, and was there till Ten or Eleven at Night; I being but a Drawer could not hear much of their Diſcourſe; but the Subject was tending towards the King after he was a Priſoner, for they called him by the Name of *Charles Stuart*: I heard not much of the Diſcourſe; they were writing, but what I know not; but I gueſſed it to be ſomething drawn up againſt the King; I perceived that Mr. *Peters* was privy to it, and pleaſant in the Company.

Court. How old were you at that Time?

Gunter. I am now Thirty Years the laſt *Bartholomew-Day*, and this was in 1648.

Court. How long before the King was put to Death?

Gunter. A good while; it was ſuddenly, as I remember, Three Days before *Oliver Cromwell* went out of Town.

Peters. *I was never there but once with Mr.* Nathaniel Fines.

Council. Was *Cromwell* there?

Gunter. Yes.

Council. Was Mr. *Peters* there any oftner than once?

Gunter. I know not, but once I am certain of it; this is the Gentleman; for then he wore a great Sword.

Peters. *I never were a great Sword in my Life.*

Mr. *Starkey* Sworn.

Starkey. My Lords, in the Month of *December*, before the King died, in the Beginning of that Month, and ſo towards the 12th of *January* following, the Head-Quarters of the Army were at *Windſor*, and Mr. *Ireton*, that is dead, (who was a General Officer of the Army) was quartered in my Father's Houſe there, and by reaſon of his long Reſidence there, being about Two Months, I knew him very well. My Lords, this Gentleman Mr. *Peters*, he likewiſe quartered in another place in that Town, and *Cromwell* himſelf was quartered at one Mr. *Baker*'s that lay low in the Town; ſo that in truth my Father's Houſe being near the Caſtle, and there being in it a large Room, and in reſpect that Mr. *Ireton* was quartered there, uſually the Council of War ſat there. My Lords, I was then in the Houſe conſtantly: Beſides this Council of War, which did commonly ſit there, I did obſerve that *Cromwell*, *Ireton*, and this Gentleman Mr. *Peters*, and one Colonel *Rich*, and a Fifth Perſon, whoſe Name I have forgot, did uſually meet and conſult together, and would ſit up till Two or Three a-Clock in the Morning very privately together; this was their uſual Courſe when their Council of War ſat; Mr. *Ireton* came in to Supper, but went out again; there were Guards upon them: After this Time it happened that I was often in Mr. *Ireton*'s Company, where Mr. *Peters* coming to him, was very often at Meals there, but eſpecially at Nights.

Mr. *Ireton* being civil in Carriage, would uſually entertain Diſcourſes with Mr. *Peters*, likewiſe would favour me ſometimes with Diſcourſe; and in that Diſcourſe I did many Times take occaſion to aſſert the Laws in point of the King; and diſcourſing about the King as being a Capital Inſtrument in the late Inconveniences, as they called it, in the Times of the War, Mr. *Ireton* would diſcourſe this ordinarily; I was bold to tell them that the Perſon of the King was *ſolutus legibus*; this Gentleman, the Priſoner at the Bar, told me it was an unequal Law. I did obſerve Mr. *Peters* did bend his Diſcourſe, not by way of Argument only, but in point of Reſolution of Judgment, fully againſt the Perſon and Government of the King. I remember ſome of his Expreſſions were theſe; That he was a *Tyrant*, that he was a *Fool*, that he was *not fit to be a King*; or bear that *Office*; I have heard him ſay, that for the Office it ſelf, (in thoſe very Words which ſhortly after came into print,) that it was a *Dangerous*, *Chargeable*, and *Uſeleſs* Office. My Lords, the conſtant Diſcourſe of this Gentleman at that Time was ſuch as he did believe would never be called into Queſtion, ſo it was not a thing that a Man was neceſſiated to obſerve by an Accident, but it was their whole Diſcourſe. I will put you in mind of a particular Paſſage: When the News came to *Windſor* that the King was in Priſon at the *Iſle of Wight*, my Father, (whoſe Houſe that was) was very much troubled at it; and being an ancient Man, was not able to controul his Paſſions with Reaſon, told my Mother that they (meaning Mr. *Ireton*, *&c.*) ſhould have no Entertainment there, and took the Key of the Cellar and put it in his Pocket; his Paſſions being leſſened, Mr. *Ireton*, his Wife, and another Officer being at Supper, and afterwards my Father ſaid Grace, and, as he uſually did, tho' they were there, he ſaid that Uſual and Honeſt Expreſſion, praying for the King in theſe uſual Words, *God ſave the King, Prince, and Realm*; ſometimes they did laugh at it, but never did reflect upon him; but this Night he made this Expreſſion, *God ſave the King's moſt Excellent Majeſty, and preſerve him out of the Hands of all his Enemies.* *Peters*, who was then at the Table, turns about to him, and ſaid, *Old Gentleman, your Idol will not ſtand long*; I do conceive he meant it of the King. For a matter of Two Months of the conſtant Reſidence and being of the Army there, I did obſerve that in the General Council there, and in this private Cabal, (after the Buſineſs was broke out, and when the King was taken Priſoner, and carried to *Windſor*), Mr. *Peters* was the conſtant Man; and when the Buſineſs broke out, I looked upon it in reaſon that *Cromwell*, *Ireton*, and this Gentleman at the Bar, and *Rich*, and that other Gentleman, whoſe Name I have forgot, that they were the Perſons that did the Buſineſs. My Lords, Mr. *Peters* he continued at *Windſor*; I remember very well that after the Body of the Army, the General, and the Officers of the Army, were gone to *London*, he continued in *Windſor*: I remember a Paſſage of one *Bacon*, who was a Sectary; Mr. *Peters* being in Diſcourſe of the King, Mr. *Bacon* took great Diſtaſte at Mr. *Peters* for ſome Affront put upon the King; Mr. *Peters* falls upon him, and rails at him, and was ready to beat him; we underſtood it ſo, becauſe he did tell him of his affronting the King.

Council. Mr. *Peters*, if you have any thing to aſk this Witneſs, you may.

Peters. *I have many Things to aſk him. Did I ever lye there?*

Starkey. No.

Peters. *Did you ſee me there at Three a-Clock in the Morning?*

Starkey. I have ſeen you go up at Ten a-Clock at Night to Mr. *Ireton*'s Chamber, and ſometimes I underſtood you did not go away till Four a-Clock in the Morning; I went to Bed it's true, but I underſtood it ſo.

Thomas Walkeley Sworn.

Council. Give your Teſtimony what Conſultation you have had with the Priſoner at the Bar.

Walkeley. I came out of *Eſſex* in at *Aldgate*; juſt as I came in a Proclamation was read for Trial of his late Majeſty; I went down the next Day to the *Painted Chamber* at *Weſtminſter*, where I ſaw *Oliver Cromwell*, *John Goodwin*, and *Peters*, and others; *John Goodwin* ſate in the middle of the Table, and he made a long Speech or Prayer, I know not whether, but Mr. *Peters* ſtood there: After *John Goodwin* had done his Prayer, it was deſired that Strangers might avoid the Room; then came up *Cook*, and *Doriſlaus*, and *Humphryes*, and *Aſk*, and *Dendy*, and ſeveral others, and ſtood by *Bradſhaw* at the upper End of the Table; but *Cromwell* ſtood up and told them it was not neceſſary that the People ſhould go out; but that was over-ruled; and ſo I went out and ſtaid their Riſing, and ſaw this Gentleman Mr. *Peters* come out with them. After that, when the King was brought to Town a Priſoner, the Lord *Carew*, a very honourable Perſon, meeting with me, ſaith he, *Walkeley*, if you will ever ſee your Old Maſter, go now, or elſe it may be you will never ſee him. Where is he, my Lord, ſaid I? Saith he, he is coming on this Side *Brainford*. I went to the farther end of St. *James*'s Corner, and there I met ſome of the Army coming, and then I ſaw his Majeſty in his Coach with Six Horſes, and *Peters*, like Biſhop *Almoner*, riding before the King triumphing; then, after that, in St. *James*'s *Park*, I ſaw *Peters* marſhalling the Soldiers, and I was forced to go about. My Lord, this is all I can ſay concerning that. I remember one thing further of him; I heard him in *Weſtminſter-Hall* ſay, within a Year or Two after the Army was raiſed, *If we can keep up our Army but Seven Years longer, we need not care for the King and all his Poſterity.*

Mr. *Proctor* Sworn.

Proct. I having occaſion to go from *London* to *Windſor* the Day that the King was brought from thence a Priſoner, a little on this Side *Brainford* I ſaw great Troops of Horſe; I did conceive what the Cauſe was, having heard the *King* was to be brought up to his Trial; after I had paſſed ſome number of Horſes, at laſt I eſpied the Priſoner at the Bar immediately before the *King*'s Coach, ſingly riding before the Coach-Horſes, and the *King* ſitting alone in the Coach. My Lord, I did put off my Hat, and he was Graciouſly pleaſed to put off his Hat; the Troopers ſeeing this, they threw me into the Ditch, Horſe and all, where I ſtaid till they paſſed by, and was glad I eſcaped ſo.

Hardwick Sworn.

Council. When the Proclamation was read in *Weſtminſter-Hall* for Trial of the *King*, did you ſee Mr. *Peters* there?

Hardwick. I was in the Hall when that ugly Proclamation was proclaimed, where I ſaw *Dendy*, *King*, and that Gentleman, the Priſoner at the Bar, in the Hall; after the Proclamation was proclaimed, the Priſoner at the Bar came out into the *Palace-Yard*, and told them, *Gentlemen*, ſaith he, (a great many Officers and Soldiers being there) *all this is worth nothing, unleſs you proclaim it in* Cheapſide, *and at the* Old Exchange.

Council.

Council. Explain yourself, what Proclamation do you mean?

Hardwick. The Proclamation for the High-Court of Juſtice.

Holland Simpſon Sworn.

Council. What do you know concerning the Priſoner at the Bar?

Simpſon. I do know Mr. *Peters* very well, I have known him theſe 11 or 12 Years: When the High-Court of Juſtice was ſitting, both in the Court and *Painted Chamber* I ſaw this Gentleman in Conſultation there, and at ſeveral other Places, at Sir *Will. Brereton*'s, and other where.

Council. Did you ſee him at the Trial?

Simpſon. I ſaw him, but not as a Judge. There was one Day in the Hall Colonel *Stubbards*, who was Adjutant-General, (he was a very buſie Man,) and Colonel *Axtel*; Mr. *Peters* going down the Stairs, comes to him, and bids *Stubbards* to command the Soldiers to cry out *Juſtice, Juſtice, againſt the Traitor at the Bar.*

Council. Who did he mean?

Simpſon. The King was at the Bar at the ſame Time; whereupon, my Lord, the Soldiers did cry out upon the ſame; and as the King was taken away to Sir *Robert Cotton*'s, ſome of them ſpit in the King's Face, but he took his Handkerchief, wiped it off, and ſmiled.

Peters. *I do not know this Gentleman, did he ever ſee me?*

Simpſon. Yes, divers Times in the *Painted-Chamber*, at Sir *William Brereton*'s, at the Deanery, in Conſultation with *Bradſhaw*, and you were admitted, and no Man elſe, as I know, unleſs Sir *Will. Brereton*, who came along with you.

Thomas Richardſon Sworn.

Richardſon. My Lords, the Firſt Day that this Court of Juſtice (as they called it) did adjourn, I went up into the Court, and I ſaw the Priſoner at the Bar with ſome more ſtanding in the Court, and I came and ſtood cloſe by him, and ſome with him, whom I did not know; I heard him commend *Bradſhaw*, the Carriage of him in the Trial of the King, and another *Cook*'s Carriage; to be ſhort, Mr. *Peters* holding up his Hands, ſaid, *This is a moſt Glorious Beginning of the Work.*

Sir *Jeremy Whichcot* Sworn.

Whichcot. My Lords, I have by Accident, not by Choice, been ſeveral Times in Mr. *Peters*'s Company; truly I have heard him ſpeak very ſcurrilouſly of the King; amongſt the reſt he was making ſome kind of Narration of *Cromwell* making an Eſcape, and that he was intended to be ſurpriz'd; *That if he had not preſently gone away he had been clapt up in the* Tower, *and declared a Traitor; he ſaid there was a Meeting of the Officers of the Army, where he us'd this Expreſſion, And there we did reſolve to ſet aſide the King.* My Lord, after this (it was at another Time) he was ſpeaking of that which they called the High-Court of Juſtice, and I do very well remember this was his Expreſſion of it, *I cannot but look upon this Court with a great* Reverence, *for it doth reſemble in ſome meaſure the Trial that ſhall be at the End of the World by* the Saints. This is all that I perfectly remember; it was a great while ago; I cannot ſpeak more punctually; I have ſeldom heard him ſpeak of the King, but of the Tyrant. I remember one Time he was ſaying he would have Preached before the King, but, ſaid he, *the poor Wretch would not hear me.*

Richard Nunnelly Sworn.

Coun. Was *Peters* upon the Scaffold at the Time of Execution, or before?

Nun. On that unhappy Day, 30th of *Jan.* 1648, this *Hugh Peters* came an Hour before the King came to *Whitehall*; I came with a Warrant of 40 or 50000*l.* to *Oliver Cromwell*, being Door-keeper to the Committee of the Army; *Nunnelly*, ſays *Oliver Cromwell*, will you go to *Whitehall?* Surely you will ſee the Beheading of the King; and he let me into *Whitehall*; coming into the Boarded Gallery I met *Hugh Peters*, and he was in the Gallery; and then I got with *Hugh Peters* into the *Banqueting-Houſe*; being there, *Hugh Peters* met one *Tench* of *Hounſditch*, that was a Joiner; meeting him; he ſpeaks to him, and whiſpers in his Ear, and told him ſomewhat, I do not know what it was; but *Tench* preſently went and knocked four Staples upon the Scaffold; I meeting *Tench* again, What art thou doing, ſaid I? What, will you turn Hangman? Says he, This Day will be a Happy Day. Said I, Pray God ſend it be not a bloody Day; upon that *Hugh Peters* went upon the Scaffold juſt an Hour before the King came, and then he went off again. I watched at the Window when the King's Head was cut off, and afterwards I ſaw the Vizards going into a Chamber there; about an Hour afterwards (I ſtaying there at the Door) there comes *Hugh Peters* in his Black Cloak and Broad Hat out of that Chamber (as I take it) with the Hangman; I am ſure I did ſee him go along with the Hangman to take Water; this is all I can remember, it being many Years ſince.

Peters. *I humbly beg I may be heard in this Caſe; I have here a Witneſs, and I deſire he may be examined; it is noiſed I was upon the Scaffold, I here call God to witneſs I was not out of my Chamber that Day; I was Sick that Day; I ſpeak in the Preſence of the Lord.*

Court. If your Witneſs will ſtay he ſhall be heard; there are more Witneſſes to the ſame Thing, and ſo he may ſpeak to all together.

Dr. *Mortimer* Sworn.

Mortimer. Me Lar, me ha ſerd de King, &c.

Court. We cannot underſtand a Word.

Coun. He is a *Frenchman*, my Lord.

Court. Pray let there be an Interpreter.

[*One Mr.* Young *was ſworn to interpret truly his Evidence.*]

But it being afterwards found difficult and troubleſome, the Council waved his Evidence, and prayed another Witneſs might be called.

Dr. *Mortimer.* Me Lar, me can peak Englis ——

Coun. No, no, pray ſit down, we will examine other Witneſſes. Call *Stephen Clough.*

Stephen Clough Sworn.

Coun. What do you know of *Hugh Peters?*

Clough. My Lords and Gentlemen of the Jury, in 1648 I heard of a meeting of the Council of Officers at *Weſtminſter*, I think in the *Painted-Chamber*, and I being willing (my Lord) to hear what their Conſultations were, I went thither, and was there as one of them, (but I was not one,) amongſt the reſt *Hugh Peters* was one; when the Room was pretty full the Door was ſhut. Mr. *Peters* deſired to call for a Bleſſing upon their Buſineſs, in his Prayer he uttered theſe Words, "O Lord, (ſaid he) "what a Mercy is it to ſee this great City fall down before us! And "what a Stir is there to bring this Great Man to Trial, without whoſe "Blood he will turn us all into Blood if he Reign again!

Peters. *What Day was this?*

Clough. It was about Three Weeks or a Month before the King died.

Peters. *Where was this?*

Clough. In the *Painted Chamber.*

Peters. *You have been very Bold.*

Clough. I ſpeak upon my Oath.

Peters. *How long was this ago?*

Clough. In 1648.

Peters. *How many Years ſince is that?*

Clough. You know yourſelf ſure how many Years ſince 1648.

Peters. *How long before the King died, do you ſay?*

Clough. About Three Weeks or a Month before the King was Murdered.

Council. We ſhall call a Witneſs to prove, that in *December* 1648, there was a ſolemn Faſt appointed to ſeek God in what they were about, and Mr. *Peters* was appointed to Preach before them.

Mr. *Beaver* Sworn.

Mr. *Beaver*'s Evidence. My Lord, and you Gentlemen of the Jury, upon a Day that was appointed for a Faſt for thoſe that ſat then as a Parliament, I went to *Weſtminſter* to find out ſome Company to dine with me, and having walked about an Hour in *Weſtminſter-Hall*, and finding none of my Friends to dine with me, I went to that Place called *Heaven*, and Dined there; after I had Dined I paſſed through St. *Margaret's* Church-yard to go Home again, (I lay in the *Strand,*) I perceived all the Church-yard full of Muſkets and Pikes upon the Ground, and aſked ſome Soldiers that were there what was the Buſineſs? They told me they were guarding the Parliament that were keeping a Faſt at St. *Margaret's*; Who Preaches? ſaid I. They told me Mr. *Peters* is juſt now gone up into the Pulpit; ſaid I, I muſt needs have the Curioſity to hear that Man, having heard many Stories of the Manner of his Preaching; (God knows I did not do it out of any manner of Devotion;) I crouded near the Pulpit, and came near the Speaker's Pew; and I ſaw a great many Members there, whom I knew well: I could not gueſs what his Text might be, but hearing him talk much of *Barabbas* and our Saviour, and inſiſting altogether upon that, I gueſſed his Text was that Paſſage wherein the *Jews* did deſire the Releaſe of *Barabbas* and crucifying of Chriſt; and ſo it proved; the Firſt Thing I heard him ſay was, *It was a very ſad Thing that this ſhould be a Queſtion amongſt us, as among the Old* Jews, *whether our Saviour Jeſus Chriſt muſt be crucified, or that* Barabbas *ſhould be releaſed, the Oppreſſor of the People: O Jeſus,* ſaith he, *where are we, that that ſhould be a Queſtion amongſt us?* Says he, *And becauſe that you ſhould think, my Lords and Gentlemen, that it is a Queſtion, I tell you it is a Queſtion; I have been in the City, which may very well be compared to* Hieruſalem *in this Conjuncture of Time, and I profeſs thoſe fooliſh Citizens for a little Trading and Profit they will have Chriſt* (pointing to the *Redcoats* on the Pulpit-ſtairs) *crucified, and the great* Barabbas *at* Windſor *releaſed,* ſays he, *but I do not much heed what the Rabble ſay: I hope,* ſays he, *that my Brethren of the Clergy will be wiſer, the Lips of the Prieſts do uſe to preſerve Knowledge; I have been with them too in the Aſſembly, and having ſeen and heard what they ſaid, I perceive they are for crucifying of Chriſt, and releaſing of* Barabbas; *O Jeſus, what ſhall we do now?* With ſuch like ſtrange Expreſſions, and ſhrugging of his Shoulders in the Pulpit.

Council. How long was this before the King was Murdered?

——— It was a few Days before the Houſe of Commons made that thing called An Act for his Trial.

Council. What did he ſay to the Members?

——— I am coming to it; ſays he, *My Lords, and you Noble Gentlemen of the Houſe of Commons, you are the Sanhedrim, and the great Council of the Nation, therefore you muſt be ſure to do Juſtice, and it is from you we expect it; you muſt not only be Inheritors of your Anceſtors, but you muſt do as they did; they have oppoſed Tyrannical Kings, they have deſtroyed them; it is you chiefly that we look for Juſtice from. Do not prefer the great* Barabbas, Murderer, Tyrant *and* Traitor, *before theſe poor Hearts,* [pointing to the *Red-coats,*] *and the Army, who are our Saviours:* And thus for Two or Three Hours Time that he ſpent, he nothing but rak'd up all the Reaſons, Arguments and Examples he could, to perſwade them to bring the King to condign, ſpeedy and capital Puniſhment.

Peters. *I do not know you, are you ſure you ſaw me at that Time? Do you know me?*

——— Yes, Sir.

Peters. *I did not Preach there at that Time.*

Council. Pray, my Lord, will you call Mr. *Jeſſop*, who hath the Records of the Parliament, and can produce the Order, whereby you were appointed to carry on the Work of that Faſt; there was the Order for his Preaching, and Order for Thanks for his Work.

[*Mr.* Jeſſop *produced the Journal, wherein was the Order following, which was read.*

[Clerk *reads.*] Die Jovis 7 September 1648. *Reſolved, that there be a Day of Publick Humiliation for this Houſe to ſeek God in theſe Times of Difficulty, and that to Morrow be the Day, and kept here in this Houſe. Reſolved that Mr.* Peters, *Mr.* Marſhal, *and Mr.* Caryll, *be deſired to perform the Duty on the Day of Humiliation with the Houſe to Morrow.*

Council. That is not it we intend, there was one after that, in *December* 1648.

[Clerk *reads.*] 20 December 1648. *Ordered, That Mr.* Peters *be deſired to Preach on Friday next, the Day of Publick Humiliation, at* Margaret's Weſtminſter, *in the Place of* ———

Council. Call Mr. *Chace.* After this the Work went on, and the High-Court of Juſtice ſate; and the Firſt Day they ſate was *Saturday January* 20, in *Weſtminſter-Hall*, the 21ſt being the *Sunday* following; I think this Gentleman was at *White-hall*; he will tell you what he preached.

Mr. *Chace* Sworn.

Chace. My Lord, I heard the Priſoner at the Bar preaching before *Oliver Cromwell* and *Bradſhaw*, who was called Lord Preſident of the High-Court of Juſtice, and he took his Text out of the *Pſalms* in theſe Words, *Bind your Kings with Chains, and your Nobles with Fetters of Iron*; that was Part of the Text: But ſays he in his Sermon, *Beloved,*

it is the laſt Pſalm but one, and the next Pſalm hath Six Verſes, and Twelve Hallelujahs, Praiſe ye the Lord, praiſe God in his Sanctuary, and ſo on; For what? ſays he, *Look into my Text, there is the Reaſon of it, That Kings were bound in Chains,* &c. He went on with a Story of a Mayor and a Biſhop and his Man; *The Biſhop's Man,* ſaith he, *being Drunk, the Mayor laid him by the Heels; the Biſhop ſends to the Mayor to know by what Authority he Impriſoned his Servant; the Mayor's Anſwer was, there is an Act of Parliament for it, and neither the Biſhop nor his Man are excepted out of it*; and applied it thus: *Here is,* ſaith he, *a great Diſcourſe and Talk in the World, What, will ye cut off the King's Head? the Head of a Proteſtant Prince and King? Turn to your Bibles and you ſhall find it there,* Whoſoever ſheds Man's Blood, by Man ſhall his Blood be ſhed; (ſays he) *I will even anſwer them as the Mayor did the Biſhop, here is an Act of God,* Whoſoever ſheds Man's Blood, by Man ſhall his Blood be ſhed; *and I ſee neither King* Charles, *nor Prince* Charles, *nor Prince* Rupert, *nor Prince* Maurice, *nor any of that* Rabble, *excepted out of it.* And further he ſaid, *This is the Day that I, and many Saints of God beſides, have been praying for theſe many Years.*

Peters. *Aſk him whether he took Notes.*

Chace. No Sir, but it being ſo Memorable a Sermon I took ſpecial Notice of it; I came to my Brother's Houſe in *Shoe-Lane,* and told him; ſaid I, Brother, I have been at *White-Hall,* and have heard the moſt Execrable Buſineſs that ever was heard in the World by a Miniſter of the Goſpel, and I told him the Words: I obſerved that *Oliver Cromwell* did Laugh at that time when you were preaching.

Tho. Tongue Sworn.

Council. What do you know of the Priſoner's Preaching?

Tongue. Upon *January* 21, 1648, I was at *White-Hall,* where this Gentleman preached, and he preached upon this Text, Pſalm cxlix. *v.* 8. *To bind their Kings in Chains, and their Nobles in Links of Iron*; in which Text this *Peters* did much applaud the Soldiers there; he ſaid he hoped to ſee ſuch another Day following as the Day before, and that *Bleſſed be God* (ſays this Parſon *Peters*) *the Houſe, the Lower Houſe, is purged, and the Houſe of Lords themſelves they will down ſuddenly*; this is all that I well remember at that Time. Upon the 28th of *January,* 1648, next Day after Sentence of the King, I heard *Peters* preach upon this Text in St. *James*'s Chapel, *Pſalm* cxlix. 6, 7, 8, 9. *Let the high Praiſes of God be in their Mouth, and a Two-edged Sword in their Hands, to execute Vengeance upon the Heathen, and Puniſhment upon the People, to bind their Kings with Chains, and their Nobles with Fetters of Iron, to execute upon them the Judgment written, this Honour have all his Saints*; praiſe ye *the Lord:* And there he did ſo Saint the Redcoats, and ſo Reprobate the poor King's Friends! And in the middle of his Sermon he took Occaſion to produce a Text, *Iſaiah* xiv. 18, 19, 20. *All the Kings of the Nations, even all of them, lye in Glory, every one in his own Houſe. But thou art caſt out of thy Grave like an abominable Branch, and as the Raiment of thoſe that are ſlain, thruſt through with a Sword, that go down to the Stones of the Pit, as a Carcaſs trodden under Feet; thou ſhalt not be joined with them in Burial; becauſe thou haſt deſtroyed thy Land, and ſlain thy People, the Seed of Evil-doers ſhall never be renowned:* Says he, *This I did intend to inſiſt and preach upon before the* poor Wretch, *and the* poor Wretch *would not hear me.*

Council. Who did he mean?

Tongue. His Majeſty, who was the Day before Condemned; ſaith he, *Look in your leſſer Bibles and you ſhall find the Title is,* The Tyrant's Fall.

Council. That that was ſpoken of the King of *Babylon,* the Ignominy that was caſt upon him, he applies it to the King of *England.*

Peters. *Aſk him where it was?*

Tongue. It was in St. *James*'s Chappel, *Sunday* the 28th of *January* 1648, in the Forenoon.

Reynold Bowdler Sworn.

Bowdler. That which I have now to ſay is this, I did hear him a few Days before the King was Murthered preach in St. *Sepulchre*'s Church, that he compares the King that was then to Die, to *Barrabas* a Murderer, and in this manner; ſaith he, *There is a great Company amongſt us like the* Jews, *they cry out, let* Chriſt *be crucified, and let* Barabbas *be releaſed*; ſtill comparing the King to *Barabbas* the Murtherer; theſe were his Words, with many more to the ſame Purpoſe.

William Rider Sworn.

Council. Speak what you know concerning the Priſoner.

Rider. I was at the ſame time at Church in St. *Sepulchre's.*

Council. How long was that before the King died?

Rider. It was very near the King's Death.

Council. Was it after the High-Court of Juſtice ſate, as they called it?

Rider. About that Time it was. My Lord, as ſoon as ever he had read the Words of his Text, which was, *He ſhall call his Name Emmanuel,* he preſently ſhook Hands with his Text, and fell (as he was wont) to News, and there he ſaid, *The great Inquiry now is to know what ſhould become of the King*; *Let that alone,* ſaith he; and preſently he falls to it again, and was pleaſed to ſtyle the King *Barabbas*; ſaith he, *There is a great many of the People had rather* Chriſt *ſhould be crucified than* Barabbas; and here he was applauding the Soldiers; and ſaid that *Emmanuel* was written upon the Bridles of their Horſes; and he was ſpeaking of the *King*'s Soldiers, ſaith he, *I have known Eighty Thouſand of them, and not one of them a Gracious Perſon.*

Council. Now we expect the Anſwer of the Priſoner at the Bar, the Indictment hath been fully proved.

Peters. *I deſire that Witneſs may be admitted which I ſpoke of, his Name is* Cornelius Glover.

Council. We have omitted One Evidence; we deſire Maſter *Walker* may be called.

Mr. *Walker* Sworn.

Walker. On Sunday after the *King* was firſt brought to his Trial, out of Curioſity I went to hear Mr. *Peters* at *White-Hall*; after he had made a long Prayer, ſaith he, *I have prayed and preached theſe Twenty Years, and now I may ſay with Old* Simeon, Lord, now letteſt thou thy Servant depart in Peace, for mine Eyes have ſeen thy Salvation. Afterwards he ſpeaks of the Text, of *binding their Kings in Chains,* &c. then much reviled the *King: But ſoft there,* ſaith he, *I muſt not talk ſo here, I am in the King's Chapel; there is a very remarkable Paſſage in* Amos; Amos *went to preach, and* Amaziah *would not let him, but* Amos *would preach; the* poor Wretch *would not hear me, but yet I will preach.* Afterwards he ſpeaks of the *Mayor* of *Exeter* that committed the Biſhop's Servant for being Drunk; *ſaith the Mayor, here is an Act of Parliament for it, and I do not ſee that the Biſhop nor his Man are either of them excepted out of the Act*; *and,* ſaith he, *in Scripture it is ſaid,* Whoſoever ſheddeth Man's Blood, by Man ſhall his Blood be ſhed; *and I do not find that either King* Charles, *Prince* Charles, *Prince* Rupert, *Prince* Maurice, *or any of that Rabble are excepted.*

Council. Now Mr. *Peters* you may call your Witneſs.

Cornelius Glover not Sworn.

Lord Chief Baron. Where do you dwell?

Glover. In *Paul*'s Church-yard.

Lord Chief Baron. What is your Quality of Life?

Peters. *A Servant of the King's.*

Lord Chief Baron. I do not aſk you, Mr. *Peters.*

Glover. I belong to the *Poſt-houſe.*

Peters. *Pray hear him ſpeak.*

Lord Chief Baron. What would you have him aſked?

Peters. *Whether I was out of my Chamber that Day the King ſuffered?*

Lord Chief Baron. What ſay you to that?

Glover. I was come to Mr. *Peters* a little before that Time, to live with him as his Servant; it fell out that Day he was ill in his Chamber all the Morning; the Soldiers in St. *James*'s Houſe were all gone away; I had a Deſire to go ſee the Meeting, where they were at *White-Hall*; ſaith he, Thou ſeemeſt to have a great Deſire to go and look about thee, it is very ſad, but if you will go you may. I did go over the *Park.*

Council. What Time?

Glover. About Noon.

Council. What Hour?

Glover. I do not know; I did not ſtay there; the Soldiers and the People filled the Place, and I went back again to the Chamber; I came back again within a matter of an Hour's Time.

Council. Was the King dead before you came back again?

Glover. They ſaid he was not: When I went Home he aſked me what was doing? I told him there was a great Croud, I could not come near; I ſtaid there an Hour, and then went out again, and ſtill there was a Croud; and I came back again, and Mr. *Peters* was in his Chamber then.

Council. Was he in Bed, or up?

Glover. I do not remember.

Council. How Old were you then?

Glover. I am not above 32 or 33.

Council. Was Mr. *Peters* ſick?

Glover. Yes, he was Melancholy ſick, as he uſed to be.

Lord Chief Baron. How long have you been at the *Poſt-houſe?*

Glover. About Five Years.

Lord Chief Baron. Mr. *Peters,* have you any more to aſk him?

Peters. *I brought him to teſtifie that I was not out of my Chamber that Day, and that I was ſick.*

Lord Chief Baron. Did you deſire to go, or did he ſend you?

Glover. I did deſire to go, being newly come to *London.*

Lord Chief Baron. This Gentleman, though not upon Oath, is examined, and it is only to One Particular, nothing at all to the Main Proofs.

Peters. *I bring him only to vindicate my ſelf from that Aſperſion of my being upon the Scaffold.*

Lord Chief Baron. They do not lay the Weight of their Evidence upon that: The King's Council have done with their Evidence, if you have any Thing to ſay, you have your Liberty.

Peters. *May it pleaſe your Lordſhips, I will give you an Account of the Buſineſs: I lived Fourteen Years out of* England, *when I came over I found the Wars begun; I began no War, my Lord, nor have been the Trumpeter; when I came out of the* Weſt-Indies, *I fled from the War into* Ireland, *to the* Weſtern *Part there; and it was after the Rebellion, when ſome of the* Iriſh *had been ſtirring there, I went and ſpent my Time there. I was neither at* Edge-hill, *nor* Naſeby; *but, my Lord, after I came over there was War that the People were engaged in; I was not here in the Beginning of it, but was a Stranger to the Carriage of it. When I came into the Nation I looked after Three Things: One was, that there might be Sound Religion; the Second was, that Learning and Laws might be maintained; the Third, that the Poor might be cared for; and I muſt confeſs I have ſpent moſt of my Time in theſe Things, to this End and Purpoſe: There was a Noiſe in all Parts of ſome Miſcarriages in Matters of Religion, after it was ſettled I lived in* Ireland; *I muſt profeſs for my own part, ſolemnly, that my Carriage hath been upon theſe Heads. For Religion, I have, through God's Mercies, ſpoke of the Truths of the Proteſtant Church, upon this Account I did ſtay to ſee what God might do: I was ſent over to his Majeſty that we might have a little Help in point of Exciſe and Cuſtoms, and Encouragement in Learning. My Lord, this is true, that I being here in the Nation, and being ſent over upon the Occaſions of the Country, and not upon any Deſign; but this I ſay, (I cannot deny it,) that after I came over, and had ſeen the State of* England, *in ſome Meaſure I did ſtir, but by ſtrong Importunities, the Miniſters of* London *deeper than I: I am very ſorry to hear of my Carriage towards the King; it is my great Trouble; I beg Pardon for my own Folly and Weakneſs; I thought God had a great Controverſy with the Nation, and the Lord was diſpleaſed on all Hands; that which ſome People took to I did take unto; I went into the Army; I ſaw at the Beginning of it that Corruptions grew among them. I ſuppoſe none can ſay I have gone aſide from any Orthodox Truth of the Lord: And now to take off the Scandal upon me, and to the Buſineſs, let me beg of your Lordſhips to conſider whatever Prejudices or Revenge may take up Men's Hearts, there is a God that knows all; God hath a Regard to the People of* England: *I look upon this Nation as the Cabinet of the World. That that doth concern the Buſineſs is this, my Lord, that after this Time hither I came, and did bear Witneſs to all the World, that there was amongſt us ſomething that was for better, and ſomething worſe, for the Nation; I took Advice of ſome great Perſons concerning the Weightineſs of it, I had neither Malice nor Miſchief in my Heart againſt the King; upon this I did engage ſo far, being Invited; I went into the Wars, and there I found*

very

very ſtrange and ſeveral Kinds of Providences, as this Day hath been ſeen; I do not deny but that I was Active, but not to ſtir in a way that was not Honourable. I challenge a great Part of the Nation to manifeſt my Carriage among them; I ſhall make it good divers ways; I had ſo much Reſpect to his Majeſty, particularly at Windſor, *that I propounded to his Majeſty my Thoughts Three ways to preſerve himſelf from Danger, which were good, as he was pleaſed to think, though they did not ſucceed, and the Work died; as for Malice, I had none in me. It is true, there was a Difference amongſt us, an Army, and an Army; I never had a Groat or Penny from* O. Cromwell *ſince I knew this Place: I profeſs I have had no Ends for Honour or Gain ſince I ſet Foot upon this Shoar; I challenge any Man that belonged to that Party whether they had not the ſame Reſpect from me as my own Party; I have not perſecuted any with Malice; I will only take off Malice.*

Lord Chief Baron. Your Buſineſs is Matter of Fact.

Peters. *I am unſkilful in Law, this that I offer is to ſhew that I had no Malice in me; I was ſo far from Malice, that I have a Certificate, if worth the reading, from one of the Eminenteſt Perſons in the Nation, to ſhew I had no Malice: It is concerning the* Marquiſs *of* Worceſter, *under his Lady's Hand, beginning with theſe Words,* I do here teſtifie that in all the Sufferings of my Huſband, Mr. *Peters* was my great Friend, &c. *I have here a Seal,* [and then produced it] *that the Earl of* Norwich, *gave me to keep for his Sake for ſaving his Life, which I will keep as long as I live.*

Lord Chief Baron. I am not willing at all to interrupt you, or hinder you; that which you ſpeak of doing good Services is not at all to the Point; we do not queſtion you for what good you have done, but for the Evil you have done; I hope there is no Malice in your Heart, nor upon the Court nor Jury, we and they are upon our Oaths; and you hear the Matter alledged againſt you; pray come to the Matter.

Peters. *My Lord, I cannot remember them.*

Lord Chief Baron. Then I will remember you: You are charged by this Indictment for Compaſſing and Imagining the Death of the *King*, and there is ſet forth ſundry Particulars to prove the Overt-Act, that you with other Perſons named in that Indictment, did conſult and meet together how to bring about the *King's* Death. Then you are charged with ſeveral Acts of Contriving and Endeavouring the *King's* Death. Overt-Acts that tend to the Compaſſing and Imagining the *King's* Death, or any one of theſe, to encourage the bringing on the *King* to his Death, the conſulting or meeting together about it, though you did not ſit or ſentence; yet if you did any Thing tending to that Incouragement, or otherwiſe Abet it, Comfort, or any wiſe Aid thoſe Traitorous Perſons that did it, in the doing of it you are by Law Guilty of the whole Fact: The propoſing and determining the King ſhall die, though you were not he that actually put him to Death, yet notwithſtanding, if you did the other, you are Guilty of all; if you ſhall ſpeak any Seditious Speeches, be they in the Pulpit, or out of the Pulpit, if you ſhall utter any thing that tends to Sedition, theſe are open Acts, which prove the Imagination of the Heart: though Imagination of the Heart be treaſon, yet it cannot be proved but by open Acts, yet the Imagination it ſelf is Treaſon. Firſt you did conſpire, all the Witneſſes go along to prove this. Dr. *Young* ſaith, you came over from *Ireland* to his Houſe, and after Five Days that you were recovered of the Flux, you ſtaid there Ten Weeks; you ſaid your ſelf there was enough, if it were true, to condemn you or any Man: I ſhall repeat it to you; you told him a Narative, that you came from *New-England*, from thence to *Ireland*, and then you came to *Holland*, with an intent to ſee how you might bring on the Kingdom to be a Commonwealth: Next he ſaith, you ſpoke very often againſt the King by way of Diſgrace, againſt him and his Family, againſt the King and his Off-ſpring, this you ſaid very often: Then you ſpake in Vilification of Monarchical Government, that this Commonwealth would never be at Peace till 150, or Three L's, Lords, Levites, and Lawyers were taken away, at which he replied, then they muſt be all *Switzers*, Tinkers or Traitors; he ſwears you were a Colonel, and had a Commiſſion; that you would have had him accept of a Commiſſion; and that you had Two Companies come from the Weſt; you told him the Parliament had an Intent to ſecure *Cromwell* and yourſelf, but that you rid hard for it; and then you confeſſed you agreed then upon his Death, to bring him to Trial, and to cut off his Head; you did agree together, and he believes it was your Advice to *Cromwell*; your Anſwer was this, that he was more violent than yourſelf; that he took upon him to be a Spy; and that he was no competent Witneſs, becauſe he was under a Temptation, becauſe you did not help him to his Living, and ſo conceived it to be Malice; you ſay he was uſed to take up ſuch Courſes in his own Country; the Matter is not whether you had Malice to the King's Life or Monarchy. For the next, One *Gunter*, he ſwears, that he was a Servant to Mr. *Hildeſley*, at the *Star* in *Coleman-ſtreet*, and this was in 1648, he ſaith, that many of the Party of *Cromwell* did uſe to reſort thither, among the reſt he ſaw you, he ſaid he came in to them, and their Diſcourſe was about *Charles Stuart*, and the Priſoner —— and did gueſs it was about the King; that you were privy to it then; he ſaith this was Three Days before *Oliver Cromwell* went out of Town; the Effect of that is urged no further than this, that you were ſo far of the Cabal, that you were preſent with thoſe Perſons, *Cromwell*, *Ireton*, *Rich*, and others; you ſaid, *I was there once with Mr.* Nathaniel Fines. *Starkey*, he ſaith, that at his Father's Houſe *Ireton* lay, and was quartered there at *Windſor*, before and when the King was Priſoner; that you had your Quarters there, and *Cromwell* too, in that Town: The General Meeting of the Council of War was at his Father's Houſe; that *Ireton* and his Wife lying there, you came and reſorted thither very often; he ſaith then, that it apeared that after the Council of War had done, many Times *Rich*, and you, and *Cromwell*, and *Ireton*, were there together, ſometimes till Two a Clock in the Morning; he ſaith then, that he did obſerve there was a Fifth Perſon, (he did not remember his Name) and you ſat up uſually till Two or Three in the Morning; you had Guards about you; he ſaith further, that *Ireton* being a Domeſtick, he often diſcourſed with him, and you came ſometimes to be there too; that there being ſome Diſcourſe concerning the King, many Times he did aſſert the Law concerning him, that he was *ſolutus legibus*, as to his Perſon; that you ſhould ſay, that it was an unequal Law, and that you did then diſcourſe fully againſt the King's Government; you ſaid he was a Tyrant, not fit for that Office; that the Office was uſeleſs, chargeable and dangerous; theſe very Words he obſerved, which afterwards were Printed when they took away Monarchy. He ſaith further, that was their full and whole Diſcourſe; he ſaith that his Father at Supper uſed to ſay that uſual Grace, *God ſave the King, Prince, and Realm*; but afterwards that he heard the King was made a Priſoner, that his Father altering the Grace, he ſaid, *God ſave his moſt excellent Majeſty, and deliver him out of all his Enemies Hands*, you roſe up, and ſaid, *Old Gentleman your Idol will not ſtand long*; that he did obſerve you often with them; he ſaith further, when *Bacon* was coming out, and ſpeaking ſome Words concerning your frequent Affronting the King, you took up a Staff, and were ready to beat him, and made an Uproar: It appears alſo of your being privy to *Cromwell's* Actions. The next Witneſs is *Walkeley*, and he ſwears this againſt you, that he was in the *Painted Chamber* the next Day after the Proclamation was made, and there he ſaw *John Goodwin* and you; and there was an Aſſembly, and at the Middle of the Table *John Goodwin* was, and made a long Speech or Prayer; that *Cromwell* would have had the People ſtay there, but it was ordered they ſhould be turned out; at the End he ſaw you come out with the reſt; there it appeared you were in the Conſultation; he ſaith he met the Army at St. *James's*, and there, when they were half paſt, he ſaw the King in his Coach, and there he ſaw Mr. *Peters* like Biſhop *Almoner* riding immediately before the King; and at St. *James's* Park he ſaw you Marſhalling the Soldiers, that he was forced thereupon to go about; he ſaith further, that within a Year or Two after the Army was raiſed he heard you ſay theſe Words, If we can keep up our Army Seven Years longer we need not care for the King and all his Poſterity.

Peters. *My Lord, I muſt deny abundance of this; the King commanded me to ride before him, that the Biſhop of* London *might come to him.*

Lord Chief Baron. But this was Three Weeks after —— The next Witneſs againſt you is one *Proctor*; he ſaith, that Day (as the other Witneſs did) he ſaw you riding juſt before the King's Coach, and becauſe he did his Duty the Soldiers threw him, Horſe and all, into a Ditch. The next Witneſs is one *Hardwick*, he ſaith that when the Proclamation was read he ſaw you in *Weſtminſter-Hall*, and that you ſaid, they had done as good as nothing, unleſs it was proclaimed in *Cheapſide* and at the *Old-Exchange*; this you ſaid to ſome of the Officers there.

Peters. *My Lord, I cannot acknowledge it.*

Lord Chief Baron. The next Witneſs againſt you is *Simpſon*, he ſwears he ſaw you in Conſultation with *Oliver Cromwell*, and take Sir *William Brereton* by the Hand, and come to *Bradſhaw's*, and this during the time of the King's Trial; he further ſaith, that one Day when the King was at his Trial you commanded Colonel *Stubbers* to bid his Soldiers cry out *Juſtice, Juſtice*, which they cried, and afterwards ſome of the Soldiers ſpit upon the King.

Peters. *I do believe that he that ſwore that cannot ſay I was there.*

Lord Chief Baron. Another Witneſs is one *Richardſon*, who ſaw you the Firſt Day in the Court; and he ſaid further, that you commended *Bradſhaw* and another, to wit *Cook*, for their Carriage in the Trial of the King; that you held up your Hands, and ſaid, This is a moſt Glorious Beginning of the Work.

Peters. *Whereabouts in the Court?*

Richardſon. In the Body of the Court, called then the *High Court of Juſtice.*

Peters. *My Lord, I do not know that ever I was in the Body of the Court.*

Lord Chief Baron. The next Witneſs is Sir *Jeremy Whichcot*, he ſaith he heard you often ſpeak ſcurrilouſly of the King; and making a Narrative of *Cromwell's* Eſcape, you ſaid there was a Meeting, and *there we reſolved to ſet aſide the King*; remember what the other Witneſs ſaid, we agreed, and here we reſolved; you ſaid, I cannot but reverence the High-Court of Juſtice, it doth reſemble the Judging of the World at the Laſt Day by the Saints; ſo it was the Saints that ſat there; I would have preached before the Wretch, but the Poor Wretch would not hear me; you often called him Tyrant; I cannot poſſibly remember the Place, Things, or Words, that are alledged. Then you have another Witneſs, *Nunnelley*, he ſaith he came with a Warrant to *Oliver Cromwell* for ſome Money, and that he ſhould ſay, go and ſee the Beheading of the King at *White-Hall*; he ſaith there he met with you (though you ſaid you were not there that day) going to the *Banqueting-Houſe*; that you ſpoke to *Tench*, and whiſpered in his Ear, and that *Tench* went and knocked Staples on the Scaffold; he meeting *Tench* ſaid, What are you a Hangman? Saith *Tench*, This Day will be a happy Day; he ſaith, after all this *Hugh Peters* was upon the Scaffold, and that he went out with the Hangman ——

Peters. *I do profeſs to your Lordſhips before Angels and Men that I did not ſtir out of my Chamber that Day.*

Lord Chief Baron. The Council doth not put Reliance upon that, becauſe of what your Witneſs ſaith, tho' his Evidence is not at all Satisfactory. The next is *Clough*, and he ſwears this, that he ſaw you in the *Painted-Chamber* with the Council of Officers, and there you deſired them to call on God for a Bleſſing upon their Buſineſs, and there you ſaid, O Lord, what a Mercy it is to ſee this great City fall down before us! And what a Stir is there to bring this Great Man to Trial, without whoſe Blood he will turn us all into Blood, if he reign again! And this was about a Month before the King was Murthered.

Lord Chief Baron. You hear it, Mr. *Peters.*

Peters. *Some Part I did, but it is impoſſible for me to bear down many Witneſſes; indeed, my Lord, I ſay this, they are marvellous Uncharitable, and ſpeak many falſe things.*

Lord Chief Baron. The next is this, the Teſtimony concerning ſeveral Sermons of yours; and let me tell you the Pulpit ought not to be a Place where Men with Impunity may ſpeak any Thing, what they liſt, of Sedition and Treaſon.

Peters. *I am of the ſame Judgment myſelf, my Lord.*

Lord Chief Baron. And there was a Solemn Day to ſeek God, then you preach'd at St. *Margaret's* Church; this was Mr. *Bever*; in he came,

came, and heard you talk much of *Barabbas* and our Saviour; there you fell upon this, ſpeaking of the King, it is a ſad thing that it ſhould now be a Queſtion, whether we ſhould crucifie our Saviour Jeſus Chriſt, or that great *Barabbas*, ſpeaking of the King; you called him Traitor, Tyrant, Murtherer of his Subjects, and the like, you went on in a Way of a Story, Theſe Citizens for a little Trading they will have Chriſt crucified, and the great *Barabbas* at *Windſor* releaſed; and ſaid you, the Clergy, the Aſſembly, they are all for crucifying Chriſt, and releaſing *Barabbas*; you made that Expreſſion, *O Jeſus, what ſhall we do?* The King was a Priſoner then at *Windſor*; you made your Application to the Parliament that was then preſent; you told them the People did expect Juſtice from them; you muſt not prefer the great Tyrant and Traitor, naming the King, to theſe poor Hearts, (the *Redcoats* ſtanding by.)

Peters. *I muſt profeſs againſt moſt of that.*

Lord Chief Baron. There is the ſame by others. It is further proved by the Order that you were appointed to preach.

Peters. *I do not deny I preached, but not theſe Things.*

Lord Chief Baron. The next Thing is this, there was one Mr. *Chace*, this was during the Trial, he ſaith you preached at *White-Hall* upon this Text, *Pſalm* cxlix. *To bind their Kings in Chains, and their Nobles in Fetters of Iron.* You had Two or Three other Verſes more; then you made a Diſcourſe of a Mayor and a Biſhop's Man, the Biſhop's Man being drunk, the Mayor committed him to Priſon; the Biſhop being angry, aſked by what Authority? The Mayor ſaid, there was an Act of Parliament for it; he did not find that either the Biſhop or his Man was excepted; you applied that to the King; ſaid you, I will ſhew you an Act of the Bible, *Whoſoever ſheds Man's Blood, by Man ſhall his Blood be ſhed*; this doth not except the King, Prince, Prince *Rupert*, Prince *Maurice*, or any of that Rabble.

Peters. *It is falſe.*

Lord Chief Baron. You ſaid further, this is the Day that I and many other Saints of God have prayed for theſe many Years; and *Oliver Cromwell* laughed at that Time. The next Witneſs was *Tongue*, he heard you preach, and he ſwears the ſame with the former; that you applauded the Soldiers, and that you hoped to ſee ſuch another Day following as the Day before; and that Bleſſed be God the Houſe is purged, and the Lords will ſhortly be pull'd out; and the Twenty Eighth Day of *January*, which was the Day after the King was Sentenced, at St. *James*'s, his Chapel, you took for your Text the cxlix. *Pſalm*, 6, 7, 8, and 9 Verſes, whereof theſe Words were part, *To bind their Kings in Chains, and their Nobles with Fetters of Iron*; there in the middle of that Sermon, having ſpoken before of the King, you ſaid you did intend to preach before the *poor Wretch* upon the 14th of *Iſaiah*, 18, 19, and 20 Verſes, ſpeaking of all the Kings of the Nations, *Thou art caſt out of thy Grave like an abominable Branch, &c.* he ſaith further, you ſaid, look upon your leſſer Bibles and you will find the Title is, *The Tyrant's Fall.* There is another Witneſs, that is one *Bowdler*, a few Days before the King's Death, at St. *Sepulchre's*, there you fell upon the old Compariſon; all along you compared the King to *Barabbas*; and that a great many would have Chriſt crucified, and *Barabbas* releaſed; all along comparing the King to *Barabbas*. One more, and that was *Ryder*, he heard this Text, *He ſhall call his Name Emmanuel*; you fell to ſpeak of News; what ſhall become of the King? And you ſaid the King was *Barabbas*, and a great many would rather have *Chriſt* crucified than *Barabbas*. And then Mr. *Walker* he ſaith, that after the King was firſt brought to his Trial he heard you ſay this, I have prayed and preached this Twenty Years, and now may I ſay with Old *Simeon*, *Lord, now letteſt thou thy Servant depart in Peace, for mine Eyes have ſeen thy Salvation:* He mentions that you made Uſe of the other Compariſon of the Mayor and the Biſhop's Man, and inferred from thence, that the King and Prince, *&c.* were not excepted out of the Scripture, where it is ſaid, *Whoſoever ſheds Man's Blood, &c.* You have heard all this witneſſed againſt you, what have you to ſay for yourſelf?

Peters. *Theſe are but ſingle Witneſſes.*

Lord Chief Baron. The Statute is Two Witneſſes for Treaſon, but not Two to One individual Thing, tho' there are ſeveral Witneſſes have proved the ſame thing about *Barabbas*, and our Saviour, *bind their Kings with Chains*, &c. and of your other Actions there is a whole Jury of Witneſſes. Two Witneſſes expreſly, we agreed upon the King's Death, and we reſolved to ſet the King aſide.

Peters. *I do not know the Witneſſes.*

Lord Chief Baron. One is Sir *Jeremy Whichcot*, the other is Doctor *Young*; you ſhall do well if you have any Thing to invalidate theſe Witneſſes to ſpeak it, elſe the Jury will be ſent together to deliver up their Verdict.

Peters. *My Lord, if I had Time and Opportunity, I could take off many of the Witneſſes, but becauſe their Teſtimony is without Controul I cannot ſatisfie my ſelf; I have no Skill in the Law, elſe I might have ſpoke for my ſelf; I do not know what to ſay more, unleſs I had more Time and Counſel.*

Mr. Soliciter General. If the Priſoner can ſay no more, here is this in it; here are Five Places where he did conſult about the King's Death, at *Windſor*, at *Ware*, in *Coleman-ſtreet*, in the *Painted Chamber*, and in *Bradſhaw*'s Houſe; and Four Witneſſes to prove this; there are Two Witneſſes to his Compariſon of the King and *Barabbas*, and Two Witneſſes to his Text of binding their Kings in Chains, *&c.* Proof that he hath been in Action in *New-England*; that he came from it with that Intent, and then went to *Holland*; that he had been in Arms; that he called the Day of his Majeſty's Trial a Glorious Day, reſembling the Judging of the World by the Saints; he prays for this in the *Painted Chamber*, preaches for it at *White-Hall*, St. *James*'s *Chapel*, St. *Sepulchre's*; what Man could more contrive the Death of the King than this miſerable Prieſt hath done? The Honour of the Pulpit is to be vindicated; and the Death of this Man will preach better than his Life did; it may be a Means to convert many a miſerable Perſon, whom the Preaching of this perſon hath ſeduced; for many come here and ſay they did it *in the Fear of the Lord*; and now you ſee who taught them; and I hope you will make an Example of this Carnal Prophet.

The Jury went together, and after a little Conſultation ſettled in their Places.

Clerk. Are you agreed in your Verdict?

Jury. Yes.

Clerk. Who ſhall ſay for you?

Jury. Our Fore-man.

Clerk. How ſay you? Is the Priſoner at the Bar Guilty of the Treaſon whereof he ſtands Indicted? Or Not Guilty?

Fore-man. Guilty.

Clerk. And ſo you ſay all?

Jury. Yes.

Clerk. Look to him, Keeper.

Council. We deſire Mr. *Cook* may be brought to the Bar, and that they may both have their Judgment pronounced.

Clerk. John Cook, Hold up thy Hand; what haſt thou to ſay why the Court ſhould not pronounce Judgment for thee to Die according to Law?

Cook. *I have a few Words, Matter of Law: Firſt, there is no Averment in the Indictment, that* John Cook *mentioned in the Act of Indempnity, is the ſame with the* John Cook *mentioned in the Indictment, and that I am the* John Cook *mentioned in both.*

Lord Chief Baron. This will not help you in this Caſe, you have owned, and have pleaded by the Name of *John Cook.*

Cook. *The Second is this, that the Overt-Acts ſhould be particularly expreſſed in the Indictment.*

Lord Chief Baron. This cannot be alledged in Arreſt of Judgment, the Jury have found you Guilty of Compaſſing and Imagining the Death of the King by the Statute of 25 *Edw.* 3. and this cannot help you.

Cook. *I ſay it was profeſſionately.*

Lord Chief Baron. That hath been over-ruled already; we have delivered our Opinions; the Profeſſion of a Lawyer will not excuſe them, or any of them, from Treaſon, and this hath been over-ruled, and is over-ruled again.

Cook. *I humbly conceive that the remaining part of the Houſe of Commons were to be Judges whether there was a Force or not.*

Lord Chief Baron. This is all paſt and over-ruled.

Cook. *Then I have no more.*

Clerk. Hugh Peters. Hold up thy Hand; what haſt thou to ſay for thyſelf why Judgment ſhould not paſs againſt thee to Die according to Law?

Peters. *I will ſubmit myſelf to God, and if I have ſpoken any thing againſt the Goſpel of Chriſt I am heartily ſorry.*

Silence commanded.

Lord Chief Baron. You are both Perſons of that Ingenuous and Liberal Education as I hope I ſhall not need to tell you what it is to Die, you have had a great deal of Time to think of it; you could not but think of this Iſſue of your Doings long ago, and therefore I ſhall ſpare my Labour of telling you what it is to Die, and of that Eternity that you are to enter into; only give me leave in a few Words, in relation to both your Profeſſions, to ſay ſomething to ſhew the Nature and Heinouſneſs of this Offence, the Murther of the King. If you were not actually guilty of putting the King to Death; nay, admitting (in Charity) you had no intent to go as far as you did, you are by the Laws of Chriſt and this Nation, guilty of High-Treaſon, in that you that are a Lawyer know very well, (and I ſpeak it that you may lay it to your Heart in the Convictions of your Conſcience. I muſt ſay to you as *Joſhua* ſaid to *Achan*, *my Son, give Glory to God, and confeſs*; and it would become you ſo to do) you know very well it is the Law of this Nation, that no one Houſe, nor both Houſes of Parliament, have any coercive Power over the King, much leſs to put him to Death; you know, (as you cited very well) that the impriſoning of the King is Treaſon. You know both of you, this is an undoubted Truth; the Rule of Law is, that the King can do no Wrong; that is the King can do no Wrong in the Eſtimation of Law; he may do ſome particular Acts as a private Perſon, but he can do little Prejudice in his own Perſon; if he would hurt any it muſt be by Miniſters, in that Caſe the Law provides a Remedy; if he doth it by Miniſters they muſt anſwer for it. The King of *England* is one of thoſe Princes who hath an Imperial Crown; what is that? It is not to do what he will; no, but it is that he ſhall not be puniſhed in his own Perſon if he doth that which in itſelf is unlawful. Now remember this when you took the Oaths of Allegiance and Supremacy; (I preſume you both did ſo;) What was your Oath of Supremacy? It was this, that the King was the only Supreme Governour of theſe Realms; it goes further, as he was Supreme Governour, ſo he was the only Supreme Governour, that excludes Co-ordination; you ſwear farther, that you will to the utmoſt of your Power defend the King againſt all Conſpiracies and Attempts whatſoever; truly you that were a Lawyer when you had thus ſworn, your Fee could be no Excuſe againſt what you had ſworn to. We know that the King, in his Politick or Natural Capacity, is not only *ſalus Populi*, but *ſalus Reipublicæ*. The Law hath taken Care that the People ſhall have Juſtice and Right; the King's Perſon ought not to be touched; the *King* himſelf is pleaſed to judge by the Law; you ſee he doth by Law queſtion the Death of his Father; he doth not judge it himſelf, but the Law judges it. Mr. *Peters* knows very well he ſubſcribed the 39 Articles of Religion; look upon them that were confirmed in 1552, and upon thoſe Articles that were confirmed in 13 *Elizabeth*; the *King* is there acknowledged to have the chief Power in theſe Nations; the meddling with the *King* was a Jeſuitical Doctrine: This I ſpeak, not that the *King* ſhould or ought to Govern but by the Fundamental Laws of the Land; they that keep within the Bounds of the Law are happy; you that are a Lawyer know this in point of Law, and you that are a Divine know this in point of Divinity. You both know the Truth of it, and when you have thought upon it, I hope you will reflect upon that horrid Crime, the ſhedding of Royal Blood. You ſee he had granted all thoſe Grievances of the People, taken them away, ſecured them, for the future; and at this very Time, when this horrid Act was done, you ſee he had granted all at the Deſire of the People; he had made thoſe Conceſſions, ſuch, as (were it not in reſpect of others more than thoſe that treated themſelves) they thought was more than could be expected by the Nation

on. You that had a Hand in the *King's* Death it falls upon you, the Guilt of it, becauſe you were ſome of thoſe Inſtruments that aſſiſted thoſe Perſons that broke the Treaty; prepare your ſelves for that Death which you are to die; it is a Debt which we all owe to Nature; if in this Caſe there is ſomething of Shame comes to you it is that you muſt take as Part of the Reward of your Sin. The only Work I have now to do is to pronounce the Judgment, and this is the Judgment of the Court, and the Court doth award, that both of you be led back to the Place from whence you came, and from thence ſhall be drawn upon a Hurdle, *&c.* and the Lord have Mercy upon your Souls.

Clerk. Crier, make Proclamation.

Clerk. O Yes, *&c.* All Manner of Perſons, *&c.* and all Jurors and Witneſſes, are to appear at this Place to Morrow Morning at Seven of the Clock in the morning, upon Pain of One Hundred Pound a piece. So God bleſs King *Charles*, &c.

October 15.

Memorandum, That the Bill of Indictment againſt *William Hewlet*, alias *Howlet*, was found at *Hicks's Hall*, *October* 12th inſtant.

Proclamation of the Court being made:

Clerk of the Crown. Set *William Hewlet*, alias *Howlet*, to the Bar: which was done accordingly.

Clerk. *William Hewlet*, alias *Howlet*, Hold up thy Hand. Thou ſtandeſt Indicted of High Treaſon in the County of *Middleſex*, by the Name of *William Hewlet*, alias *Howlet*, for that thou, *&c.* How ſayeſt thou, art thou Guilty of the High-Treaſon whereof thou haſt been Indicted, and art now Arraigned? Or Not Guilty?

Hewlet. *I am not Guilty, my Lord.*

Clerk. How wilt thou be Tried?

Hewlet. *By God and the Country.*

Clerk. God ſend thee a good Delivery.

Set him aſide.

The Trial of DANIEL AXTELL, *October* 15, 1660.

Clerk of the Crown. Set *Axtell* to the Bar: which was done accordingly.

Clerk. *Daniel Axtell*, Hold up thy Hand.

Axtell. *Pray, my Lord, let me have Pen and Ink.*

Lord Chief Baron. Give Mr. *Axtell* Pen and Ink.

Clerk. *Daniel Axtell*, theſe Men that were laſt called of the Jury are to paſs; *&c.* if you will challenge them, or any of them, you muſt challenge them when they come to the Book, before they are Sworn.

Lord Chief Baron. Do you know how many you have Liberty to Challenge? Becauſe I would not have you miſinform'd, 35 you may Challenge peremptorily, and no more.

Axtell. *I thank your Lordſhip.*

Lord Chief Baron. Unleſs you have any particular Cauſe; if ſo, you may challenge more.

Axtell. *I confeſs I am wholly ignorant of the Law.*

John Kirke, John Smith, Thomas Morris, Ralph Halſell, John Shorecroft, Francis Beale, Robert Cromwell, John Gallyard, John Shelbury, George Rithe were called, and by the Priſoner Challenged.

Thomas Bide, Charles Pitfield, Robert Sheppard, William Dod, Thomas Uſman; William Maynerd, George Plucknet, Samuel Harris, John Nicholl of *Hendon; Henry Marſh, Thomas Biſhop, Thomas Snow*, in all Twelve, were admitted, and ſworn of the Jury.

Clerk of the Crown. If any Man can inform my Lords the King's Juſtices, *&c.*

Clerk. *Daniel Axtell*, Hold up thy Hand. Look upon the Priſoner you that are ſworn, and hearken to your Charge; you ſhall underſtand that the Priſoner ſtands Indicted, *&c.*

Council. May it pleaſe your Lordſhips, and you Gentlemen that are Sworn of the Jury, the High-Court of Injuſtice that was Erected for Trial of the late King, it had all the Formalities of a Court to put in Execution that Bloody Act; they had their *Preſident*, their *Council*, their *Chaplain*, and their *Guards*; ſome of their Judges have been already Tried, one of their Council, and their Chaplain. Now, my Lord, we come to the Guards, and this Gentleman at the Bar, that is now the Priſoner, he was Commander of that Black Guard, that Cruel and Bloody Guard: The Indictment is, *That he did Imagine and Compaſs the Death of the King*; there be ſeveral Overt-Acts that are mentioned in the Indictment as Evidences of that Imagination, as the Conſultation to bring him to Trial, the actual bringing him to Trial, and the Bloody Execution upon the Scaffold; our Evidence ſhall be this, that during the Time of the Trial the Priſoner at the Bar did Command the Soldiers in *Weſtminſter-Hall*, himſelf did keep the Entrance into the Court; and when *Bradſhaw* did ſpeak to the King, and told him he trifled away Time, and required his Anſwer to the Charge exhibited in the Name of the Commons of *England* Aſſembled in Parliament, and the good People of *England*, that a Noble Perſon in the Gallery there cried out, *It was a Lye*; ſaying that above half the Commons diſowned it; ſaying where are theſe good People? *It is a Lye*; Oliver Cromwell *is a Traitor*; this Bloody Fellow commanded the Soldiers to Shoot her; he did ſeveral times command and encourage the Soldiers to cry out, *Juſtice, Juſtice*; and the Laſt Day of that horrid Trial, called by them *the Day of Judgment*, he likewiſe commanded them to cry out, *Execution, Execution*; and when ſome of them would not do it, he had the Valour to Beat them. My Lords, and Gentlemen of the Jury, if we prove any of theſe Particulars to demonſtrate unto you that he was Guilty of Compaſſing and Imagining the King's Death, it is equal as if we had proved he did actually cut off the King's Head.

Mr. *Bodurdoe*, Mr. *Nutley*, Mr. *Harrington*, Sir *Purbeck Temple*, Mr. *Simpſon*, Mr. *Baker*, Mr. *Huncks*, and Mr. *Jeonar*, Sworn.

Council. Mr. *Simpſon*, Tell my Lords, and the Jury, who had the Command of the Soldiers during the Trial of the King in *Weſtminſter-Hall.*

Simpſon. My Lords, (as I ſaid before in the Caſe of Mr. *Peters*,)

Col. *Stubberd* and Col. *Axtell* had the Command of the Soldiers below Stairs, near that which was called the *High-Court of Juſtice.*

Axtell. *I deſire to know his Name, my Lord.*

Simpſon. My Name is *Holland Simpſon.*

Council. Did you ſee him there commanding the Soldiers?

Simpſon. There was a kind of Hubbub in the Court; there was a Lady (they ſaid it was the Lady *Fairfax*) who at the exhibiting of the Charge againſt the King, ſaid to be in the Name of the *Commons and People of* England, ſhe ſpoke out aloud, and ſaid, *it was a Lie, that not half, nor a quarter of the People*; Oliver Cromwell *is a* Rogue *and a* Traitor; they called for a Guard, this Gentleman he was called, and brought up ſome Muſqueteers, and commanded his Soldiers to Preſent and give Fire againſt the Lady, and commanded her to Unmaſk.

Axtell. *What Lady was it? I deſire to know.*

Simpſon. She went by the Name of the Lady *Fairfax*; I know not whether it was ſo or no, it was the common Report it was ſhe.

Clerk. Mr. *Huncks*, Pray tell my Lord what you know of the Priſoner at the Bar.

Huncks. *My Lord*, to ſay poſitively any Thing of the Man touching his Command I cannot, but only that Morning the King died he came into the Door of the Room where Colonel *Phayre*, Colonel *Hacker*, *Cromwell*, and myſelf, were, (*Ireton* and *Harriſon*, lying in Bed together in the ſame Room,) and then he ſtood at the Door half in and half out; I refuſed to Sign an Order for Executing the King, as *Cromwell* ordered me, and ſome little croſs Language having paſſed, ſaith the Priſoner at the Bar, *Colonel* Huncks, *I am aſhamed of you, the Ship is now coming into the Harbour, and will you ſtrike Sail before we come to Anchor?* This I appeal to yourſelf; but for crying out, *Knock them down, ſhoot them*, I know not who it was; the Officers cried, *Juſtice*, and ſome of the Soldiers, but I profeſs I know not who it was particularly; but they cried, *Juſtice*, and then I fell a trembling, for I was afraid of the King; but theſe were the Words he uſed to me, *Will you ſtrike Sail*, &c?

Axtell. *My Lord, I deſire to aſk him a Queſtion.*

Lord Chief Baron. Aſk him what you will.

Axtell. *If I am not in the right I hope your Lordſhips will direct me.*

Lord Chief Baron. Go on.

Axtell. *Colonel* Huncks, *where was it?*

Huncks. In a little Room in *White-Hall*, where *Ireton* and *Harriſon* lay in Bed together.

Axtell. *Do you know whereabouts?*

Huncks. I think I can go to the Room again; I appeal to your own Conſcience before all this People.

Axtell. *By your Favour, Sir, the Room, I perceive, you know not; and truly, Sir*, My Lord, *if you pleaſe to give me Leave, becauſe he appeals to my Conſcience, I do appeal to the great God, before whom it may be I ſhall ſhortly be Arraigned to give an Account of all my Words, Thoughts and Actions, I do not remember that ever I had any Converſe with this Man there, or met him there, or any of that Company there, that Day; he was a Stranger to me, but I wiſh that you (to ſave yourſelf being in the Warrant for Execution) do not make others a Peace-Offering to ſave yourſelf; the Lord that knows my Heart I appeal to him; I appeal to your own Conſcience, becauſe you appeal to my Conſcience; I never met you, nor ſaw you there.*

Huncks. Have you done? Then give me Leave; you ſay you do not know me; I appeal to the ſame God, when *Cromwell* took upon him to have the Crown; have not I ſaid, What have you got by being *Jehu*-like? *Lord, ſtrike me Dead here if it be not true.*

Axtell. *I will not reflect upon him; but becauſe he hath appealed to my Conſcience therefore I ſpeak it; it is known Notoriouſly how* Jehu-*like you were, when you were one of the Chief Guards of his Majeſty, One of the Forty Halberteers that did oppoſe every Perſon then for the King; had I had Time, and had not been a cloſe Priſoner as I was, there were Witneſſes enough.*

Council. This after our Evidence is more proper.

Huncks. Spare me not, Colonel *Axtell.*

Lord Chief Baron. Take the Old and Ancient Courſe, let the Witneſſes that are produced for the King be all heard; then give your Anſwer to all of them together.

Axtell. *My Memory is not very good.*

Lord Chief Baron. You have Pen, Ink and Paper.

Lord Chief Baron. Mr. *Axtell*, is this all that you deſire to ſpeak to Colonel *Huncks?*

Axtell. *Yes, my Lord.*

Lord Chief Baron. Have you any other Queſtions?

Council. My Lord, we have a few Words; he objects as if Colonel *Huncks* were under a Danger; he is pardoned.

Axtell. *I deſire to aſk him upon what Account theſe Words were ſpoke.*

Huncks. My Lord, it was this; *Cromwell* having a Commiſſion, (which I think I heard read here,) Colonel *Hacker* was reading of it, my Lord, *Cromwell* he comes to me, and by vertue of that Commiſſion he would have me to write a Warrant for Executing the King, but I refuſed to write that Warrant; the Priſoner then ſtanding at the Door, *(If God bleſs me I will ſearch all the Doors at* White-Hall, *but I will find it out,)* I not doing it, I ſaid, *Why ſhould it be offered to me?* Says *Cromwell*, *Thou art a peeviſh Fellow*; *Cromwell* fell a writing; as ſoon as ever he had done that writing, he gave *Hacker* the Pen, what *Hacker* writes I know not; and upon my refuſing, this Priſoner at the Bar ſaid, *Colonel* Huncks, *I am now aſhamed of you, the Ship is now coming into the Harbour, and will you now ſtrike Sail before you caſt Anchor?*

Council. You obſerve the Courſe of this Evidence; there was a Warrant of Commiſſion directed to Three Perſons, *Hacker*, *Huncks*, and *Phaire*, for Execution of the King; *Cromwell* demanded of this Gentleman (Colonel *Huncks*) that he ſhould Sign a Warrant by vertue of that other Warrant, and this Gentleman refuſed it: The Priſoner objects this, that he to ſave himſelf doth witneſs this againſt the Priſoner; Gentlemen, he did refuſe the Thing; have you any Thing to aſk Colonel *Huncks?*

Axtell. *He ſays Colonel* Phaire and Hacker *were there, I do not doubt but they will be ſo conſcientious to vindicate me from all this Charge.*

Lord Chief Baron. If it be any Thing that tends to your Defence that you will be heard afterwards; but have you any Queſtions to aſk Colonel *Huncks?*

Axtell. *No more; I know nothing of it, if I were to Die at this Bar presently.*

Council. Sir *Purbeck Temple*, Pray tell my Lords and the Jury your Knowledge of the Carriage of this Gentleman touching the Trial of his late Majesty.

Sir *Purbeck Temple.* My Lord, being present, and engaged by some Persons of Honour, Servants of his late Majesty, to be present when that horrid Murther was acting before this Court of Justice, (as they called it) I was present at all the Trials of the King, and very near him; I heard the King demand from *Bradshaw* by what Authority and *Commission* they proceeded thus strangely to Try him. Then I heard the Lady *Fairfax*, and one Mrs. *Nelson*, (my Sister,) after the exhibiting of the Charge in the Name of the Commons Assembled in Parliament, and the good People of this Kingdom, against *Charles Stuart*, King of *England*; I say I heard the Lady cry out from a Gallery over the Court, *Not half the People; it is false; Where are they, or their Consents?* Oliver Cromwell *is a Traitor.* Upon which I heard the Prisoner at the Bar cry out, *Down with the Whores, shoot them*; which made me take farther Notice of him; seeing him in *Westminster-Hall*, commanding the Soldiers there, I saw him the most active Person there; and during the Time that the King was urging to be heard, he was then laughing, entertaining his Soldiers, scoffing aloud, whilst some of the Soldiers, by his Suffering, and (I believe) Procurement, did fire Powder in the Palms of their Hands, that they did not only offend his Majesty's Smell, but inforced him to rise up out of his Chair, and with his Hand to turn away the Smoke; and after this he turned about to the People, and smiled upon them, and those Soldiers that so rudely treated him: Then turning himself to *Bradshaw*, said to him and the Court, *There are some sitting here* (fixing his Eyes upon some Persons near *Bradshaw*) *that well knew that if I would have forfeited or betrayed the Liberties and Rights of the People I need not have come hither*, (or Words to this Effect,) *but their Liberties and Rights are dearer and nearer to me than my Three Kingdoms, nay, than my Life itself; therefore I desire you to hear me, and remember that I am your Lawful King, that have done you many Acts of Grace and Favour.*

After which, this Person, Mr. *Axtell*, Prisoner at the Bar, commanded his Soldiers to cry out *Justice*; which the Soldiers not readily obeying of him, I saw him beat Four or Five of them with his Cane until they cried out, (with himself) *Justice, Justice, Execution, Execution*, which made me turn to a Noble Lord, by whom I then stood, and said, *Pray, my Lord, take Notice, there is not above Four or Five that cry out* Justice, Justice. I heard also of their spitting in the King's Face; and I think no Body's Sufferings have been so like those of our Saviour Christ Jesus, as his Majesty's were. After this, this Person crying *Justice, Justice, Execution, Execution*, a second Time, the Court proceeded to pass a Sentence; the which his Majesty pressed hard against, and said, *Sir, before you pass that ugly Sentence, (which I very well understand you are determined to do,) I desire you to hear me; hear me, hear me*; passionately, and most affectionately expressing it, which they denying the King, and the Noise of *Justice, Justice, Execution, Execution*, being repeated, they proceeded and read that ugly Sentence of Death: After which his Majesty was immediately hurried away from the Bar into a common Sedan, where he was carried by two common Porters; which Sedan I followed to the middle of *King's-Street*, where I saw the two Porters in Reverence go bare, till the Soldiers (under the Command of the Prisoner at the Bar) beat them, and would not suffer them to go bare, when they carried him. After this the People cryed out, *What, do you carry the King in a common Sedan, as they carry such as have the Plague? God deliver your Majesty out of such Enemies Hands.* In which Street I was forced to leave the Sight of his Majesty, occasioned by the Injuries and Hurts I received in my Person from the Soldiers under *Axtell*'s Command, they carrying him through the Streets shouting in Triumph. A short Time after I received an importunate Command from a Lady of great Honour, (a Servant of his Majesty's) that I would endeavour to find out where the Body of the *Martyr'd King* was, and to give her an Account where it then was: Applying my self to *White-Hall*, after Two or Three-score Intreaties, I was denied; but understanding that Money would do it, I gave the Person then under the Command of Mr. *Axtell*, that then kept it, half a Piece to shew it me, who in a scoffing Manner took me by the Hand and said, *If thou thinkest there is any Sanctity or Holiness in it, look here*; where I saw the Head of that Blessed Martyr'd King lye in a Coffin with his Body, which smiled as perfectly as if it had been alive; this is the sad Account of the Martyr'd King, and this horrid Prisoner, Mr. *Axtell.*

Axtell. *My Lord, may I ask that Gentleman some Questions?*

Lord Chief Baron. Yes, yes.

Axtell. *My Lord, he seems to say that I bid the Soldiers cry out for Justice; he doth not say at all I was there in Command, but he saith a Lady, by Report the Lady* Fairfax, *spake some Words, and that I should bid the Soldiers Silence her; truly I desire to know the Certainty of the Place where I stood.*

Sir *Purbeck Temple.* My Lords, and Gentlemen of the Jury, I saw this Person standing within a Pike or two's Length, as I can guess it, (I remember the Place within a Yard of the Ground in *Westminster-Hall,*) I do not say this Person sate in the Court as a Principal Officer, that did then hold his Majesty Prisoner at the Bar; I did not say it was a Lady unknown, or reported to be such a one; but I said it was the Lady *Fairfax*, and my own Sister, Mrs. *Nelson*, and he cried, *Shoot the Whores.*

Axtell. *He seems now to say I Commanded the Guards; I never was a Guard to his Majesty, or had any thing to do in that Business, but it was wholly committed to a Company of Men I know not of. That Gentleman that spoke I have no Acquaintance with him, I think he did not know me at that Time.*

Lord Chief Baron. Have you any thing to ask him?

Sir *Purbeck Temple.* My Lord, another Passage he puts into my Memory; when I did observe a Thousand of sad Faces, I saw none laughing but yourself, as if you had been carousing and entertaining the Soldiers. I do not charge you that you Commanded those Halberteers, but those *Red-coats*; you were all in *Red:* I saw you cane those Four or Five Soldiers I mentioned, till they cried *Justice, Justice*, with you; and that with the Powder in the Palms of their Hands they forced the King to rise out of his Chair, which you were much pleased with, and laughed at.

Axtell. *I say before the Lord, before whom I must be judged again for this, I do deny this whole Account.*

Griffith Bodurdoe, Esq; Sworn.

Bodurdoe. My Lords, and you Gentlemen of the Jury, I was at the time of this sad Trial in *Westminster-Hall.*

Axtell. *Your Name, Sir, I beseech you?*

Council. His Name is Mr. *Bodurdoe.*

Bodurdoe. I say I was all the time of the King's Trial in *Westminster-Hall*; I was in a Gallery that I had out of my House where I then lived, just under and besides the House of Commons, and I do remember I saw this Gentleman there; I do think he was then called Lieutenant Colonel *Axtell*, so far as I remember; truly I have not seen him since, before this Day, nor have had any Reason to have known him, but that I saw him very Active in giving Commands to the Soldiers there: This Gentleman was keeping the Court, letting some in, and putting others out; he seemed to have the Command of it; one Da, (whether it was about some Passage, or their President's Speech, I know not) there was a Lady in the same Gallery where I stood, and some Muttering, *It is a Lye, not half the People*, or Words to this Effect; he the now Prisoner at the Bar standing below in the Court, without the Bar, not far from *Dendy*, with Five or Six Soldiers, upon this Muttering and Disturbance (as he apprehended) to the Court, he called to the Soldiers, saying, *Shoot them, if they speak one Word more*; they did also present the Muzzles of their Muskets up to the Gallery; my Lord, by this we were very hush; after that immediately within half a Quarter of an Hour *Dendy* came to the Gallery from the Court, to know who it was that made that Disturbance; but the Lady was withdrawn into my Chamber, and did not come out afterwards.

Axtell. *Where was this, Sir?*

Lord Chief Baron. What is your desire?

Axtell. *My Lord, where he saw me then?*

Lord Chief Baron. Mr. *Bodurdoe*, you hear the Question.

Mr. *Bodurdoe.* There was a Gallery, which I do believe is yet standing, and the Court was just underneath the Gallery, and you were just underneath the Gallery, and Five or Six Soldiers with you.

Richard Young Sworn.

Council. What do you know of the Carriage of the Prisoner at the Time of the Trial?

Young. I was upon a Scaffold, whereby I did see what was done in the Hall; I saw that Lieutenant-Colonel *Axtell* was busy and very active in encouraging the Soldiers to say, *Let us have Justice against the King.*

Axtell. *I desire to ask Mr.* Young *one Question; others say that the Word was,* Cry for Justice, *this Gentleman is pleased to make some Addition,* Let us have Justice against the King.

Young. No, not *against the King*, but I conceived you meant against the King.

Axtell. *I cry you Mercy, you do but conceive so.*

Young. You were upon the Right Hand of the Hall, almost at the Corner of the Pavement; it could not be otherwise applied.

John Jeonar Sworn.

Council. Speak your Knowledge of Col. *Axtell*'s Carriage at the High-Court of Justice.

Jeonar. I had the Honour to wait upon the King as a Domestic Servant, to the Time of his Death; that Day, which was the First Day the King was brought to his Trial, I did wait upon him among other Servants; we stood close to the Bar where the King was, some Three or Four of us; Colonel *Axtell* was upon the Right Hand of us commanding the Guard, to keep Things in Order when the Court was to be withdrawn; (the many Circumstances about the Lady *Fairfax* shall be omitted;) the *President* commanded the Prisoner to be withdrawn; with that Col. *Axtell* steps down before me to draw out his Guard; this I heard him say, *Soldiers, cry for* Justice, Justice; I was the next Man to him; and upon the last Day of the Trial he did come down in the same manner, and bid the Soldiers cry out for *Execution, Execution.*

Axtell. *I do desire a Question may be asked of that Gentleman; I must confess I did not know the Gentleman at that Time, though he said he knew me; he seems to say that at the First Day I encouraged the Soldiers to cry,* Justice, Justice, *and the Last Day,* Execution, Execution; *what Place was this in, Sir?*

Jeonar. I tell you the King was brought from *Cotton-House*, through a Guard, that you managed, of Musqueteers, and with a Guard of Partizans; besides, there was myself and others there: When we came up we got as close to the Bar as we could, you were passing up and down from above and below: When the Court was dissolved, you stept down just before to draw your Guard to make ready, and to cry, *Justice, Justice*, and the Second Time, *Execution, Execution*; you were very near me, and then you cried, *Justice, Justice, Execution, Execution.*

Axtell. *Are you certain? I have heard other Men, I confess, accused for this, some other Officers.*

Jeonar. I did hear you, I do know you by Sight.

Council. You know him now to be the same Person?

Jeonar. Yes.

Samuel Burden Sworn.

Council. Tell my Lord and the Jury what you know of the Carriage of the Prisoner.

Burden. My Lords and Gentlemen, I do believe Col. *Axtell* knows me well enough, I was then under his own Command at *White-Hall*; there were some Cavaliers then in the Regiment; it was my Fortune I came into your Company, I wish I never had: You commanded more besides my self to be a Witness against the King, and Justice *Cook* took my Examination; you brought me in, you commanded the Guards that Time at *White-Hall*, when the King was upon his Trial.

Axtell. *What more?*

Burden. And you commanded *Elisha Axtell*, with a File of Soldiers, to take a Boat and go down to the Common Hang-man, who liv'd beyond

yond the *Tower*, to Execute the King; he is now *Sheppard*'s Serjeant in *Ireland*.

Axtell. *My Lord, I desire to ask him a Question; he was pleased to say I desired him to be a Witness.*

Burden. Yes.

Axtell. *Where was it?*

Burden. In the Court at *White-Hall.*

Axtell. *My Lord, I have seen the Printed List of Witnesses against the King, and in that List you shall find no such Name.*

Burden. I have been a Prisoner in *Dublin* by your means.

Axtell. *My Lord, I hope you will take Notice of that.*

Council. Burden, do you remember any of his Commands to *Web*, to draw up in the *Banqueting House?*

Burd. He commanded *Web* to draw up in the *Banqueting-House*, during the time of Execution, his own Company. I was one of his own Company then.

Council. In order to what?

Burden. For Execution.

Axtell. *My Lord, is* Web *here?*

Burden. He is in *Dublin.*

Axtell. *I wish he were here.*

Edward Cook Sworn.

Cook. May it please your Honour, my Lord, the last Day of the Trial of his Majesty I came into *Westminster-Hall*, coming where the Court was, I did see Col. *Axtell*, the Prisoner at the Bar, there with some Musqueteers.

Council. What Day was this?

Cook. The last Day of His Majesty's Trial.

Lord Chief Baron. Go on, Sir.

Cook. Standing there a little while His Majesty came Guarded with some Halberteers, when he came by the Soldiers that stood with Colonel *Axtell*, His Majesty bowed, and afterwards put off his Hat, and went up to the Court; I could not know what *Bradshaw* said to him, I stood below; I heard him say he was brought by the *Consent of the Commons and People of* England; there stood a Lady above in a Gallery, crying out, *it is a Lie, where are the People? or their Consents?* Cromwell *is a Traitor:* Whereupon Colonel *Axtell* standing by, saith he, *What Drab is that that disturbs the Court? Come down, or I will fetch you down.*

Mr. *Nelson* Sworn.

Council. Tell my Lords, and Gentlemen of the Jury, touching the Discourse between you and the Prisoner at the Bar, in *Dublin.*

Nelson. My Lords, and Gentlemen of the Jury, upon a Discourse with the Prisoner at the Bar in *Dublin*, Five or Six Years since, upon the Platform in that Castle we discoursed of the late King's having had several Reports; I desired to know of him who it was that Executed the King, thinking he might inform me; he was pleased to tell me this, saith he, the Persons that were employed in that Service, you know them as well as I do; truly Sir, not I, said I, I saw them in Vizards, but not their Visage, as I knew of; yes, saith he, you do know them; it is true, saith he, myself and others were employed in that Affair, in order to the Execution; but there were several Persons came and offered themselves out of a kind of Zeal, to do the Thing, but we did not think it proper to employ Persons whom we did not know, but we made choice of a couple of Stout Persons; pray let me hear their Names, said I; saith he, it was *Hewlet* and *Walker*; I desired to know their Reward; truly saith he, I do not know whether 30*l.* a piece, or between them; I said it was a small Reward for a Work of that Nature; truly, saith he, that was all.

Axtell. *You named one Man, I did not hear the other named.*

Nelson. I named *Hewlet* and *Walker*; he was one that managed the Execution, he told me so, and it pleased you, Sir.

Axtell. *He is pleased to say that in* Ireland *there was such Conference; was any Body by?*

Nelson. No, Sir.

Axtell. *Did I Name any Body to you?*

Nelson. You named those two Persons.

Axtell. *Certainly I must invent them then, for I had no more Knowledge of them than any one here.*

Nelson. You told me you were one of them that had the managing of that Affair.

Council. My Lord, we have done with our Evidence; those Particulars that were first opened to you have rendered the Prisoner much a blacker Person than we thought; we leave him to his Defence.

Axtell. *May it please your Lordships in the first place, because I am ignorant in the Laws, I desire to know upon what Statute this Indictment is grounded.*

Lord Chief Baron. It is grounded upon the Statute of the 25th of *Edward* the Third.

Axtell. *My Lords, I must acknowledge my Ignorance of the Laws, being a Thing I never studied, nor have the Knowledge of, but I have heard it is the Duty of your Lordships and the Judges to be of Council for the Prisoner in Things wherein he is ignorant in Matter of Law, to make his just Defence; and therefore, my Lord, the Indictment itself being Matter of Law, if your Lordships please not to grant me Council to speak to Matters of Law, I humbly pray that your Lordships will be pleased that for want of Knowledge, Formalities, Punctilioes, and Niceties of the Law, I might not undo myself: I have heard by a learned Judge, that though the Judge be of Council to the King, yet by his Oath he is also to be Councellor to the Prisoner, and stands as Mediator between the King and Prisoner; and therefore, my Lord, I shall beg that humble Favour, that wherein I shall fall short to make the best Improvement of my Plea in Matter of Law, that your Lordships will help me, and not take Advantages against me, as to the Niceties, Formalities, and Punctilioes of the Law; and, my Lord, this is a Resemblance of that Great Day, where Christ will be Judge, and will judge the Secrets of all Hearts, and of all Words, and of all Persons, and by him all Actions are weighed, knows all our Hearts whether there be Malice, or how it stands in the Frame of each Heart before him in this place; and therefore I hope there will be nothing by pre-judging, or any Thing by pre cluding, to be so Black a Person as is seemed to be said against me. My Lords, I must shorten the Time, and come to speak as to the Authority.*

Lord Chief Baron. As to what, Sir?

Axtell. *I speak as to the Authority by which, or under which, I acted; I humbly conceive, my Lord, under Favour, that I am not within the Compass of that Statute of the* 25 Ed. 3. *for that questionless must intend private Persons,* Counselling, Compassing, or Imagining the Death of the King. *But you know, my Lords, the War was first stated by the Lords and Commons, the Parliament of* England, *and by Virtue of their Authority was forced to be raised, and they pretended by Law that the Right of the* Militia *was in them; and your Lordships will remember in several Declarations and Acts that were mutually exchanged between his Majesty and Parliament; and, my Lord, that was the Authority, the Lords and Commons assembled in Parliament raised a Force, and made the Earl of* Essex *General, and after him the Earl of* Manchester, *of the Eastern Association, and after that Sir* Thomas Fairfax, *Lord General of the Forces; by this Authority I acted, and this Authority I humbly conceive to be legal, because this Parliament was called by the King's Writ, chosen by the People, and passed a Bill they should not be Dissolved without their own Consents; that the Parliament was in Being when the Trial was, and a Question whether yet legally Dissolved.*

In the Fourth Place, they were not only owned and obeyed at Home, but Abroad, to be the chief Authority of the Nation, and also owned by Foreign States and Kingdoms, who sent Ambassadors to that Purpose; under them did all the Judges of the Land Act, who ought to be the Eye of the Land, and the very Light of the People, to guide them in their right Actions; and I remember the Judges upon Trial, (I have read it of High-Treason,) Judge Thorp, Nichols *and* Jermin *have declared it publickly, that it was a lawful justifiable Thing by the Law of the Land to obey the Parliament of* England. *My Lord, it further appears as to their Authority over the People of this Nation, Petitioning them as the Supreme and Lawful Authority: And,* my Lords, *as I have heard it hath been objected, that the Houses of Lords and Commons could make no Act, truly, my Lord, if you will not allow them to be Acts, tho' they intitle them so, call them so, and are obeyed as so, by the Judges, Ministers, and Officers of State, and by all other Persons in the Nation, yet I hope they cannot be denied to be Orders of Parliament; and were they no more but Orders, yet were they sufficient, as I humbly conceive, to bear out such as acted thereby. And, my Lord, the Parliament thus Constituted, and having made their Generals, he, by their Authority, did Constitute and Appoint me to be an Inferior Officer in the Army, serving them in the Quarters of the Parliament, and under and within their Power; and what I have done, my Lord, it hath been done only as a Soldier, deriving my Power from the General; he* Kelyng. 13. *had his Power from the Fountain, to wit, the Lords and Commons; and, my Lord, this being done, as hath been said by several, that I was there, and had Command at* Westminster-Hall, *truly, my Lord, if the Parliament Command the General, and the General the Inferior Officers, I am bound by my Commission, according to the Laws and Customs of War, to be where the Regiment is; I came not thither Voluntarily, but by Command of the General, who had a Commission (as I said before) from the Parliament. I was no Counsellor, no Contriver, I was no Parliament Man, none of the Judges, none that Sentenced, Signed, none that had any Hand in the Execution, only that which is charged is, that I was an Officer in the Army; if that be so great a Crime, I conceive I am no more Guilty than the Earl of* Essex, Fairfax, *or the Lord of* Manchester.

Judge Mallet. You are not charged as you were an Officer of the Army.

Axtell. *My Lords, That is the main thing they do insist upon: My Lord, I am no more Guilty than his Excellency the Lord General* Monk, *who acted by the same Authority, and all the People in the Three Nations; and my Lord, I do humbly suppose, if the Authority had been only an Authority in Fact, and not Right, yet those that acted under them ought not to be questioned; but if the Authority commanded, whatsoever Offence they committed, especially that that guided me, was no less than the declared Judgment of the Lords and Commons sitting in Parliament; they declared that was their Right, as to the* Militia; *and having explained several Statutes of* Henry *the 7th, wherein the King having enterchanged Declarations with the Parliament, the Parliament comes to make an Explanation on that Statute; and, my Lord, it is in* Folio 280, *wherein they do positively expound it, and declare it as their allowed Judgment. To clear up all Scruples to all that should take up Arms for them, saith the* Parliament *there, as to the Statute of* 11th *of* Henry *the 7th, Chapter the First, which is printed at Large, comes there to explain it in General, and comes here,* Folio 281, *and gives this Judgment;* It is not, say they, agreeable to Reason or Conscience, that any one's Duty should be known, if the Judgment of the High-Court of Parliament be not a Rule or Guide to them. *In the next Place, this is the next Guidance, Rule, and Judgment of* Parliament, *upon the Exposition of this Statute, and as they have said in several Places, (was it not too much to take up your Lordship's Time,) they are the proper* Judges and Expounders of the Law. *The High-Court of* Parliament *have taken upon them to expound the Law, and said that we Lawyers will give the Meaning of the Text contrary to what they have Expounded the Meaning under their Hands: In the same* Declaration *his Majesty is pleased to quit that Statute upon which I stand Indicted, the 25th of* Edward *the Third, where they do, my Lord, expound that very Statute in the Declaration made in* 1643, Folio 722. *I come to the declared Judgment, wherein they did positively say, that the Persons that do Act under their Authority ought not to be questioned as Persons Guilty,* Folio 727, *that is the Exposition that the Lords and Commons Assembled in* Parliament *do make upon the Statute.*

Council. My Lord, this is an Argumentation of Discourse in Justification of his Proceedings, we desire to know what he will Answer as to the Plea.

Axtell. *My Lords, I have this further to say, that if a House of Commons Assembled in* Parliament *may be guilty of Treason, (for the Truth is, if I acted Treason, that acted under the Authority of the Lords and Commons in Parliament, and of the Commons in Parliament, then doubtless they must begin the Treason:) If the House of Commons, who are the Collective Body and Representation of the Nation be guilty, all the People of* England, *who chose them, are guilty too; and then where will there be a Jury to try this? Concerning the Commons alone I have been over-ruled.*

Lord Chief Baron. If you have any Thing to say to the Lords and Commons, Answer to your Charge; your Charge is nothing of the Lords and Commons, but what you acted when the House was broke and forced.

Council. You cannot but know that there is nothing charged against you, for which you can so much as pretend an Authority of the Lords and Commons; you know before you could do this horrid Murther, you were the Persons that destroyed the Lords and Commons both; indeed you

you Ravel in a Buſineſs, to make People gaze upon you without any Ground.

Axtell. *I am upon my Life, I hope you will hear me patiently.*

Lord Chief Baron. God forbid but we ſhould.

Axtell. *I do deſire to aſſert my Authority; if any Thing was done upon the Houſe of Lords and Commons I do not come here to juſtify their Actions, I was not concerned in it. My next Plea is this; that if a Houſe of Commons can be charged Guilty of* High-Treaſon *as a Community, the diſtributive Body muſt needs be Guilty.*

Court. If there ſhould have been 20 or 40 Men come out of the Houſe of Commons, and ſhould Murther a Man, they muſt Anſwer for that; it is not the Community that can do ſuch an Act of Treaſon: Theſe Perſons that you call a Houſe of Commons, there was but 26 of them, and theſe muſt be the People; this is the State of the Caſe; and when you have thruſt out thrice the Number of thoſe remaining, only thoſe can ſerve your Turn.

Lord Anneſly. Mr. *Axtell*, I am very ſorry to ſee you in that Place, and it troubles me as much to hear you vent that for an Authority; which you know yourſelf was no Authority; you would now for your Defence for Life, (and it is Reaſon you ſhould make as full a Defence for Life as you can,) you would ſhelter yourſelf under that Authority, which I am ſorry I muſt ſay you were one of the greateſt Violators of. You cannot forget how near a Cloſe of this Bloody War, by the Mercy of God, this Nation was, when the Army interpoſed, whoſe Trade it was to live by War, when they had felt ſo much of the Sweet of War, they would not ſuffer the People to enjoy Peace, though the Lords and Repreſentatives in Parliament had agreed to it; a Treaty was begun, Terms of Peace propounded and agreed to; this you cannot forget, and will have no need of Notes, or Books to help your Memory: When the People Groaned under the Miſeries of War, and Thirſted after Peace, then came up the Army, who were Servants to the Parliament till that Time, taking upon them the Authority; (you cannot forget that yourſelf was one of the Number that came to offer Accuſations againſt the Majority of the Commons Houſe, calling them Rotten Members;) the Houſe of Lords was not then ſuffered to ſit, they would not join in that Ordinance that was preparing for the Trial of the King; when the Lords had refuſed, they were no longer fit to be Lords neither; then comes in a new Authority, which we never heard of before; a Remnant of the Houſe of Commons joining with the Army that had driven away the greateſt part of the Houſe of Commons; (for in all Aſſemblies Courts the Major Part muſt determine, or no Determination,) after this Courſe was taken, then is an Act ſet on Foot, they take upon them by Votes of their own to be the Parliament of *England*; that the Supreme Power of the Nation is in the Repreſentatives of the People; who were they? Thoſe few only that remained; almoſt all the Cities, Counties and Boroughs of *England* had none left to repreſent them, they were driven away by Force; then was this Act of Parliament (ſuch an Act as was never heard of before) ſet on Foot and paſſed as an Act by a few of the Houſe of Commons; if you can plead this for your Defence, this is the Act that you muſt ſhelter under. But you know the Lords and Commons had unanimouſly reſolved for Peace, and ſo agree with the King. If this Act will be any Defence, you may plead it to the full; and this is all you have to ſay, therefore go upon no foreign Matter.

Axtell. *If it pleaſe your Lordſhip, that worthy Lord that ſpoke laſt is pleaſed to ſay, that I was one of the Perſons that did accuſe ſome of thoſe Members of Parliament; truly, my Lord, I never did come to the Commons Bar but once, preſenting a Petition; and for my Hand either in Charging any of the Members, or Secluding any of them, I never had any Hand in that Matter; this is all to that Part. Next, I humbly conceive here I muſt ground my Bottom, and if I periſh, I periſh by a Judgment in a Parliament; my Commiſſion that did Authorize me to obey my General, was given me when the Lords and Commons ſate in Parliament; I had no other Commiſſion than this: My Lord* Fairfax *commanded the Army after the King's Death by the like Commiſſion; I did but my Duty in going to my Regiment; the General ſaith, go to ſuch a Place, ſtay there; if I refuſe, by the Law of War I Die; if I obey, I am in Danger likewiſe; I ſay my Commiſſion was given me by the Lords and Commons, and therefore I hope, my Lord, that what I have ſaid and offered in that Particular is not Truthleſs, but of Weight.*

Court. The Effect of your Commiſſion is only to make you an Officer.

Axtell. *My Commiſſion bears Date the 27th of* March 1648, *Ten Months before the King's Death; we had no other Commiſſions, therefore I humbly conceive the Queſtion will be this in Point of Law, and I humbly deſire it may be truly and fairly ſtated by your Lordſhip, and theſe Honourable Judges, that whether a Man being guided by the Judgment of the Lords and Commons Aſſembled in Parliament, and having declared their Judgments and Expoſition of that Statute of the 25th of* Edward *the Third, and Acting only by that Judgment of Parliament, and under their Authority, can be queſtioned for Treaſon. That, my Lord, is a Queſtion that I do humbly think is a Point in Law, and that you will pleaſe fairly and truly to ſtate it, whether I am within the compaſs of that Statute whereupon I am Indicted.*

Council. My Lord, we do not charge him with any Thing that he did act under the Colour of his Commiſſion, or with any Thing he did before that, but that which we charge him with are the Acts that he did at the Trial of the King; ſhew us your Commiſſion from the Lords and Commons Aſſembled in Parliament, for Trial and Execution of the King, you ſay ſomething; we do not charge him for any Thing done by Vertue of that Commiſſion, but with thoſe violent Acts that he did in encouraging the Soldiers to cry, *Juſtice, Juſtice, Execution, Execution*, and all thoſe other violent Actions of his own malicious Heart againſt the King. We humbly beſeech you he may anſwer to that which is the Charge againſt him, and that is, the *Compaſſing and Imagining the Death of the late King*, and his declaring that by thoſe Overt-Acts that we have proved. My Lords, we deſire that the Priſoner at the Bar may remember that he is not Indicted for Levying War againſt the King; if ſo, then that, Sir, which you offer, might be given as a Plea, and we ſhould have ſpoken to it; but you are Indicted for *Compaſſing and Imagining the Death of the King*; and that which we have given in Evidence were the ſubſequent Overt-acts to prove the ſame.

Axtell. *I hope you will not think it much to give me ſome more Freedom for my own Defence for Life; My Lord, I muſt needs ſay, though there was a Force on the Parliament, I am not to juſtifie it; I was no Lawyer, no Statesman, no Counſellor, but a Soldier; and if the General, who had a Commiſſion from the Lords and Commons, and that ſome Years before and after the King's Death, be not Guilty of Treaſon, what I did was by Command from my General; and though I am charged with being in Arms in* Weſtminſter-Hall, *and at ſuch and ſuch a Place, yet it was not a Voluntary Act, for I was bound to obey my General; I do humbly pray that I may have your Lordſhip's Judgment in this Point; I muſt ſay it was from the Senſe of their Expoſition of the Law, and of the Statutes, and from the Authority, that every one took up Arms for, and ſerved them, and obeyed either the one General, or the other; I ſay, it was under this very Authority, and this muſt needs acquit me from all the Guilt that is laid upon me.*

Lord Chief Baron. You put yourſelf upon the Judgment of the Court upon this which you call a Point in Law. Firſt, It is manifeſt that there is no Excuſe at all for Treaſon; no Man by his Commiſſion can warrant the doing of an Act which is Treaſon: You muſt take notice of the Authority, whether it be good or no; your Commiſſion was not *Kelyn.* 13. to put the King to Death, but on the contrary, to preſerve the King's Life. The Lords and Commons, what they did we do not meddle with; the Reaſon and Ground of what they did was the Preſervation of the King's Perſon, as well as the Maintenance of the Laws and Liberties of this Nation; they made Proteſtations, Declarations, and Oaths, for the Preſervation of the King's Perſon; and you could not but take notice of thoſe Things: Now whereas you go about to ſhroud yourſelf under the Lord *Fairfax*, he had no ſuch Power, and therefore you can challenge no more than he had; and to what you ſay concerning the Judgment of the Parliament, there will be a great deal of Difference between a particular Caſe and a Declaration of Lords and Commons; there is nothing you have ſaid that hath any Thing of Force, and God forbid you ſhould make uſe of it; but I muſt tell you, you could not but notoriouſly know all thoſe Tranſactions, that were in the Army, what the Army had done, that they came up with Swords in their Hands, and turn'd out whom they would; you ſaw what the Lords and Commons had done, that the Treaty was ready for its Birth; and then you came up with your Myrmidons, with Force and Arms, and excluded the greateſt Part of the Members, and then the Lords were laid aſide: It is true, the Lords were not wholly diſſolved, but they would not ſuffer them to Sit, nor Act at all, and this was apparent to the Nation. So that this was but a Colour and Pretence of a Parliament, that a few Perſons, (for ſo they were, but an Eighth Part of the Houſe of Commons, ſhould take upon them to act as an Houſe, and of that Eighth Part (which was but Forty Six in the whole) there was but Twenty Six that Voted that Act which you ſay you obeyed: But you ſay you obeyed the General; you are not to obey the General in this Caſe; for the Facts that you have committed are not charged as Acts of War; you are not charged for bringing the Soldiers in, but for thoſe violent Actions that you were guilty of there; you made the Soldiers cry out, *Juſtice, Juſtice, Execution, Execution*; you ſent officiouſly for a *Hangman* to come down to you; your Commiſſion gave you no Power for this; the Death of the King you know how it was deſigned; you know the Act for the bringing in of that Commiſſion (as they call'd it) to ſit in Juſtice was after the Houſe of Commons was reduced to a very ſmall Number, and ſome of thoſe diſſenting too; what you did act under that Authority, if you can juſtifie it, in the Name of God ſay ſo; but do not engage the Nation in thoſe Things which they abhorred, and by the Mercy of God are laid aſleep.

Mr. *Juſtice Foſter.* You begin at the wrong End; you ought, as all Men ought to do, firſt to Anſwer the Matter of Fact, and not to put in thoſe long dilatory Pleas, till you have anſwered the Matter of Fact, whether thoſe Things charged on you be true or not; then if you have any thing further to ſay for yourſelf by Way of Excuſe, it will be the Time to ſpeak, and not before.

Axtell. *May it pleaſe your Lordſhips, I humbly conceive I am upon that Method to the firſt Part of the Witneſs: they accuſe me for commanding my Soldiers in* Weſtminſter-Hall, *then I muſt prove my Authority, which I have been about to do, and declared the Judgment of Parliament.*

Lord Chief Baron. The Court have heard you with a great deal of Patience, and that which is not at all to the Buſineſs.

Axtell. *I only refer this as to the Authority; (I humbly conceive you will give me leave to inſiſt upon this, and how far I may improve it for my own Defence;) here is the Commiſſion by which my Lord* Fairfax *acted; and that after the King's Death; and I acted by the ſame Authority he did; I had not been at* Weſtminſter-Hall *but on the Command of the General.*

Court. Doth that Commiſſion Authorize you to cry *Juſtice, Juſtice?* And to look up and down to get Witneſſes againſt the King; Is that in your Commiſſion?

Axtell. *I am to ſerve and obey all my Superior Officers, that is my Commiſſion; if I do not I die by the Law of War.*

Court. You are to obey them in their Juſt Commands; all Unjuſt Commands are Invalid. If our Superiors ſhould command us to undue and irregular Things, (much more if to the commiting of Treaſon) we are in each Caſe to make Uſe of our Paſſive, not Active, Obedience.

Axtell. *Under Favour, it is not proved*, that I did either Compaſs or Imagine the King's Death; *that is Matter of Fact.*

Court. Let us try that.

Axtell. *My Lord, I did nothing but as a meer Soldier; I had Authority from the General; I would leave this before your Lordſhips and the Jury, that what I have done hath been by Authority of the General.*

Lord Hollis. Sir, a Word to you; if you could ſatisfy the Court that you had received a Commiſſion from the General to do thoſe Things with which you ſtand charged it were ſomething, then were it proper for you to plead it, and

and the Court to Judge. Pray take this along with you, the General gave you no ſuch Command; what you are charged with in the Indictment is, *for Compaſſing and Imagining the Death of the King*, and that by ſuch and ſuch Overt-Acts, as making your Soldiers cry out *Juſtice* and *Execution*, for being active and forward in ſending for the *Executioner*, and ſuch other Acts; prove theſe are in your Commiſſion, and you ſay ſomething: I am ſure you cannot be ignorant that that very Authority that you now do urge to give Life and Power to your Actions, that you deſtroyed it, laid it in the Duſt, acted contrary to it ſeveral Ways; when the Parliament proteſted againſt fetching the King from *Holmby*, as they did, when they went on proceeding in the Way of Peace, then came you up to the Bar, (I think you yourſelf,) and charged ſome of the Members; firſt Eleven as Rotten Members, and theſe Men were forced away; this you know your General had no Commiſſion to do; and this you know was a Violation of that Power that gave your General the Commiſſion. After that, when the Treaty was brought on in the *Iſle of Wight*, when there was great Hopes of Peace, then you know the King was hurried thence by Force, which the Parliament proteſted againſt. After that, when both the Houſe of Commons and Lords came to conſider of one Particular that paſſed, they reſolved that it was ſufficient Ground to proceed on for the Settlement of Peace; then did you fall upon theſe Houſes, and tear them in Pieces, and throwing out above 200, ſuffered only about 40 to remain, and they were glad to ſend for one Member out of Priſon to make up a Houſe. That which you ſay of the Supreme Authority, and that by Virtue of which you did act, it ſhews that you did not at all go by any Authority, but you followed your own Luſts; and therefore do not ſew theſe Fig-Leaves together, which will ſtand you in no ſtead; if you would apply yourſelf to anſwer that which you are charged with, it were ſomething.

Axt. *I do deſire to have no more Interruptions than is meet in making my own Defence. My Lord, here are many Things by way of Motive urged to the Jury which is not within the Charge, I deſire I may have that fair Play*, that nothing may be urg'd but what is in the Charge.

Lord Chief Baron. You give the Occaſion, Mr. *Axtell*, keep to the Matter, and you ſhall not be interrupted.

Lord *Hollis.* I ſhall be very ſorry to urge any Thing againſt you which doth not neceſſarily follow; for what you ſay touching your Authority, I ſhall ſhew you have no Authority.

Axt. *My Lord, I have the ſame Commiſſion as the General; what I did was not of mine own Head, I had a Command: As for all that hath been charged againſt me I ſhall ſay this, I was none of the Court, I did not fetch the King from the* Iſle of Wight, *nor adviſ'd, compaſſed, or imagined, his Death, or Sentenced him to Death, or Signed the Warrant for his Execution, or Executed him; I am none of them, my Lords; and therefore whoever did make any Breach upon the Houſe of Commons, they were Grandees, Perſons of a greater Quality; I was an inferior Officer; I was never at the Houſe Bar, but upon preſenting one Petition to the Parliament from the Army. I ſhall now come to ſpeak to the Evidence which hath been given particularly againſt me; and the Firſt, my Lords, is Mr.* Simpſon, *he ſaith, I had the Command of the Guards at* Weſtminſter-Hall: *My Lords, I have told you already, ſhewn you by what Authority I came thither, and that I ought not to refuſe; if I had, according to the Laws of War I muſt have ſuffered Death; and that is all as to Mr.* Simpſon, *only that a Lady (he knows not who) ſpake ſomething there.*

Lord Chief Baron. He ſaith he heard you bid the Soldiers give Fire againſt the Lady.

Axt. *My Lord, I muſt ſay, if there was any Lady that did ſpeak, who ſhe was I know no more than the leaſt Child here; but, my Lord, to Silence a Lady I ſuppoſe is no Treaſon; if a Lady will talk impertinently, it is no Treaſon to bid her hold her Tongue.*

Lord Chief Baron. A Lady was ſpeaking pertinently enough, when ſhe heard *Bradſhaw* ſay to the King, ſuch a Charge is exhibited, a Charge of High-Treaſon againſt him *in the Name of the Commons Aſſembled in Parliament, and the good People of* England; ſhe ſaid, *That was a Lye, not Half, nor a Quarter of the People of* England; *that* Oliver Cromwell *was a Traitor*; then you took upon you to Command the Soldiers to Fire at her, and accordingly they levelled the Muzzles of their Muſquets towards her.

Axt. *My Lord, as to that Particular concerning* Oliver Cromwell, *or any other Words concerning the Court, I underſtand them not; but if any Interruption was made, to preſerve the Peace, to deſire a Woman to hold her Tongue is no Treaſon. To the next Particular, wherein Colonel* Huncks *ſaith, at a Door of a certain Lodging where* Ireton *and* Harriſon *were in Bed together, he ſaith that upon his Refuſal to Sign the Warrant for Executing the King, I ſaid to him, Colonel* Huncks, I am aſhamed of you, the Ship is now coming into Harbour, and will you ſtrike Sail before we come to Anchor? *Truly, my Lord, I think all that amounts to nothing; if it were ſo, which I deny it, for to bring the Ship into Harbour, what is that? There is no Perſon named, Fact named, nor Deſign named; and I appeal to my Conſcience, I remember not the Time, Place, Perſon, or Words; and I can call for Colonel* Phayre *and Colonel* Hacker, *who were there; for I deſire Things may appear right, I deſire they two Perſons may be called for their Evidence in that Point.*

Lord Chief Baron. They both are in the ſame Condition, Colonel *Hacker* in the Priſon behind you, Colonel *Phayre* in the *Tower*; Mr. *Axtell*, you know the Strength of one Affirmative Witneſs; I ſaw ſuch a Man, and heard ſuch a Man ſay, *&c.* is more than if Twenty ſhould Witneſs they ſtood by, but did not ſee him, or hear him ſpeak.

Axt. *My Lord, he ſaith only this, I ſaw you at the Door going into* Ireton's *Chamber, and ſaid,* Will you ſtrike Sail, *&c.? Truly, my Lord, he doth not ſay what, or how, any Thing I meant; there muſt be according to Sir* Edward Coke's *7th Book of his* Inſtitutes, *that Oracle of the Law, he ſaith,* That Evidence ought to be as clear as the Sun at Noon-day; *all that you can ſay is this, it muſt be a wide Inference, a large Inference; I conceive there is nothing in theſe two Witneſſes, and if the Two Priſoners were here they would clear me in this.*

Lord Chief Baron. If by the Law you could have had them, you ſhould; but I fear if they could be admitted they would not be to your Advantage.

Axtell. *Then, my Lord, in the next place, Colonel* Temple *is pleaſed to ſay, that the Lady* Fairfax *ſaying ſomething againſt the Court, (which in Truth, as I ſaid before, I know not who it was, or what the Words were) he ſaith, I bid Fire againſt them; I did nothing but what I was commanded upon Pain of Death, to preſerve Peace, and in purſuance of that Command from the Superiour Officers of the Army, Silence was required, and that was all that was done. I ſuppoſe where a Man is commanded to keep Silence, as the Sheriff is required to keep all at peace in a Court, if he reſtrain a Perſon that will not be quiet, it is not Treaſon in him, nor in me, in this particular. My Lord, in the next place, Mr.* Temple *is pleaſed to ſay, that I ſtood upon the Pavement laughing, while others ſighed; truly, my Lord, I know not whether I ſaw the Gentleman, or no; certainly Smiling is no Treaſon, if I did ſo, though I believe I had as great a Senſe that Day as many other Perſons there; this is the Sum of that he ſaith, only he further adds, that I bid the Soldiers cry for* Juſtice; *truly, my Lord,*——

Lord Chief Baron. Becauſe it may be your Notes are ſhort, I will acquaint you there was a little more in it; he ſaid, you bid the Soldiers cry out, *Juſtice, Juſtice*; and they coming not very readily to it, you ſtruck ſome of them, till they with yourſelf cried out *Juſtice, Juſtice*; till they with yourſelf did it.

Axtell. *My Lord, to that I anſwer, that in the Hall there was ſome Kind of People did ſet up a crying ſome Kind of Words, and may be ſome of the Soldiers might cry ſo too; I might command them to hold their Tongues, and to ſay,* I'll teach you to cry Juſtice, *and ſo the Gentleman ſtanding by might believe I was the Perſon that bid them do it: Truly, my Lord, this is all that the Gentleman ſays, which I humbly conceive is nothing, becauſe he does not ſay againſt any perſon; and therefore, my Lord, I do hold to that Maxim in the Law, as Sir* Edward Coke *holds, (that Man of great parts, of learning and knowledge),* That in Matters of Treaſon, wherein a Man is the higheſt concerned in his Life and Poſterity, there ought not to be conſtrued againſt him Inferences or Preſumptions, or Strains of Wit; *there is no more in this, and this is all that I ſay in this Particular. In the next place, Mr.* Temple *is pleaſed to ſay, that after the Court had ſentenced his Majeſty, he was hurried away in a* Sedan; *truly, whether he was, or not, I know not; there was a Guard of Halberteers, whereof Colonel* Hunks *was one, and ſeveral others, as I have heard; they were ſelect Guards of his Majeſty, guarding him from* St. James's *to other Places; how he came to be hurried, I know not, it was not by me; and whereas he ſays during the whole Trial I was there, truly I think I was there by Command of my General, by Authority of the Lords and Commons.*

Lord Chief Baron. You ſpeak this that the Jury may underſtand you did it by Command of your General. Do you mean by expreſs Command?

Axtell. *I did not move a Day but by ſpecial Command.*

Lord Chief Baron. By whom?

Axtell. *The Lord* Fairfax *gave his Orders every Morning to his Adjutant-General, or Major-General, and they iſſued them out to ſuch and ſuch Perſons as he appoints.*

Lord Chief Baron. Who gave theſe Orders out?

Axtell. *The Lord* Fairfax; *we did all under him.*

Lord Chief Baron. You had not the Order immediately from him?

Axtell. *The Major-General had.*

Lord Chief Baron. What Major-General gave you that Order?

Axtell. *There was* Cromwell *and* Ireton.

Lord Chief Baron. The Lord *Fairfax* gave you no immediate Commiſſion?

Axtell. *He gave my Superior Officers.*

Lord Chief Baron. How do you know that?

Axtell. *My Lord, becauſe they told me ſo, it was by his Command.*

Lord Chief Baron. The Queſtion is now underſtood.

Axtell. *The next perſon that ſpeaks is Mr.* Bodurdoe, *and he ſays that I commanded the Soldiers at the King's Trial; and that a Lady that was ſpeaking was commanded Silence, to this Purpoſe; truly, my Lord, this is but the ſame as before.*

Lord Chief Baron. You ſaid *Shoot* too.

Axtell. *No, (my Lord,) I ſaid not any ſuch Word, or any thing like it; I heard there was an Officer went up and intreated her to be ſilent; I ſay, it is the ſame with the former, it is no Treaſon to deſire one to be ſilent. My Lord, the next Witneſs that ſpeaks in Evidence againſt me is Mr.* Young; *he ſays this, I bid the Soldiers cry for* Juſtice; *it is very like that Perſon, as well as Mr.* Temple, *might ſee me in the Croud ſpeaking to make the Soldiers quiet, I might repeat the Words that the People ſaid, repeat the Word* Juſtice, *or ſome ſuch Word, as the People's Words.*

Lord Chief Baron. Remember how he repeats them; he ſaw you active in ſetting on the Soldiers to cry Juſtice.

Axtell. *If I have taken them right; one ſays he heard me ſay ſuch Words as* Juſtice; *and that he ſaw me ſtrike two or three Soldiers; if in the Tumult ſuch a Word ſhould be ſtarted, I hearing of them, I might ſtrike thoſe Soldiers that ſaid* Juſtice, Juſtice, *and might repeat the Words,* I'll give you Juſtice, *and ſo ſtrike them; that is a good Evidence that it might be a Repetition of their Words, and not any of mine own: They both ſpeak as to the Word* Juſtice, *but here was not* Juſtice *mentioned to any Perſon; I might repeat their own Words, and chaſtiſe them for thoſe Words; beſides this, (though I do not ſay the Word was ſpoken by me) if the Word* Juſtice *had been ſpoken, my Lord, I hope it is no Treaſon to ſay, I deſire Juſtice*; it is God's great Attribute, it is God's Ordinance, and that can be no Treaſon. *I have read in Law-Books, (though but lately) and I cannot find that the Word Juſtice ſhould be made Treaſon; then there is no Perſon to whom that Adjunct doth belong. The next Evidence, my Lord, is Captain* Jenoar, *he ſaith I commanded a Guard; truly ſeveral Regiments took their Turns as they were commanded by the General, and I, as an inferior Officer, was there; but that is no more than what was ſaid before, it was done by the Authority of the General; if I had not done it, I had died by the Law of War: He ſaith, there was a Cry for Juſtice; I can ſay nothing more than I have formerly ſaid; it may be in the Tumult the Soldiers might ſay ſo, and I chaſtiſing of them, and repeating that in my Chaſtiſement, they might think they were mine own Words.*

Lord Chief Baron. Mr. *Axtell*, I would help your Memory; he ſwears the laſt Day you encouraged the Soldiers to cry, *Execution, Execution.*

Axtell. *For that Particular I am coming to it,* (I thank your Lordſhip for helping me;) *my Lord, for that of* Execution, *truly I cannot ſay whether I was there that Day or no; one Day I was commanded to be there with ſome Companies in* Weſtminſter-Hall, *but whether I was there any more than that one Time is the Queſtion: Admit I was there that Day, I was never there but when I was commanded; when the Colonel that commanded the Regiment was there, I, as an Inferior Officer, ought to be there; I was there by a Special Order, and not by a Voluntary Act of mine own, and ſo it cannot be* Compaſſing the Death of the King. *For as to the Word* Execution, *what can be the Senſe of this Word?* Execution *is a ſingle Word; thoſe People that ſtarted the Word* Juſtice *might put it in the Heads of the Soldiers; which I might ſtrike to command Silence; they likewiſe might upon the ſame Account cry out* Execution, *and ſo to hinder all Tumults, and Hubbubs, and the like, in the Place; I might repeat their Words in correcting of them for it, I might ſay,* I'll Juſtice you, I'll Execution you: *But, my Lord, this Word* Execution of Juſtice, *it is a Glorious Word: not that there can be an Inference that what they did I ſhould ſay was Juſtice, or to approve of any Thing that they did, but only in General* Execution of Juſtice, *which, my Lord, relates not to any Perſon; poſſibly the rude People might be ſpeaking (as hath been ſaid before) in that Manner, and the Soldiers might take it up, and I might reprove them, and make Uſe of their own Words by way of Repetition,* I will Juſtice you, I will Execution you.

My Lord, in the next Place I do deſire to ſpeak to that of Mr. Burden; *he did obſerve to your Lordſhips and the Jury, my Country-men, my Brethren, with whom are the Iſſues of Life and Death, for whoſe Life they muſt anſwer before the Lord as to Righteouſneſs, Judgment, and Equity; I ſay, my Lord, as to Mr.* Burden, *he tells you, that for my Sake he was Impriſoned; ſaith he,* I have ſuffered much by him; *and ſpeaks it with much Indignation of Spirit; I have ſuffered, and been Impriſoned by him, and afterwards he comes to ſpeak his Evidence; how much his Evidence may be of Force I deſire, my Lord, the Jury may conſider of that; and then he comes and ſaith, I commanded a Guard at the* Banqueting Houſe *in* White-Hall. *Truly, my Lord, the Lord* Fairfax *commanded a Regiment to quarter there, and I, as an Inferior Officer, might be there. In the next Place, my Lord, he ſaith, I ſent* Eliſha Axtell *to fetch the Hangman; Truly, my Lord, I wonder this Perſon is not come from* Ireland; *(if this were ſo,) the Authority there would not ſend that Perſon with his great Evidence, as well as this Perſon; he may as well charge any Perſon with this as me: It is evident,* Ireton, Harriſon, *and* Cromwell, *they did all amongſt themſelves; I never was with them, amongſt them, received no command from them, nor obeyed them; nor did any Thing but what I had Command for from the General, whom, by the Law, I was bound to obey as a Soldier. I ſhall only obſerve one Thing more; this Perſon being ſo long a Priſoner, to extricate himſelf out of his Impriſonment and Chains, poor Man! he may ſay more than is true. I wonder he ſhould ſay I ſent for the Executioner; I never knew of any Circumſtance touching Conſultation about his Death, or took him Priſoner. When they ſent to me to be one of his Guard, I never would go; I humbly conceive there is nothing ſticks upon me in this, conſidering the Circumſtances, and the Words of the Perſon that ſpoke them.*

My Lord, the next Perſon that ſpeaks againſt me is Mr. Cook, *he ſaith he heard me ſay,* Thruſt that Lady down that made a Diſturbance in the Court, *or Words to that Purpoſe; it is probable there might be a Deſire of Silence. The next Evidence is Lieutenant Colonel* Nelſon, *he ſaith, that upon a Diſcourſe——*

Lord Chief Baron. I would put you in Remembrance, leſt you ſhould forget what Sir *Purbeck Temple* ſaid, that by Leave of Perſons under your Command *he ſaw the Body of the King* It is only a Circumſtance.

Axtell. *I have heard there were Chirurgions, Phyſicians, and Halberteers, appointed by whom I know not; they had the Care of ſuch Things, and had the keeping of him; he was locked up by them; no Body could come in but by them; I never had a Key; poſſibly Colonel* Temple *might come to me, quartering there, and deſire me to ſpeak to ſome Perſons that had the Charge of it to let him in; whether I did or no I cannot remember; but if it were ſo, I hope it will not amount to Treaſon. The laſt Thing given in Evidence againſt me is by Mr.* Nelſon, *he ſaith, that upon ſome Diſcourſe between us, he was aſking what Perſon cut off the King's Head, and that I ſhould ſay* Hewlet, *&c. Truly, my Lord, I was never privy; and I appeal to Mr.* Ruſhworth, *if he were here, who was Secretary, if ever he ſaw me in any Council, to adviſe, or act, or any Thing in that Kind, in relation to the King's Trial, Sentence, or Execution; for me to know the Perſon that was imployed about the Execution it is ſtrange, when (as I ſaid before) they did all within themſelves. I had no Knowledge thereof, and meddled not with any Thing but within my own Sphere as a Soldier under my Lord* Fairfax, *by Authority of Parliament. For naming any Perſon, truly, my Lord, it would be a wonder to me that I ſhould name any Perſon to go to do any Perſon that Wrong and Injury, to ſay he was the Perſon; I muſt invent it, for I knew nothing of it. But by common Fame up and down the City it was ſaid to be another Perſon, but who it was I cannot ſay, my Lord; but to all this that hath been ſaid againſt me, there are but Two Things upon Two Witneſſes that are placed upon me; the Firſt, my Lord, here is Two Witneſſes for crying* Juſtice, *and* Execution.

Lord Chief Baron. I think you have more than Two to thoſe Words.

Axtell. *Not for both together.*

Lord Chief Baron. No, but ſeveral for *Juſtice.*

Axtell. *There is Three to that; I ſhall only ſay this to your Lordſhip, and this Jury, in whoſe Hand this Life of mine is, and is committed to them, either to acquit or condemn me; and God knows the Hearts of all Men, and my Innocency and Integrity; I ſhall ſay nothing to the Witneſſes, it is a Day of Temptation; and I deſire the Jury, my Countrymen, my Fellow-Citizens and my Brethren, that they would well conſider of it, the Word* Execution *and* Juſtice; *admit I had ſaid them, (which, my Lord, I do not, I muſt not grant) there being an Uproar of People, there ſuch Words might be uſed, and poſſibly Soldiers might take them up from them, and chaſtiſing the Soldiers I might repeat the Words* I will Juſtice, I will Execution you.

Lord Chief Baron. The Evidence is, that you beat them becauſe they did not readily cry *Juſtice, Juſtice.*

Axtell. *It might be more probable I beat them becauſe they did do it, I might chaſtiſe them for doing of it, and repeat it as a Reaſon for their Chaſtiſement; and but admitting it was true, which I grant not, yet I hope Juſtice, an Execution of Juſtice, as it is ſo great an Attribute of God, by God's Laws, or Man's Laws, is no where made Treaſon, but Mercy attends it, and Judgment attends the contrary; I leave it upon the Conſciences of the Jury to weigh it carefully, how I ſhould be guilty of* Compaſſing and Imagining the Death of the late King, *when nothing is charged againſt me to be either of Council, Sentencing or Signing, or to be at the Execution; only one Man, as I told you before, he ſpoke ſomething Wrathfully, and that he had ſuffered much, and therefore he is come over now, and ſaith I ſhould ſend for the Executioner, which I never knew of, or had any Hand in ſending for; how much Validity that hath, I leave to the Jury; if it were ſo, it is not Treaſon; for Words may make a Heretick, not a Traitor; I ſpeak that by way of Preface; I do humbly conceive that theſe being only noted Words,* Execution *and* Juſtice, *the King not ſo much as named, or any thing done to it by me, I ſay, I conceive it doth not amount to Treaſon by the Law; and beſides, it is againſt the Law of the Great Judge, the Judge of Judges; all of us that are now, and are to come, ſhall ſtand before him to receive our Deſerts; I ſay it is againſt the Law of God* to make me an Offender for a Word; *for a Word. I have heard the Judges ſay, that the Laws of* England *are grounded upon the Laws of God, and the Laws of* England *are Laws of Mercy, not of Rigour: My Lord, if a Man ſhall be deſtroyed in his Life, in his Poſterity, for a Word, (admit the Thing had been ſo) I leave upon the Conſciences of my Jury, before the Preſence of Jeſus Chriſt, and before whom they and I muſt come to be re-judged again at the Tribunal; and beſides it is only Words, and Words uncertain; and Sir* Edward Coke *ſaith, he muſt declare plain Truth in Matter of Treaſon; nothing muſt be taken for Evidence that may be a Preſumption or Inference, or Strain of Wit; I hope upon this Conſideration that the Word* Juſtice, *fixed upon me by Two Witneſſes, may be taken up at Second or Third Hand from the People or Soldiers, by chaſtiſing them for the Tumult. Then, my Lord, in the next Place, theſe Words were never put in Writing, and ſo not Treaſon; then, my Lord, there was never an Overt-Act done by me; for that Act of Indemnity that His Majeſty and both Houſes of Parliament paſſed, wherein they were pleaſed the very laſt to except me, I wondered when I came to be excepted of that Number. I do come back to the Place where I left, and that is the Overt-Act. My Lord, I would only bring it in this Place; when I was excepted by the Houſe of Commons, one of the Twenty, I was excepted thus, not extending to Life; I went up and down free at Noon-Day; I did not hide my ſelf; engaging a Perſon that was one of His Majeſty's Servants to do me a Courteſie, he promiſed me he would do it, and contrary to his Promiſe, he was pleaſed to bring the King's Warrant to carry me to the* Tower; *and after that I came to be excepted with that Black Catalogue of excepted Perſons, and to be brought to the Trial of the Law. Now (my Lord) I return to that Overt-Act, as it was but Words uncertain, and they may be Words repeated from the Third or the Fourth Hand, for they were not put in Writing, according to that Act of Indemnity, which I underſtand the Meaning of to be thus; that for their execrable Treaſons in Sentencing, Signing, or otherwiſe Inſtrumental, they are excepted out of this Act, and to be tried according to the Laws of this Nation. I underſtand that to be inſtrumental, to be inſtrumentally the Executioner of the King; I never had any Hand in that. Upon the whole, this is the Fact that is proved by Two Witneſſes; they heard me ſay,* Juſtice *and* Execution, *which muſt relate to the* Execution *of* Juſtice, *which by the Law of God is not Treaſon, eſpecially when there was not the Word King; for a Word, to take away, and deſtroy ſo many, my Life, Wife, Children, and many Fatherleſs that are under the Charge of the Priſoner at the Bar, is very ſad; the Words I do not grant, but upon ſuch Probabilities as I have ſaid I might repeat them,* I will Juſtice you, I will Execution you; *and then the Words were not written; I ſay as Sir* Edward Coke *ſaid,* They may make a Heretick, but not a Traitor *The other Part of the Evidence is this, that I was there with Soldiers at* Weſtminſter-Hall; *I muſt ſay, if that be Treaſon to be guided by the Judgment of Lords and Commons in Parliament, I muſt ſay, if that be Treaſon to take up Arms for a Parliament upon ſuch Grounds and Expoſitions of the Statute which they have made and publiſhed by their own Authority, if I am Guilty under the General, then the Parliament would be Guilty of Treaſon*

Lord Chief Baron. That you have ſpoke to—I am loth to interrupt you.

Axtell. *I thank your Lordſhip for informing me, but I was commanded to be there by my General; if I had not gone I muſt have died; I did only ſtand there for Preſervation of the Peace, in no other Senſe; if the General order me to be at ſuch a Rendezvous, I muſt be there; if I had diſobeyed he would have condemned me by the Law of War. The next Thing againſt me material are theſe Two Things, that is, that I ſhould ſend one* Eliſha Axtell *for the Executioner; I muſt ſay it is moſt admirable ſuch Things ſhould be laid to my Charge; I hope your Lordſhips and the Jury do obſerve, he told you, he ſuffered much, and a poor Man, under his Extremities, and Loſſes, and Sufferings, perhaps might ſtart ſome un-adviſed Words, and being now ſent over, may aſcertain it. But doubtleſs this* Eliſha Axtell *being in* Ireland, *if by Command it had been ſo, would have been ſent over; truly I muſt ſay, I had no Hand in the Buſineſs; it was left wholly to them amongſt themſelves, and whatever was done, or whatever was ſaid, it was ſaid and done by them; I never was acquainted with any Thing of that Nature. He ſaid he heard I ſhould ſend* Eliſha Axtell *for an Executioner; if Hear-ſays may be Treaſon it will be a hard Leſſon; and, my Lord, Sir* Edward Coke *ſaith, there muſt be Two Witneſſes, here is but one. It comes from ſuch a Man, my Lord, as the Providence of God—but I will ſay no more as to that, but pray the Jury will take Notice of it.*

Lord Chief Baron. You need not doubt of it, it ſhall be taken Notice of, this of *Burden.*

Axtell. *Now, my Lord, I have but Two or Three Words more, the Statute of the 25th of* Edward *the Third, it doth intend private Perſons, my Lord, here is my Commiſſion.*

Lord Chief Baron. It is owned you had it from your General.

Axtell. *My Lord, His Majeſty is pleaſed to ſay in His Gracious Letter, We do by theſe Preſents declare,* That we do grant a Free and General Pardon to all our Subjects, of what Degree or Quality whatſoever, who within Four Days after the publiſhing hereof ſhall lay hold upon this our Grace and Favour, excepting only ſuch Perſons as ſhall hereafter be excepted by Parliament; *that is, a Parliament called by his own Writ. You know this Parliament——*

Lord

Lord Chief Baron. Mr. *Axtell*, I would not interrupt you to that, but this very Objection was made by one of the Priſoners before; this Anſwer was given, Firſt, the King's Declaration is not a Pardon in point of Law, it muſt be under the Broad-Seal, but God forbid it ſhould bind in Honour. You inſtanced in the Word Parliament, what was meant by the Word Parliament: You muſt know this, the Exigency of the Times were ſuch, that there were many Noble Perſons that took the Advantage to aſſemble themſelves together to reinſtate the King; they did that which was juſt and lawful, according to the Exigency of the Times; this Declaration he ſent to the Two Houſes, he called them His Two Houſes; ſo that it appears clearly and manifeſtly they were then ſitting, they being accepted by the King, and owned by him; and they did ſit in Way of Convention, according as a Parliament, and his Majeſty ſent his Letter to them; and theſe are the Perſons that have thought fit to except you out of that Act.

Axtell. *My Lord, may I ſpeak to that any further?*

Lord Chief Baron. If you do, it will be over-ruled.

Axtell. *I ſubmit—— with Submiſſion to the Providence of God; I did apply to Sir* Harbottle Grimſton *for the Mercy and Favour of his Majeſty, according to his Declaration, and here is Sir* Harbottle's *own Hand for a Certificate.*

Lord Chief Baron. This is allowed you, that you did claim that Benefit within the Time, but you may remember that it was referred to thoſe Two Houſes of Parliament, they were to conſider who was fit for the Pardon, and you are by them excepted out by Name: Your Queſtion now is no more, but *whether Guilty? Or, Not Guilty?* And theſe are but extravagant Diſcourſes that you ſay otherwiſe, and rather do you Harm than Good.

Axtell. *I hope you will pardon me, my Lord; I hope I have ſpoken to clear the Point, the Fact charged by your Lordſhip, and before the Jury; and I hope the Lord will give the Jury a Memory of it, and a right Underſtanding in what I have ſaid for my own Defence. My Lord, the next Thing I have to offer, is this, to expound that Act of Parliament, that it was the Intention of his Majeſty and Parliament that all ſhould be excepted, but thoſe Guilty of Councelling, Signing, or Sentencing. Truly, my Lord, I humbly conceive, I being none of thoſe, am not Guilty of Treaſon. I ſhall only ſpeak one Word to my Jury, That they will remember what I have ſaid, that there is but Two Things, Two Witneſſes, as to* Juſtice *and* Execution; *that it relates to no Perſon, but in General; and then I do not own the Things, but poſſibly they might hear ſuch Words, I taking of them up upon a Rebound, reproved the Soldiers; for the other, that I ſhould ſend one for the Executioner, (he heard ſo,) and that I ſhould name who was the Executioner, I would not have that Perſon, or any other, to ſuffer for that.*

Lord Chief Baron. This is not at all preſſed upon you, not as to any Charge.

Axtell. *I thank your Lordſhip. I am very Ignorant.*

Lord Chief Baron. Have you done, Sir?

Axtell. *I leave the Matter to the Jury, in whoſe Hands I, and my little Ones, and Family, are left; I only ſay this to you, remember your Anceſtors, remember your Poſterity. I never heard it before that Words were Treaſon. In Queen* Mary's *Time* Throckmorton *was acquitted for Words by the Jury. Gentlemen of the Jury, I leave my Caſe, my Life, my All, in your Hands.*

Lord Chief Baron. Gentlemen of the Jury, there have been ſeveral Things offered by the Priſoner at the Bar, ſo near as my Memory will give me leave in ſo long a Diſcourſe, I ſhall repeat all Things which he ſaith for himſelf, and which are ſaid againſt him. There are ſome Things that he ſeems to utter as tending to Matter of Law, and ſomething meerly of Fact, proper only for you of the Jury. For Matter of Law, he hath urged ſeveral Things for himſelf; not by Way of Juſtification of the Fact (I muſt do him that Right), but in Excuſe of himſelf; and I hope his Conſcience hath ſo wrought upon him, that he is of Opinion the Fact is a horrid Fact, which was ſo indeed.

For that which he hath ſaid for himſelf, Firſt, He doth alledge to have his Commiſſion from the Lord *Fairfax*, my Lord *Fairfax* had his Commiſſion from the Two Houſes of Parliament, and this Gentleman's was in *March*, the Beginning of the Year 1648. He ſaith, what he did was in Obedience to his Superiors, as a Soldier, that he never conſulted or adviſed about any Thing of the Trial or Execution of his Majeſty. For this Point, it hath already been ſpoken to, Gentlemen; for that which hath been ſpoken to at large heretofore I muſt repeat it here, that he may know it, That no Perſon whatſoever, no Community, not the People, either Collectively or Repreſentatively, have any Coercive Power over the King; neither the Lord *Fairfax*, his General, nor he, nor any other Perſon, could be excuſed for this horrid Fact of bringing the King to Trial, no Perſon, as I ſaid before, nor Community, have any ſuch Power. The Law-Books which he hath lately ſeen, (and truly he hath employed his Time well in that,) the Law-Books tell us, that whereas the Two *Spencers* had broached a damnable and deteſtable Principle, That the Homage was only due to the King, in reſpect to his Crown; that if he did not demean himſelf according to ſuch and ſuch Rules, his Subjects might rule him *per aſpertee*, by Aſperity and Sharpneſs; but this was condemned by Two Acts of Parliament; they both appear in my Lord *Coke*, in *Calvin*'s Caſe. I do not go to repeat all the Evidence that might clear this Truth; I ſay, had there been any ſuch Thing, but it hath been told him there was no ſuch Thing in Fact. My Lord *Fairfax*'s Commiſſion was for the Preſervation of the King, as well as for the Liberties of the People. The 11th of *Richard* II, *Robert de Vere*, and others, for levying a War, was puniſhed, but this Gentleman was not charged for levying of War. If either of the Houſes of Parliament ſhould command ſuch a Thing as tends to the Death of the King, it would be void in itſelf. Something he let fall of the Parliament not being diſſolved. My Maſters, for that you have heard ſome of my Lords declare how, and in what manner, this was an Authority of Parliament, but it was clearly nothing at all; this Gentleman goes by virtue of a Power from the Lord *Fairfax*. The next Thing he urges in Point of Law was this, he comes by Way of Dilemma; ſaith he, either I muſt obey my General, or die by the Law of War. He goes further, and urges the Statute of 11 *Henry* VII. He comes further, and ſaith, in the 25th *Edward* III. that concerns ſingle Perſons, truly it concerns every Man. The Indictment, you ſee how it is laid, *it is for Imagining and Compaſſing the Death of the King.* The Overt-Acts in the Indictment, you have heard what they are; there muſt be more than one Witneſs for Treaſon. It is very true; but if one Perſon prove one Thing, another Perſon another; if one ſwear he did cry, *Juſtice, Juſtice, Execution, Execution*, and another ſwear ſome other Part, Gentlemen, this was here before delivered to you for an Overt-Act. It is any thing that opens and makes it appear to the Jury that he did do the Things for which he is Indicted; I ſay, any one of theſe, that they did meet together, and did conſult in order to the putting the King to Death. That they did meet in a Traitorous Aſſembly about the King's Death, I ſhall ſay no more; you need not, I think, go from the Bar.

[*The Jury go together, and after a little Conſultation among themſelves, they returned to their Places.*]

Clerk of the Crown. Gentlemen of the Jury, are you agreed of your Verdict?

Jury. Yes.

Clerk. Who ſhall ſay for you?

Jury. Our Foreman.

Clerk. Daniel Axtel, Hold up thy Hand. Gentlemen, look upon the Priſoner at the Bar. How ſay you, is he Guilty of High-Treaſon whereof he ſtands Indicted and hath been Arraigned? Or not Guilty?

Foreman. Guilty.

Clerk. Look to him, Keeper. What Goods and Chattels.

Jury. None to our Knowledge.

The Trial of Colonel Hacker, *on the Fifteenth of* October, 1660, *at the* Seſſions-Houſe *in the* Old-Baily.

Clerk of the Crown. Set *Francis Hacker* to the Bar. [*Which was done accordingly.*]

Clerk. Francis Hacker, Hold up thy Hand. Theſe Men that were laſt called are to paſs upon you, *&c.* If you will Challenge all, or any of them, you muſt Challenge them when they come to the Book before they are ſworn.

Lord Chief Baron. You may Challenge 35 peremptorily, but no more.

Hacker. My Lord, I ſhall Challenge none

Tho. Bide, Rob. Sheppard, William Dod, Sir *Tho. Allein*, Sir *Hen. Wroth, Tho. Morris, Ralph Halſal, John Galliard, John Nichol, Tho. Uſman, Tho. Nicol, Chriſtopher Adby*, in all Twelve. The Jury Called and Sworn.

Clerk of the Crown. Make Proclamation. If any Man can inform my Lords the King's Juſtices, *&c.*

Clerk. Francis Hacker, Hold up thy Hand. Look upon the Priſoner, you that are Sworn of this Jury. You ſhall underſtand that *Francis Hacker*, Priſoner at the Bar, ſtands Indicted, *&c.*

Mr. Serjeant *Keeling.* My Lords, and Gentlemen of this Jury, *Francis Hacker*, the Priſoner at the Bar, ſtands Indicted, amongſt others, for Compaſſing and Imagining the Death of the late King *Charles* the Firſt, of Happy Memory. The Compaſſing and Imagining is the Treaſon itſelf; the other Points, as *Convening, Aſſembling, Meeting together*, and the actual Villany that followed all theſe, are but as Evidences of that Imagination. As to this Perſon at the Bar, our Evidence will be thus; we ſhall make it appear to you that he was one of the Perſons that were upon the Guard, and kept the King a Priſoner, that he might be ſure to be brought to that *Mock Court of Injuſtice.* Then it will appear to you that this Priſoner at the Bar was highly Truſted by all thoſe Miſcreants that thirſted for the King's Blood, by their Bloody Warrant directed to him and others, to take the King's Perſon into Cuſtody, and to ſee Execution done. This was the Perſon that kept him till he brought him to that Fatal Stage. That this Warrant was lately brought from his own Houſe by his own Wife to the Houſe of Lords. And then we ſhall ſhew you that this Perſon ſet his Hand to the Warrant to the Executioner for Execution. That he did not do it ignorantly nor unwillingly, for he heard the Warrant read. We ſhall make it appear that he was upon the Scaffold, and had the Ax in his Hand.

Council. Crier, call *Holland Simpſon*, Colonel *Tomlinſon*, Mr. *Nunnelly*, Mr. *Nutley*, *Hercules Hunks*, and *Benj. Francis:* who were all Sworn as Witneſſes.

Council. Mr. *Simpſon*, ſpeak your Knowledge of the Employment of the Priſoner, touching the Trial and Execution of the King.

Hacker. My Lords, I will confeſs what I know in this Caſe, to ſave your Lordſhips the Trouble. I confeſs I was upon the Guard, and had a Warrant to keep the King for his Execution. [*The Warrant being ſhewn to the Priſoner, he confeſſed that to be the Warrant.*

Council. After you had that Warrant brought to you, did you by Virtue of that direct another Warrant for Execution of the King? Did you not take the King (then Priſoner) from the Cuſtody of Colonel *Tomlinſon?*

Hacker. No, Sir.

Council. We ſhall prove it; [*the Warrant was read.*] *At the High Court of Juſtice for Trial*, &c. My Lord, at the Time that this Warrant was Signed, the Perſon of the King was in the Cuſtody of Col. *Tomlinſon*; Did not you take and demand from Col. *Tomlinſon* the Perſon of the King, as ſoon as you received that Warrant?

Hacker. No, Sir, I demanded him not.

Council. Col. *Tomlinſon*, tell my Lords the Manner of that Buſineſs.

Tomlinſon. My Lords and Gentlemen of this Jury, I ſhall, as my Memory enables me, make a faithful Narrative of this Buſineſs: I had indeed to do with the Guard that had to do with the Perſon of the King about St. *James*'s. Being then an Officer of the Army, a Colonel of Horſe, when the King came to St. *James*'s, it was obſerv'd by ſome that there was too great an Acceſs of People admitted to the King; and within One Day or Two after, there was a Party of Halberteers appointed, for the ſtricter obſerving the Guard; they were commanded by Three Gentlemen, of whom this Priſoner at the Bar was one; the Orders every Day for removing the Perſon of the King were commonly directed to Four Perſons, and thoſe were my Self,

Lt. Col.

Lt. Col. *Cobbet*, Capt. *Merryman*, and one more; but the Guards that ſtill went along were the Halberteers. So that every Day when the King did go to *Weſtminſter*, he went to Sir *Robert Cotton*'s Houſe, and ſo far I went with him, and no farther; I never went with him, nor ſaw him, at that pretended High-Court of Juſtice. When he uſed to go to the High-Court of Juſtice, commonly (every Time indeed) the Serjeant *Dendy* (as I remember his Name was,) he uſed to come and demand that the King ſhould go to the High-Court of Juſtice, and Col. *Hacker* did ordinarily go with him, with the Halberteers. It was my Cuſtom to ſtay in the Room till he came back again; theſe Orders continued during the Time of his Trial. After the Sentence was given, on the Day whereon the Execution was to be done, it was ordered, (which Order may be produced, if ſignificant) that the Guards that were for the Security of the Perſon of the King ſhould ceaſe, when a Warrant from the High Court of Juſtice ſhould be produced: I would not omit any Thing that I well remember; and this I remember, that the Night before the Execution, the King called me into his Chamber, and told me ſeveral Things; I will take the Occaſion to trouble you with a ſhort Diſcourſe of it: He told me of ſome Legacies he had given; he told me he had prepared Something that he would ſpeak the next Day; and in the Cloſe of it, he deſired me that I would not leave him; (for I ſpeak it in Truth,) there were many Times ſeveral Incivilities offered to him; and tho' I was upon a Duty that was of a harſh and unpleaſing Nature to me, and did deſire ſeveral Times to be releaſed from it, (as I believe is well known to ſome,) yet I did not admit any Time that any Incivility ſhould be offered to him; People would take Tobacco before him, and keep their Hats on before him, I always check'd them for it; he was pleaſed to have a Conſideration of that Care that I had in that Capacity I then ſtood. That very Night before his Death he was pleaſed to give me a Legacy, which was a Gold Tooth-picker and Caſe that he kept in his Pocket. The next Day, when the Warrant came, the Guard of Halberteers went with him through St. *James*'s *Park*, I was preſent, walking near the King, the Biſhop of *London* (now of *Canterbury*) was with him, and ſome others. As we were going through the *Park*, he was pleaſed to Diſcourſe Something of what he had been diſcourſing before, touching his Burial; he wiſhed that the Duke of *Richmond*, and ſome others that he ſhould bring, ſhould take Care of it. That Morning, in the *Park*, he told me he had been thinking of what he had ſaid the Night before. He told me he had ſome Thoughts that his Son might come to bury him, and deſired he might not ſuddenly be buried; I gave him Aſſurance I would communicate his Deſire, and ſo I did: When he came to *White-Hall*, he went into a Room in the Gallery, (I know not the Name,) the Guard ſtood in the outer Room there. There was a Gentleman that came to me there, and told me he was endeavouring to preſent a Letter from the Prince to the King, and told me he could not get an Opportunity; I ſaid he ſhould not want an Opportunity, if I could help him; it was Mr. *Henry Seymour*; it was delivered, and the King read it, and he gave ſeveral Things in Charge to Mr. *Seymour*, to acquaint the Prince with, and was pleaſed to mention to him Something of Civility that I had ſhewn him in his Impriſonment; the Effect and Fruit of it I find, and do moſt humbly acknowledge before all the World my Thanks to his Moſt Gracious Majeſty the King, and to the Lords and Commons. After Mr. *Seymour* was gone from him, (I do not well remember the Time, whether it was Twelve, One, or Two a-Clock,) Col. *Hacker* came in, and there was preſent with him the Two other Gentlemen that were named in the Warrant, (as I remember,) I am ſure Col. *Hacker* (if my Memory fail me not) did produce the Warrant. Myſelf, and thoſe Gentlemen that were concerned in the former Orders, looked upon this Warrant, by which the Orders which we had were at an End. I muſt confeſs I did not, nor none of thoſe did tell him, that the Orders for Security of his Perſon were at an End; but Col. *Hacker* did go in to him, and after a little while Col. *Hacker* comes to the Door, and the King was coming forth, and he told me that the King deſired I ſhould go along with him; and indeed the Night before, when the King told me that he had prepared Something to ſpeak, he deſired I would not leave him. So Col. *Hacker* led him forth, the Biſhop of *London* followed him, and I followed the Biſhop of *London*; the Guards were prepared without, and they went on to the Scaffold; when we came to the Scaffold, I went ſo far as to the Entrance upon it; the King was upon it, and had looked a little while about it, and was thinking to have ſpoken over, but he turned about to me, and began to direct his Speech to me. I cannot trouble you with what the King ſaid, for I cannot remember it; but that Colonel *Hacker* was there in Proſecution of that Warrant, and upon that Warrant our Orders were at an End, I do averr.

Council You delivered him upon that Warrant, did you?

Tomlinſon. He went and received the King upon that Warrant; it was a Chamber that was known then by the Name of the *Horn-Chamber*, and there the King was in the Inner Room; this is the Subſtance of all.

Council. We will trouble you with One or Two Witneſſes more.

Council. Mr. *Tomlinſon*, did Mr. *Hacker*, or his Soldiers, take Tobacco to the Offence of the King?

Tomlinſon. I do not ſay that any Tobacco was taken there by Mr. *Hacker*; but the Soldiers would be ſtepping in, and take Tobacco at his Chamber in St. *James*'s, and committed other Incivilities.

Council. We have proved that the Priſoner did demand, and had the Perſon of the King: Now we will prove to you that himſelf had the Boldneſs to make a Warrant in purſuance of the former, for the Execution of the King.

Council. Crier, call Mr. *Huncks*. [*He being ſworn, ſaid.*]

Huncks. My Lords, and Gentlemen of the Jury, that Day the King died, a little before the Hour he died, I was in *Ireton*'s Chamber, where *Ireton* and *Harriſon* were in Bed together, there was *Cromwell*, Col. *Hacker*, Lieut. Col. *Phayre*, *Axtell*, and myſelf, ſtanding at the Door; this Warrant for the Execution was there produced, and you [*looking upon Mr.* Hacker *at the Bar*,] were reading of it, but *Cromwell* addreſſed himſelf to me, commanding me, by Virtue of that Warrant, to draw up an Order for the Executioner; I refuſed it, and upon refuſing of it there happened ſome croſs Paſſages. *Cromwell* would have no Delay. There was a little Table that ſtood by the Door, and Pen, Ink, and Paper being there, *Cromwell* ſtepped and writ. (I conceive he wrote that which he would have had me to write:) As ſoon as he had done writing, he gives the Pen over to *Hacker*; *Hacker*, he ſtoops and did write, (I cannot ſay what he writ,) away goes *Cromwell*, and then *Axtell*; we all went out; afterwards they went into another Room.

Council. What followed?

Huncks. Immediately the King came out, and was Murder'd.

Mr. Secretary *Morrice.* Mr. *Huncks*, you did tell us in the *Tower*, (when we were ſent by His Majeſty's Council to examine you, and others there,) that Colonel *Hacker* did then Sign that Warrant for nominating and appointing the Execution.

Huncks. My Lord, *Cromwell* comes to me, and bids me write a Warrant for that Purpoſe; I refuſing of it, *Cromwell* writes himſelf, and *Hacker* writing on the ſame Paper, what ſhould I conceive but that it was the Warrant? (the King preſently after coming to the Scaffold.)

Council. Did *Cromwell* give you no bad Names becauſe you would not write that Order? Did not he ſay you were a Coward?

Huncks. He ſaid I was a froward peeviſh Fellow.

Council. Did *Hacker* only write his Name, or give Directions in the drawing up of the Order?

Huncks. I conceive he only writ his Name.

Council. My Lord, we have only that Eye-witneſs.

Huncks. Hacker confeſſed to the Gentleman Jaylor of the *Tower*, that if he did do it he did it by Order.

* *Mr. Secretary* Morrice *and the L.* Anſley *Sworn.*

Council. Mr. Secretary, we deſire you would be pleaſed to tell my Lords what Colonel *Hacker* the Priſoner at the Bar did confeſs to you, and others touching this Buſineſs.

Mr. *Secretary.* When Colonel *Huncks* (for that Title he now aſſumes,) was brought over out of *Ireland*, and committed to the *Tower* of *London*, there was Three of the Council, by Order of the Board, ſent to examine him, Sir *Anthony Aſhly-Cooper*, Mr. *Anneſly*, and myſelf: In Obedience to that Order we repaired to the *Tower*, and had Col. *Huncks* brought before us; we told him, that he (being one of thoſe which were appointed by Warrant from the Suppoſititious High-Court of Juſtice to carry on the Execution of the King, and ſee it done,) muſt needs know who was the Executioner: Whereunto he anſwered, that he, for his Part, did not know who was the Executioner, for the Warrant whereby the Executioner was nominated and appointed was refuſed to be ſigned by him, but Col. *Hacker* ſigned it, and therefore Colonel *Hacker* muſt know it. Accordingly, upon our Return, we made our Report to the Board, and upon this there was an Order that Col. *Hacker* ſhould be ſent for, taken into Cuſtody, and brought before the Lords of the Council: Accordingly he was apprehended, and the ſame Three Councellors were ſent down to examine him. We took him into a private Room, and examined him, and told him, (amongſt other Things,) that he being the Man that (as we are informed,) did Sign the Warrant for the nominating and appointing the Executioner, doubtleſs he muſt needs know who that was; at firſt he ſaid he did not Sign this Warrant: I told him I would have him well adviſed what he ſaid; for if you deny it, it will be proved by ſuch a Man, naming Colonel *Huncks*, and that you will do yourſelf a great Prejudice if you deny that; ſaith he, *I do believe I did Sign the Warrant for appointing the Executioner*; this is all I can ſay.

Lord Anneſly. Gentlemen of the Jury, it is very true as you have been told already, that I was amongſt thoſe that the Council ſent to the *Tower* of *London*, firſt to examine Colonel *Huncks*, and Mr. *Cook*, that hath been condemned, *Hulet*, and ſome other Priſoners. We did examine Colonel *Huncks*, and he did by his Examination acquit himſelf from Signing that Warrant that he was charged with, being one of the Three appointed to ſee Execution done; but they appointed another to Sign the Warrant, (Colonel *Huncks* refuſing,) and upon his refuſing, (as he ſaid,) *Cromwell*, that urged him to it, ſaid he was a cowardly Fellow, or Something to that Purpoſe: When we examined him about the Perſon in the *Frock*, he ſaid he knew Nothing of that, but that Colonel *Hacker* Signed that Warrant for Execution; this Examination being reported to the Council, the Lords ſent for *Hacker*. I think upon Notice Colonel *Hacker* came; he had been of the Army, and continued till that Time an Officer. When he came thither, the Lords of the Council having Notice of it, commanded the ſame Perſons formerly appointed to go out and examine him; we had him into a little Room belonging to the Clerks of the Council, and examined him to that Point concerning the Man that cut off the King's Head, whether he knew any Thing of it? He did affirm poſitively he did not know; we told him that he was the Man by Teſtimony that Signed a Warrant for Execution of the King, and then certainly he muſt know the Perſon that he appointed by his Warrant; he ſaid, if I did Sign any Warrant it was by command of the General; that being but Hypothetical, we thought it meet to make it more poſitive, whereupon we aſked him whether he was the Man that Signed the Warrant, Or no? Thereupon, (as I remember, and as the Examination, which was all written with mine own Hand, doth help my Memory,) he did ſay he did believe he did Sign ſuch a Warrant; thereupon he was aſked further, how could it be poſſible that he could forget the Man, if he Signed the Warrant; he knew who the Man was that was appointed; he ſaid for that, that he did believe the Warrant was read to him, and that therein the Man's Name might be, but he could not now remember his Name; this was the Effect of his Examination and Confeſſion.

* *Theſe were both Commiſſioners, yet came off from the Bench to give Evidence, but did not go up to the Bench again during that Trial.* Kelyng 12.

Council.

Council. Mr. *Francis*, did you see Colonel *Hacker*, at the Time of the Execution, upon the Scaffold?

Francis. Yes, I did see him as a Principal Commander there; I was coming out of *Westminster* into *London*, about half an Hour before the King came upon the Scaffold; coming near the Scaffold, as soon as I was engaged in the Throng, (when I had passed about Eight or Ten Yards,) I could not pass backward nor forward; I was inforced to stand there: During that Time I saw the Scaffold, and the Ax, and the Block taken up by divers People; and principally I saw a Man that is not here, he is in Custody, I saw him take it up, and try it with his Thumb, and lay it down; this was *James Berry*, he came off, and came not upon the Scaffold again, unless disguised.

Council. Did you see *Hacker* there? Did you see him upon the Scaffold when the King came on?

Francis. I did see him, he was there; His Majesty came to the Side of the Scaffold next to St. *James*'s; he looked that Way and smiled; after a while the Block and Ax lying down about the middle of the Scaffold, there was a Black Cloth hung about the Rails of the Scaffold.

Council. We have another Evidence, the Prisoner hath confessed enough; but we have proved that he had the King in Custody; he confessed that he believed he did Sign the Warrant, and that he at the Time of Execution was there to manage it. What do you say for your self?

Hacker. *Truly, my Lord, I have no more to say for myself, but that I was a Soldier, and under Command, and what I did was by that Commission you have read.*

Lord Chief Baron. Can you deny any Thing that Mr. Secretary and Mr. *Annesley* have declared?

Hacker. *I cannot tell what I might then say, the Gentlemen were very strict with me; truly I have been no Councellor, no Adviser, nor Abetter of it, but in Obedience to the Command over me I did act. My Desire hath been ever for the Welfare of my Country, and that Civil Power might stand.*

Lord Chief Baron. Have you yet resolved who you gave the Warrant for Execution to?

Hacker. *No, my Lord, I delivered none.*

Lord Chief Baron. But you know who it was directed to?

Hacker. *No indeed, my Lord; be pleas'd to ask Col.* Huncks *whether I read this Warrant or no.*

Lord Chief Baron. This is all you have to say for yourself?

Hacker. *Yes, my Lord.*

Lord Chief Baron. Then, Col. *Hacker*, for that which you say for yourself, that you did it by Command, you must understand that no Power on Earth could Authorize such a Thing, no Command in such a Case can excuse you. There is a Twofold Obedience, a Passive Obedience, to suffer rather than do Things unlawful; and an Active Obedience, to do that only which is lawful; and therefore this will not excuse your Obedience to those unlawful Commands.——Gentlemen of the Jury, you see the Prisoner at the Bar stands Indicted for *Compassing* and *Imagining* the Death of the late King; and there are several open Acts set forth in the Indictment, which tend to prove that Matter; one is Assembling and Meeting together, another is Sitting upon the King, another Sentencing, and at last concludes with the Murder of the King, as the Consequence of all. Any Thing that tends to the proving of this Compassing and Imagining his Death in any one of these Particulars, that is an Evidence to you to prove the whole Indictment. This Gentleman was Commander of Halberteers; Col. *Tomlinson* saith, that though he kept the Guards that were about the King's Person, this Gentleman, with Two other Persons, brought Halberteers, that there might not be such frequent Access as formerly to the King; there is one Act. He commands these Halberteers at that Time, when the Business was in Agitation, before that High-Court, as they called it. You see after the Sentence was given that he was one of the Persons to whom the Warrant for Execution was directed; you see afterwards there was a consulting together, *Cromwell*, *Ireton*, *Harrison*, and *Axtell*, were in the Chamber, when Col. *Huncks* refused to Sign; the Prisoner signed the Warrant, but knows not the Person to whom it was directed: You see besides Col. *Tomlinson*'s Testimony, who saith further, that when they were discharged, Col. *Hacker* went in, and the King was brought out presently after to that Fatal Place. Col. *Huncks* Swears that when the Warrant was offered to him he refused it; that *Hacker*, the Prisoner at the Bar, signed a Warrant, though he doth not remember the Name of the Person to whom; it appears by two Witnesses (honourable Persons) he confessed he signed it, but he did not know the Person to whom directed. You see another Witness, *Benjamin Francis*, he saith he saw *Hacker* upon the Scaffold with the King.

He doth not deny the Fact; you need go no further, it is very plain he had a Hand in this Business, a principal Agent in it; he that brought the King to the Scaffold, he that had the Care in managing that Business, he that signed the Warrant to the Executioner, either he is Guilty of Compassing the Death of the King, or no Man can be said to be Guilty.

The Jury went together, and after some little Consultation returned to their Places.

Clerk of the Crown. Gentlemen of the Jury, are you agreed on your Verdict?

Jury. Yes.

Clerk. Who shall say for you?

Jury. Our Foreman.

Clerk. Francis Hacker, Hold up thy Hand. Gentlemen, look upon the Prisoner at the Bar, how say you, is he Guilty of the High-Treason, whereof he stands Indicted, and hath been Arraigned? Or Not Guilty?

Foreman. Guilty.

Clerk. Look to him, Keeper.

Clerk. What Goods and Chattels, *&c.*

Jury. None that we know of.

The Trial of William Hulet, *on the Fifteenth of* October, 1660, *at the* Sessions House *in the* Old-Baily.

Clerk of the Crown Set *William Hulet* to the Bar, [*who was brought accordingly.*] *William Hulet*, alias *Houlet*, Hold up thy Hand. Those Persons that were last called of the Jury are to pass, *&c.* if you will Challenge them, or any of them, you must Challenge them when they come to the Book before they be Sworn.

Lord Chief Baron. Understand you have Power to Challenge Five and Thirty Men, and not above; you may Challenge them without Cause shewn. If you have Cause for any other you may Challenge them also. If you will have Pen, Ink, and Paper, you may have them.

Hulet. *Truly, my Lord, I cannot write but a very little; I shall not need them. I did not understand my Indictment well, I desire to hear it again.*

Lord Chief Baron. You will hear it read again.

Clerk. Sir *Thomas Allen*, Sir *Henry Wroth*, *Tho. Bide*, *Robert Sheppard*, *Thomas Morris*, *Ralph Hulsal*, *John Gallyard*, *John Nichol*, *Thomas Usman*, *Christopher Abdy*, *William Dod*, in all Twelve. Jury Called and Sworn.

Clerk of the Crown. William Hulet, alias *Houlet*, Hold up thy Hand. You Gentlemen that are Sworn, look upon the Prisoner.

Clerk. You shall understand that he stands Indicted of High-Treason, by the Name of *William Hulet*, alias *Houlet*, late of *Westminster* in the County of *Middlesex*, Gent. for that he as a false Traitor, *&c.* [*here the Indictment was read,*] unto which Indictment he hath pleaded Not Guilty, and for his Trial hath put himself upon God and the Country, which Country you are: Now your Charge is to enquire, *&c.*

Sir *Edward Turner.* May it please your Lordships, and you Gentlemen that are Sworn of this Jury, we are now entering upon the last Act in this sad Tragedy of the Murder of the late King; there have been before you some of the Judges, the Council, the Chaplain, and the Guard; this Prisoner at the Bar, in the last Place, was one of those, which came with a Frock on his Body, and a Vizor on his Face, to do the Work. The Course of our Evidence will be this; First, we shall prove by Witnesses that saw him, and knew him, that he was thus disguised; he hath confest that he was upon the Scaffold, that he hath had several Preferments; and I fear it will appear, that it was he, that gave that Fatal Blow; for he hath confessed he had an Hundred Pounds given him for his Service therein; and we doubt not but to pluck off his Vizor by and by. The Indictment is for Compassing and Imagining the Death of his late Majesty of Glorious Memory; if we prove to you any Circumstantial *Overt-Act* whereby you shall be convinced of this, you are to find him Guilty.

Richard Gittens Sworn.

Council. Mr. *Gittens*, tell my Lord and the Jury what you know concerning the Prisoner at the Bar.

Gittens. The thing is this, my Lord, this Gentleman at the Bar and myself were both in a Regiment in One Company as Serjeants about Twelve or Thirteen Years together. About a Day or Two before the King came to the Scaffold, Colonel *Hewson* did give notice to the Lieutenant that we should come to him, about 38 of us, and he put us all to our Oaths, that we should say Nothing of what they did; he Swore us to the Book; after he had Sworn us, he asked us if we would undertake to do such an Act; if we would we should have an Hundred Pounds down, and Preferment in the Army as long as that stood, and the Parliament. Afterwards we refused every Person, we thought Captain *Hulet* did refuse; after all refused, it seems he did undertake to do the Deed. When the King was brought on the Scaffold, we were in *Scotland-yard*, and they were upon the Guard in the *Banqueting-Chamber*; when they were there I laid down my Arms, and got into the Company; Captain *Webb* kept the Guard, with his Halbert in his Hand, by the Scaffold, and I did bustle to come near to them; then I returned back. *Hulet* (as far as I can guess) when the King came on the Scaffold for his Execution, and said, *Executioner, is the Block fast?* then he fell upon his Knees.

Council. Who did?

Gittens. Hulet, to ask him forgiveness; by his Speech I thought it was he; Captain *Atkins* said, who would not undertake to do this Fact? I told him I would not do it for all the City of *London*; no, nor I neither for all the World, saith *Atkins*; you shall see *Hulet* quickly come to Preferment; and presently after he was made Captain-Lieutenant.

Council. Was he with his Regiment that Day?

Gittens. We could not see him with the Regiment all that Day; he was never absent at any Time before.

Council. Did you know his Voice?

Gittens. Yes, Sir.

Council. Did you mark the Proportion of his Body, or his Habit, what Disguise he was in?

Gittens. He had a Pair of Freeze Trunk Breeches, and a Vizor, with a Grey Beard; and after that Time Colonel *Hewson* called him *Father Grey-beard*, and most of the Army besides, he cannot deny it.

Hulet. *I desire as to this Witness; he doth alledge that he and I were Serjeants in One Company, which I deny; he was not in that Company I was in; I desire to know of him how he comes to know that I was there at that Time.*

Gittens. By your Voice.

Hulet. *I will Swear that this Man was with the Regiment under the Scaffold; where were you at that Time when the Act was done?*

Gittens. Where was I? By Captain *Webb*.

Hulet. *Where was he?*

Gittens. At the Door of the *Banqueting-house*.

Hulet. *Was you on the Scaffold, or no, Sir?*

Gittens. I was on the Scaffold End.

Hulet. *My Lord, I desire you to consider what this Person saith, that he was upon the Guard in* Scotland-yard, *and at the Scaffold with Captain* Webb. *My Lord, I desire again, whereas he said I had a Grey Beard, let any Man besides himself say that ever I was called by that Name Grey-beard, throughout the Regiment.*

Stammers *Sworn.*

Council. What have you to say concerning the Prisoner at the Bar?

Stammers. He was a Captain-Lieutenant to Colonel *Hewson*'s Troop; when I had entered myself into that Troop I was a while in *Dublin*, and I was commanded by the Prisoner at the Bar, I and the rest, to march to a Place called *Lutterels*-Town, about 5 Miles beyond *Dublin*; the Prisoner at the Bar came thither to us Two Days after; then being in his Chamber he sent for me up; I went up and sat down; he examined where I had served: I told him I did formerly belong to the Lord of *Inchiqueen*;

he aſked me if I was ever in the King's Army; with that he walks about the Room Two or Three Turns; ſaith he, I was the Man that Beheaded King *Charles*, and for doing it I had an Hundred Pounds, ſaying, I was a Serjeant at that Time.

Hulet. *I deſire to aſk him a Queſtion; I confeſs—(what is your Name?)*

Council. Stammers, his Name is *Stammers*.

Hulet. *Such a one was under my Command: I think I have not ſeen you theſe Eight Years: I deſire to know when theſe Words were ſpoken, and the Place.*

Stammers. I ſay in *Lutterels* Town, in your own Chamber, and that was Nine or Ten Years ago.

Hulet. *It is about Eight Years ago ſince I left that Command: Who was by at that Time?*

Stammers. No body.

Hulet. *'Tis ſtrange: How long had you been in the Troop before?*

Stammers. I was in *Dublin* about a Fortnight's time, then you ſent for me, and I came to *Lutterels* Town; the firſt Time that I came to the Troop was at *Dublin*, and then you came to me with Two Orders from *Hewſon*, and then you did pretend you was Brother to one Mr. *Chambers*, and then we went and quartered in *Lutterels* Town.

Hulet. *My Lord, his Examination in* Ireland *and this doth not agree; you did deny this before* Baldwin *a Trooper; I deſire his Examination may be read* (which was accordingly read, and agreed with the Teſtimony now given). *I deſire he may mention what Man that was, that I ſent for him.*

Stammers. I cannot tell what Man.

Hulet. *My Lord, I deſire that Servant may be either named or produced.*

Stammers. I cannot remember the Man, it was Seven Years ago.

Hulet. *Then again upon another Account, as he ſpeaks before, that I ſhould examine him where he had been, and that he ſhould ſay at the Lord* Inchiqueen's.

Captain *Toogood* Sworn.

Toogood. I ſhall firſt give your Lordſhips and the Jury what I have heard others ſay concerning the Priſoner at the Bar, and that is firſt Colonel *Hewſon*; I was in the Year 1650, about *September*, in *Dublin Caſtle*, about ſome Buſineſs with *Hewſon*; Captain *Hulet*, the Priſoner at the Bar, came into the Room, he talked with Col. *Hewſon* a little while; I obſerved them very familiar, and I aſked *Hewſon* what he was, he told me he was his Captain-Lieutenant of Horſe; I deſired to know where he had him? he told me he made him ſo from a Serjeant, and a very Mettled Fellow he was; it was he that did the King's Buſineſs for him upon the Scaffold. In the Year 1653, there was a Diſbanding of the Army in *Ireland*; this Gentleman was then continued Captain-Lieutenant in *Pretty*'s Regiment: I diſcourſed with *Pretty* concerning him, and one Part of it, I remember, was about the King's Death; and he did tell me that he was aſſured by Colonel *Hewſon*, that *Hulet* either cut off the King's Head, or held it up, and ſaid, *Behold the Head of a Traitor*; Col. *Pretty* would not tell me which of the Two it was; but I ſaw the Perſon that did it, and methought he did reſemble this Perſon. About 12 Months after I came to live near the Priſoner in *Ireland*; once I remember at one Mr. *Smith*'s at the *White-horſe* in *Carlow* I met him there, and I was aſking the Priſoner at the Bar the Queſtion, whether he was the Man that cut off the King's Head, or not? Saith he, Why do you aſk me this Queſtion? I told him, I had heard ſo by ſeveral, namely, by *Hewſon* and *Pretty*; upon that he ſaid, *Well, What I did I will not be aſhamed of; if it were to do again, I would do it.* Once ſince that Time, about half a Year afterwards, I was in the ſame Place, and there talking with him about the King's Death; he was telling me it was true, he was one of the Two Perſons, that were *diſguiſed* upon the Scaffold. I deſired to know what if the King had refuſed to ſubmit to the Block? Saith he, there were *Staples* placed about the Scaffold, and I had that about me that would have *compelled* him; or Words to that Effect; other Times I have heard him ſpeak ſomething to this. *November* the laſt, in the Queen's County at *Maryborough*, Col. *Jones* took upon him to be Governour, and to chuſe Two out of a Regiment that might be the Rulers of the People, Legiſlators I think they call'd them; I did Diſcourſe about the Buſineſs again, and did oppoſe it all: After a while he began to be very hot in the Buſineſs about *Lambert:* Said I, you were heretofore too forward; ſays he, if it be the Buſineſs of the King's Head I will never deny it, call me to an Account when you will: I have obſerved in *Ireland*, that it hath been generally reported that he was either the Man that cut off the King's Head, or that held it up, as I ſaid before, and I have heard them ſometimes call him *Grandſire Grey-beard.*

Hulet. *My Lord, I do confeſs I know the Gentleman very well, we were in a Regiment together; I never diſcourſed with any concerning this, but only once at a Place going from* Cullen *to* Munſter *we did drink at a Place called* Goran, *we were diſcourſing about the Buſineſs of the King, the Juſtification of the cutting off his Head; ſaith* Stammers, *I did hear that you were one of the Perſons for that Purpoſe; ſaid I, they that ſay ſo, do me Wrong: Saith he, it is no Matter if you were ſo, for it was a Juſt Act: Said I, whether it was or no I have nothing to do to juſtifie it; he was ſpeaking, as I hope to be ſaved, I would have done it.*

Walter Davis Sworn.

Council. What can you ſay, Mr. *Davis*, to this Buſineſs?

Davis. Gentlemen, that which I can ſay is this; in *January* laſt was Two Years I was at *Dublin*, I met Captain *Hulet*, he invited me to take Share of a Pint of Wine, I went with him to a Tavern; when we were in the Tavern he called for a Pint of Wine, and I call'd for another; before we had drank the laſt Pint of Wine, ſaid I to Captain *Hulet*, I pray reſolve me this one Queſtion; it is reported that you took up the King's Head, and ſaid, *Behold the Head of a Traitor*; Sir, ſaid he, it was a Queſtion I never reſolved any Man, though often demanded; yet, ſaith he, whoſoever ſaid it then it matters not, I ſay it now, it was the Head of a Traitor.

Hulet. *I confeſs we did meet together, as you ſay, but I muſt and do deny the Words.*

Lieutenant-Colonel *Nelſon* Sworn.

Nelſon. My Lords, and Gentlemen of the Jury, upon a Diſcourſe with Colonel *Axtell*, as I related once this Day, about Six Years ſince, in many other Diſcourſes we fell to diſcourſe about the Death of the late King; I ſuppoſing he had been acquainted with that Affair, I deſired him to tell me thoſe Two Perſons diſguiſed upon the Scaffold; he told me I knew the Perſons as well as himſelf; ſaith he, they have been upon Service with you many a Time; pray, Sir, ſaid I, let me know their Names; truly, ſaid he, we would not employ Perſons of low Spirits that we did not know, and therefore we pitch'd upon Two ſtout Fellows; who were thoſe, ſaid I? It was *Walker* and *Hulet*, they were both Serjeants in *Kent* when you were there, and ſtout Men; who gave the Blow, ſaid I? Saith he, poor *Walker*, and *Hulet* took up the Head; pray, ſaid I, what Reward had they? I am not certain whether they had Thirty Pounds apiece, or Thirty Pounds between them.

Hulet. Pray let Mr. Axtell *ſpeak to this, he is hard by.*

Colonel *Tomlinſon* Sworn.

Council. Pray tell my Lords your Knowledge in this Buſineſs.

Tomlinſon. My Lords, and Gentlemen of this Jury, I cannot punctually remember what their Habits were; they had cloſe Garments to their Bodies, they had Hair on their Faces, one was Gray to the beſt of my Remembrance, the other was Flaxen.

Council. Can you tell who ſtruck the Blow?

Tomlinſon. My Lord, I cannot remember, but I think he with the Gray Hair on his Face did it.

Nelſon. My Lord, I will not poſitively ſay it, but it came lately to my Mind, that I did hear in *Ireland* by Colonel *Pretty* that *Hulet* did it; my Lord, this Colonel *Pretty* is alive in *Ireland.*

Benjamin Francis Sworn.

Francis. My Lords, and Gentlemen of the Jury, as to the Priſoner at the Bar, he was very Active in that horrid Act; there was Two of them had both Cloaths alike, their Frocks were cloſe to their Bodies, (as I remember,) they were rather in Butchers Habits of Woollen; one had a Black Hat on his Head cock'd up, and a Black Beard, and the other had a Gray griſled Perriwig hung down very low; I affirm that he that cut off the King's Head was in the Gray Perriwig, and I believe this was about that Man's Stature, *(pointing to Mr.* Hulet,) and his Beard was of the ſame Colour, if he had any. I was coming from *Weſtminſter*, the Scaffold was encompaſſed within with a great Guard of Soldiers of *Redcoats*, I think commanded by *Biſcoe.*

Hulet. *Was you upon the Scaffold?*

Francis. No, Sir, there was none of my Conſtitution upon the Scaffold.

Council. Fuller Evidence I think cannot be expected; you have heard all the Witneſſes; what can you ſay for yourſelf?

Hulet. *My Lord, here are ſeveral Witneſſes examined concerning the Buſineſs, and for my Part I do not underſtand the Law; I muſt leave it to the Court. I can upon the other Account prove where I was at that very Time; I can in the next Place, my Lord, ſince I came into* London, *for I did not hear it before, I can tell you who was the Perſon, that did that Act; I can bring Forty and Forty Witneſſes that will prove, who they were that did it, as I have been informed by ſeveral Witneſſes, that they know who was the Perſon that did it: Upon the other Account, I can prove where I was that Day, but I did not know, when I was Arraigned, what was laid to my Charge; here were ſome Examinations taken before my Lord Mayor concerning the Perſon or Perſons, that did that Act.* [*Here he offered a Paper, a Copy of the ſaid Examinations, ſubſcribed* Mary Brandon, *and divers others.*]

Mr. Secretary *Morrice.* Was you not examined in the *Tower?*

Hulet. *Yes, Sir.*

Mr. Secretary *Morrice.* Did not we tell you that you were charged with cutting off the Head of the King?

Hulet. *Yes, Sir, you did tell me ſo.*

Lord Chief Baron. Then you had time to provide your Witneſſes.

Hulet. *I was a cloſe Priſoner.*

Lord Chief Baron. Where were you on the Day of Execution?

Hulet. *I was a Priſoner then at* Whitehall.

Lord Chief Baron. For what?

Hulet. *Upon this Account we were taken up, about Seven or Nine of us were taken up, we were all Serjeants, Three of Colonel* Hacker's, *the reſt of* Pride's *and* Fairfax's, *and about Ten of Clock at Night were diſcharged.*

Lord Chief Baron. For what was you Impriſoned?

Hulet. *For refuſing to be upon the Scaffold.*

Burden. It was a Common Speech among the Soldiers, that *Hulet* cut off the King's Head.

Lord Chief Baron. How long before did you ſee *Hulet* upon the Guard?

Burden. The Day before, but not that Day, nor the Day after.

Lord Chief Baron. William Hulet, the Evidence againſt you is Twofold, one concerning the cutting off the King's Head, the other that you were in a Frock; if it be proved that you did not cut off the King's Head, yet if you were in a Frock in that Place, it will not excuſe you; if you have any Thing to ſay I will be glad to hear it.

Hulet. *I deſire the Perſons may be examined upon Oath, Priſoners and others, who was the Perſon that did it; I mean* Hacker, Huncks *and* Phayre.

Lord Chief Baron. You that are the Priſoner, for that which concerns *Hacker* and *Phayre*, you know what Conditions they are in, one already tried for his Life, the other a Priſoner in the *Tower*; and *Hacker* ſaith himſelf he doth not know the Perſon at all; you that are Priſoner at the Bar, the Court conceives you have had Time to get your Witneſſes here; you were informed of the Buſineſs before you came here, yet notwithſtanding, it is conceived there are ſome here that can ſay ſomething tending to the Information of the Jury, but they are not to be admitted upon Oath againſt the King.

Sheriffs Officer Examined.

Sheriffs Officer. My Lord, all that I can ſay in this Buſineſs is this; one of our Fellows that belong to our Maſter, the Sheriff, *John Rooten* by Name, he and I were talking about this very Story, and he did acquaint me with this, That he was in *Roſemary Lane*, a little after the Execution of the King, drinking with the Hangman, that he did urge him whether he did this Fact: God forgive me, ſaith the Hangman, I did it, and I had Forty Half-crowns for my Pains.

Abraham

Abraham Smith Examined.

Smith. My Lord, aſſoon as that Fatal Blow was given I was walking about *Whitehall*, down came a File of Muſketeers; the firſt Word they ſaid was this, Where be the Bargemen? Anſwer was made, Here are none; away they directed the Hangman into my Boat; going into the Boat he gave one of the Soldiers a Half-crown; ſaid the Soldiers, Watermen, away with him, be gone quickly; but I fearing this Hangman had cut off the King's Head, I trembled that he ſhould come into my Boat, but dared not to examine him on Shore for fear of the Soldiers; ſo out I lanched, and having got a little way in the Water, ſaid I, who the Devil have I got in my Boat? Says my Fellow, ſays he, why? I directed my Speech to him, ſaying, Are you the Hangman that cut off the King's Head? No, as I am a Sinner to God, ſaith he, not I; he ſhook every Joint of him; I knew not what to do; I rowed away a little further, and fell to a New Examination of him, when I had got him a little further: Tell me true, ſaid I, are you the Hangman that hath cut off the King's Head? I cannot carry you, ſaid I; No, ſaith he, I was fetched with a Troop of Horſe, and I was kept a cloſe Priſoner at *Whitehall*, and truly I did not do it; I was kept a cloſe Priſoner all the while, but they had my Inſtruments. I ſaid I would ſink the Boat if he would not tell me true; but he denied it with ſeveral Proteſtations.

William Cox Examined.

Cox. When my Lord *Capell*, Duke of *Hamilton*, and the Earl of *Holland*, were Beheaded in *Palace-yard* in *Weſtminſter*, my Lord *Capell* aſked the Common Hangman, ſaid he, Did you cut off my Maſter's Head? Yes, ſaith he. Where is the Inſtrument that did it? He then brought the Ax. Is this the ſame Ax, are you ſure? ſaid my Lord. Yes, my Lord, ſaith the Hangman, I am very ſure it is the ſame. My Lord *Capell* took the Ax, and kiſſed it, and gave him Five Pieces of Gold. I heard him ſay, Sirrah, wert thou not afraid? Saith the Hangman, they made me Cut it off, and I had Thirty Pound for my Pains.

Richard Abell Examined.

Abell. My Lord, in the Houſe of one Mr. *Bramſton* I did hear *Gregory* himſelf confeſs that he cut off the King's Head.

Lord Chief Baron. You that are the Priſoner at the Bar, the Court is willing to give all full Scope, as far as may be, to examine the Truth of the Fact; as they would not condemn the Innocent, ſo they would not acquit the Guilty: Do you deſire further Time to examine the Truth of it, before it be put upon the Jury?

Hulet. *I do confeſs I do not underſtand the Laws, I deſire a little further time; I deſire the Jury may be withdrawn; I deſire a Fortnight's Time, but ſubmit to the Court.*

A Stranger Examined.

Stranger. My Lord, I was with my Maſter in the Company of *Brandon* the Hangman, and my Maſter aſked *Brandon* whether he cut off the King's Head, or no? He confeſſed in my Preſence that he was the Man that did cut off the King's Head.

Lord Chief Baron. You that are the Priſoner at the Bar, the Court was willing to give you as much Time as they could by Law; the Jury hath been charged, and Evidence given; all thoſe Witneſſes have been Examined that we could hear of now for your Advantage; I will ſay ſomething to you. It was here ſaid, and given in Evidence, that *Axtell* did ſend a Boat to fetch the Common Hangman: If we knew more that might tend to your Advantage, it ſhould be repeated. You Gentlemen of the Jury, mark it; There is firſt *Gittens*, he ſwears that he was in the ſame Regiment that you were in 12 or 13 Years together; he ſaith that he and others were called together upon their Oaths, and you amongſt the reſt; and there was an Oath of Secrecy, aſking them if they would do ſuch an Act; they all refuſed to do it, ſo did you; but he ſaid, the Day of Execution of the King this *Gittens* got among them, and one Captain *Webb* kept the Door, and he ſaw you fall before the King, and aſk the King Forgiveneſs; he ſaid he heard your Voice, and ſo knew you; and that the Day after Captain *Atkins* ſaid, you ſhall ſee *Hulet* ſhortly come to Preferment; and he ſaith he did not ſee you in the Regiment that day; and that *Hewſon* and all the Regiment uſed to call you *Father Grey-beard*. *Stammers* he ſaith, that you was Captain-Lieutenant to Col. *Hewſon*'s Troop; and you coming to *Lutterels* Town aſked him ſeveral Particulars, whether he had been in the King's Army? Walking up and down, you ſaid you were the Man Beheaded King *Charles*, and for that you had One Hundred Pounds; this he Swears poſitively. *Sampſon Toogood*, he ſwears he ſaw you come to Col. *Hewſon*'s in 1650, you talked to him very familiarly; when you were gone he aſked who you were? he told him you were a Captain-Lieutenant of Horſe; and he ſaid that you were a very Mettled Fellow, and did the King's Buſineſs upon the Scaffold; that afterwards Col. *Hewſon*'s Regiment being diſcharged, you came to be of *Pretty*'s Regiment, and that he told this Gentleman that he was aſſured by Col. *Hewſon* that it was you that either cut off the King's Head, or took it up, and ſaid, *Behold the Head of a Traitor*. He ſaith afterwards, that in 1654 in *Carlow* he aſked you the ſame Queſtion, and you demanded of him, Who told him; he anſwered he was told by ſeveral Perſons, namely, *Hewſon* and *Pretty*; you ſaid, What I did I will not be aſhamed of, and if it were to do I would do it again; he ſays again, at another Time, that you were One of the Two Perſons who were then upon the Scaffold, and that there were Staples to enforce the King to ſubmit, if he ſtruggled; *I had that about me which would have done the Buſineſs.* And he ſays, in *November* laſt you came to a Meeting upon a Summons of Col. *Jones*, and then did avouch *Lambert*'s Quarrel; he ſaid you were too forward heretofore; you ſaid, if it be the Buſineſs of the King's Head I will never deny it, call me to an Account when you will. He heard many call you *Grandſire Grey-beard*. Then there is another Witneſs, I think his Name is *Davis*, he was in Diſcourſe with you drinking Two Pints of Wine; it is reported (ſays he) you took up the King's Head, and ſaid, *Behold the Head of a Traiter*; and he deſired you to reſolve him whether it was ſo or no; you ſaid again, it had been demanded often, but you never reſolved any Man; you ſaid, whoſoever ſaid it then, I ſay now, *it was the Head of a Traitor*. *Nelſon*, he ſwears, That about Six Years ſince he was in diſcourſe with *Axtell* about it, and *Axtell* told him they were a couple of Stout Men to your Knowledge, (ſpeaking to *Nelſon*;) I was one to do in that Affair; we made Choice of Two, *Walker* and *Hulet*; who gave the Blow? *Walker*; but *Hulet* took up the Head. Colonel *Tomlinſon*, he ſays, that there were Two on the Scaffold, one that had a Grey Beard, and the other ſomewhat Flaxen. *Nelſon* alſo heard by Col. *Pretty*, that you did it. And then *Ben. Francis*, he ſays, they had both Frocks alike, one a Black Beard, and a Gray-griſled Perriwig, and believes he was about your Stature. This is the Subſtance of what the Witneſſes have ſaid againſt you. Gentlemen, you hear what has been proved on behalf of the Priſoner, that is, if you believe the Witneſſes that are not upon Oath, that *Brandon* confeſſed it, and denied he did it: Several Witneſſes that ſay *Brandon* confeſſed he did it, and that he told them of a Sum of Money that was given him. *Gentlemen of the Jury*, You ſee the whole Point in this Caſe, the Indictment is for Compaſſing and Imagining the Death of his late Majeſty; the Evidence goes Two Ways, part of the Witneſſes one way, part another way; if you believe either of them, then you ought to find that the Defendant is Guilty; if either he was in the Frock, though he was not the Man that did it; or if you find he did it, it is a clear Teſtimony of his Imagining and Compaſſing the Death of the King. Now it reſts upon you to conſider the Evidence that is given for the Common Hang-man, that he ſhould be the Man that did it, that the Priſoner at the Bar did not Cut off the Head: On the other Side, if you do believe he was One of the Two in the Frocks, upon the Relations of theſe Perſons, *Pretty*, *Hewſon*, and *Axtell*; if you believe it upon theſe Relations, and after his own Confeſſion, that if he was to do it again, he would do it; then upon this Evidence that is given you, he is to be found Guilty, tho' he did not cut off the King's Head. You have heard the Evidence on all Sides, it reſts upon you; pray, go together, and conſider of your Verdict. I have forgotten one Thing. God forbid I ſhould omit any Thing that may be as well for Advantage, as againſt the Priſoner at the Bar: If you take it ſingly, if you have nothing, of other Proof, what another Man ſays of me doth not charge me, unleſs there be ſomething of my own; what you have heard from himſelf, and what you have heard by Relations from others, that is to be left to you. It is my Duty to tell you, that which is ſaid by another of me, that alone is not a pregnant Evidence; you muſt remember withall what is ſworn poſitively, what he ſaid himſelf; this being ſaid, I muſt leave it to you. Pray go together.

[*After a more than ordinary Time of Conſultation, the Jury returned to their Places.*]

Clerk. Are you agreed of your Verdict?

Jury. Yes.

Clerk. Who ſhall ſay for you?

Jury. Our Fore-man.

Clerk. William Hewlet, alias *Howlet*, Hold up thy Hand. Gentlemen, look upon the Priſoner at the Bar: How ſay you, is he Guilty of the High-Treaſon, *&c.*

Foreman. Guilty.

Clerk. Look to him, Keeper. What Goods and Chattels?

Jury. None, to our Knowledge.

[*And then the Court adjourned till To-Morrow Morning Seven a-Clock, in this Place.*]

October 16*th*, 1660.

Seſſions-Houſe *in the* Old-Baily.

Proclamation being made.

Clerk of the Crown. Set *Iſaac Pennington*, *Henry Marten*, *Gilbert Millington*, *Robert Tichburn*, *Owen Roe*, *Robert Lilburn*, *Henry Smith*, *Edm. Harvey*, *John Downs*, *Vincent Potter*, *Auguſtin Garland*, *Simon Meyne*, *James Temple*, *Peter Temple*, and *Tho. Wayte*, (in all Fifteen) to the Bar: which was done accordingly.

Clerk of the Crown. You the Priſoners at the Bar, thoſe of the Jury that were laſt called are to paſs, *&c.* If you, or any of you, will Challenge all, or any of them, you muſt Challenge them when they come to the Book, before they be Sworn.

Charles Pitfield, *Chriſtopher Abdy*, *Richard Cheyney*, *George Tirrey*, *Daniel Cole*, ——— *Hall*, *Richard Abell*, *Edmund Starnel*, *Edmund Pit*, *Will. Witcomb*, *Fran. Dorrington*, and *T. Nicoll*, Called and Sworn of the Jury.

Clerk of the Crown. Iſaac Pennington, *Henry Marten*, &c. Hold up your Hands. Gentlemen that are Sworn, look upon the Priſoners at the Bar. You ſhall underſtand that the ſaid *Iſaac Pennington*, *&c.* together with, *&c.* [*Here the Indictment was read.*] unto which they and every of them have ſeverally pleaded Not Guilty, and for their Trial have put themſelves upon God and the Country, which Country you are: Now your Charge is to enquire, *&c.*

Council. May it pleaſe your Lordſhips, and you Gentlemen of the Jury, the Priſoners at the Bar ſtand Indicted of High-Treaſon, for Compaſſing and Imagining the Death of the late King *Charles* the Firſt, of Glorious Memory. The Indictment ſets forth ſeveral *Overt-Acts*, by which that Imagination doth appear, the Treaſon it ſelf is the Compaſſing: Our Evidence will go on thus; we ſhall prove againſt them all, that they did ſit (in that which they called the High-Court of Juſtice) upon the King, whilſt the King was a Priſoner at the Bar, moſt of them did Sentence him; all but *Harvey* and *Pennington* did Sign that Bloody Warrant for his Execution; and that one of the Priſoners at the Bar was in before the High-Court of Juſtice, conſulting of bringing it about. When we have proved this, I think it is enough. Pray call the Witneſſes.

Harvey. My Lord, according to my Duty, I ſhall ſave this Honourable Court all their Trouble. I do humbly acknowledge that I was and did Sit in that Court; but I did not Sign and Seal that Warrant.

Lord Chief Baron. It is very true, Mr. *Harvey*.

Harvey. I hope your Lordſhips and this Honourable Bench will give me leave (in that Time which you ſhall appoint) to ſhew you my Reaſons

ſons that I did it not of Malice, and it was an Error not of Will, but of Judgment; what I have to ſay will be thought not for the annihilating, yet for the Extenuation of my Crimes.

Lord Chief Baron. Say now what you will, only conſider with your ſelf whether you have not already ſpoken as much as you can for the Extenuation of it; ſay what you can further.

Harvey. Let me ſpeak a Word.

Lord Chief Baron. Go on, Sir.

Harvey. My Lord, I do humbly conceive, if I had conceived that I had then done any Thing of Treaſon, I would not for all the World have been there; I was preſent when his Majeſty did not own the Court, deſiring that both his Houſes might meet, that he might have a Conference with them for ſettling of the Peace: My Lord, heartily and unfeignedly I did endeavour that that Advice might be embraced, and that no Sentence might be pronounced. I was one of thoſe (with ſome others) that did ſo far promote it, that that which they called the High-Court of Juſtice did withdraw to conſider of it, but the Major Part of it did diſſent. But, my Lord, I was ſo unhappy as to return to the Court, though with Reluctancy; I went with a Reſolution not to go more to them, nor never did; I was ſummoned to come to the Court: I did declare I abhorred the Thing, that my Soul had Reluctancy againſt it, and I was greatly grieved and troubled at it, and I did refuſe any more to come, or to conſult about any thing that followed, in order to His Majeſty's Death, and to Sign, and to Seal. And that I may make it appear to your Lordſhips, I pray I may have a Witneſs or two examined.

Lord Chief Baron. Name them. Did he Sit upon the Day of Sentence?

Council. Yes, he did; he followed it.

Mr. *Edward Corbet* Examined.

Mr. *Corbet.* My Lord, the Atteſtation which I this Day make ſolemnly, in the Holy Fear of Almighty God, and in Awful Reverence of this great Tribunal, hath only this great Scope, that Colonel *Harvey*, the Priſoner at the Bar, upon that Day of Signing the Warrant for that horrid Execution of his moſt Excellent Majeſty, not in Title only, but in Reality, he finding me as I was paſſing to the Duty of my Place in the Aſſembly of Divines then Sitting, he ſeized on me, and deſired Privacy of Time and Place, that he might diſburden his Soul and Spirit unto me; it was then about Nine a-Clock in the Forenoon to the beſt of my Remembrance.

Lord Chief Baron. What Day, I beſeech you?

Corbet. To the beſt of my Remembrance upon the *Monday*; Sir, ſays he, I deſire to make known unto you the deep Horror that ſits upon my Spirit, the Sadneſs and Grief, above all Expreſſions, that my preſent Caſe has caſt me into; I have endeavoured, Sir, (ſays he) in the Sight of God, all that poſſibly I could to divert them from the Sentence, I could not prevail. Sir, ſays he, I have been this Morning ſollicited with very much Earneſtneſs, that I would go and Sign, and Seal, and Order that wicked Execution, which my Soul abhors; and, Sir, that I might be removed and withdrawn from all Temptations and Sollicitations of ſuch a wicked Fact, I beſeech you ſpare me your Time this Day; which I did, in the Preſence of another Divine, till Four a-Clock in the Afternoon, and then I parted and went to *Weſtminſter*, to Sign and Aſſiſt that which I did apprehend my bounden Duty, the Vindication of the Aſſembly of Divines, wherein we did teſtify, that it was far from our Thoughts to adviſe the Parliament to any ſuch unheard-of unnatural Act.

Council. We do admit that after he ſat, and Sentence paſt, that he did not Sign.

Harvey. *Be pleaſed to call one Mr.* Thomas Langham, *he hath heard me often declare againſt that Act.*

Mr. *Thomas Langham* Examined.

Lord Chief Baron. What do you ſay, Mr. *Langham*, as to this Buſineſs?

Langham. Sir, about the Time that his Majeſty was executed in 1648, I was then Servant to Alderman *Sleigh*, who was formerly Partner with this Colonel, and he frequently came to Alderman *Sleigh*'s every Night; and the Alderman having ſome Buſineſs with him, would aſk him what News there was at the High-Court of Juſtice; he uſually told him the Paſſages upon any Day; the Alderman aſked him, if ſo be he thought His Majeſty might eſcape? He told them this, That he would do what lay in his Power, that he might not come to have Sentence paſt: Upon *Saturday*, being alſo there, he told him this, That he had done what lay in his Power, to hinder the Sentence, but could not attain his Deſign; but he was reſolved he would never Sign nor Seal to his Majeſty's Death, for it was utterly againſt his Judgment.

Harvey. There is another, (my Lord,) and but one more, that is *George Langham.*

Lord Chief Baron. To what purpoſe? This is believed.

Harvey. I ſhall only crave and ſupplicate this Favour of this Honourable Bench, that this Honourable Bench would be pleaſed, on my Behalf, (ſince I have endeavoured it Two Months before,) to preſent my humble Petition to His Sacred Majeſty, and to intercede for Mercy and Favour on my Behalf; my ſelf, my Wife, and Thirteen Children, ſhall humbly pray.

[*The Court received the ſaid Petition, and promiſed to preſent it to his Majeſty.*]

Millington. I do not know whether it will be ſeaſonable for me to interpoſe now, I would ſpeak a little.

Lord Chief Baron. Is he next in Order?

Clerk. No, my Lord, *Pennington* is next.

Pennington. I am unwilling to be troubleſome to the Court. This I ſhall take the Boldneſs to ſay, (which ſhall be nothing but Truth,) I never had a Hand in plotting, contriving malicious Practices againſt his Majeſty, demonſtrated by my utterly refuſing to Sign the Warrant for his Execution, though often ſollicited thereto; I cannot deny but I ſat amongſt them that Day of the Sentence, but I cannot remember I was there when the Sentence paſſed. My Sitting amongſt them was out of Ignorance, I knew not what I did, therefore I hope you will believe there was nothing of Malice in any Thing I did; I was miſ-led to it.

Lord Chief Baron. I cannot hear you. [*He not ſpeaking aloud.*]

Pennington. It was Ignorance, not Malice, that led me; if I had known what I had done I would not have done it; I humbly pray that there may be a favourable Conſtruction made of it, I humbly leave it with you. I did my Duty to pray for the King, but had no Malice to act willingly againſt him.

Clerk. *Henry Marten.*

Council. He did both Sign and Seal the Precept for Summoning the Court, and the Warrant for Execution; ſat almoſt every Day, and particularly the Day of Sentence.

Marten. My Lord, I do not decline a Confeſſion, ſo as to the Matter of Fact, the Malice ſet aſide, *Maliciouſly, Murderouſly, and Traitorouſly.*

Council. If you have any thing to ſay to that, we will prove it.

Lord Chief Baron. That I may inform you in it, there is Malice implied by Law, Malice in the Act itſelf: That which you call Malice, that you had no particular Intention or Deſign againſt the King's Perſon, but in relation to the Government, that will not be to this preſent Buſineſs; if it ſhould extenuate any Thing, that would be between God and your own Soul; but as to that which is alledged in the Indictment, *Maliciouſly, Murderouſly, and Traitorouſly*, they are the Conſequences of Law. If a Man meet another in the Street, and run him through, in this Caſe the Law implies Malice; though but to an ordinary Watchman, there is Malice by the Law in the Fact; if there was no ſuch expreſſed Perſonal Malice as you conceive, yet the Fact done implies Malice in Law.

Mr. Solicitor General. My Lord, he does think a Man may Sit upon the Death of the King, Sentence him to Death, Sign a Warrant for his Execution, *Meekly, Innocently, Charitably, and Honeſtly.*

Marten. I ſhall not preſume to compare my Knowledge in the Law with that of that Learned Gentleman; but according to that poor Underſtanding of the Law of *England* that I was capable of, there is no Fact that he can name that is a Crime of itſelf, but as it is Circumſtantiated. Of killing a Watchman, as your Lordſhip inſtanced, a Watchman may be killed in not doing his Office, and yet no Murder.

Lord Chief Baron. I inſtanced that of a Watchman, to ſhew there may be a Malice by Law, tho' not expreſſed; tho' a Man kill a Watchman, intending to kill another Man, in that Caſe it is Malice in Law againſt him: So in this Caſe, if you went to kill the King when he was not doing his Office, becauſe he was in Priſon, and you hindered him from it, the Law implies Malice in this. It is true, all Actions are Circumſtantiated, but the killing of the King is Treaſon of all Treaſons.

Juſtice *Foſter.* If a Watchman be killed it is Murder; it is in contempt of Magiſtracy, of the Powers Above; the Law ſays that Contempt adds to the Malice.

Council. We ſhall prove againſt the Priſoner at the Bar (becauſe he would wipe off Malice,) he did this very Merrily, and was in great Sport at the Time of the Signing the Warrant for the King's Execution.

Marten. That does not imply Malice.

Ewer Sworn.

Council. Come, Sir, you are here upon your Oath, ſpeak to my Lords and the Jury; you know the Priſoner at the Bar very well, you have ſometimes ſerved him; were you preſent in the *Painted Chamber*, *January* 29, 1648, at the Signing the Warrant, the Parchment againſt the King?

Ewer. The Day I do not remember, but I was in that Chamber to attend a Gentleman there; I followed that Gentleman, [*looking at Mr.* Marten,] I followed that Gentleman into that Chamber.

Lord Chief Baron. After what Gentleman?

Ewer. Mr. *Marten*, My Lord. I was preſſing to come near, but I was put off by an Officer, or Soldier there, who told me I ſhould not be there; I told him I was ordered to be by that Gentleman. My Lord, I did ſee a Pen in Mr. *Cromwell*'s Hand, and he marked Mr. *Marten* in the Face with it, and Mr. *Marten* did the like to him; but I did not ſee any one ſet his Hand, though I did ſee a Parchment there with a great many Seals to it.

Sir *Purbeck Temple* Sworn.

Council. What do you know of that Gentleman in his Carriage of this Buſineſs?

Sir *Purbeck Temple.* My Lords, I being preſent in Town, when that horrid Murder was contrived againſt the late King, there came ſome Perſons of Honour, Servants to the late King, to my Father's Houſe, Sir *Edward Partridge*, to engage me to join with them to attempt the King's Eſcape. In order whereunto they told me, nothing would tend ſo much to His Majeſty's Service, as to endeavour to diſcover ſome Part of their Counſels, for that it was reſolved by *Cromwell* to have the King tried at the *High-Court of Juſtice*, as they called it, the next Day, and deſired me (if poſſible) to be there to diſcover their Counſels, whereby the King might have Notice, and thoſe that were to attempt his Eſcape. In order whereunto, the next Day, by giving Money to the Officer of the *Painted Chamber*, I got in by Day-light in the *Lobby* of the Lords-Houſe; I eſpied a Hole in the Wall, under the Hangings, where I placed my ſelf till the Council came, where they were contriving the manner of trying the King when he ſhould come before them: And after the manner of Praying, and private Conſults amongſt themſelves, when their Prayer was over, there came News that the King was Landed at Sir *Robert Cotton*'s Stairs; at which *Cromwell* run to a Window, looking on the King as he came up the Garden, he returned as White as the Wall: Returning to the Board, he ſpeaks to *Bradſhaw*, and Sir *Henry Mildmay*, how they and Sir *William Brereton* had concluded on ſuch a Buſineſs; then turning to the Board, ſaid thus: *My Maſters, he is come, he is come, and now we are doing that great Work that the whole Nation will be full of; therefore I deſire you to let us reſolve here what Anſwer we ſhall give the King when he comes before us; for the firſt Queſtion that he will aſk us will be, by what Authority and Commiſſion we do Try him? To which none anſwered preſently. Then after a little Space,* Henry Marten, *the Priſoner at the Bar, roſe up, and ſaid, In the Name of the Commons and Parliament aſſembled, and all the good People of* England; which none contradicted, ſo all roſe up, and then I ſaw every Officer that waited in the Room ſent out, by *Cromwell*, to call away my Lord ſuch-a-one, (whoſe Name I have forgot,) who was in the *Court of Wards* Chamber, that he ſhould ſend away the Inſtrument, which came not, and ſo they adjourned themſelves

ſelves to *Weſtminſter-Hall*, going into the *Court of Wards* themſelves, as they went thither. When they came to the Court in *Weſtminſter-Hall*, I heard the King aſk them the very ſame Queſtion that *Cromwell* had ſaid to them.

Mr. Soliciter. Gentlemen, the Priſoner at the Bar confeſſes his Hand to the Warrant for Executing the King; you ſee by his Servant how Merry he was at the Sport; you ſee by this Witneſs, how ſerious he was at it, and gave the Foundation of that Advice upon which they all proceeded; and now he ſays he did it not traitorouſly, I humbly conceive he means it was Juſtifiable.

Sir *Purbeck Temple.* At another Time I was in Town on a *Friday*, and wanting Horſes I went to *Smithfield*, where I ſaw the Horſes of State of his late Majeſty, to be Sold in the common Market; at which I called to the Rider, ſaid I, What makes theſe Horſes here? Says he, I am to Sell them; Why, ſaid I, there's the King's Brand upon them, *C. R.* and he ſhewed them me: Said I, Will you ſell theſe Horſes? What Price? He aſked me Three or Four-ſcore Pound a Piece; ſays I, Who Warrants the Sale of theſe Horſes? Says he, Mr. *Marten* and Sir *William Brereton.* Afterwards I heard the Horſes were taken into the *Mews* by the Priſoner at the Bar, and Sir *Will. Brereton.*

Council. Was this before the Trial?

Sir *Purbeck Temple.* It was in 1642, or 1643.

Council. That's nothing to this Buſineſs.

Marten. My Lord, the Commiſſion went in the Name of the Commons aſſembled in Parliament, and the good People of *England:* and what a Matter is it for one of the Commiſſioners to ſay, Let it be acted by the *Good People of* England?

Mr. Sol. Gen. You know all *Good People* did abhor it. I am ſorry to ſee ſo little Repentance.

Marten. My Lord, I hope that which is urged by the learned Council, will not have that Impreſſion upon the Court and Jury that it ſeems to have, that I am ſo obſtinate in a Thing ſo apparently Ill: My Lord, if it were poſſible for that Blood to be in the Body again, and every Drop that was ſhed in the late Wars, I could wiſh it with all my Heart: But, my Lord, I hope it is lawful to offer in my own Defence that, which, when I did it, I thought I might do. My Lord, there was the Houſe of Commons, as I underſtood it, (perhaps your Lordſhips think it was not a Houſe of Commons) but then it was the Supreme Authority of *England*; it was ſo reputed both at Home and Abroad. My Lord, I ſuppoſe he that gives Obedience to the Authority in being, *de facto*, whether *de jure*, or no, I think he is of a Peaceable Diſpoſition, and far from a Traitor. My Lord, I think there was a Statute made in *Henry* the Seventh's Time, whereby it was provided, That whoſoever was in Arms for the King *de facto*, he ſhould be indemnified, tho' that King *de facto* was not ſo *de jure:* And if Supreme Officers *de facto* can juſtify a War, (the moſt pernicious Remedy that was ever adjudged by Mankind, be the Cauſe what it will) I preſume the Supreme Authority of *England* may juſtify a Judicature, though it be but an Authority *de facto.* My Lord, if it be ſaid that it is but a Third Eſtate, and a ſmall Parcel of that, my Lord, it was all that was extant. I have heard Lawyers ſay, that if there be Commons appurtenant to a Tenement, and that Tenement be all Burnt down except a ſmall Stick, the Commons belong to that One ſmall Piece, as it did to the Tenement when all ſtanding. My Lord, I ſhall humbly offer to Conſideration, whether the King were the King indeed, ſuch a one whoſe Peace, Crowns, and Dignities, were concerned in Publick Matters: My Lord, he was not in Execution of his Offices, he was a Priſoner. My Lord, I will not defer you long, neither would I be offenſive: I had then, and I have now, a Peaceable Inclination, a Reſolution to ſubmit to the Government that God hath ſet over me. I think his Majeſty that now is, is King upon the beſt Title under Heaven, for he was called in by the Repreſentative Body of *England.* I ſhall, during my Life, long or ſhort, pay Obedience to him: Beſides, my Lords, I do owe my Life to him, if I am acquitted for this. I do confeſs I did adhere to the Parliament's Army heartily; my Life is at his Mercy; if his Grace be pleaſed to grant it, I have a double Obligation to him.

Mr. Sol. Gen. My Lord, this Gentleman, the Priſoner at the Bar, hath entered into a Diſcourſe that I am afraid he muſt have an Anſwer in Parliament for it. He hath owned the King, but thinks his beſt Title is the Acknowledgment of the People; and he that hath that, let him be who he will, hath the beſt Title. We have done with our Evidence.

Marten. I have one Word more, my Lord, I humbly deſire that the Jury would take Notice, that though I am accuſed in the Name of the King, that if I be Acquitted, the King is not Caſt: It doth not concern the King that the Priſoner be Condemned, it concerns him that the Priſoner be Tried: It is as much to his Intereſt, Crown and Dignity, that the Innocent be Acquitted, as that the Nocent be Condemned.

Mr. Sol. Gen. My Lord, this puts us now upon the Reputation of our Evidence; and you may ſee how neceſſary it is to diſtinguiſh between Confidence and Innocence; for this very Perſon that deſires you to have a Care how you Condemn the Innocent, he doth ſeem to intimate to you, that he is an Innocent Perſon at the Bar; and yet confeſſes he did Sit upon the King, did Sentence him to Death; that he Signed the Warrant for the Execution; and yet here ſtands the Perſon that deſires you to have a Care of Condemning Innocence: What is this at the Bottom of it, but that the Fact is ſuch as I dare not call Innocence, but would have you to believe it ſuch? Gentlemen of the Jury, was it your Intention the King ſhould be ſo Tried as this Priſoner moved? It will concern you to declare, that the People of *England* do abhor his Facts and Principles; every Fact the Priſoner hath confeſſed himſelf, the Sitting in that Court, which was Treaſon; his Sentencing was Treaſon; Signing the Warrant for Execution was the higheſt of Treaſons: Gentlemen, all that he hath to ſay for himſelf is, there was an Authority of his own making, whereby he becomes Innocent; but we hope out of his own Mouth you will find him Guilty.

Gilbert Millington. I deſire you to hear me; I come not hither to diſpute, but to acknowledge; I will not trouble you with long Diſcourſes. My Lord, it is not fit for Wiſe Men to hear them, I am not able to expreſs them; I will not juſtify myſelf, I will acknowledge myſelf Guilty. My Lord, the Reaſon why I ſaid the laſt Day, *Not Guilty*, was in reſpect of being upon the Scaffold, and Murdering the King, and thoſe Things; but I will wave all Things, if your Lordſhip will give me Leave, and will go unto the loweſt Strain that poſſibly can be; I will confeſs myſelf Guilty every Way. I was awed by the Preſent Power then in Being: This I leave with you, and lay myſelf at your Feet, and have no more at all to ſay, but a few Words in a Petition, which I deſire you will pleaſe to accept, and ſo I conclude.

Council. We do accept this Honeſt and Humble Confeſſion——and ſhall give no Evidence againſt him to aggravate the Matter.

Lord Chief Baron. Your Petition is accepted, and ſhall be read.

Robert Titchburn. My Lord, when I firſt pleaded to the Indictment, it was, *Not Guilty, in Manner and Form as I ſtood Indicted*; my Lord, it was not then in my Heart, either to deny or juſtify any Tittle of the Matter of Fact; my Lord, the Matter that I was led into by Ignorance, my Conſcience leads me to acknowledge; but, my Lord, if I ſhould have ſaid Guilty in Manner and Form as I ſtood indicted, I was fearful I ſhould have charged my own Conſcience as then knowingly and maliciouſly to act it. My Lord, it was my Unhappineſs to be called to *ſo ſad a Work* when I had ſo few Years over my Head; a Perſon neither bred up in the Laws, nor in Parliaments where Laws are made. I can ſay with a clear Conſcience, I had no more Enmity in my Heart to his Majeſty, than I had to my Wife that lay in my Boſom. My Lord, I ſhall deny nothing; after I was Summoned, I think, truly, I was at moſt of the Meetings; and I do not ſay this, that I did not intend to ſay it before, but, preſerving that *Salvo* to my own Conſcience, that I did not maliciouſly and knowingly do it, I think I am bound in Conſcience to own it: As I do not deny but I was there, ſo truly, I do believe I did Sign the Inſtrument: And had I known that then, which I do now, (I do not mean, my Lord, my Afflictions and Sufferings, it is not my Sufferings make me acknowledge), I would have choſen a Red-hot Oven to have gone into, as ſoon as that Meeting: I bleſs God, I do this neither out of Fear, nor Hopes of Favour, though the Penalty that may attend this Acknowledgement may be Grievous; my Lord, I do acknowledge the Matter of Fact, and do ſolemnly proteſt I was led into it for want of Years; I do not juſtify either the Act or the Perſon; I was ſo unhappy then as to be Ignorant, and I hope I ſhall not now, (ſince I have more Light) juſtify that which I was ignorant of; I am ſure my Heart was without Malice; if I had been only aſked in Matter of Fact at firſt I ſhould have ſaid the ſame; I have ſeen a little: The Great God before whom we all ſtand, hath ſhewn his Tender Mercy to Perſons upon Repentance; *Paul* tells us, though a Blaſphemer, and a Perſecutor of Chriſt, it being done ignorantly, upon Repentance he found Mercy; my Lord, Mercy I have found, and I do not doubt but Mercy I ſhall find. My Lord, I came in upon the Proclamation, and now I am here, I have in Truth given your Lordſhip a clear and full Account, whatever the Law ſhall pronounce, becauſe I was ignorant; yet I hope there will be Room found for that Mercy and Grace that I think was intended by the Proclamation, and I hope by the Parliament of *England.* I ſhall ſay no more, but, in pleading of that, humbly beg that your Lordſhips will be Inſtrumental to the King and Parliament on that behalf——

Council. We ſhall give no Evidence againſt the Priſoner; he ſays he did it ignorantly, and I hope and do believe he is a Penitent; and as far as the Parliament thinks fit to ſhew Mercy, I ſhall be very glad.

Owen Roe. I have not much to ſay, I never had any Ability; therefore, my Lord, it was never my Intent upon my Plea, as was ſaid before, to deny any Thing I have done; for I was clearly convinced that I ought to confeſs it before, and I do confeſs againſt myſelf, that I did Sit there ſeveral Times, and to the beſt of my Remembrance I did Sign and Seal the Warrant for his Execution; and truly, my Lord, it was never in my Heart to contrive a Plot of this Nature. How I came there I do not know, I was very unfit for ſuch a Buſineſs, and I confeſs I did it ignorantly, not underſtanding the Law, ſo was carried away hidden in the Buſineſs, not underſtanding what I did; therefore, my Lord, I humbly intreat this Honourable Court, that you will conſider of it, and look upon me as one that out of Ignorance did it; and if I had known of my Act, I would rather have been torn in pieces with a Thouſand Horſes. When I heard of the Declaration and Gracious Pardon of His Majeſty, I confeſs I went to my Lord Mayor's, and laid hold of it, and I thought my Life as ſecure as it is now in my own Hands; but I do wholly caſt myſelf upon the King's Mercy; and as I have heard he is a Gracious King, full of Lenity and Mercy, ſo I hope I ſhall find it. I was never againſt Government; it is a Bleſſed Thing that we have it; I hope all the Nations will be happy under it. I ſhall ſubmit to his Majeſty and Government. I can ſay no more; I was not brought up a Scholar, but was a Tradeſman, and was meerly ignorant when I went on in that Buſineſs; I do humbly intreat your Lordſhips, that you would, as tenderly as may be, preſent my Caſe to the King, whom I reſt upon, and leave all to your Lordſhips Wiſdom and Diſcretion, to do what you will concerning me——

Council. We accept his Confeſſion, and do hope he is Penitent before God, as well as before the World.

Robert Lilburn. Be pleaſed to give me leave to ſpeak a few Words; I ſhall be Ingenuous before your Lordſhips, I ſhall not wilfully nor obſtinately deny the Matter of Fact; but, my Lord, I muſt, and I can, with a very good Conſcience, ſay, that what I did, I did it very innocently, without any Intention of Murder; nor was I ever Plotter or Contriver in that Murder; I never read in the Law, nor underſtood the Caſe throughly; whatever I have done, I have done ignorantly.

Lord Chief Baron. Becauſe you ſhall not be miſtaken in your Words, God forbid that we ſhould carp at your Words; the Word Innocent hath a double Acceptation, Innocent in reſpect of Malice, and Innocent in reſpect of the Fact.

Lilburn. The Truth is, my Lord, I was for the withdrawing of the Court, when the King made the Motion to have it withdrawn; and upon the Day (my Lord) that the King was put to Death, I was so sensible of it, that I went to my Chamber and mourned, and would, if it had been in my Power, have preserv'd his Life. My Lord, I was not at all any Disturber of the Government; I never interrupted the Parliament at all. I had no Hand in those Things, neither in 1648, nor at any other Time. I shall humbly beg the Favour of the King, that he would be pleased to grant me his Pardon, according to his Declaration, which I laid hold on, and rendered myself according to the Proclamation.

Council. We shall say nothing against him.

Henry Smith. My Lord, I shall not desire to spend your Lordship's Time; what I have done, I did it ignorantly, not knowing what I did. I shall not deny the Matter of Fact; but as to that I pleaded *Not Guilty* before, it was in relation to that which I was ignorant of, the Law of the Nation; I have not been Bred to it. I humbly desire your Lordships to consider, that what I did was done ignorantly, not knowing the Law.

Council. What was that?

Smith. I do confess that I Sat in the Court, I do not remember that I Signed or Sealed [*both the Warrants being shewed him adds*]. My Lords, I confess the Hands are like mine, but whether they be so or no, I know not.

Council. Then we will prove it. Is the Seal yours?

Smith. I do not know.

Council. Do you confess you were in the *Painted-Chamber* the 29th of *January?* Do you remember any Thing of that?

Smith. I do not certainly know that.

Council. My Lord, he hath said enough. Shall the Jury doubt of that which he believes?

Smith. I do not remember that I did write it.

Council. My Lord, we press it no farther, he hath confessed enough.

Smith. My Lord, what I have done I beseech you consider I did it in Ignorance, not knowing the Law; there were those about me that were able to call me, who were then in Authority, whom I dared not disobey, if so, I had been in Danger also.

Council. My Lords, we have done; be pleased to direct the Jury upon these several Evidences and Confession.

Smith. I beg one Word, I must declare this, I can speak it seriously, that from the first to the last of these unhappy Wars, I have been a Man of Trouble and Sorrow; I have been (as many Wiser Men have been) run upon Error. My Lord, I know not what I have done; I pray that this Court will be pleased to be a Mediator for me, that I may have his Majesty's Favour, and that this Petition may be received on my Behalf. [*He then delivered his Petition to the Court.*] I can rejoice for that happy Settlement that is again in the Nations, and declare cheerfully my humble Submission to that Government, and desire the Lord will bless and prosper his Majesty and the Parliament in these Nations; my Lord, I rendered myself according to the Proclamation; I shall say no more.

Lord Chief Baron. Gentlemen, you of the Jury, these Prisoners that stand before you at the Bar, that is, Mr. *Harvey*, *Pennington*, *Marten*, *Millington*, *Titchburne*, *Roe*, *Lilburne*, and Mr. *Smith*, there are Eight, these are Persons who by the *Act of Indemnity* are to be Tried for their Lives for the Treasons they have committed, but no Execution is to be until the Parliament have further considered the Matter that is before us, and you are to find the Matter of Fact: What Mercy they shall find hereafter, that is to be left (as I told you) to the Consideration of the Parliament, we are to proceed according to Law and Justice. They are all Indicted for Compassing and Imagining the Death of our late Sovereign Lord *Charles* the First, of most Glorious Memory; and for that that hath been opened to you there are so many Overt-Acts, which are as so many Evidences to prove that Indictment, which is the Compassing and Imagination of their Hearts to put the King to Death. If any one of these be proved, that is alone enough to prove the Indictment, which is the Compassing and Imagining of the Heart, that is the Treason, the others are but Evidences. If any Thing burst forth from the Mouth, or from the Hand, as here it is, these are Evidences of the Imagination of the Heart; for this you have heard by the Confession of all of them, that they did enough to find the Indictment; they have all of them confessed their Sitting upon the King in that Traitorous Assembly which they called the *High Court of Justice*. There is one of the Overt-Acts expressly laid down in the Indictment, they took upon them an Authority to consider how to put the King to Death, and that they did put the King to Death, but they were mistaken, as some of them said, that the actual Murdering of the King was not their Meaning. But if they did that which tended towards it, they are all Guilty of Treason; it is all one to you, if they be guilty of any of these; either Sitting, Sentencing, or Signing, they are Guilty; and all of these, except Two, are Guilty of all these; the Matter is clear and pregnant. There is something hath been said by many of them, with a great deal of Expression of Sorrow; they did confess (all but one) the Fact; and that which tended to their Defence was Ignorance; but that doth not at all concern you. It will be taken in its due Time into Consideration; the several Deportments of them all, that is for another Judicature. Your Business is to find the Matter of Fact; only let me repeat unto you, there is Mr. *Harvey*, who hath pleaded several Matters which are not proper for you, expressing his Sorrow and Penitence, we shall not trouble you with that, because they are for the Consideration of another Court; we ought all to have a tender Compassion, ought to be sorry with and for them that are sorrowful. The like of Alderman *Pennington*. *Marten* hath done that which looks forward more than backward. I could wish with all my Heart he had looked more backward; that is, to Repentance of that which is past, than Obedience to that which is to come; it is a Trouble to repeat those Things which he said himself, and truly, I hope in Charity he meant better than his Words were. *Millington*, he hath done the like with the rest, confessed the Fact, put himself upon Mercy wholly, and said, he *was over-awed by the present Power*. This I repeat, not as any Thing to you, who are to consider only Matter of Fact. For Alderman *Titchburn*, he hath spoken very fully, and truly very conscientiously—— upon the whole Matter, acknowledges his Ignorance, his Sorrow, his Conviction in Point of Conscience; and I beseech God Almighty to incline his Heart more and more to Repentance. *They that Crucified Christ* (to use his own Words) *through Ignorance found Mercy*. Colonel *Roe*, he confesses the same wholly, and casts himself upon the King's Mercy, and he thought it a blessed Thing that the King was restored again, and submitted wholly to Mercy; and so did Mr. *Lilburn*, he said he went to his Chamber and mourned the Day the King was Beheaded; I am very glad he had so early a Sense of it. *William Smith* he did it ignorantly, he was not guilty thus far; that was, he was led on, even like one silly Sheep that follows another; by what Relation I have heard of the Person, at that Time he was not thought fit to be of the Privy Council. There is nothing more to say to you. The Fact is confessed by them all. It is so clear you need not go from the Bar.

[*After a little Consultation between the Jurors they returned to their Places.*]

Clerk of the Crown. Are you agreed of your Verdict?

Jurors. Yes.

Clerk. Who shall say for you?

Jury. Our Fore-man.

Clerk. Edmund Harvey, Hold up thy Hand. How say you, is the Prisoner Guilty of the Treason whereof he stands Indicted, and hath been Arraigned? or Not Guilty?

Jury. Guilty.

Clerk. Look to him, Keeper.

Clerk. What Goods and Chattels, *&c.*

Jury. None to our Knowledge.

The same Question being asked touching Alderman Pennington, Henry Marten, Gilbert Millington, *Alderman* Titchburn, *Colonel* Roe, *Colonel* Lilburn, *and* Henry Smith, *they were severally found Guilty by the Jury in manner aforesaid. All which Prisoners finding the Place where they stood to be Cold and Unwholsome, prayed the Court they might have Leave to be returned to the Prison 'till the Court shall be pleased to command their farther Attendance; which was granted.*

The rest of the Prisoners aforenamed, together with W. Heveningham, *brought to the Bar.*

Clerk. You the Prisoners at the Bar, those Persons last called of the Jury are to pass, *&c.* If you, or any of you, will Challenge all, or any of them, you must Challenge them when they come to the Book, before they be Sworn.

Clerk. *Charles Pitfield*, *Christopher Abdy*, *George Terry*, *Daniel Cole*, *Anthony Hall*, *Richard Abel*, *Edmund Starnel*, *Edmund Pit*, *William Whitcomb*, *Francis Dorrington*, *Thomas Nicholl*, *Robert Sheppard*, in all Twelve, Admitted and Sworn of the Jury.

Clerk. If any Man can inform, *&c.*

Clerk. John Downes, Hold up thy Hand, *&c. and the like was said to all the other Persons following*, viz. *Vincent Potter*, *Augustine Garland*, *Simon Meyne*, *James Temple*, *Peter Temple*, *Thomas Waite*, and *William Heveningham.* Look upon the Prisoners at the Bar, you that are Sworn; you shall understand that *John Downes*, the Prisoner at the Bar, stands Indicted, *&c.*

King's Council. May it please your Lordships, and you Gentlemen of the Jury, the Prisoners at the Bar stand Indicted of High-Treason, for Compassing and Imagining the Death of the late King *Charles* the First, of Blessed Memory; the Evidence by which we shall make out against them this Treason of their Heart, in Compassing and Imagining the King's Death, (for that is the Substance of the Indictment, and all that follows is but Evidence.) will be by proving that they did sit as Judges in that pretended Court of Justice when the King stood a Prisoner at the Bar; that they did Sentence him to Death, every one of them; and we shall prove against all but one of them that they did Sign that Bloody Warrant for Murdering of the King; and against one of them that stands at the Bar we shall prove (to his Shame and Confusion of Face) that he did *Spit* in the *Face* of our late Sovereign Lord.

John Downes. My Lord, I have humbly pleaded *Not Guilty*; not with any Intention to justify the Fact, or to extenuate it; but, my Lord, in regard there is that charged in the Indictment, that my Conscience saith I am not guilty of, I durst not plead Guilty; otherwise, my Lord, I should not have troubled you with *Not Guilty*, but should have humbly taken the Shame and Confusion for it; it is my Intention to put the Court to as little Trouble as possibly I can; therefore I do humbly intreat of your Lordships, and the Court, that you will permit me to acknowledge that which will be a sufficient Evidence of my Conviction, if the Court so please, and that you will be pleased to hear me on my Behalf; if I can humbly offer to you some special Thing which is not in the Case of another (I could wish it had, if it had we had none been here.) I do humbly acknowledge, that to sit upon that Occasion in that Place is Evidence enough to convince what is in the Heart, except by some signal Actions that might happen from some that might shew how it was his Unhappiness to be put into such a Business, yet had neither Malice nor Treason in his Heart: I do humbly conceive that there is that Goodness in you, that this Plea, this Allegation will be most Welcome to you. My Lord, though there was such a Thing, such an unparallel'd Thing, I was thrust into this Number; but never was in Consultation about the Thing: God is Witness I was not put in 'till the Act was ready to pass in a second Commitment, by one of the same Number; I denied it, yet they said I must make one, I must take my Share; so I came in. Never did I know of his Majesty's being brought to *London*, 'till he came. My Lords, in this great Unhappiness I think it is some Mitigation, and I judge it a Happiness, that so Wise, Prudent Persons as this Court consists of, that you are my Judges, that can look back, my Lord, and consider what the Times were then, and can, my Lord, account it a Happiness that there is a special Wisdom in you, that in Nice Cases you will be able to make a Distinction. I do indeed, my Lords, sadly and seriously confess, that I was divers times with those Persons that were called Judges of the late King, at several Meetings and Sittings; it is long ago, I cannot say how often; I was several times there. My Lord, I do humbly beg of your Lordships, (I will trouble you as short as I can,) that you would be pleased so far to favour me as to give me leave to give you a short Account of the Business: The last Day His Majesty

came to that which was called then a Court, ſeveral times he was brought, (I think Thrice,) and His Charge was given in Words high enough; he ſaid He *could not acknowledge their Juriſdiction*; that was the Anſwer, my Lord, till the laſt day; then I confeſs I was there. He that was called *Preſident* did again and again tell him the Heads of his Charge; told him he had ſeveral Days given for Conſideration, that this was the laſt Day that the Court (as they call'd themſelves) would give him for his final Anſwer; if he ſtood ſtill To-day, and moved to the Juriſdiction of the Court, they muſt take all *pro Confeſſo*, and would give Sentence: My Lord, to this his Majeſty indeed with a great deal of Compoſedneſs and Wiſdom told them to this Effect, I cannot own your Juriſdiction; you have Power enough indeed, I wiſh you may uſe it well; but becauſe you are ſo ready to give a Sentence which may be ſooner given than avoided, I think fit to let you know that I have ſomething that I deſire to ſpeak to my Parliament, for I have ſomething to offer unto them that will be ſatisfactory to you all, and will be for the immediate Settlement of the Kingdom in Peace.

——My Lord, he that was called Preſident anſwered, that no Notice could be taken of any Thing, but only whether he would Anſwer to his Charge: Upon that, my Lord, His Majeſty indeed, (with the greateſt Earneſtneſs that ever I beheld, and yet in no unſeemly Paſſion,) told them they might ſoon repent of ſuch a Sentence; that he did conjure them to withdraw once again, and to conſider of it, if it were but half an Hour, or (ſaith he, if that be too much for you) I will withdraw. My Lord, here I can make my Appeal to him that muſt Judge me when you have done with me, I had not a murderous nor a traitorous Thought againſt him; but Sir, I confeſs ſuch deep Paſſions did fall upon me, that truly myſelf I was not. I remember the Perſons between whom I ſat, as it fell out, were one Mr. *Cawly*, and Col. *Walton*, theſe Two I ſat betwixt, theſe were the Words I ſpake to them, *Have we Hearts of Stone? Are we Men?* They laboured to appeaſe me; they told me I would ruin both myſelf and them; ſaid I, if I die for it I muſt do it. *Cromwell* ſat juſt the Seat below me, the hearing of me make ſome Stir, Whiſpering, he looked up to me, and aſked me if I were myſelf? What I meant to do, that I could not be quiet; Sir, ſaid I, no, I cannot be quiet; upon that I ſtarted up in the very Nick; when the Preſident commanded the Clerk to read the Sentence, I ſtepping up, and as loud as I could ſpeak, ſpoke to this Effect, theſe Words, or to the like Purpoſe; my Lord, (ſaid I) I am not ſatisfied to give my Conſent to this Sentence, but have Reaſons to offer to you againſt it, and I deſire the Court may adjourn to hear me; preſently he ſtept up and looked at me; nay, ſaith he, if any one of the Court be unſatisfied, the Court muſt adjourn: Sir, accordingly they did adjourn into the inner *Court of Wards*; when they came there I was called upon by *Cromwell* to give an Account why I had put this Trouble and Diſturbance upon the Court? I did ſpeak, Sir, to this Effect, (it is long ago, the very Words I think I cannot ſpeak,) but to this Effect I did ſpeak: My Lord, I ſhould have been exceeding glad if the Court had been pleaſed to condeſcend to this gracious Expreſſion; but it is not too late for me: I deſire not his Death, but his Life, and that the Nations may be ſettled in Peace: The King now is pleaſed to offer, that if he might but ſpeak with his Parliament, he would offer to them ſuch Things as ſhould be ſatisfactory to us all. So (ſaid I) what would you have? Your Pretence of bringing him to theſe Proceedings was, that after ſuch a long and bloody War His Majeſty would not condeſcend to ſuch Conceſſions as might ſecure the Parliament's Party; but now you hear him, that he will give every one of us Satisfaction: I told them, ſadly told them, (I think I may truly ſay more ſadly than at this Time,) that if they ſhould go precipitantly on and give Judgment upon him, before they had acquainted the Parliament with what the King was pleaſed to offer, we ſhould never be able to anſwer it; the rather, my Lord, (and that I did preſs with all the little Underſtanding that I had) if they did but conſider the laſt concluded Order that the Parliament made after the paſſing of the Act for Trial, (that which was ſo called,) I ſay there was this Order that ſhut up all, that upon any Emergency that could not at that Time be thought on in the Houſe, the Court ſhould immediately acquaint the Houſe with it. My Lord, I did infer as ſtrongly as I could to them, that if this were not Emergent I could not tell what was: The King denied the Juriſdiction of the Court, and yet with all Vehemency deſired to ſpeak with his Parliament; were not theſe Emergencies? If not, I knew not what were Emergencies. My Lords, beſides this, there was another Thing I did preſs, that I thought was of greater Conſequence than this, as to the Satisfaction of every Man's particular Conſcience; that admitting (if it might be admitted) that the King was liable to His Subjects, that they might call him to an Account, and might condemn him, (I beg your Pardon that I take the Boldneſs to make ſuch Admiſſions,) but if ſuch a Thing might be admitted, certainly it did exceedingly become thoſe Judges that were to give ſuch a Sentence, (not againſt a Common Perſon, but againſt the greateſt,) to be very well ſatisfied in Matter of Fact, to a full Evidence before them, that ſuch and ſuch Things that were ſaid were true. I do acknowledge this, that to the beſt of my Apprehenſion, (I wiſh it had been ſo to others,) there was a great Shortneſs in this; I do humbly affirm this, that not one Member of the Court did hear one Witneſs *Viva Voce*; I did preſs that if the Court did give Judgement againſt the King, without a fair Examination, I ſaid it was ſuch a Thing as no Judge at any Aſſizes would do againſt a common Perſon. What I had was from *Peters*, and from ſome private Whiſpers from one of them that is gone, and hath received his Sentence and Doom. *Cromwell* did anſwer with a great deal of Storm; he told the Preſident, that now he ſaw what great Reaſon the Gentleman had to put ſuch a Trouble and Diſturbance upon them; ſaith he, ſure he doth not know that he hath to do with the hardeſt-hearted Man that lives upon the Earth; however, it is not fit that the Court ſhould be hindred from their Duty by one peeviſh Man; he ſaid, the Bottom was known, that he would fain ſave his Old Maſter; and deſired the Court, without any more ado, would go and do their Duty. Another that ſpoke to me in Anſwer was one that hath been before you, and hath received his Sentence, but is not dead, (and I deſire I may not name his Name,) his Anſwer was to what I have ſaid, that ſome Men were either Scepticks, or Infidels. After this I did go into the Speaker's Chamber, and there I did caſe my Mind and Heart with Tears, God only knows. I have an unhappy Memory, I have ſlipt many Things.

Lord Chief Baron. Remember yourſelf by Papers; if you have any, no Man will hinder you.

Downes. I have no Papers; but, my Lord, for the Truth of this I have ſaid, there are ſome Witneſſes that will make the Subſtance, the Effect of this appear.

Lord Chief Baron. Mr. *Downes*, there is one Particular before you come to the Witneſſes, that after all theſe Convictions you ſigned the Warrant; if you deny it, the Council will prove it.

Downes. I did never hope, or think, that any Thing I can ſay ſhould be ſo ſatisfactory to you, but things might be retorted upon me; and perhaps what I thought might be for extenuating my Crime may fall out to my Diſadvantage; I underſtand you do proceed upon Three Particulars, either Signing the firſt Warrant for conſtituting the Court; to my Remembrance I know not of it; if my Hand was to it I have forgot.

Council. Your Hand is not to that, but we mean your Hand is to the Warrant for Execution,——pray ſhew it him. [*It was ſhewn him.*]

Downes. My Lord, how to reconcile that which hath been ſaid before, with this that comes after, I leave it to you, I am totally at a Loſs. When thoſe Times were, how impetuous the Soldiers, how not a Man that durſt either diſown them, or ſpeak againſt them. I was threatned with my very Life, by the Threats of one that hath received his Reward I was induced to it. Certainly, my Lord, it doth argue that there was not Malice Predominant; Love and Hatred cannot be at the ſame Time in one Perſon. Deſign, my Lord, what ſhould be my Deſign? A poor, ordinary, mean Man. Surely, my Lord, I could not deſign any great Matters or Places. I knew myſelf unfit; I humbly beg you would give me leave to tell you a little what I got——

Mr. Sol. Gen. By your Favour, my Lord, the Priſoners at the Bar may ſay what they will by Way of Extenuation; but we expect that when they enter upon theſe Diſcourſes they will ſave your Lordſhip's Time, and ours, by a publick Confeſſion, and Evidence of Sorrow. We cannot ſpend ſo long Time to hear theſe long Diſcourſes; we will rather prove it againſt every Man ſingly.

Downes. I will trouble you no further, I do acknowledge all; I humbly ſubmit, and beg your Favour, and leave myſelf upon my Countrymen the Jury, and beg the King's Mercy ſpecially.——Pray ſpare me one Word, that you will hear but a Witneſs or Two unto that Buſineſs.

Counc l. He doth confeſs he Sat and Signed; we believe he is Sorrowful, and againſt his Conſcience he did Sign: and that he did it out of a Fear, and from a Threat; that he was over-awed; (ſo was the Hangman too;) but after he had apprehended this Sorrow, and declared his Judgement upon the Fact, he Signed the Warrant.

Downes. My Lord, I do humbly beg his Majeſty's Mercy; I came in upon the Proclamation.

Vincent Potter. My Lord, my Condition requires Eaſe for my Body; [*he had a Fit of the Stone upon him at that ſame Time*;] I pray that the paſſing the Sentence for Execution may be ſuſpended.

Lord Chief Baron. The Execution muſt be ſuſpended, for you are within that Qualification.

Potter. I deſire only this, I am not in a Condition to declare what I know, and would ſpeak; I am mighty full of Pain; if I am under that Qualification, let me reſt under that.

Council. Do you confeſs the Indictment? Or will you put us to prove it?

Potter. I am one that came in.

Lord Chief Baron. It is thus with you, whether or no did you Sit, Sign, or Act in this High-Court of Juſtice againſt the King?

Potter. I will deny nothing; I confeſs the Fact, but did not contrive it; I am full of Pain.

Lord Chief Baron. According to the Demerit of the Caſe in Law you muſt receive Judgment here, but no Execution of that Judgment ſhall be, until the King, by Advice and Conſent of Lords and Commons, ſhall order the Execution of it; you are to be Tried now; do you confeſs you Signed the Warrant for Execution of the King?

Potter. I do confeſs it, my Lord.

Council. We do accept it.

Potter. I beſeech you let me go to eaſe myſelf.

Lord Chief Baron. Officer, ſet a Chair for him; [*which was done.*] Mr. *Potter*, ſit down.

Aug. Garland. May it pleaſe your Lordſhip, I came here this Day intending to have waved my Plea, and referred myſelf to this Honourable Court, to be recommended to the King's Mercy and the Parliament; but hearing of ſome Scandal upon me, more than ever I did hear till within theſe few Days, I ſhall deſire your Favour in hearing of my Trial.

Mr. Sol. Gen. My Lord, he ſaith well; for if he had confeſſed the Indictment we ſhould not have accepted it. *Call the Witneſſes.*

Garland. I do confeſs this; I Sat, and at the Day of Sentence Signed the Warrant for Execution.

Mr. Sol. Gen. And we will prove that he ſpit in the King's Face.

Garland. I pray let me hear that, otherwiſe I would not have put you to any Trouble at all.

Clench Sworn.

Council. Do you know the Priſoner at the Bar, *Auguſtine Garland?*

Clench. I know him very well.

Council. Tell my Lords and the Jury how you ſaw him behave himſelf to our Sovereign Lord the King when he was at the Bar.

Clench. I was that Day at *Weſtminſter-hall* when the King had Sentence; they hurried the King down, and Mr. *Garland* came down Stairs by them; towards the Bottom of the Stairs he Spit in his Face at a little diſtance.

Council. Do you believe he did it on Purpoſe, upon your Oath?

Clench. I ſuppoſe he did it ſomewhat Suſpiciouſly in that way; I did ſee the King put his Hand in his Left Pocket, but I do not know whether the King wiped it off.

Mr.

Mr. Sol. Gen. The King wiped it off, but he will never wipe it off ſo long as he lives: He hath confeſſed that he Sat, that he Sentenced, and that he Signed: We ſay he contrived it at the beginning, and at laſt bid Defiance to the King; I ſhall deſire he may be remembered in another Place.

Garland. I do not know that I was near him at that Time: I do not remember this Paſſage; I am afraid he is an Indigent Perſon. If I was Guilty of this Inhumanity, I deſire no Favour from God Almighty.

Lord Chief Baron. I will tell you this doth not at all concern the Jury, but this Circumſtance poſſibly may be conſidered in another Place.

Garland. I refer my ſelf whether you be ſatisfied that I did ſuch an Inhumane Act, I ſubmit that to you; I dare appeal to all theſe Gentlemen here, *(looking upon the Priſoners,)* or any other, whether they ever heard of it, nor was I ever accuſed for ſuch a Thing till a few Days ſince; but I wave my Plea, and refer my ſelf to the Court. Now, my Lord, this is the Truth of my Caſe; there is that Honourable Gentleman, the Speaker of the Houſe of Commons, knows I lived in *Eſſex* in the beginning of theſe Troubles, and was forced to forſake my Habitation; I came from thence to *London*, where I have behaved my ſelf fairly in my Way. Afterwards in 1648 I was choſen a Member into the Parliament; in *June* 1648 I came in a Member of the Parliament. My Lord, after the Diviſion of the Houſe by the Inſolence of the Soldiery, ſome came to me, and deſired me that I would go to the Houſe; I was then at my Chamber at *Lincoln's-Inn*; I forbore a Week and more; ſaid I, I do not expect to be admitted, for they look upon me as another Perſon; ſaid they, if you will go you ſhall have no Contradiction; I went, and went in; when I was in, the Firſt Buſineſs that came was the Buſineſs of Trial upon the King, and it was put on me to be Chair-man for bringing in this Act for Trial; I did not know how to contradict that Power or Authority, (be it what it will,) but I muſt obey; (I fear my Ruin will follow it, in that reſpect) my Lord, when I came there I was forced to run throughout what they impoſed upon me.—Having ſeen me I could not ſhrink from them for fear of my own Deſtruction, and thereupon I did go in, and did that which I have confeſſed to your Lordſhips, not out of any Malignity to his Majeſty, I never had any Diſreſpect to him in my Life; my Lord, I did not know which Way to be ſafe in any thing, without Doors was Miſery, within Doors was Miſchief. I do appeal to all that had any Thing to do with me, that I never did any Wrong to any that was of the King's Party, but helped them as I was able. My Lord, when the Government was thus toſſed, and turned, and tumbled, and I know not what, and the Secluded Members came into the Houſe, I knew not what to do in that Caſe neither. Aſſoon as this Parliament had declared the Treaty, which was the Eighth of *May*, the Ninth of *May* I appeared before the Right Honourable the Lord Mayor of *London*, and did claim the Benefit of his Majeſty's Gracious Declaration, and to become a Loyal Subject, as in my Heart I always was; and my Lord Mayor being there, I hope he will teſtify that as ſoon as I heard of the Proclamation I rendered my ſelf according to the Proclamation; my Lord, this hath been the Carriage of me, being always under Fear and Force; I refer myſelf to your Lordſhips.

Simon Meyne. When I was laſt here, my Lord, that I did then ſpeak *Not Guilty*, was not as to the Matter of Fact, but my Conſcience telling of me that I had no Malice or ill Intention to his Majeſty, that was the Reaſon. For Matter of Fact I ſhall acknowledge what I have done, and lie at his Majeſty's Feet for Mercy. I am an ignorant weak Man in the Law, I will confeſs the Fact.

Council. Did you Sign the Warrant for Summoning that Court? And did you Sign the Warrant for Execution of the King?

Meyne. I did Sit in Court.

Council. Did you Sign the Warrant for Execution?

Meyne. My Lord, I knew not of the King's bringing up, I never was at any Committee.

Council. We do not aſk you that; look upon the Warrant, and ſee if your Hand and Seal be not to it.

Meyne. My Lord, it is my Hand.

Council. Then, my Lord, we have done.

Meyne. My Lord, I acknowledge it is my Hand, by what importunity it may be known to ſome here; I was very unwilling to it; I was told, what Fear was there when Forty were there before, and Twenty was of the *Quorum?* I was thereupon drawn in to ſet my Hand to it. My Lord, I never plotted nor contrived the Buſineſs. There was a Gentleman that told me, if I did offer to ſpeak in the Houſe, (and pluck'd me down by the Coat) and he told me I ſhould be Sequeſtred as a Delinquent; (the Name of this Perſon I ſhall omit;) ſaith he, you will rather loſe your Eſtate than take away the King's Life. I leave it with you.

James Temple. At the laſt Time I pleaded to the Indictment *Not Guilty*, but I ſhall now deſire to ſee my Hand, and if it be my Hand I muſt confeſs all Circumſtances muſt follow. *(The Warrants being ſhewed him,)* I do acknowledge it is my Hand to both; I never did conſult concerning the Court.

Council. There are ſome worſe than he, but he is bad enough.

James Temple. I refer myſelf to the King and Parliament; *and preſented a Petition, which was received by the Court.*

Peter Temple. When I was here the laſt Time I pleaded *Not Guilty*—— the Reaſon was, becauſe there are divers Things in the Indictment that my Conſcience tells me I am not Guilty of; for I had not a Malicious or Traitorous Heart againſt the King. To ſave your Lordſhips Time I will confeſs what I am guilty of: I was in the Court, Sat there; if I ſee my Hand I ſhall confeſs it.

Council. Were you there when Sentence was given?

Temple. Yes, Sir.

Council. Shew him the Warrants, *(which being ſhewed him)* I acknowledge they are my Hand, and refer it to your Lordſhips.

Council. Mr. *Waite*, You heard the Charge read againſt you, what ſay you to it?

Thomas Waite. Truly, my Lord, when I was here laſt I pleaded *Not Guilty*; I humbly deſired then your Lordſhips to hear me a Word or Two. You promiſed me then I ſhould be heard; I ſhall deſire to ſpeak for myſelf.

Lord Chief Baron. God forbid but you ſhould.

Mr. Sol. Gen. By your Lordſhip's Favour we muſt ſpeak firſt; if he will confeſs the Fact he may ſpeak what he will. Did you Sit in the Court?

Waite. Yes.

Council. The Day of Sentence?

Waite. Yes.

Council. Is your Hand to the Warrant for Execution?

Waite. I know not; pray let me ſee it. *(it was ſhewed him)* My Lord, I confeſs it is like my Hand, but I do not remember it.

Council. If you do not acknowledge it, it will be proved.

Waite. Truly, my Lord, I do believe it is my Hand.

Council. Then the Jury will not doubt it.

Waite. But I deſire to be heard. I am loth to trouble you much; I will tell you how I was brought into this Buſineſs. My Lord, I was a Member of that Houſe that erected this Court when the Treaty was in the *Iſle of Wight*. Immediately after the Army came up I was utterly againſt that Act in the Houſe. When the Army came up to purge the Houſe I was much troubled at it; I deſired to know the Charge they had againſt them. Two or three Days after I did move, and there were other Gentlemen that did move, to know what Charge there was. They ſent Word we ſhould have a Charge in due Time; we ſent, and none came, but ſaid we ſhould have it in due Time; I went to thoſe worthy Gentlemen to ſee them in Priſon, and ſeeing nothing would be done, I took my Leave, and made Account to ſee them no more, and went down into the Country to *Leiceſterſhire*; I was ſent for up ſeveral times; I would not come with Threats upon Pain of Sequeſtration. My Lords, there were Petitions going up and down the Country for bringing the King to that Buſineſs, which was againſt my Conſcience. I went to *Rutlandſhire*, I heard there were ſome things working there; I uſed my Intereſt, and I thank God I ſtopped it; I came then to *London* when all theſe Things were deſtroyed; I came to *London* the Day before the Sentence was given; I went to the Houſe, (thought nothing) ſome were ſent to the *Tower*, and I was ſent for to the Houſe, and my Name was in the Act unknown to me; but one ſent a Note in my Lord *Gray*'s Name, that he would ſpeak with me. I went to him and I ſaid, My Lord, what would you do with me? Saith he, I did not ſend for you; thereupon *Cromwell* and *Ireton* laid hold on me; ſaid they, we ſent for you, you are one of the High-Court; no, ſaid I, not I, my Judgment is againſt it; they carried me to the Court. When the King deſired to ſpeak with his Parliament, I riſing up, one told me I muſt not be heard, for the Preſident was to give Judgment, and ſaid, there was an Order that none ſhould ſpeak in Court. Mr. *Downes* did move, and they did adjourn the Court, and I was glad I got out; *Cromwell* laughed, and ſmiled, and jeered in the *Court of Wards*. I hope your Lordſhip will be pleaſed to conſider I was no Contriver, no Soldier that put the Force upon the Houſe that erected the Court, none of the Law-makers, or did any Thing maliciouſly againſt the King. My Lord, I was looked upon with an Evil Eye for regarding the King's Friends in the Country; *Gray* told me the King would not Die: I hope he will not, ſaid I: The next Day, on *Monday*, I went to the Houſe, they were labouring to get Hands for his Execution at the Door; I refuſed, and went into the Houſe; ſaith *Cromwell*, thoſe that are gone in ſhall ſet their Hands, I will have their Hands now. That Night I went to the Lord *Gray*'s, and he ſaid, I am afraid they will put him to Death. I ſaid ſo alſo. My Lord, I have been a great Sufferer, I was drawn in, trepann'd into it, ſince being a Friend to the King's Friends, I am almoſt ruined in my Eſtate; I beſeech your Lordſhips make the beſt Interpretation. I hope you will believe I was no Contriver; I humbly lay hold upon the King's Mercy and Favour. I came in upon the Proclamation; I pray this Honourable Court will prefer my Petition to the King, and both Houſes of Parliament: *which the Court then received.*

William Heveningham. My Lord, in 1648 we were under a Force, under the Tyranny of an Army; they were our Maſters; for a Malicious and Traitorous Heart I had not. I do abſolutely deny the Signing the Warrant for Execution of Court, and alſo that Warrant for Execution of the King; at the Time of Sealing I had that Courage and Boldneſs that I proteſted againſt it.

Council. We do not queſtion him for that, but for Sitting in the High-Court of Juſtice, and that upon the Day of the Sentence; do you deny that?

Heveningham. My Lord, I cannot ſay poſitively?

Council. If you deny the Matter of Fact, it muſt be proved.

Heveningham. My Lord, I cannot ſay poſitively, but it may be I might.

Council. Either ſay poſitively you did, or elſe let the Witneſſes be called.

Heveningham. Truly, my Lord, I think I did; but my After-Actions—

Lord Chief Baron. Mr. *Heveningham*, that ſhall be conſidered.

Council. My Lord, to Sit upon the Day of Sentence was High-Treaſon in itſelf, and is an Evidence of Compaſſing and Imagining the King's Death.

Heveningham. I ſhall lay hold of the Declaration; I came in upon the Proclamation; I pray your Lordſhips to intercede for me to the King and both Houſes of Parliament; I pray the Mercy of this Court.

Lord Chief Baron. You of the Jury, they have all confeſſed, and therefore you may go together.

Simon Meyne. My Lords, I have forgot my Petition; it is at my Lodging, I deſire I may ſend it at Night.

John Downes and *Peter Temple* prayed the like Favour.

Lord Chief Baron. Do, ſend them, they ſhall be received.

The Jury having conſulted together a certain Time, they went to their Places.

Clerk. Gentlemen, are you agreed of your Verdict?

Jury. Yes.

Clerk. Who ſhall ſay for you?

Jury. Our Fore-man.

Clerk.

Clerk. John Downes, Hold up thy Hand——Look upon the Priſoner; how ſay you? Is he guilty of High-Treaſon whereof he ſtands Indicted, and hath been Arraigned? Or not Guilty?

Fore-man. Guilty.

Clerk. Look to him, Keeper. What Goods and Chattels, *&c.*

Fore-man. None to our Knowledge. And the like Verdicts at the ſame time paſſed in the ſame Manner againſt *Vincent Potter*, *Auguſtine Garland*, *Simon Meyne*, *James Temple*, *Peter Temple*, *Thomas Waite*, and *William Heveningham*.

Potter. I hope I may be freed from Irons, I am in Pain, and a Man of Bulk.

Lord Chief Baron. We can give no Order in it, we muſt leave it to the Sheriff.

Potter. I beg it of you, my Lord.

Lord Chief Baron. We muſt leave it to the Sheriff. Mr. *Heveningham*, you muſt withdraw from the Bar.

Clerk. Officer, bring down *Waller*, *Fleetwood*, *Hacker*, *Axtell*, *Hulet*, *Pennington*, *Marten*, *Millington*, *Tichburn*, *Roe*, *Lilburne*, *Smith*, and *Harvey*, and ſet them to the Bar. *Which was done accordingly.*

Clerk. Hardreſs Waller, Hold up thy Hand. Thou haſt been Indicted, and found guilty of High-Treaſon, what canſt thou ſay why Judgment ſhould not paſs on thee to die according to Law?

Waller. My Lords, I am now, it ſeems, Convicted by Law, and ſo adjudged: Your Lordſhips the other Day on my Deſire told me I might have Liberty to ſpeak upon my Trial, I muſt now beg the like upon a Condemned Perſon.

Lord Chief Baron. You are Convicted, not Condemned.

Waller. My Lords, I was the firſt that pleaded Guilty, I bleſs God that he gave me a Heart to do it, I find moſt Peace in the doing it; and ſince there is nothing left but Hopes of Mercy, I humbly ſubmit it to your Lordſhips to hear me in this ſad Condition, that that may make me ſeem more capable of Mercy. I have, my Lords, been ſo unhappy to have been tranſplanted out of my Country theſe Thirty Years. I have been but once theſe Eleven Years in *England*, this muſt needs make me a Stranger.

Lord Chief Baron. I muſt not hinder you, becauſe it is for Mercy that you plead; but conſider with yourſelf whether it will not be better to give it in a Petition: I leave it to you, we can do nothing in Point of Mercy but Judgment.

Waller. Only this (my Lord), whether I am not the more capable of your Mercy.

Lord Chief Baron. That you may underſtand it, the Act of Indemnity of Parliament hath excepted you; yet upon ſome Qualifications: We are to proceed according to Law, that is, to go to Conviction and Judgment. The Act ſays, that after Judgment there ſhall be no Execution, but that it ſhall be ſuſpended till a further Act of Parliament to be paſſed for that Purpoſe; ſo that in the mean time we are to proceed no further than Judgment. That which concerns Mercy is referred to another Place. If you pleaſe to ſay any Thing to ſatisfy us, or to go by Way of Petition, it muſt be left to you, but what you ſay for Mercy is nothing to us.

Waller. I humbly thank your Lordſhip for this clear and noble dealing, and withal, I would beg that theſe People that are Witneſſes of my Shame and Guilt, may know that it was a Force and Temptation upon me; I ſhall not inſiſt much, I have ſaid that I did plead Guilty, which was moſt ſafe to my own Conſcience, yet I ſhould make it appear that I did appear more to preſerve the King from Trial and Sentence than any other.

Lord Finch. Sir *Hardreſs Waller*, I have heard of late of your Sorrow, which I was glad to hear of, becauſe you are my Kinſman, both by your Father and Mother's Side, and alſo my Country-man; I was glad to hear of your great Penitence for that horrid Crime, and I would have been glad to have ſeen it now; adviſe with yourſelf, whether you do yourſelf any Good in ſpeaking to extenuate, when you know there is no Man againſt whom there are ſuch Circumſtances of Aggravation as againſt you; conſider whether a publick Penitence would not be more proper.

Waller. I beſeech you report me both to His Majeſty and Parliament, and receive me into your Grace, as being Penitent, truly Penitent: To ſay ſo now were a ſmall Thing, for the fear of the Puniſhment may procure it; but I have been more Penitent when no Eye hath ſeen me but God; when I never imagined to be queſtioned for this Sin, then my Heart hath yearned in the Buſineſs; but I ſhall not trouble your Lordſhips. God holds forth Mercy, His Majeſty holds forth Mercy, the Parliament holds forth Mercy. My Lord, let me ſay ſomething to you (tho' it be but a Word), of the Violence and Force of Temptation; you may have been under it, or may come to it; Chriſt himſelf was under it; we find that faithful *Abraham*, by the Power of a Temptation, delivered up his Wife to commit Adultery, which ſcarce a Heathen would; we find that valiant *Peter* denied his Maſter; righteous *Lot* committed Inceſt. None abhors this Fact more than I do; I have done it ſo long beforehand, I need not be afraid to ſpeak it in the Face of the Judge of all Men; that is all I ſhall ſay. I rendered myſelf Three Times; I had as much Opportunity to make my Eſcape as any Perſon whatſoever.

Lord Chief Baron. It is underſtood, Sir *Hardreſs*.

Clerk. Iſaac Pennington, Hold up thy Hand. Thou art in the ſame Condition as the former, what canſt thou ſay for thyſelf why Judgment, *&c?*

Pennington. My Lord, I have ſaid what I have to ſay, and ſhall not trouble your Lordſhips any further.

Clerk. Henry Marten, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Marten. I claim the Benefit of the Proclamation.

Clerk. Gilbert Millington, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Millington. I ſhall not trouble you with long Diſcourſes; I ſhall ſay no more but this, I have made a publick Reſentment of my Sorrow for this Offence formerly, and many times. I ſhall now deſire no more, but humbly beg that I may have the Benefit of the Proclamation, and pray his Majeſty's moſt Gracious Pardon.

Clerk. Robert Tichburn, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Tichburn. My Lord, I will not trouble you with any Repetitions, I have made my humble Requeſt before, I leave it with you.

Clerk. Owen Roe, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Roe. My Lord, I have no more to ſay than I ſaid before.

Clerk. Robert Lilburn, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Lilburn. I ſhall refer myſelf without further Trouble to the Court; my Lord, I beg the Benefit of the Proclamation.

Clerk. Thomas Waite, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Waite. I can declare no more than what I have already; my Heart is ſorry for what I have done; I beg the Benefit of the Proclamation.

Clerk. Edmund Harvey, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Harvey. My Lords, I have no more than what I ſaid before.

Clerk. John Downes, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Downes. I ſhall not trouble you any further, I ſhall deſire the Benefit of his Majeſty's Proclamation.

Clerk. Vincent Potter, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Potter. My Lord, I do not know Law, I underſtand it not; I am not in a Condition to ſpeak what I would have willingly ſpoke: I deſire that God would have Mercy, and I look for Mercy from God [*and wept*].

Clerk. Auguſtine Garland, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Garland. I humbly deſire your Lordſhip's charitable Opinion of me: Notwithſtanding what has been objected againſt me, I humbly refer myſelf to the Parliament.

Clerk. George Fleetwood, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Fleetwood. My Lord, I have already confeſſed the Fact, I wiſh I could expreſs my Sorrow [*and wept*].

Clerk. James Temple, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

James Temple. My Lord, I can ſay no more, I beg the Benefit of the Proclamation.

Clerk. Simon Meyne, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Meyne. I have told you before, my Lord, I have no more.

Clerk. Peter Temple, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Peter Temple. My Lord, I came in upon the Proclamation, and I humbly beg the Benefit of it.

Clerk. Francis Hacker, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Hacker. My Lord, I have nothing to ſay but what has been before your Lordſhips.

Clerk. Daniel Axtell, Hold up thy Hand. Thou art in the ſame Condition, what canſt thou ſay for thyſelf why Judgment, *&c?*

Axtell. May it pleaſe your Lordſhips, my Caſe differs from the reſt of the Gentlemen.

Lord Chief Baron. I would be loth to hinder you, but I muſt tell you, that what hath been over-ruled muſt not be ſpoke to; if you have any Thing againſt the Indictment, Matter of Law, go on.

Axtell. I have one Thing more that I did not then mention.

Lord Chief Baron. If it tend not as an Exception to the Indictment, it is not to be heard.

Axtell. My Lord, then I ſhall apply myſelf to that Point; I humbly conceive, my Lord, that my Overt-acts were not ſufficiently ſet down in the Indictment, as might be ſufficient in Law to Attaint me of High-Treaſon; I do not remember that the Overt-act that was applied to me in Evidence was charged in the Indictment; I have only that Exception, becauſe of the Inſufficiency of that Point. In the next Place, my Lord, there is not the right Additions to my Name; there are many Perſons of the ſame Name; I am arraigned by the Name of *Daniel Axtell* of *Weſtminſter*, in the County of *Middleſex*, Gentleman. I think none knew me to live there, and inhabit there.

Lord Chief Baron. I would not interrupt you; this is paſt; you ſhould have made your Exception to that as Maſter *Marten* did before concerning his Name; that ſhould have been firſt done; you have appeared and pleaded to that Name, and it was, *late of Weſtminſter*.

Axtell. My Lord, I have this to ſpeak in Arreſt of Judgment, that the Indictment being grounded upon that Statute of the Twenty-fifth of *Edward* the Third, it is either miſtaken, or not purſued; my Lords, I did Yeſterday give you the Judgment of the Lords and Commons concerning the Statute in Relation to my Caſe; I ſay the Statute was miſtaken, or not purſued.

Lord Chief Baron. That was offered before, Sir, as to the Matter of it.

Axtell. My Lord, I think not, I am miſtaken if it were.

Lord Chief Baron. Then open it.

Axtell. My Lord, I do not find in that Statute that Words are an Overt-act, Words only.

Lord Chief Baron. This was over-ruled. The Things that you objected were theſe, that there is not any Overt-act that is laid that could be applicable to your Caſe; if it were not particularly applicable (you are found guilty by the Jury), it would be nothing: But there is an Overt-act, you were preſent at the Court, beating the Soldiers, ſending for an Executioner: But for Words, if one Man ſhould ſay, here is the King, go and kill him, this is Treaſon; but you were guilty in all, according to Law. You being there, and doing this, you were not guilty only of the Words, but of all that was done; there is none but Principals in Treaſon. What we ſay and do to you we well know we muſt anſwer before God Almighty for it.

Axtell. I have but one Word more; truly I do appeal to God, before whom I ſhall have another Trial, I do not find myſelf guilty either of Conſulting, Contriving, or having a Hand in the Death of the King, I am Innocent, and I pray God that my Innocent Blood——

Lord Chief Baron. Pray, Sir——

Axtell. May not cry——

Lord Chief Baron. You are now to ſpeak in Arreſt of Judgment.

Axtell. I have no more; I pray your Lordſhip's Favour and Mercy to me.

Clerk. William Hulet, alias *Howlet*, Hold up thy Hand. Thou art in the ſame Condition; what canſt thou ſay for thyſelf why Judgment, *&c?*

Hulet. Truly, my Lord, I have little further to ſay; if you had been pleaſed to give me further Time I ſhould have cleared myſelf; I call God above to Witneſs upon this Account that I am as clear as any Man; I ſubmit to the Mercy of the Court.

Lord Chief Baron. For that, I do believe (but cannot poſitively ſay it), that at your Requeſt (notwithſtanding that Judgment will paſs againſt you) there may be ſome Time till his Majeſty's Pleaſure be known before any Execution will be upon that Judgment againſt you; in the mean time we muſt proceed according to Law and Juſtice.

Proclamation for Silence whilſt Judgment is given.

The Lord Chief Baron's Speech before the Sentence pronounced againſt the aforenamed Priſoners found Guilty.

'YOU that are Priſoners at the Bar, you ſtand here in ſeveral Capacities, yet all of you Perſons convicted of the deteſtable and execrable Murder of our Sovereign Lord King *Charles* the Firſt of bleſſed Memory. Miſtake me not, I do not ſay that you are all of you guilty of executing the Fact, but in Law, and in Conſcience *(pro tanto*, tho' not *pro toto)*, you are guilty of it, in that you prepared the Way and Means to it, in that you brought his Head to the Block, tho' you did not cut it off. You are here in Three Sorts, and I muſt apply my Words accordingly; and truly I do it with as much Sorrow of Heart as you have, many of you being Perſons of liberal Education, great Parts; I ſay you are of Three Sorts. There are ſome of you, that, though the Judgment of Death is to paſs againſt you, by his Majeſty's Grace and Favour, and the Mercy under him, of the Two Houſes of Parliament, Execution is to be Suſpended until another Act of Parliament ſhall paſs to that Purpoſe, that is, all of you but Three; for thoſe Three, the one of them that was laſt called, *William Heveningham*, he is in another Capacity too; for I preſume ſome Time will be given to him to conſider of ſomething relating to him, before any Order will be given for his Execution; there are Two others of you, and that is *Daniel Axtell* and *Francis Hacker*; and for you, as it yet ſtands before us, there is no Mercy, there is no room for it: But though you be in theſe ſeveral Claſſes, yet what I ſhall ſay will concern you all, becauſe I do not know how it may fall with you; none of us knows how ſoon we may come to our Deaths, ſome (probably) ſooner than others; all muſt come to it: You are now before the Tribunal of Man, but that is for Judgment for your Offence here; but there is another Judgment hereafter, and a Tribunal before which both you and we muſt ſtand, every Man here, and we muſt receive according to our Work; thoſe that have done ignorantly, by a ſerious and unfeigned Repentance God Almighty may ſhew Mercy unto them. He hath reſerved Mercy even for the greateſt Offenders. St. *Paul* himſelf, when he perſecuted Chriſt ignorantly, upon his Repentance he found Mercy; thoſe of you that are not yet convicted in your Conſcience of the Foulneſs of this horrid Fact, look into your Conſciences a little more, and ſee if it be not a great Judgment for your former Offence, that you ſhould be given over to a Reprobate Senſe; let me tell you, a ſeared Conſcience, a bold Confidence, not upon good Grounds, is ſo far from ſecuring the Conſcience, it may ſtifle, perhaps, the Mouth of Conſcience, but it will riſe up more in Judgment againſt you. Here you have made your Defence, and I do not blame you for it; Life is precious, but remember the Thoughts of your Hearts are open; whether you did it ignorantly, covetouſly, or to get the Government into your own Hands, that I am not able to ſearch into, God and you only know that; give me Leave to ſay ſomething, perhaps I have repeated it by Parts before; God is my Witneſs what I ſpeak I ſpeak from mine own Conſcience, and that is this, Gentlemen, becauſe I ſaw it ſtuck with ſome of you, that is, that whatſoever the Caſe was, that by the Laws of theſe Nations, the Fundamental Laws, there could not be any Coercive Power over your King. I ſpeak it again, becauſe I would as near as I could ſpeak the whole Truth, and would not miſlead any Man in ſuch a Caſe; remember *that no Power, no Perſon, no Community or Body of Men (not the People, either Collectively or Repreſentatively), have any Coercive Power over the Perſon of the King, by the Fundamental Laws*; for that, Gentlemen, I ſhall begin to ſhew you that which all of you might remember, that is, your Oaths of Allegiance and Supremacy, and to add to this that Obligation which all this whole Nation did oblige themſelves to, by the Parliament, without Queſtion, then rightly repreſented, and in Being, the firſt of King *James*; whereby to ſhew you, that not only Perſons, but the Body Politick of the Nations, not only the ſingle Members, but the Members in both Houſes of Parliament, were Loyal and Obedient Subjects to the King, their Head, even to yield a Natural and Humble Obedience and Allegiance. I told you the Act of 1 King *James*, when King *James* came firſt into *England, We the Lords and Commons repreſenting the whole People of the Nation* (the very Words of the Act are ſo *primo Jacobi*, Chap. 1.) *Repreſenting the whole Body of the Nation, do acknowledge an Humble and Natural Liege Obedience to the King as Supreme, his Heirs and Succeſſors; and in the Name of themſelves, and all the People, humbly ſubmit themſelves until the laſt Drop of their Blood be ſpent in Defence of the King and his Royal Poſterity*; and therefore they did oblige themſelves and all the People of *England*, as far as they could repreſent them (the Words are more full than I can expreſs them, and indeed it is ſo Dark I cannot read them:) They did acknowledge to be bound to him and his Imperial Crown. Remember theſe were not Words of Compliment; you ſhall find that they all of them, and ſo did ſo many of you as are Members of Parliament, yea, all of you, before you came into the Houſe of Commons, did take the Oath of *Allegiance*, which was made after this Recognition, the Third and Fourth of King *James*, or otherwiſe were not to be Members. What was that Oath of *Allegiance* that you took? It was, that you ſhould defend the King, his Perſon (that is in 3 *Jacobi*, Chapter the Fourth), his Crown and Dignity: What was it? Not only againſt the Pope's Power to Depoſe, but the Words are *or otherwiſe*; look into the Act, and reflect upon your own Conſcience, and you ſhall find that all did ſwear to defend the King, his Crown and Dignity, and there it is called *Imperial Crown.* I would have you lay this to Heart, and ſee how far you have kept this Oath: Gentlemen, in the Oath of *Supremacy*, which you all took, therein you did further acknowledge that the King was the only Supreme Governor of this Realm: Mark the Words; I will repeat them that you may lay it to Heart; you that have more Time to apply it to your Fact; and you that have leſs Time, for ought I know, you have reaſon to conſider what I have to ſay; you ſware then, that the King by the Oath of *Supremacy*, which all of you have taken, or ought to have taken; if any of you have not taken it, yet notwithſtanding you are not abſolved from the Obligation of it; but moſt of you did take it; there you did ſwear that the King is the only Supreme Governor of this Realm; and you ſwear there that you would defend all Juriſdictions, Privileges, Prehe-minences, and Authorities, granted or belonging to the King's Highneſs, his Heirs, and Succeſſors, or united and annexed unto the Imperial Crown of this Realm. For the Firſt, if the King be ſupreme, then there is no Co-ordination. *Non habet Majorem, non habet Parem*; that Word *(Imperial Crown)* is at leaſt in Nine or Ten ſeveral Statutes; it is the very Word in this Act that was made lately in purſuance of former Acts concerning Judicial Proceedings. And ſo in the Time of King *Charles*, they acknowledged him to be their Liege Sovereign; I ſay that Word *Supreme*, and ſo the Word *Imperial Crown*, is in the Firſt of Queen *Elizabeth*, the Third and the Eighth of *Elizabeth*, the Twenty-fourth of *Hen.* VIII. Chap. 12. there it is ſaid this Kindom is an *Imperial Crown, ſubject to none but God Almighty.* Before theſe Times you ſhall find in the 16 of *Richard* the Second, the Statute of *Præmunire*, the Crown of *England* Subject to God alone. I will go higher, *William Rufus* (ſome of you are Hiſtorians, and you ſhall find the ſame in *Eadmerus*, and alſo in *Matthew Paris*, ſhortly after *William Rufus* his Time), when he wrote to the Pope he Challenged, and had the ſame Liberty in this Kingdom of *England*, as the Emperor had in his Empire; (miſtake me not, I ſpeak only as to the Perſon of the King) I do not meddle of Rights between the King and Subjects, or Subject and Subject; you ſee in this Caſe concerning the Death of his Majeſty's Dear Father, and our Bleſſed Sovereign, of happy Memory, he doth not judge himſelf, but according to Law; that which I aſſert is as to the Perſon of the King, which was the Privilege of Emperors, as to their Perſonal Privileges; if he had offended, and committed an Offence, he was only accountable to God himſelf. I will come back to what I have ſaid; you ſwore to be faithful to the King as Supreme. The King of *Poland* hath a Crown, but at his Oath of Coronation it is conditioned with the People, that if he ſhall not Govern according to ſuch and ſuch Rules they ſhall be freed from their Homage and Allegiance. But it differs with our King, for he was a King before Oath. The King takes his Oath, but not upon any Condition; this I ſhew you, to let you ſee that we have no coercive Power againſt the King. The King of *England* was anointed with Oil at his Coronation, which was to ſhew that Abſolute Power (I do not ſay of Government), but of being accountable to God for what he did: The Law ſaith, *The King doth no Injury to any Man*; not but that the King may have the Imbecillities and Infirmities of other Men, but the King in his Single Perſon can do no Wrong: But if the King command a Man to beat me, or to diſſeize me of my Land, I have my Remedy againſt the Man, though not againſt the King. The Law in all Caſes preſerves the Perſon of the King to be untouched; but what is done by his Miniſters unlawfully, there is a Remedy againſt his Miniſters for it; but in this Caſe, when you come to the Perſon of the King, what do our Law-books ſay he is? They call it, *Caput Reipublicæ, Salus Populi*, the Lieutenant of God; and let me tell you, there was never ſuch a Blow given to the Church of *England*, and the Proteſtant Religion. There was a Caſe, and that of the *Spencers*, you ſhall find in the 7th Report of the Lord *Coke*, in *Calvin's* Caſe, that Homage is due to the King in his Politic Capacity; and then they made this damnable Inference, that therefore if the King did not demean himſelf as he ought, that he ſhould be reformed, *pure aſpertee*, by Aſperity, Sharpneſs, or Impriſonment: But theſe were condemned by Two Acts of Parliament in Print, that they could not do that even in that Caſe; one was called the Baniſhment of *Hugh Spencer*; and the other is in 1 *Edward* III. upon the Roll. My Maſters, in the firſt of *Henry* the Seventh you ſhall find it in the Printed Seven Books, he ſaith, *That as to the Regality of his Crown, he is immediately Subject unto God.* Mark the Doctrine of the Church of *England*, Gentlemen; I do not know with what Spirit of Equivocation any Man can take that Oath of Supremacy: You ſhall find in the Articles of the Church of *England*, the laſt but One or Two; it is that Article which ſets forth the Doctrine of the Church of *England*; they ſay, that the Queen, and ſo the King, hath the Supreme Power in this Realm, and hath the Chief Government over all the Eſtates of the Realm; the very Words are ſo; this was ſhortly after making the Act; the Articles were in 1562, and ſhe came in 1558, or 1559; it is to ſhew you the King hath the chief Government over all the Eſtates within the Nation; and if you look upon it, you ſhall find it was not only the Judgment of the Church, but of the Parliament at the ſame time. They did confirm this Article ſo far, that they appointed that no Man ſhould take, or be capable of a Living, but thoſe that had taken that Oath. God forgive thoſe Miniſters that went againſt it. The Queen, and the Church were willing that theſe ſhould be put into *Latin*, that all the World might ſee the Confeſſion of the Church of *England*, and of the People of *England*; you may read it in *Cambden:* I have told you how, and wherein, the chief Power conſiſted; not in reſpect the King could do what he would; no, the Emperors themſelves did not challenge that; but this they challenge by it, that they were not accountable to Man for what they did: No Man ought to touch the Perſon of the King; I preſs it to you in the Point of Conſcience; you

'ſee

'ſee in the Scripture, in *Pſalm* li. the *Pſalm* of Mercy, wherein we aſk 'Pardon of God of our great Offences; I think none of you in this Con-'dition but will join in this; you know the Adultery and Murder that '*David* committed, this Penitential *Pſalm* was made for that; what doth 'he ſay? *Againſt thee, thee only have I ſinned*, &c. *Tibi ſoli peccavi, Domine*; 'not becauſe he had not ſinned againſt Man, for 'tis plain he had ſinned 'both againſt *Bethſheba* and *Uriah* too; but becauſe he was not liable to 'the Tribunal of Man, he was not bound or accountable to any Man upon 'Earth. And now, my Maſters, I beſeech you conſider, that ſome of you for 'ought I know ſuddenly, and ſome of you for ought I know not long af-'ter, all of us, we do not know how ſoon, muſt come to make a right 'Account to God of what we have done. After this Life you enter 'into an Eternity, an Eternity, an Eternity of Happineſs, or of Woe; 'God Almighty is merciful to thoſe that are truly penitent; the Thief 'upon the Croſs, and to all that are of a penitent Heart. You are Per-'ſons of Education, do not you go on in an obſtinate perverſe Courſe, 'for Shame of Men, even this Shame which you now have, and which 'you may have when you come to die; a ſanctified Uſe may be made of 'it; you pay to God ſome Part of that Puniſhment which you owe to 'him for your Sins. I have no more to ſay, but the next Thing I have to 'do, is to give the Sentence, the Judgment, which truly I do with as un-'willing a Heart as you do receive it. You Priſoners at the Bar, the 'Judgment of the Court is this, and the Court doth award, *That you be 'led back to the Place from whence you came, and from thence to be drawn 'upon an Hurdle to the Place of Execution, and there you ſhall be Hanged by 'the Neck, and being alive ſhall be cut down, and your Privy Members to be 'cut off, your Entrails to be taken out of your Bodies, and (you living) the 'ſame to be Burnt before your Eyes, and your Heads to be cut off, your Bodies 'to be divided into Four Quarters, and Heads and Quarters to be diſpoſed of 'at the Pleaſure of the King's* Majeſty, *and the Lord have Mercy upon your 'Souls.'*

Court adjourned till *Friday* Morning Seven a Clock.

Friday, October 19, 1660.

Set *William Heveningham* to the Bar.

Serjeant Keeling. May it pleaſe your Lordſhips, the Priſoner at the Bar, *William Heveningham*, hath been Indicted for High-Treaſon, for Compaſſing and Imagining the Death of the late King, of Bleſſed Memory; he has been Tried, the Jury has found him Guilty, I do humbly move your Lordſhips in the Behalf of the King that you will proceed to Judgment.

Clerk. William Heveningham, Hold up thy Hand. What canſt thou ſay for thyſelf why Judgment, &c.

Heveningham. My Lords, I have nothing more to ſay than I ſaid formerly, only I plead the Benefit of the Proclamation, and caſt myſelf upon the Mercy of our moſt Gracious Sovereign, and deſire your Lordſhips to be Mediators on my Behalf.

Lord Chief Baron. By the Act of Indemnity (of which you claim the Benefit, and we ought to take notice of it) we are to proceed to Judgment, but no Execution of this Judgment is to be until by another Act of Parliament, by Conſent of the King, it ſhall be ordered. And therefore I need not ſpeak any more of that, or any Exhortation to prepare yourſelf for Death; our Work is only to give Judgment. The Judgment of the Court is this, and the Court doth award, that you the Priſoner at the Bar be led back to, &c. and the Lord have Mercy upon your Soul.

Of theſe, Ten only were Executed, *viz.*

Thomas Harriſon.	*Hugh Peters.*	*Daniel Axtell.*
John Carew.	*Gregory Clements.*	*Francis Hacker.*
John Cook.	*John Jones.*	*Adrian Scroop.*
Thomas Scot.		

Whoſe Behaviour at their Execution is thus related by their ſeveral Friends.

The Execution of Major-General HARRISON, *the 13th Day of* October, 1660, *at* Charing-Croſs.

THE Sheriff came that Morning that he was to die, and told him, that in half an Hour he muſt be gone; he anſwer'd, that he was ready, and would not have him ſtay at all on his account. But the Sheriff left him to ſtay a little longer, and in the mean time, he was longing for the Sheriff's coming, and as his Friends judg'd he was in haſte to be gone, and ſaid, He was going about a great Work for the Lord that Day; and that his Support was, that his Sufferings were upon the account of *Jehovah*, the Lord of Hoſts. He ſaid, He look'd upon this as a clear Anſwer of his Prayers; for many a time, ſaid he, have I begg'd of the Lord, That if he had any hard Thing, any reproachful Work, or contemptible Service to be done by his People, That I ſhould be employ'd in it; *And now bleſſed be the Name of God, who accounteth me worthy to be put upon this Service for my Lord Chriſt: Oh, this is nothing to what Chriſt ſuffer'd for me!*

He parted with his Wife and Friends with great Joy and Chearfulneſs, as he did uſe to do when going ſome Journey, or about ſome Service for the Lord. He told his Wife he had nothing to leave her but his Bible; but that he was aſſured that God would make up all her Loſſes in due time; and deſired, that thoſe that did love him, ſhould manifeſt their Love in being loving and tender to his dear Wife.

The Sheriff commanding the Keeper to acquaint Mr. *Harriſon* he muſt go to ſuffer, the Keeper came forth, and return'd Anſwer, That he was ready when he pleas'd: Then the Sheriff commanded the Keeper to fetch him forth; ſo he came forth immediately, ſooner than was expected; (running down the Stairs with a ſmiling Countenance;) by reaſon of his ſudden coming, the Door (that he was to go up a pair of Stairs at) was not open'd, which occaſion'd his Stay in the Hall till the Keeper could be found; and there one Mrs. *M.* took him by the Hand, and ſaid, with a loud Voice, *Bleſſed be the great God of Hoſts, that hath enabled you, and call'd you forth to bear your Teſtimony; the God of all Grace and Peace be with you, and keep you faithful to the Death, that you may receive a Crown of Life.* With that one of the Officers pulled the Woman away by the Shoulder, ſaying, Away with this Woman, ſhe ſtands prating here. But the Major-General replied, Be not offended with her, ſhe ſpeaks Scripture-Language: So they thruſt her away from him, and would not permit any to ſpeak more to him in that Place.

Then he was carried into a Room where the common Priſoners were, and told them what a ſad thing it was to be condemn'd to die, and to want the Love and Favour of God; But it's not ſo with me; for tho' I die, yet I know I ſhall live with Chriſt to all Eternity, and this is out of the exceeding Riches of the Grace of God; for he it is that maketh the Difference: For as I am in myſelf, I am a baſe, vile, and nothing Creature; but compleat in him who is the Head of all Principalities and Powers. Poor Men! I wiſh you all as well as I do my own Soul. Oh that you did but know Chriſt! his Bowels yearn towards the greateſt of Sinners; his Blood is ſufficient to do away the deepeſt Iniquity; he waiteth to be gracious, and is willing to receive all that come unto him: Oh therefore labour to come to Chriſt! your Time in this World is ſhort and uncertain; you are walking upon the Brink of Eternity, and are ready to drop in every Moment; if you die without the Fear of our God, you will be miſerable for ever and ever; but if you come to know Chriſt to be yours, it will be your Joy and Happineſs World without End. He then put his Hands into his Pocket and gave them ſome Money, and wiſh'd them to take heed of ſinning againſt the Lord. And from thence was carried upon the Leads on the Top of *Newgate*, ſo that he could ſee the greateſt Part of the City; he then ſaid, *The Earth is the Lord's, and the Fulneſs thereof, and there is nothing hid from his Eyes.* From thence he was carry'd down two Pair of Stairs, where he was tied about the Back, Breaſt, and Shoulders; he took the Rope in his Hand and ſaid, *Friends, take notice that God gives me Power to receive this with Thankſgiving*, and he help'd the Serjeant to put on the Rope. Then a Friend came weeping to him to take her leave of him, he ſaid, *Hinder me not, for I am going about a Work for my Maſter.* Then looking about him, ſaid, *Sirs, it's eaſy to follow God when he makes a Hedge about us, and makes liberal Proviſion for us; but it's hard for moſt to follow him in ſuch a Diſpenſation as this; and yet my Lord and Maſter is as ſweet and glorious to me now, as he was in the time of my greateſt Proſperity.*

He alſo ſaid, this I can ſay for myſelf, *That according to the Light that God hath given me, I have ſerved him and my Country with Integrity and Uprightneſs of Heart, not willingly nor wittingly wronging any:* But this I have done with much Infirmity and Weakneſs. One telling him, that he did not know how to underſtand the Mind of God in ſuch a Diſpenſation as this: He ſaid, *Wait upon the Lord; for you know not what the Lord is leading to, and what the End of the Lord will be.*

After this, addreſſing himſelf to a Gentleman, he ſaid, *I dare not, nor cannot be a Pleaſer of Men:* A Friend anſwer'd, it appear'd ſo by your declining *Cromwell*'s Intereſt; which Words he aſſented to, and further ſaid, *The manner of my ſpeaking before the Court may ſeem ſtrange to ſome; but my Deſign was not to approve myſelf before Men, but God; and what I ſaid was according to my Conſcience.* And as the Rope was tying on, he repeated *Iſaac*'s Words *to Abraham*; *Father, here is the Wood, but where is the Sacrifice?* and alſo ſaid, *If the Lord ſee good, he can provide another Sacrifice, he can deliver thoſe that are appointed to die; but his Will be done, Death is not terrible to me; yea, it is no more to me than aRuſh, I have learn'd to die long ago.* And was often heard to ſay, concerning the Lord's Diſpenſation to him and his People, *Shall not the Lord do with his own what it pleaſeth him?* And ſo parting with his Friend, went down Stairs to the Sledge, and aſk'd which way muſt I ſit? for I am not acquainted with this: *Good is the Lord in all his Ways.* Then he was carried away in the Sledge, having a ſweet ſmiling Countenance, with his Eyes and Hands lifted up to Heaven, his Countenance never changing in all the Way as he went to the Place of Execution, but was mighty chearful to the Aſtoniſhment of many. He call'd ſeveral times in the Way, and ſpoke aloud, *I go to ſuffer upon the Account of the moſt glorious Cauſe that ever was in the World.* As he was going to ſuffer, one in Deriſion call'd to him and ſaid, *Where is your Good Old Cauſe?* He with a chearful Smile clapt his Hand on his Breaſt, and ſaid, *Here it is, and I am going to ſeal it with my Blood.* And when he came to the Sight of the Gallows, he was tranſported with Joy, and his Servant aſk'd him how he did; he anſwer'd, Never better in my Life: His Servant told him, Sir, there is a Crown of Glory ready prepar'd for you. O yes, ſaid he, I ſee it. When he was taken off the Sledge the Hangman deſir'd him to forgive him. I do forgive thee, ſaid he, with all my Heart, as it is a Sin againſt me; and told him he wiſh'd him all Happineſs. And further ſaid, Alas poor Man, thou doſt it ignorantly; the Lord grant that this Sin may not be laid to thy Charge! And putting his Hand into his Pocket, gave him all the Money he had; and ſo parting with his Servant, hugging of him in his Arms, he went up the Ladder with an undaunted Countenance; from whence he ſpake to the Multitude as follows.

Gentlemen,

I Did not expect to have ſpoken a Word to you at this time; but ſeeing there is a Silence commanded, I will ſpeak ſomething of the Work God had in Hand in our Days.

Many of you have been Witneſſes of the Finger of God that hath been ſeen amongſt us of late Years, in the Deliverance of his People from their Oppreſſors, and in bringing to Judgment thoſe that were guilty of the precious Blood of the dear Servants of the Lord. And how God did witneſs thereto by many wonderful and evident Teſtimonies, as it were immediately from Heaven, inſomuch that many of our Enemies, who were Perſons of no mean Quality, were forc'd to confeſs, *That God was with us; And if God did but ſtand neuter, they ſhould not value us:* And therefore, ſeeing the Finger of God hath been pleading this Cauſe, I ſhall not need to ſpeak much to it: In which Work I with others were engag'd; for the which, I do from my Soul bleſs the Name of God, who out of the exceeding Riches of his Grace accounted me worthy to be inſtrumental in ſo glorious a Work; and tho' I am wrongfully charged with Murder and Bloodſhed, yet I muſt tell you I have kept a good Conſcience both towards God, and towards Man; I never had Malice againſt any Man, neither did I act maliciouſly towards any Perſon, but as I judged them to be Enemies to God and his People; and the Lord is my Witneſs that I have done what I did out of the Sincerity of my Heart to the Lord. I bleſs God I have no Guilt upon my Conſcience, but the Spirit of God beareth Witneſs that my Actions are acceptable to the Lord, thro' Jeſus Chriſt; tho' I have been compaſſed about with manifold Infirmities, Failings and Imperfections in my holieſt Duties; but in this I have Comfort and Conſolation, that I have Peace with God, and do ſee all my Sins waſh'd away in the Blood of my dear Saviour. And I do declare as before the

the Lord, that I would not be guilty wittingly, nor willingly, of the Blood of the meaneſt Son, no not for ten thouſand Worlds, much leſs of the Blood of ſuch as I am charged with.

I have again and again beſought the Lord with Tears to make known his Will and Mind unto me concerning it, and to this Day he hath rather confirmed me in the Juſtice of it, and therefore I leave it to him, and to him I commit my Ways; but ſome that were eminent in the Work, did wickedly turn aſide themſelves, and to ſet up their Neſts on high, which cauſed great Diſhonour to the Name of God, and the Profeſſion they had made. And the Lord knows I could have ſuffered more than this, rather than have fallen in with them in that Iniquity, tho' I was offer'd what I would if I would have joined with them; my Aim in all my Proceedings was the Glory of God, and the Good of his People, and the Welfare of the whole Commonwealth.

The People obſerving him to tremble in his Hands and Legs, he taking notice of it, ſaid:

Gentlemen, By reaſon of ſome Scoffing that I do hear, I judge that ſome do think I am afraid to die, by the Shaking I have in my Hands and Knees; I tell you, no, but it is by reaſon of much Blood I have loſt in the Wars, and many Wounds I have received in my Body, which cauſed this Shaking and Weakneſs in my Nerves; I have had it this twelve Years: I ſpeak this to the Praiſe and Glory of God; he hath carried me above the Fear of Death; and I value not my Life, becauſe I go to my Father, and am aſſured I ſhall take it up again.

Gentlemen, Take notice, that for being inſtrumental in that Cauſe and Intereſt of the Son of God, which hath been pleaded amongſt us, and which God hath witneſſed to my Appeals and wonderful Victories, I am brought to this Place, to ſuffer Death this Day; and if I had ten thouſand Lives, I could freely and chearfully lay them down all, to witneſs to this Matter.

Oh, what am I, poor Worm, that I ſhould be accounted worthy to ſuffer any thing for the ſake of my Lord and Saviour Jeſus Chriſt! I have gone joyfully and willingly, many a time, to lay down my Life upon the Account of Chriſt, but never with ſo much Joy and Freedom as at this time; I do not lay down my Life by Conſtraint, but willingly; for if I had been minded to have run away, I might have had many Opportunities; but being ſo clear in the thing, I durſt not turn my Back, nor ſtep a Foot out of the Way, by reaſon I had been engaged in the Service of ſo glorious and great a God. However, Men preſume to call it by hard Names; yet I believe, ere it be long, the Lord will make it known from Heaven that there was more of God in it than Men are now aware of.

[*The Sheriff minding him of the Shortneſs of Time, if he had any thing to ſay to the People, he might.*]

He ſaid, I do deſire as from my own Soul, that they and every one may fear the Lord, that they may conſider their latter End, and ſo it may be well with them; and even for the worſt of thoſe that have been moſt malicious againſt me, from my Soul, I would forgive 'em all ſo far as any thing concerns me; and ſo far as it concerns the Cauſe and Glory of God, I leave it for him to plead; and as for the Cauſe of God, I am willing to juſtify it by my Sufferings, according to the good Pleaſure of his Will.

I have been this Morning, before I came hither, ſo hurried up and down Stairs (the meaning whereof I knew not) that my Spirits are almoſt ſpent; therefore you may not expect much from me.

Oh the Greatneſs of the Love of God to ſuch a poor, vile, and nothing Creature as I am! What am I, that *Jeſus Chriſt* ſhould ſhed his Heart's Blood for me, that I might be happy to all Eternity, that I might be made a Son of God, and an Heir of Heaven! Oh, that Chriſt ſhould undergo ſo great Sufferings and Reproaches for me! And ſhould not I be willing to lay down my Life, and ſuffer Reproaches for him that hath ſo loved me! Bleſſed be the Name of God that I have a Life to loſe upon ſo glorious, and ſo honourable an Account: [*Then praying to himſelf, with Tears; and having ended, the Hang-man pull'd down his Cap; but he thruſt it up again, ſaying,*] I have one Word more to the Lord's People, that deſire to ſerve him with an upright Heart: Let 'em not think hardly of any of the good Ways of God for all this; for I have been near this ſeven Years a ſuffering Perſon, and have found the Way of God to be a Perfect Way, his Word a tried Word, a Buckler to them that truſt in him, and will make known his glorious Arm in the Sight of all Nations. And tho' we may ſuffer hard Things, yet he hath a gracious End, and will make a good End for his own Glory, and the Good of his People; therefore be chearful in the Lord your God, hold faſt that which you have, and be not afraid of Suffering; for God will make hard and bitter Things ſweet and eaſy to all thoſe that truſt in him: Keep cloſe to the good Confeſſion you have made of Jeſus Chriſt, and look to the Recompence of Reward; be not diſcouraged by reaſon of the Cloud that now is upon you; for the Sun will ſhine, and God will give a Teſtimony unto what he hath been a-doing, in a ſhort Time.

And now I deſire to commit my Concernments into the Hands of my Lord and Saviour Jeſus Chriſt, he that hath deliver'd himſelf for the chief of Sinners; he that came into the World, was made Fleſh, and was crucified; that hath loved me, and waſhed me from my Sins in his own Blood, and is riſen again, ſitting at the right Hand of God, making Interceſſion for me.

And as for me, Oh! who am I, poor, baſe, vile Worm, that God ſhould deal thus by me? for this will make me come the ſooner into his Glory, and to inherit the Kingdom, and that Crown prepar'd for me! Oh, I have ſerved a good Lord and Maſter, which hath helped me from my Beginning to this Day, and hath carried me thro' many Difficulties, Trials, Straits, and Temptations, and hath always been a very preſent Help in Time of Trouble; he hath cover'd my Head many times in the Day of Battle: By God I have leaped over a Wall, by God I have run thro' a Troop, and by my God I will go thro' this Death, and he will make it eaſy to me. Now into thy Hands, O Lord Jeſus, I commit my Spirit. [*Then he was turn'd off, and was cut down alive, for after his Body was open'd, he mounted himſelf, and gave the Executioner a Box on the Ear.*]

The Execution of Mr. John Carew, *the* 15*th Day of* October 1660, *at* Charing-Croſs.

THE Day he ſuffer'd, and the Hour being come, the Rope being ty'd about him, he rejoyc'd exceedingly, ſaying, *Oh! What am I, that I ſhould be bound for the Cauſe and Intereſt of the Son of God?* And when he was coming down *Newgate* Stairs, to go into the Sledge, in a very ſmiling, chearful manner, he utter'd Words to this Effect; *My Lord Jeſus, for the Joy that was ſet before him, endur'd the Croſs, and deſpiſed the Shame, and is now ſet down on the right Hand of God; whoſe Steps I deſire to follow.* It was alſo obſerv'd, that the Chearfulneſs of his Countenance, all the way as he went to the Gibbet, remain'd, to the Encouragement of the Faithful, and Admiration of Enemies, uttering by the way many chearful Expreſſions, ſetting forth his Joy in the Lord.

When he was brought to the Gibbet, before he went up the Ladder (his Hands being bound) he exhorted ſeveral Friends ſtanding by, to be faithful unto Death, and not to be aſhamed of the Cauſe for which they ſuffered, and they ſhould receive a Crown of Life. And further ſaid to a Friend that ſtood by, That he hoped the Truths of the Kingdom which he had preach'd up and down would not be the leſs eſteemed, for that he came now to Seal them with his Blood.

After he had mounted the Ladder, he made the following Speech.

Truly, it is not Words, nor that which I have to ſpeak in mine own Spirit, will glorify God, or give any Advantage to your Souls, or unto me: But it is, if I may ſpeak a few Words, in the Spirit of the Lord, and in the Power of his Might, and from an unfeigned Love unto Jeſus Chriſt: That would indeed give me an open Entrance, and make my Paſſage very ſweet; and a Bleſſing may be behind, even upon you. The firſt thing (indeed) that hath been very weighty (and I deſire to leave it upon all, upon Saints, as well as upon thoſe that are not acquainted with Jeſus Chriſt) that Eternity, Immortality, and Eternal Life, it is a wonderful thing; the Thoughts and Apprehenſions of it are able to ſwallow up a poor Soul: We little think what it is; he that knows moſt of God, and moſt of Chriſt, and hath the greateſt Meaſure of the Anointing, he little, little knows what it is to appear before the holy, the moſt glorious, the moſt righteous God of Heaven and Earth; to ſtand before his Judgment-Seat, before Jeſus Chriſt that is at his Right Hand: And where all the holy Angels are ſo aſhamed (becauſe of the Glory of God) that they fall down and cover their Faces, and cry, *Holy, Holy, Lord God Almighty, which art, and waſt, and art to come.* And therefore, if ſuch glorious Creatures, if ſuch excellent Spirits, as theſe Seraphins and Cherubins be, if they do fall down before the Glory and Majeſty of this moſt excellent and wonderful God, how ſhould Duſt and Aſhes do? And how ſhould they fear and tremble to appear before him? And therefore, I ſay, think of this, and of the Righteouſneſs of God, as well as of his Glory and Majeſty, and of his Juſtice; that when for one Sin he threw down the Angels (thoſe glorious Spirits) into Hell, and he would take no Ranſom or Redemption for them; and tho' he hath Mercy on the Sons of Men (according to his own Election and Purpoſe, and according to that that he hath purchaſed for himſelf in Chriſt Jeſus before the Foundation of the World was laid) yet in time he made his Son a Sacrifice before Men and Angels, to bring his choſen Ones to Glory. That he ſhould take Pleaſure to ſend his own Son out of his Boſom, who was the Delight of his Soul, and bruiſe him for our Sins; yet it pleaſed the Father to bruiſe him. The moſt holy and righteous God, that had but one Son, one only begotten Son (that was the Delight of his Soul), and ſhould take Pleaſure to bruiſe him, that we might be healed, and laid Stripes upon him that we might be healed! Oh! the Height and Depth! Oh! the Length and Breadth of the Love of God in Chriſt Jeſus unto poor Souls! Oh! this is that the Angels do deſire to ſtoop down and look into, and to know more of this great Myſtery of the Love of God in Chriſt: And that God ſhould take upon him the Nature of Man, and put him into that glorious Union with his own Son; and that he ſhould leave the Angels, tho' Chriſt was made a little lower than they for ſuffering Death for us: Yet now, becauſe the Nature of Man is united to the Godhead by virtue of that Marriage and Union, we become the Sons of God, and Heirs of Glory. Thoſe that are adopted by Jeſus Chriſt are brought near to the Throne of Glory, are in a high and glorious Communion and Fellowſhip with the Father and Spirit, owned of all the holy Angels. And therefore they do ſtand without the Throne (as in ſeveral Places of the *Revelations*) *and round about the Elders, and round about thoſe that were given to the Lamb* (as in the fifth of the *Revelations*, and many other Scriptures) they ſtand without; but there is another Company within, which is the twenty-four Elders, and four living Creatures, they fall down and worſhip God, they are nearer than the Angels: Oh! who hath credited, who hath believed this Report, and to whom is the Arm of the Lord revealed? Oh! how many Profeſſors are there in this Day, in this Nation, that call upon the Name of Chriſt, and that ſay they ſhall be ſaved by Chriſt, and do live and truſt moſt in their own Works and Righteouſneſs; and never come to the Knowledge and Underſtanding of this great Myſtery of the Love of God in Chriſt? Who never received thoſe Teachings from the Anointing, and according to the New Covenant, where it is promiſed, that they ſhall be all taught of God; all the Children of God ſhall be taught of him; and there is no one can teach theſe but the Father, none can draw them to the Son but the Father; and no Man can come to the Father but through the Son: And this great Myſtery is both by the Light and Operation of the Holy Spirit, who makes the new Creature in the Soul: O that God would pour out of his Holy Spirit! That God would pour out the Spirit of the New Covenant, and the Spirit of the Goſpel, and the Spirit that can declare the Myſtery of God's Word in the Spirit, and that he hath made manifeſt through Jeſus Chriſt! Oh! there is much talking

talking and ſpeaking in the Name of Chriſt, and how many Men ſpend little Time in getting Evidences in the Power and Demonſtration of the Spirit, and come to apprehend God in Chriſt, that ſpeak of him? Oh! there are few of theſe, the Lord knows. O that the Anointing may be poured out more now, according to this Faith, in the way of this Grace, and in this Love of God, even in the Electing Love of the Father; and in the Redeeming Blood of Jeſus Chriſt, according to the purchaſed Poſſeſſion that he hath obtained through his own Righteouſneſs, wherein God hath been juſt alſo, in juſtifying the Ungodly; and among them, ſuch a poor ſimple Piece of Duſt and Aſhes as I have been, and have to this Day little glorified my Father; and yet I can call him Father, thro' ſome meaſure of his Spirit, and Father, according to the Spirit of Adoption too; and can ſay the Lord Jeſus hath given himſelf for me; and I take the Lord Jeſus Chriſt as the great Gift of the Father, deſiring to bear witneſs of that Love, and of that wonderful Grace and Glory, that he hath made me Partaker of, in and thro' him. Oh! bleſſed be the God and Father of our Lord and Saviour Jeſus Chriſt, who hath called me to this Hope, and who hath made me Partaker of this Glory, that the Saints are enlightened in. And now I long to ſee the Face of this Father, and of his Son, tho' I have ſuch a Number of Sins in me; and tho' I have an Intereſt in him, and can call him Father at any time, without Doubt, and in full Aſſurance of Faith in the Holy Spirit; yet if Jeſus Chriſt were not there, to preſent me faultleſs before the Preſence of God, I ſhould be afraid to appear before him; but he is able to do it, and therefore ſaith the Apoſtle, *Now unto him that is able to ſave you, and to preſent you faultleſs before the Preſence of his Glory with exceeding Joy*, &c. I am a poor ſinful Piece, full of Iniquity, laden with many Burdens, that have a Body of Death that I carry about me, and I am now about to lay it down, and my Soul ſhall enter into eternal Life, and be made perfect in a Moment, thro' the mighty Power of God that hath wrought that glorious Work of raiſing Chriſt from the Dead. Oh! all my Strength, and all my Joy, and all my Life is in Chriſt, and in him alone; and I have a Righteouſneſs already of his working, according to his own Grace, and according to his own mighty Power, and according to his own Mercy that he hath been pleaſed to work in me; and ſo hath been pleaſed to keep me in a very wicked, and in a very evil Day, by the Power of his Grace. And I deſire to glorify my Father, and many Years have I been in that Work, that hath been of late in this Nation; a few and evil have been the Days of my Pilgrimage, but I have deſired to ſerve the Lord with Faithfulneſs, and in the Integrity of my Soul, without Prejudice againſt any Creature, and it hath been the Deſire of my Soul to approve myſelf faithful towards God, and towards Man: And what I have done, I have done it in Obedience to the Lord; that I had in my Eye, and in my Heart. There are many things that are laid upon many of thoſe that profeſs the Kingdom and glorious Appearance of Jeſus Chriſt, as if they were Enemies to Magiſtracy and Miniſtry; and as if ſo be we were for the Deſtruction of the Laws and Properties of Mankind; therefore ſhall I ſpeak a few Words unto that: And if indeed we were ſuch, we were fit to be turned out of the World; as ſome now think they ſhould do God good Service in ſending ſuch poor Creatures quickly from hence. There is no ſuch thing; I deſire to bear Witneſs to the true Magiſtracy, that Magiſtracy that is in the Word of the Lord. And that true Miniſtry, which Miniſtry is a Miniſtry from the Anointing; that doth bear Witneſs to the Lord Jeſus, and hath his Holy Spirit. That Teſtimony I deſire to bear; and that Teſtimony I deſire to ſtand faithful in, with Integrity to the Lord Jeſus, as King of Saints, and King of Nations. And therefore it is, I ſay, to have a Magiſtracy as at the firſt, and Counſellors as at the beginning, Men fearing God and hating Covetouſneſs; and that Miniſtry as doth preach the everlaſting Goſpel.

Here Mr. *Sheriff* interrupted him, ſaying, *'Tis deſired that you ſpend the reſt of your Time in preparing yourſelf.* Another ſaid, *You ſpend yourſelf, Sir, in this Diſcourſe.* Another ſaid, *It rains.* Then Mr. *Carew* ſaid, *I will pray.*

His Prayer being ended, a Friend that ſtood by, ſaid: *It is expected you ſhould ſpeak ſomething to the Matter of your Suffering.* The Under-Sheriff ſaid, *'Tis not to be ſuffer'd: What are you, that you put on Men to ſpeak? What are you, Sir?*

Mr. *Carew* ſaid, *Farewel, my dear Friends, farewel; the Lord keep you faithful.* The Friend ſaid, *We part with you with much Joy in our Souls.*

Mr. *Carew* ſaid to the Executioner, *Stay a while, I will ſpeak one Word*, and then ſaid very ſolemnly, with a loud Voice, *Lord Jeſus, receive my Soul; Lord Jeſus, into thy Hands I commend my Spirit.* And then was turn'd off.

Mr. John Cook's *Execution, the 16th Day of* October, 1660, *at the ſame Place.*

Mr. Cook *to Mr.* Peters *in the Dungeon, ſaid,*

BRother *Peters*, we ſhall be in Heaven To-morrow in Bliſs and Glory; what a Bleſſed Thing is that? My very Heart leaps within me for Joy; I am now juſt as I was in the Storm, almoſt in Sight of Heaven; read me *Iſaiah* xliii. 9, 10. and lxi. 10, 11. *Hoſ.* xiii. 14.

Then looking upon his Bed, ſaid, That ſhall be my laſt Pillow; I will lay me down and ſleep a-while: and he ſlept about an Hour and Half, and then awoke, ſaying, Now farewel Sleep, no more Sleep in this World, and farewel Darkneſs and Night, I am going where there ſhall be no Night, neither need of a Candle, nor of the Sun, for the Lord will give us Light, *yea, the Lord will be our everlaſting Light, and our God will be our Glory.*

And welcome every Thing that gives notice the Hour is at Hand, welcome the Cock that crows, welcome ſweet Death, my good Friend, that will bring me ſo near Eternity. O bleſſed be God, bleſſed be his Name! Oh this Chriſt is a bleſſed Chriſt! he anſwereth all Things, and within few Hours we ſhall be crown'd with Glory and Victory; bleſſed be our Lord Jeſus that hath given us the Victory over Sin and Death: Welcome Mr. *Leman*, my Keeper, welcome Angels, that will within a few Hours take the Office, and guard me into Eternity.

At Midnight he pray'd very fervently, and the common Priſoners heard him, and ſeem'd very ſorrowful by their Expreſſions, ſaying, Sir, the Lord be with you; O that our Souls might go where your Soul goes.

About the Morning, ſpeaking to Mrs. *Cook*, ſaid, Lamb, do not diſhonour my laſt Wedding-day by any Trouble for me: For if all my Judges did but know what Glory I ſhall be in before Twelve a-Clock, they would deſire to be with me.

And let the Executioner make what haſte he can, I ſhall be beforehand with him; for before he can ſay, Here is the Head of a Traitor, I ſhall be in Heaven. *Come, Lord Jeſus, come quickly, my Soul longeth for thee, and I wait to hear thy Voice, ſaying, Come up hither; and immediately I ſhall be in the Spirit, and then ſhall I for ever be with the Lord.* And at Midnight there was a Cry heard, the Bridegroom cometh, and they that were ready went in unto the Marriage; *This Day I ſhall enter into the Joy of my Lord.*

Come, Brother *Peters*, let us knock at Heaven Gates this Morning, God will open the Doors of Eternity to us before Twelve a-Clock, and let us into that innumerable Company of Saints and Angels, *and to the Souls of juſt Men made perfect*, and then we ſhall never part more, but be with the Lord for ever and ever, ſinging Praiſes, ſinging Praiſes to our Lord and everlaſting King to all Eternity: he ſaid further, O what a good Maſter have I ſerv'd, that ſtands by me now, and ſupports me! with his everlaſting Arm he bears me up; then ſaid, *Come away, my beloved, make haſte; and be thou like unto a young Roe, or a young Hart upon the Mountains of Spices.* Behold I come, Lord Jeſus, I come full Sail to thee, I come upon the Wing of Faith, Lord Jeſus receive me. And going to lie down on his Bed, he ſaid; it is no more to go to die to-morrow than it is to go to ſleep to-night. I bleſs the Lord I am free from Trouble, and my poor Heart is as full of ſpiritual Comfort as ever it can hold; *and this Joy can no Man take from me.*

The Doors of the Priſon being open'd in the Morning, he ſpent that little Time he had left in Prayer and heavenly Diſcourſe with Friends that came to viſit him, preparing himſelf for his Suffering with ſuch a Chearfulneſs, as was an Aſtoniſhment to the Spectators.

Then ſpeaking to his Wife, ſaid, Farewel, my dear Lamb, I am now going to the Souls under the Altar, that cry, How long, O Lord, Holy and True, doſt thou not judge and avenge our Blood on them that dwell on Earth? and when I am gone, my Blood will cry and do them more hurt than if I had liv'd. But I am now going to Eternity, bleſſed be God, be not troubled for me, but rejoice, becauſe I go to my Father and your Father, to my God and your God. And after ſome Time ſpent in Prayer, he deſir'd his Wife not to withold him by an Unwillingneſs to part with him now, when God call'd for him, to be offer'd up as a Sacrifice for his Name and Cauſe.

After a little Pauſe, ſhe freely gave him up to the Lord; to which he replied, Now all the Work is done, and ſaid, I reſign thee up to Jeſus Chriſt, to be thy Huſband, to whom alſo I am going to be married in Glory this Day.

His Wife ſhedding Tears, he ſaid, Why weepeſt thou? Let them weep who part and ſhall never meet again; but I am confident we ſhall have a glorious Meeting in Heaven; here our Comforts have been mixt with Chequer-work of Troubles, but in Heaven all Tears ſhall be wip'd from our Eyes.

He aſk'd ſeveral Times if the Sheriff was not come, ſaying, Why ſtay the Wheels of his Chariot? why do they drive ſo heavily? I am ready, bleſſed be God, I have nothing to do but to die.

Word being brought that the Sheriff was come, he makes haſte to be gone, and his Wife ſtepping after him, took him by the Arm; whereupon he ſaid, *O do not hinder me from going to Jeſus Chriſt!*

And then with a chearful Countenance, taking leave of his Friends, he went to the Sledge that carried him, whereon was alſo carried the Head of Major General *Thomas Harriſon*, with the Face bare towards him; and notwithſtanding that diſmal Sight, he paſſed rejoicingly thro' the Streets, as one borne up by that Spirit, which Man could not caſt down. Being come to the Place of Execution, when he was taken out of the Sledge, he ſaid, *This is the eaſieſt Chariot that ever I rid in in all my Life.*

Being come upon the Ladder, and the Rope put about his Neck, he rejoiced, ſaying, *Bleſſed be the Name of God, that I am bound for the ſake of Chriſt.*

Then he addreſs'd himſelf to God in Prayer.

Having ended his Prayer, he made the following Speech:

Mr. Sheriff and Gentlemen,

The moſt glorious Sight that ever was ſeen in the World was our Lord Jeſus Chriſt upon the Croſs; and the moſt glorious Sight next to that is to ſee any poor Creature ſuffer for him in his Cauſe.

I deſire to ſpeak a few Words briefly, to let you underſtand what a glorious Work the Lord hath been pleas'd to accompliſh upon my Spirit. I bleſs the Lord, I have ranſack'd into every Corner of my Heart, and I have ſearched into all my Sins actual and original, ſecret and open, known and unknown, ſo far as the Lord hath diſcovered them to me; and I have confeſſed them all with a penitential bleeding Heart, and contrite Spirit; bleſſed be his Name, he hath been pleas'd to come in abundant manner, and hath been pleas'd to ſhew me that the only Remedy is the Blood of Chriſt; and I have, bleſſed be the Lord, applied that precious Blood to my poor Soul, and have laid hold upon Chriſt, by a true and lively Faith; and there is a ſweet Calm and Serenity in my Soul and Conſcience, bleſſed be thy Name. I deſire to glorify God, and to give him the Glory of all, and to take Shame unto myſelf for any Sins that I have ever committed, that I know to be Sin; and therefore, I deſire to rejoice in the God of my Salvation; as *Iſa.* lxi. 10. *I will greatly rejoice in the Lord, my Soul ſhall be joyful in my God, for he hath clothed me with the Garments of Salvation; he hath cover'd me with the Robe of Righteouſneſs, as a Bridegroom decketh himſelf with Ornaments: And as a Bride adorneth herſelf with Jewels, even ſo the Lord delighteth in me. And as the Earth bringeth forth her Buds, and as the Garden cauſeth the things that*

are ſown in it to ſpring forth, ſo the Lord will cauſe Righteouſneſs and Praiſe to ſpring forth before all Nations.

And *Iſaiah* xliii. 9, 10. *Ye are my Witneſſes, ſaith the Lord.* I do deſire to bear a Teſtimony unto God, and to Jeſus Chriſt, for Juſtice and Truth, and Righteouſneſs and Holineſs.

The Lord knows I have no Malice upon my Heart againſt any Man or Woman living upon the Face of the Earth; neither againſt Jury that found me guilty, nor Court that paſſed Sentence; I deſire freely to forgive every one from the Bottom of my Heart. And as concerning this great Diſpenſation, you may (it may be) deſire to hear ſomething of it. Truly I ſay, As to the King's Majeſty, I have not any hard Thoughts concerning him: My Prayer ſhall be for him that his Throne may be upheld by Truth, and by Mercy; for *by Mercy*, as *Prov.* 23. *the Throne is upheld.* But I muſt needs ſay, that poor we have been bought and ſold by our Brethren, as *Joſeph* was.

Brother hath betray'd Brother to Death; and that Scripture is in a great meaſure fulfill'd, *Mat.* x. 21. *The Father againſt the Son, and the Son againſt the Father; and Brother ſhall deliver up Brother to Death.* I deſire for my own Part to kiſs the Rod; and I do deſire (if it may pleaſe the King's Majeſty) that no more Blood may be ſhed after mine: It may be the Lord will put it into his own Breaſt.

Here is a poor Brother coming, I am afraid that he is not fit to die at this Time; I could wiſh that his Majeſty might ſhew ſome Mercy.

The Sheriff interrupted in Words to this effect: *Let that alone, for the King's Majeſty hath Clemency enough for all but his Father's Murderers.*

Mr. *Cook* replied, Then I ſhall proceed to ſpeak ſomething concerning my Profeſſion and Faith, which I bleſs the Lord, is founded upon the Rock Chriſt Jeſus. I do not expect Salvation for any Thing I have ever done, but only lay hold upon Chriſt as a naked Chriſt, and there to bottom my Soul.

I can ſay, to the Praiſe and Glory of God, that I have endeavour'd in my Place, and to my Power, to do that which might be to God's Glory, according to the beſt of my Underſtanding. I have ſtood for a Goſpel Magiſtracy and Miniſtry, and that many Delays in the Law might be removed (and that thing I have much ſuffer'd for): I ſay it's good both for King and People, that many Delays in Matter of Juſtice ſhould be removed, and that Publick Juſtice might be ſpeedily and cheaply adminiſtred.

And as for my Profeſſion, I am of the Congregational Way; I deſire to own it, and am for Liberty of Conſcience, and all that walk humbly and holily before the Lord, and deſire to walk in the Fear of the Lord; and I believe it is a Truth, and there can be nothing ſaid againſt it. I do confeſs I am not convinc'd of any thing I have done amiſs; as to that I have been charg'd with, I am *not* indeed; neither did I underſtand the Plea of the Court, that if the Lords and Commons had brought the King to the Bar, and had ſet him over them again, their bringing him to the Bar had been Treaſon.

I deſire never to repent of any thing therein I have done; but I deſire to own the Cauſe of God and Chriſt; and am here to bear witneſs to it, and ſo far as I know any thing of myſelf, I can freely confeſs it.

Here the Sheriff interrupted him again, deſiring him to forbear any ſuch Expreſſions.

Mr. *Cook* replied, It hath not been the Manner of *Engliſh* Men to inſult over a dying Man, nor in other Countries among *Turks* or *Galliaſſes.*

The Lord bleſs every one of us, and help us, that we may look more to the Honour and Glory of God than the Concernments of our own Lives: For alas, what is a poor miſerable Life to us, but that therein we might give Honour and Glory to the God of all our Mercies?

And if there be any here of that Congregation to which I was related in the time that I lived here, I would commend to them that Scripture, *Phil.* ii. 17, 18. *Yea, and if I be offer'd up upon the Sacrifice and Service of the Faith, I joy and rejoice with you all, for the ſame Cauſe alſo do you joy and rejoice with me.* And *Deut.* xviii. 11. *The Lord God of your Fathers make you a thouſand times more than you are, and bleſs you as he hath promiſed.* The Lord be pleas'd to ſpeak Comfort to them, and to all them that fear the Lord.

The Lord keep *England* from Popery, and from Superſtition, and keep it from Prophaneneſs, and that there may not be an Inundation of Antichriſt in the Land. And that is all the Harm I wiſh unto it.

The Lord hath forgiven me many thouſand Talents, and therefore I may well forgive thoſe few Pence that are owing unto me. I bleſs the Lord I have nothing lying upon my Conſcience, but I can unboſom myſelf to every one, and to the Throne of free Grace, in the Simplicity of my Spirit; I have endeavour'd to do nothing but with a good Conſcience, and thro' the Integrity of my Heart, tho' accompanied with many Frailties.

I deſire to bleſs the Lord, my Lot was rather in *Ireland* than here, here I have been more known where I have given the Offence.

The Sheriff *again interrupted him.*

Mr. *Cook* replies, Sir, I pray take notice of it, I think I am the firſt Man that ever was hanged for demanding of Juſtice, therefore I hope you will not interrupt me.

I ſuppoſe you were there, and do bear me witneſs in your Conſcience, that there was not any thing then, that I did not communicate to the Court, that I now ſpeak upon the Ladder.

If you will believe the Words of a dying Man, I ſay, as I muſt give an Account, I have nothing lieth upon my Conſcience. We muſt all meet together at the great Day of the Lord, to give an Account of all our Actions, (and then it will appear) the Lord grant we may meet with Joy and Comfort.

I have a poor Wife and Child, and ſome Friends left, I deſire you that come along with me, to commend to them *Iſai.* liv. 4, 5, and 10 ver.

I hope the King and Parliament will conſider our poor Friends as to their Eſtates; you know that thoſe Lords that formerly ſuffer'd under the Parliament, did not loſe all their Eſtates; I hope there will be ſome Conſideration as to Juſtice, (leſt that our ſmall Eſtates prove a Poiſon amongſt their great deal) and my poor Wife and Relations ſuffer.

The Lord grant that Mercy may be ſhewed, that Mercy and Righteouſneſs may magnify and exalt itſelf above Juſtice. I ſhall not hold you long; I ſhall deſire, in the fear of the Lord, to give myſelf (as in *Rom.* xii. 1.) *A living Sacrifice, holy and acceptable unto God, which is but a reaſonable Service.*

And ſo I do intreat that I may have a little Time to call upon the Lord, unleſs there be any thing more deſir'd, or any one that would aſk me a Queſtion.

Truly I forgive all from my Heart, I have nothing upon my Heart to accuſe any of them withal. I bleſs the Lord I have a clear Conſcience, I ſay it in the Integrity and Simplicity of my Heart, (I do now appeal to the great God, to whom I muſt give an Account of what I have done) knowing that all my Guilt is waſhed away in the Blood of Jeſus Chriſt, (and before him I hope to appear) and have nothing elſe to plead any thing at all for me.

And ſo I hope that I have declar'd myſelf with Simplicity and Integrity, in a few Words, that you may underſtand my Mind.

Then he went to his Prayers again; after which he was turn'd off.

A little before his Death he had wrote a Letter to a Friend, in which, among other things, he ſays, *I look upon it as the moſt noble, and higheſt Act of Juſtice, that our Story can parallel; and ſo far as I had an hand in it, never any one Action in all my Life comes to my Mind with leſs regret or trouble of Conſcience than that does.*

The Execution of Thomas Scot, *the 17th Day of* October, 1660, *at the ſame Place.*

THE Night before Execution, when he was in the Dungeon, he was (as he had been that Day) ſomewhat ſadder than at other times; and one aſk'd him, if any particular Thing lay on him? He ſaid, No; but the Lord was pleaſed to ſuſpend his comforting Preſence: But, ſaid he (with an humble Boldneſs, I would ſpeak it) The Lord ſhall not put me off with any thing beſides himſelf. After having ſpent ſome Hours in Prayer, as at other Times, about Midnight we left him, and his Fellows, that they might get a little Reſt, for the Support of their natural Spirits; and in three or four Hours his Wife, Children, and many other Friends return'd. When we came, we found them praying: As ſoon as Colonel *Scroop* had ended, Mr. *Scot* turned about, and opening his Arms, he embraced his Wife, and one of his Daughters: Ah, ſaid he, my dear ones, *God is good, he is come, he is come! I am full, I am full, O bleſs the Lord for me, and with me! O my Soul, and all that is within me, magnify the Lord!* By and by he went to Prayer himſelf; and one would have thought he had been (as it were) in Heaven, his Soul was ſo enlarged in bleſſing, praiſing and magnifying the God of his Salvation. O! ſaid he to his Wife, *I would not change this dark Room for the beſt Star-Chamber under Heaven.* He deſir'd his Friends and Relations would not be ſollicitous for his Body; but let them do what they pleaſed, and exerciſe what Cruelty they would; ſaying, it was meet it ſhould be ſo: And that the dead Bodies of the Witneſſes muſt be unburied, that the Scriptures might be fulfill'd.

Some Part of his Prayer was, to bleſs the Lord, that (as the Pſalmiſt ſaid) tho' he came in there weeping, and fearing that he had not yet been bearing precious Seed, yet now they were returning rejoicing and triumphing, and carrying their Sheaves with them. Call us not (ſaid he) *Marahs* (as ſhe once ſaid) but call us *Naomies*; for we came in hither (ſome of us) *empty*, but we are going out *full:* The Lord hath not writ *bitter* things, but *good* of us; for this is glorious Grace, *That we are counted worthy to ſuffer for God and his CAUSE.* Oh! What ſhall we render to the Lord? We will *take the Cup of Salvation, and call upon the Name of the Lord.* Oh our Souls, bleſs the Lord! and we do with our Souls bleſs thee, that we have an Eternity to bleſs thee in; for no leſs will ſatisfy our Souls. And now, O bleſſed and glorious God! ſhall we be among thy Worthies? If poſſible, let us attain to the firſt three; but if we attain not to ſo glorious a Teſtimony as that, yet, O Lord! let us be among thy Worthies. We deſire to glorify thy great and bleſſed Name, that thou haſt in any Meaſure enabled us to encourage our Hearts in the Lord our God, at ſuch a time as this, when eighty are (as it were) in the Flames; and the People ſpake of worſe than ſtoning us. When ſome ſpake of the Reproaches of the People, he ſaid, he accounted that his Honour. Being upon the Ladder, he addreſs'd himſelf to the Spectators in the following manner.

Gentlemen, I ſtand here a Spectacle to GOD, to Angels, and Men: To GOD and Angels, to whom I hope I am ſhortly a-going. And now, to you I owe it; to God, and the Nation, and myſelf, to ſay ſomething concerning each. For myſelf, I think it may become me to tell you how, and why I came hither; and ſomething in the general, concerning my Capacity. In the Beginning of theſe Troubles I was (as many others were) unſatisfy'd. I ſaw Liberties and Religion in the Nation in great Danger, to my beſt Apprehenſion; I ſaw the Approaches of Popery in a great Meaſure coming in upon us: I ſaw——

Upon which the *Sheriff* interrupted him in theſe Words: *If you will betake yourſelf to Prayer, you may.*

Mr. *Scot* replied, *I ſhall not ſpeak to reproach any*——

The *Sheriff* interrupted him again, ſaying, *You have but a little Time, Mr.* Scot, *therefore betake that little Time to Prayer.*

Mr. *Scot* replied, *I ſhall ſpeak*——

The *Sheriff* interrupted him again, ſaying, *I beſeech you, Sir, betake yourſelf to Prayer.*

Mr. *Scot* ſaid, *It may become me to give an account of myſelf, becauſe*——

The *Sheriff* interrupted him again, ſaying, *It doth not become you to ſpeak any ſuch thing here, therefore I beſeech you betake yourſelf to Prayer; it is but a little time you have to live: You know, Mr.* Scot, *that is the moſt needful thing.*

Mr. *Scot* replied, *'Tis ſo*——

The *Sheriff* interrupted again, ſaying, *Sir, But when you came upon the Stage, you depriv'd yourſelf very much.*

Then ſaid Mr. *Scot, I thought to tell you how I came hither*——

Here the *Sheriff* interrupted him again, and ſpake to this Effect, *Every Body knows that*——

Mr. *Scot* ſaid, *Sir, 'Tis hard that an* Engliſhman *hath not Liberty to ſpeak*——

The *Sheriff* interrupted again, ſaying, *I cannot ſuffer you to ſpeak any ſuch thing.*

Mr. *Scot*

Mr. *Scot* said, *I shall say no more but this, That it is a very mean and bad Cause that will not bear the Words of a dying Man; it is not ordinarily denied to People in this Condition*——

The *Sheriff* interrupted again, saying, *Sir, You had a fair Trial, and you were found guilty.*

Mr. *Scot* replied, *'Tis according to my Mind to speak what may be said*—

Here the *Under-Sheriff* interrupted, *saying, It hath been denied unto your Predecessors, and will be denied unto you.*

Then he prayed; wherein he has this Expression, *I say, again, to the Praise of the free Grace of God, I bless his Name, he hath engaged me in a Cause not to be repented of. I say, in a Cause not to be repented of.*

His Prayer being ended, he was turned off.

Hugh Peters's *Execution, the 16th of* October, 1660, *at the same Place.*

MR. *Peters*, as is well known, was exercised under a great Conflict in his own Spirit, during the time of his Imprisonment, fearing (as he would often say) that he should not go through his Sufferings with Courage and Comfort; and said to Friends, that he was somewhat unprepared for Death, and therefore unwilling to die; something he said he had committed, and other things omitted, which troubled him; but tho' it was a cloudy and dark Day with him for a Season, yet the Light of God's Grace and Favour would break forth at last.

And surely the Favour of God did at the last appear, for a little before he went forth to Execution (as many can testify) he was well composed in his Spirit, and chearfully said, I thank God now I can die, I can look Death in the Face and not be afraid.

As for that slanderous Report which was took, much received by good People as well as bad, to wit, that he was guilty of Uncleanness; a Friend coming to him in Prison, put that Question seriously and soberly to his Soul. To which he replied, That he blessed the Lord he was wholly clear in that Matter, and that he never knew any Woman but his own Wife.

A Night or two before he suffered, two of the Episcopal Clergy, who, as some report, were the King's Chaplains, came to give him a Visit; they endeavoured to make Advantage of the Temptations wherewith he was then assaulted, and to persuade him to a Repentance and Recantation of his former Activity in the Parliament Cause, which they endeavoured to enforce upon him by a Promise of Pardon from the King, in case he would herein hearken to them. But though he was then much afflicted in his Spirit, yet the Lord did help him to bear up with much Courage against the Insinuations of that Sort of Men, and told them he had no Cause in the least to repent of his adhering to that Interest; but rather that he had in the Prosecution thereof done no more for God and his People in these Nations; and with Civility dismissing those Visitants, he applied himself to some other Ministers then present, whom he judged more able to speak a Word in Season to him under these great Trials, wherewith the Lord was then pleased to exercise him.

Being carried upon the Sledge to Execution, and made to sit therein within the Rails at *Charing-cross*, to behold the Execution of Mr. *Cook*, one came to him, and upbraided him with the Death of the King, bidding him (with opprobrious Language) to repent: He replied, Friend, you do not well to trample upon a dying Man; you are greatly mistaken, I had nothing to do in the Death of the King.

When Mr. *Cook* was cut down, and brought to be quartered, one they called Colonel *Turner* called to the Sheriff's Men to bring Mr. *Peters* near, that he might see it; and by and by the Hangman came to him, all besmeared in Blood, and rubbing his bloody Hands together, he tauntingly asked, *Come, how do you like this, Mr.* Peters, *how do you like this Work?* To whom he replied, *I am not (I thank God) terrified at it, you may do your worst.*

When he was going to his Execution, he looked about and espyed a Man, to whom he gave a Piece of Gold (having bowed it first) and desired him to go to the Place where his Daughter lodged, and to carry that to her as a Token from him, and to let her know *that his Heart was as full of Comfort as it could be; and that before that Piece should come to her Hands, he should be with God in Glory.*

Being upon the Ladder, he spake to the Sheriff, saying, *Sir, you have here slain one of the Servants of God before mine Eyes, and have made me to behold it, on purpose to terrify and discourage me, but God hath made it an Ordinance to me for my Strengthning and Encouragement.*

When he was going to die, he said, *What, Flesh, art thou unwilling to go to God thro' the Fire and Jaws of Death? Oh* (said he) *this is a good Day, he is come that I have long looked for, and I shall be with him in Glory,* and so smiled when he went away.

What Mr. *Peters* said further at his Execution, either in his Speech or Prayer, it could not be taken, in regard his Voice was low at that time, and the People uncivil.

The Execution of Gregory Clements, *the 17th of* October, 1660, *at the same Place.*

MR. *Clements* was very silent both in the time of his Imprisonment at *Newgate*, and at the Time and Place of his Execution at *Charing-cross*, only it is said, that he expressed his Trouble (to some Friends in the Prison) for yielding so far to the Importunity of his Relations, as to plead guilty to the Indictment: And though he spoke little at the Place of Execution, yet (so far as could be judged by some discerning Persons that were near him) he departed this Life in Peace.

The Execution of Colonel John Jones, *the 17th of* October, 1660, *at the same Place.*

SPeaking of the Sledge in which he was to be carried to Execution; It is (said he) like *Elijah*'s fiery Chariot, only it goes through *Fleet-street.*

The Time of his Departure being come, this aged Gentleman was drawn in one Sledge, with his aged Companion Colonel *Scroop*, whose grave and graceful Countenances, accompanied with Courage and Chearfulness, caused great Admiration and Compassion in the Spectators, as they passed along the Streets to *Charing-cross*, the Place of their Execution: And after the Executioner had done his Part upon three others that Day, he was so drunk with Blood, that like one surfeited, he grew sick at Stomach; and not being able himself, he set his Boy to finish the Tragedy upon Colonel *Jones*; who coming up the Ladder with the like Chearfulness as his Brethren did before him, and being placed fit for Execution, he proceeded to speak as followeth:

Colonel John Jones's *Speech upon the Ladder.*

There are two things that are necessary now I am going thro' this narrow Gate or Passage to the Eternal Majesty; I say, two things are necessary as to the Occasion of my coming hither to receive my Father's good Pleasure.

First, *Peace with God.* Secondly, *Peace with Man:*

I shall speak something to each of these; and, in the first Place, speak something of the Court wherein I received the Sentence: It hath been reported, as I was told, that I confessed this Fact, and confessed that I was guilty of Murder, as under those several Expressions that are in the Indictment, *viz.*——

I desire to clear myself before the Lord, and before the World, in that Particular; for should I grant that I was guilty in Reality and Truth of Murder and Malice, I should belye my own Conscience, and draw upon me a greater weight than I could bear. But thus far I do confess, I was willing to make the Work as short as I could; and because I would not stand so long, I told them I would take the first Jury that came; and when a Jury was called, then I did confess so much as I was convinced of, as to the Matter of Fact; I desire you will judge charitably of this that I speak at this time, as in the Presence of the Lord, that it is not so really (*viz.* that I acknowledged myself guilty of Murder), I had no such thing in my Heart.

I must confess I very freely quit his Majesty, considering what he doth in this Case is the Part of a loving Son to a Father, especially the Judges telling him that it is the Law; and I conceive that the Court did nothing but what they, to their best Understandings, judged right as to Law; therefore I freely acquit the Court, tho' there was not enough said to satisfy such a poor Creature as I am, in so great and deep a Point as that was: As for all others, I do not know any Man on the Earth, to whom I do bear any Malice, but I am in perfect Charity with all Men, and I hope the Lord is in Charity with me: And therefore, as I desire to have Forgiveness myself from all those I have offended, even so I do freely forgive all those that have in any measure offended me.

The next thing is towards God, and it is that which should be last upon my Heart: It is not expected that I should give an Account here of my State and Condition, for that is betwixt God and my own Soul; and I do, thro' the Grace and Goodness of God, firmly believe that my Redemption is wrought, and my Pardon is sealed, and that I shall be immediately in my Father's Arms, and that I shall be translated and brought to behold the Lord Jesus Christ in Glory, with Comfort and Fulness of Joy.

Then he betook himself to his Prayers.

His Prayers being ended, he said, Mr. Sheriff, I must needs return you many Thanks for your Civility.

Sher. Repl. I am glad to hear such an ingenuous Confession, and that you make such an End, and that you have not gone into any reviling Language, as some others have done before.

After this he committed his Soul to God, and was turned off.

The Execution of Colonel Daniel Axtel, *and Colonel* Francis Hacker, *the 19th Day of* October, 1660, *at* Tyburn.

THE Day of their Execution being come, several godly Ministers spent some time in Prayer with Colonel *Axtel* and Colonel *Hacker*; and many Friends coming in to pay their last Respects, Colonel *Axtel* seeing one of his familiar Friends and Companions, said, My dear Brother, thou art better than I am, and yet I must go to Heaven before thee for all that.

He very chearfully said to divers then with him, Dear Friends, rejoice, I am going where ye shall be also, yea, where we shall be for ever with the Lord, and never part, and be without any more Change; I beseech you follow the Lamb wherever he goeth; though he may lead you in a harsh, dismal and difficult Way, yet at last he will bring you into a pleasant Path, and cause you to lie down in green Pastures, in the Land of Rest; *Oh be faithful unto the Death, and he will give you a Crown of Life,* as he hath given to your suffering-Brethren.

Oh! all that we have, or do suffer, is but to make Christ and Heaven more sweet, dear and glorious to us; all the sad Steps we shall tread on this Ladder, is but to mount us to Heaven, for at the Top are Angels ready to receive us, as was on *Jacob*'s Ladder. All the things I meet with move me not, I bless my God, for I am sure to fight a good Fight, and finish my Course with Joy.

Afterwards taking his Leave of his Son, embracing him in his Arms, he said, My dear Son, fare thee well, I must leave thee, get an Interest in Christ, and love him, nothing else will stand thee in stead but an Interest in him.

Then calling for his Bible, he hugg'd it, saying, This hath the whole Cause in it, and I may carry this without Offence. And calling to a Friend, he desired him to remember his Love to the Congregation where he was a Member; and after took his Leave of all his Friends, exhorting them with much Chearfulness to love the Lord Jesus Christ, and keep close to him, and so with great Joy addressed himself to go to his next Work.

Colonel *Francis Hacker* was a Man of few Words, and had not the Gift of Oratory to deliver himself as others could, yet was very sweetly borne up under his Sufferings, and had a very comfortable Assurance that God had pardoned and accepted him in the Blood of Christ; he had been a Professor of Religion many Years in the Presbyterian Way, and a great Lover of godly Ministers; a Man of just and honest Conversation amongst Men, and one that desired to walk blameless in the Sight of God; his Fellow-Prisoner did say, he did believe that Colonel *Hacker* had an Interest in Jesus Christ.

Colonel

Colonel *Hacker* declar'd to ſeveral of his own Friends, a little before he ſuffer'd, that the greateſt Trouble he had upon his Spirit was, *That he had formerly borne too great a Prejudice in his Heart towards the good People of God that differ'd from him in Judgment.* And then broke forth into this Admiration, *O what am I, poor vile Worm, that God ſhould count me worthy to ſuffer with ſuch precious Souls as theſe are, againſt whom I have been formerly ſo much prejudiced!*

And thus theſe two gracious Perſons having finiſh'd their Courſe, and the Time of their Departure being at hand, were both brought forth out of Priſon. The Sledge being ready for them, they took their Leave of ſome Friends that ſtood at the Door, and Colonel *Axtel* deſir'd them to be at the Place of Execution; and both entring the Sledge, they caſt up their Eyes towards that God to whom they were coming; then with a chearful Countenance, ſetting themſelves down, they were drawn to *Tyburn*, the Place of Execution, where a Cart was ſet ready, into which they both aſcended, their Countenance not at all chang'd, tho' now the King of Terrors ſtared them in the Face; the Ropes being then put about their Necks, and burning Fire kindled before their Face; and being ready to receive that Sentence which Nature would have ſunk under, if Grace had not ſupported: Firſt Colonel *Axtel* applies himſelf to the Sheriff in theſe following Words:

Mr. *Sheriff*, I am now, as you ſee, come to the Place of Execution, according to my Sentence, I deſire your Leave that I may ſpeak freely, and without Interruption; firſt to this People, and then to God, for it is the laſt that I ſhall ſpeak in this World, and I hope it will redound to your Account.

Mr. *Sheriff's Reply.* Sir, you know what the Court prohibited you to ſpeak, and what was ſpoken at the Bar of the Court was there decided, therefore it is needleſs to repeat it here. I hope you will keep to the preſent Buſineſs that concerns you, and not go out into Impertinencies; and becauſe you have but a little Time, ſpend it to your beſt Advantage, and the Good of the People, and then you ſhall not be interrupted; *or to the ſame effect.*

Colonel *Axtel* begins. I ſay, the very Cauſe for which I have engaged is contain'd in this Book of God, *(having the Bible in his Hand)* both in the civil and religious Rights of it, which I leave to you *(giving the Book to Mr.* Knowles).

You ſee a dead Man living, and yet I hope I ſhall live to all Eternity, through the Mediation of Jeſus Chriſt, the Mediator of the Covenant of Free Grace.

I muſt truly tell you, that before theſe late Wars, it pleas'd the Lord to call me by his Grace, thro' the Work of the Miniſtry; and afterwards keeping a Day of Humiliation in Faſting and Prayer, with Mr. *Simeon Aſh*, Mr. *Love*, Mr. *Woodcocke*, and other Miniſters in *Laurence-lane*, they did ſo clearly ſtate the Cauſe of the Parliament, that I was fully convinc'd in my own Conſcience of the Juſtneſs of the War, and thereupon engaged in the Parliament-Service, which (as I did and do believe) was the Cauſe of the Lord; I ventur'd my Life freely for it, and now die for it.

Then Mr. *Sheriff* ſaid to this purpoſe, Sir, remember yourſelf.

Colonel *Axtel* proceeds: After the Work of the Lord was done in *England*, my Lot caſt me in the Service of *Ireland*, and I thank the Lord I was ſerviceable to the *Engliſh* Nation in that Country, and have diſcharged my Duty fully, according to the Truſt committed to me there.

As for the Fact for which I now ſuffer, it is for Words, only for Words, and but for Words, and the Sentence is already reverſed in my own Conſcience, and it will be reverſed by Jeſus Chriſt by and by; I pray God from the very Bottom of my Soul, to forgive all that have had any Hand in my Death, both Witneſſes and Jury, and the Court that paſſed Sentence; for conſidering the Doctrine of our Lord Jeſus Chriſt, as he hath laid it down, *Mat.* v. 44. *It hath been ſaid of old time, love your Neighbours, and hate your Enemies; but I ſay unto you, love your Enemies, and pray for them that hate and deſpitfully uſe you, that you may be the Children of your Father which is in Heaven.*

I deſire, according to this Doctrine, from the Bottom of my Heart, that God would give them true Repentance, and not lay their Sin to their Charge, nor my Blood, which by God's Law and Man's (I think) could not juſtly have been brought here to ſuffer: But I bleſs God I have ſome comfortable Aſſurance that I ſhall be embraced in the Arms of Chriſt, and have Cauſe to hope that his Spirit ſhall carry my Soul into the Father's Hands.

And if the Glory of this Sunſhine be ſo great *(the Sun then ſhining bright)* how much more is the Glory of the Son of God, who is the Sun of Righteouſneſs?

I think it convenient to give you ſome Account of my Faith.

I believe all things written in the Old and New Teſtament, as the Principles and Doctrine of a Believer's Faith; I believe the bleſſed Ordinances of Chriſt, that it is our Duty to hear the Word preach'd, to ſeek unto God in Prayer, and to perform Family Duties, and to walk in the Communion of Saints; and for my own Part, I am a Member of a Congregation, which I judge to be the Way of Chriſt, (and were it for that only I were to die, I could witneſs to it) which is a Company of Men born again by his Grace, that walk in the Ways of Chriſt blameleſs and harmleſs. I believe Jeſus Chriſt died for poor Sinners, of whom I am Chief, as the Apoſtle *Paul* ſaith, *This is a faithful Saying, and worthy of all Acceptation, that Chriſt Jeſus came into the World to ſave Sinners, of whom I am Chief.* And if the Apoſtle might ſay ſo, much more may I.

My Friends and Countrymen, I have reaſon to bewail my own unprofitable Life, having been very unfruitful to the People of the Lord, the Lord knows I have much Fault upon my Heart; were it not for the Blood of Chriſt that cleanſeth and waſheth me, according to his Promiſe, ſaying, *I loved you, and waſhed away your Sins in my own Blood.* For there is no Remiſſion of Sins without the Blood of Chriſt. I deſire you all to lothe and caſt off Sin, it were better to ſuffer than to ſin; it is better to die than to ſin; nothing could grieve our Saviour but Sin, and therefore have a care of that: You and I muſt meet one Day at the Bar of Chriſt, and the Son of God ſhall be our Judge, for God hath committed all Judgment to the Son, *that all Men ſhould honour the Son as they honour the Father.* This Day is a Reſemblance of that Day, therefore be ſerious; I beg as much Good to your immortal Souls as I expect to enjoy by and by. I beſeech you beg of God that he would ſave your Souls, and omit no Opportunity thro' the Strength of the Lord to believe, and put your Truſt in the Lord Jeſus Chriſt; be ſure to labour after Aſſurance of your Intereſt in him, or elſe you will be of all Men moſt miſerable; for I of all Men were moſt miſerable, if I had not believed to *ſee the Goodneſs of the Lord in the Land of the Living.*

Bleſſed be the Lord that brings me into this State, let the Way or Means be what it will; it is God's Sovereignty, who made theſe Creatures ſo, to diſpoſe of them how he pleaſeth, and God hath ordained this Death for me from all Eternity. The Lord Chriſt often pray'd, *Thy Will be done*; this is the Lord's Will. He hath numbred my Days, and my Times are in his Hand. Many ſeek the Ruler's Favour, but every one's Judgment is from the Lord. When *Pilate* ſaid unto Chriſt, *Knoweſt thou not that I have Power to crucify thee?* Chriſt anſwered him, *Thou couldeſt have no Power againſt me, except it were given thee from above.* Therefore I acknowledge the righteous Hand of God; he is righteous, but I am ſinful; *Therefore will I bear God's Indignation, becauſe I have ſinned againſt him.*

It is ſaid of Jeſus Chriſt, *That for the Joy ſet before him he endured the Croſs, and deſpiſed the Shame, and is ſet down at the Right Hand of God*, where I hope to ſee him by and by in Glory and Majeſty, and to ſee his Angels and Believers worſhipping of him, and therefore I deſpiſe the Shame. Our Saviour died upon the Croſs without Sin, I am a ſinful Creature, a wretched Sinner, and ſhall I expect better than he that was my Maſter? He who was holy, and never had a ſinful thought in all his Life; and died not for himſelf, but for us, that we might live thro' his Death; that thro' his Poverty we might be made Rich. And Chriſt having done this for his People, it ſhould not be in their Eyes thought a deſpicable Thing that we ſhould ſuffer for him, having been engaged in the Work of God. But Chriſt muſt prevail in Righteouſneſs, and he will prevail.

Now, Mr. *Sheriff*, I thank you for your Civility, and for this Leave.

After this Colonel *Hacker* ſpoke ſomething privately to him, whereupon Colonel *Axtel* ſaid, Mr. *Sheriff*, muſt we both die together?

Mr. *Sheriff* anſwer'd, Yes.

Then Colonel *Hacker* read a Paper which he had in his Hand, a Copy whereof followeth:

FRIENDS and Countrymen, all that have known me in my leſt Eſtate, have not known me to be a Man of Oratory, and that God hath not given me the Gift of Utterance, as to others; therefore I have only this briefly to ſay unto you that are Spectators: As the Parliament ſtated the War, I did out of Judgment and Conſcience join with them in the common Cauſe, and have thro' Grace been faithful to it according to my Meaſure. And as for that which now I am condemned for, I do freely forgive both Judges, Jury, and Witneſſes, and all others; and I thank the Lord, to whom I am now going, at whoſe Tribunal I muſt render an Account, I have nothing lies upon my Conſcience as Guilt whereof I am now condemned, and do not doubt but to have the Sentence reverſt. I do now apply myſelf unto God by Prayer, and do deſire the hearty Prayers of all that fear God, that I may have a ſweet Paſſage from this mortal Life to that immortal Life, which God hath prepar'd for all that are in Chriſt Jeſus.

FRANCIS HACKER.

After the reading of this, he deſir'd that Colonel *Axtel* would be both their Mouths to God in Prayer.

And then Colonel *Axtel* ſaid, I deſire all that fear the Lord to hear with Patience, and to lift up their Hearts to ſeek the Lord with me, that we may have his Strength, and the Preſence of his Spirit from this World to everlaſting Life.

After he had ended his Prayer, he gave the *Sheriff* Thanks again for his Civility; and then turning to Colonel *Hacker*, they ſaluted and embraced each other in the Arms, and ſaid, The Lord ſweeten our Paſſage, and give us a happy Meeting with himſelf in Glory.

Then pulling his Cap over his Eyes, expecting, at it is ſuppos'd, that the Cart ſhould be drawn away; with his Hands lifted up, he utter'd theſe Words with a loud and audible Voice, *Lord Jeſus, receive my Spirit:* But the Cart ſtaying a little longer, he lift up his Hands the ſecond Time, and with the like audible and loud Voice, ſaid, *Into thy Hands, O Father! I commend my Spirit:* And yet in regard there was no Man found to put forward the Horſe to draw away the Cart, until the common Hangman came down out of the Cart himſelf to do it; the Carman, as many Witneſſes affirm, ſaying, he would loſe his Cart and Horſe before he would have a Hand in hanging ſuch a Man; by this Means he had Opportunity to lift up his Hands, and utter the like Words the third Time alſo.

The Execution of Col. ADRIAN SCROOP, October 17, 1660, *at* Charing-Croſs.

WHEN the Time approach'd for his Execution, Mr. *Scot* and Mr. *Clements* were firſt carried away in the Sleds, and the ſame Sleds were afterwards to come and carry Col. *Scroop* and Col. *Jones*; during that Time, ſays Col. *Scroop*, Well, Brother *Jones*, do you ſpend your Time as the Lord ſhall direct you, I intend to take a little Sleep, for I ſlept not well laſt Night; and my Countenance is not ſo freſh as I would have it. Thereupon he laid him down, and ſlept ſo ſoundly, that he ſnored very loud, and ſo continued until the Sled came for him: Whereupon, being awaken'd, he riſeth up; and a Friend taking him in his Arms, aſk'd him how he did? He anſwers, Very well, I thank God, never better in all my Life.

And now, ſaith he, *will I waſh mine Hands in Innocency; ſo will I compaſs thine Altar, O Lord:* And ſo with great Chearfulneſs went to Execution.

Being upon the Ladder he ſpake as followeth;

You ſee an Object here, that hath been in a better Place; but howſoever the Lord Jeſus Chriſt hath ſent me to this Place, that in this Place I ſhould die. I have no Animoſity nor Malice againſt any Man, nor ever had I; neither have I any evil Will to thoſe that brought me

me hither, nor to the Jury that found me guilty, nor Judges that paſſed Sentence; nor to him through whoſe means I was brought here to ſuffer. I ſay, once more, the Lord forgive him, I ſhall not name him; for I come not hither to reflect upon any Man's Perſon.

I will not tell you what my Breeding hath been, becauſe it is not good for any Man (eſpecially at ſuch a Time as this) to boaſt of his Lineage nor Breeding; but this I ſhall ſay, that I was born and bred a Gentleman.

As for my Carriage, it may be ſome that look upon me here, know what it hath been: Howſoever, the Lord knows all, and the Lord God is Judge of all, and he will Judge; I ſhall ſubmit my ſelf to his Judgment, which is a righteous Judgment. The Judgment of Men may go wrong, but God's Judgment is right, I ſhall ſubmit to his Way. The Lord he is the *Rock of Ages*, and my Support under this great Weight that is now upon me: I look up to him alone, the Lord Jeſus Chriſt is my Saviour and my Redeemer; I am going into his Arms, bleſſed be his Name, I follow him, he is gone before me the ſame way: Therefore it is no Reproach or Shame to follow the Lord Jeſus Chriſt, to die in his Cauſe, for that is it which I judge I am now going to do.

That which I do deſire of you (here are a great many Spectators both on the Right Hand and on the Left) is, That this Day may repreſent to you the general Day of the Judgment of Chriſt, where you muſt appear, and there every Man muſt receive according to their Works: And at that time it will be known; I ſay, at that time it will be known and ſeen, whoſe Works are righteous, and whoſe are not: Therefore I would wiſh you, and deſire you, to judge charitably of me.

His Speech being ended, he went to Prayers, after which he was turn'd off.

The others, who were Convicted, having Surrendered themſelves upon the Proclamation in purſuance of 12 *Car.* II. cap. 11. § 36 could not be Executed without Conſent of Parliament; which never being aſkt, they ſuffer'd only Impriſonment, and Confiſcation of their Eſtates.

[*Here read the Trials and Dying Speeches of Col.* Okey, *Col.* Barkſtead, *and* Miles Corbet, *Eſq. in State Trials, Vol.* 8. *p.* 363.

LVIII. *Proceedings in* Scotland *againſt* Archibald *Marquiſs of* Argyle, 13 Car. II. 1661, *for* High-Treaſon *.

ON *January* 23, 1661, there was exhibited to the Parliament of *Scotland*, a Charge of *High-Treaſon*, &c. againſt *Archibald* Marquis of *Argyle*, which was as follows.

CHARLES, by the Grace of God, King of *Great-Britain, France*, and *Ireland*, Defender of the Faith, To

Heralds, Purſivants, and Meſſengers of Arms, *reſpective*, conjunctly and ſeverally, ſpecially conſtituted, Greeting. Forſomuch as it is humbly mean'd and complain'd to U S, by our truſty and well-beloved Counſellor, Sir *John Fletcher* Knight, our Advocate for our Intereſt, in the Action under-written; and by Sir *James Lamond* of *Inneryne* Knt. for himſelf and in the behalf of his Kindred, Friends, Vaſſals, Tenants and Servants,

Parties grieved and damnified in manner after ſpecified, upon *Archibald* Marquis of *Argyle*; *George Campbell*, his Juſtice and Sheriff Deputy; *James Campbell* of *Ardkinglas*, Officer under the ſaid Marquis his command; *Colin Campbell* of *Straquhir*, *Duncan Campbell* of *Ellangreg*, Officer under the command of the ſaid Marquiſs; *John Campbell* Fiare of *Dunſtafneich*, Officer alſo under the ſaid Marquiſs's command; *Dougal Campbell* alias *Mackconnochie* of *Innerraw*, Officer under the ſaid Marquiſs's command; *Duncan Campbell*, Uncle to the Laird of *Lochnell*, Officer under the ſaid Marquiſs's command; *Robert Campbell* of *Auchinwilling*, *John Campbell* of *Ardtariche*, *Hew Campbell* his Son; *Colin Campbell* of *Otter*, *Patrick Campbell* his Brother; *Campbell* of *Derburgh*, *Charles Campbell* of *Ballachyll*, *Ewer Campbell* of *Kilbryd* his Brother; *Duncan Glaſſel* alias *Campbell* in *Glendarowell*, *John Ger Campbell*, there; *John Mackeroes* Officer to the ſaid *George Campbell*, *Donald Mackeroes* of *Glenſellach*, *Andrew Macklauchlane*, Uncle to *Archibald Macklauchlane* of *Lethimoore*, *Angus Mackehoernock* Son to *Ewer Mackewernock* of *Obb*, *James Campbell* of *Ormſay*; *Dowgald Mackleriche* of *Bralychane*, *Duncan Macknileiſhe* in *Eſcog*, *Archibald Campbell* in *Evinnochane*, Son-in-Law to the ſaid Laird of *Otter*, Mr. *Colin Macklawchlane*, Miniſter at *Lochgayliſheid*: All or the moſt part of them, being the ſaid Marquiſs of *Argyle* his Friends, Followers, or Complices under his command, and ſuch as he might have ſtopt or let.

That where notwithſtanding by the 129 Act of the eighth Parliament of Our deareſt Grand-father, King *James* the Sixth of Bleſſed Memory, His Majeſty and His three Eſtates then Aſſembled in Parliament, ratified and approved the Royal Power and Authority, over all Eſtates, as well Spiritual as Temporal, within this Realm, in the Perſon of His Majeſty, his Heirs and Succeſſors; and did Statute and Ordinance, that his Highneſs and his Succeſſors by themſelves, and their Councils, were and ſhould be Judges Competent to all Perſons, his Highneſs's Subjects, of whatſoever Degree, Function, Eſtate, or Condition they ſhould be of, in all matters wherein they, or any of them, ſhould be apprehended, ſummoned or charged to anſwer: And that none ſhould preſume, nor take upon hand, to decline the Judgment of his Highneſs, his Heirs and Succeſſors, or their Council, in the Premiſes under the Pain of Treaſon: And ſick-like, by the firſt Act of the eighth Parliament of our ſaid deareſt Grand-father, King *James* the Sixth, His Majeſty's Sovereign Authority, Princely Power, Royal Prerogative and Privilege of his Crown, over all Eſtates, Perſons, and Cauſes whatſoever. And the whole Eſtates then conven'd in Parliament for them, and their Succeſſors, faithfully promiſed, perpetually to acknowledge, obey, maintain, defend and advance the Life, Honour, Safety, Dignity, Sovereign Authority and Prerogative Royal of Our ſaid deareſt Grand-father, his Heirs and Succeſſors, and Privilege of the Crown, with their Lives, Lands and Goods; and to withſtand all Perſons, Powers and Eſtates, who ſhall preſume any ways to impugn, or prejudge the ſame. Which Act is ratified by the third Act, by the firſt Parliament of King *Charles* the Firſt, of Bleſſed Memory, our deareſt Father.

Likeas, by the third and fourth Acts of King *James* the Firſt, his firſt Parliament, and by the 37 Act of the ſecond Parliament of King *James* the Firſt, and ſeveral other Acts, it is Statute, that none Rebel againſt the King's Perſon or Authority; or if they do in the contrary, or make War againſt his Lieges, or reſet any ſuch Traitors, or ſupply them in Red or Council, or do favours to Rebels, or any ways aſſiſt them, or do not riſe at His Majeſty's command, being required; they being convicted thereof, are puniſhable as Traitors. Likeas by the 134 Act Parl. 8. the 10 Act of the 10 Parl. of King *James* the Sixth, All deprayers of His Majeſty's Laws, and meddlers in His Majeſty's Affairs, or Miſconſtruers of His Proceedings, whereby any miſtake may be moved between His Majeſty and his loving Subjects, are puniſhable by Death: Likeas by the 1 Act of King *James* the Fifth, his 3 Parliament, and by the 51 Act of the 11 Parl. of King *James* the Sixth, All Burners of Folks in their Houſes, all Burners of Houſes and Corns, and wilful fire-raiſing; As alſo all Murder or Slaughter of His Majeſty's Lieges, where the Party ſlain is under truſt, credit, aſſurance and power of the Slayer; the ſame is declared Treaſon and Læſe-Majeſty. Likeas by the 75 Act of Queen *Mary*'s Parliament 9, and divers other Acts, it is Statute, that no manner of Perſon or Perſons, of whatſoever Quality, Eſtate, Condition or Degree they be, Lieges of this Realm, attempt to raiſe any bands of Men of War, on Horſe or Foot, without ſpecial Licence in Writ had and obtained of the Queen's Majeſty for the Time, and Her Succeſſors, under the pain of Death, to be executed upon the Raiſers and Riſers in Arms. As alſo, by the 50 Act of the 11 Parliament of King *James* the Sixth, it is Statute and Ordain'd, that in caſe it ſhall happen, any landed Man to be convicted of the Crime of common Theft, reſort of Theft, or Stealth, reift in time coming, they ſhall incur the Crime and Pain of Treaſon; that is to ſay, Tinſell and forfeiture of Life, Lands, and Goods. Likeas, by the common Law and Practice of this Nation all Committers of Murder, Man-ſlaughter, Robbery, Rapine, or Reif, is puniſhable by Death; and who are Art or Part of any ſuch Crimes. As alſo by the ſame Laws, all private Impriſoners, Keepers of private Priſons, and falſe Impriſoners, and all Oppreſſion whatſoever, are puniſhable in the like manner.

Nevertheleſs the Perſons above-named complain'd upon, having laid aſide all Fear of God, Loyalty and Obedience to their Sovereign Lord and King, natural affection and reciprocal duty to their Countrymen and Fellow-Subjects, have moſt traitorouſly, treacherouſly, perfidiouſly and cruelly committed the Crimes of High-Treaſon, and other Crimes, Murders, Oppreſſions, Robberies, Miſdeeds and Malverſations under-written, contrary to our ſaid Laws and Acts of Parliament; and thereby have incurred the reſpective Pains and Puniſhments therein contained. In ſo far as the ſaid Perſons above-written, Defendants, particularly the ſaid Marquiſs of *Argyle*, *George Campbell* his Servant, and Juſtice, and Sheriff-Deputy; *James Campbell* of *Ardkinglas*, *Colin Campbell* of *Straquhir*, *Robert Campbell* of *Auchinwilling*, *John Campbell* of *Ardtariche*, *Maſter Colin Macklauchlane*, *Duncan Campbell* of *Elangreg*, *John Campbell Fiare* of *Dunſtafniche*, *Dougall Campbell*, alias *Mackconnochie* of *Innerraw*; Having from the beginning of the Inſurrections and Troubles in the Year of God 1639, 1640, 1641, and 1642, both ſecretly and avowedly appeared in conſtant oppoſition to Our deareſt Father, his Royal Councils and Commands: And after His Majeſty's moſt gracious Condeſcendencies to all the deſires of his Lieges, how unreaſonable ſoever; He having departed to his Kingdom of *England*, a contented Prince from a contented People: Nevertheleſs the aforeſaid Perſons continuing in their treaſonable malice againſt their own Sovereign, did in the Months of *January*, *February*, *March*, *April*, *May*, *June*, *July*, *Auguſt*, *September*, *October*, *November*, *December*, or one or other of them, in the Year of God 1643, moſt traitorouſly without their Sovereign's Authority of Licence, and expreſly againſt his Will, Pleaſure and Service, at their own hand and by their own power, cauſed call and convocate a pretended Committee and Convocation of His Majeſty's Lieges; wherein they themſelves, or one or other of them, did perſonally convene and meet; and in the ſaid treaſonable and unlawful Convocation did act and appoint treaſonable Levies of His Majeſty's own Subjects, in oppoſition to His Majeſty's Perſon, Authority and expreſs Command. And thereafter did actually invade and enter within His Majeſty's Kingdom of *England* in open Hoſtility, taking His Majeſty's Towns, killing his Subjects, waſting and deſtroying their Eſtates and Fortunes, joining with his Rebellious Subjects in *England* and an Army of Sectaries there, for deſtruction of His Majeſty's Perſon, Royal Family, Authority and Government of theſe Nations, ſo far as in them lay. And thereafter in the Months above-written, or one or other of them, in *Anno* 1646, the ſaid *Archibald* Marquiſs of *Argyle*, and the remnant Perſons above-named Defendants, or one or other of them, in an unheard-of way of Treachery and Treaſon, delivered His Majeſty's Sacred Perſon into the hands of the ſaid Rebels, who thereafter moſt treacherouſly Murdered him. For eſchewing and preventing whereof, the whole Eſtates of this Nation finding it neceſſary and incumbent to them, for the Relief of their Sovereign Lord from his Captivity, to raiſe an Army for that effect: The ſaid Perſons complained upon, or one or other of them, not only by ſubtile and clandeſtine means, by Declamations and familiar Conferences, and openly by Declarations and publick Speeches in face of

* See Vol. 7. State Trials, p. 379. for the Grand Indictment againſt the Marquis.

Parliament, opened the ſame; but alſo the ſame being paſt into an Act in the Month of 1648 Years, publickly entered their *Diſaſſent* or *Proteſtation* againſt the ſame, moſt treaſonably and treacherouſly againſt the Authority of the King, our deareſt Father, and the Eſtates of Parliament. And yet their Malice not reſting ſatisfied, they did by themſelves, their Friends and Adherents, in *October* 1648 Years, or thereby, convocate or raiſe in Arms great numbers of His Majeſty's Lieges, without any Warrant from King or Parliament; and did in open Hoſtility march to His Majeſty's Burghs Royal of *Edinburgh* and *Sterling*, proſecuting his ſaid Army, killing His Majeſty's good Subjects, waſting and deſtroying their Lands and Houſes: And thereafter moſt baſely and traitorouſly invited the late Tyrant and Uſurper, *Oliver Cromwell*, to enter His Majeſty's Kingdom of *Scotland*, with an Army of Strangers, Traitors and Sectaries; ſuſtain'd him and his treaſonable Army with all ſorts of Proviſion, feaſting and countenancing himſelf and prime Officers in the Metropolitan City of Our Kingdom, and within his Majeſty's Fort and Strength thereof, the Caſtle of *Edinburgh*, where the moſt conſiderable Strength of the Kingdom was for the time: By theſe Means caſting the Secreſies of His Majeſty's Kingdom and Forts thereof open to the view of thoſe Strangers and Traitors: Which, by the Laws of this and all Nations, is High Treaſon; and in all Probability was the Kingdom's Bane and Ruin, and was the Act immediately preceding the cruel Regicide and Murder of their Sacred Sovereign Our Royal Father. At leaſt they, or one or other of them, were either Aiders, Abettors, Aſſiſtants, Promoters, Deviſers, or Art and Part, and particularly the ſaid *Marquiſs of Argyle*, of the aforeſaid treaſonable Crimes and others above libelled.

Secondly, The aforeſaid Perſons, and particularly the ſaid *Archibald Marquiſs of Argyle*, not having yet ſatisfied his Malice, treaſonable Attempts and Purpoſes, not conſidering the Duty either he owed to God, his Prince, Country, Nobility of his Family, nor his own Honour or Reputation, after multiplicity of Honours and Offices graciouſly conferred upon him by Our Sacred Father, and the Dignity vouchſafed to him by Our Self, in allowing him the Truſt and Honour of ſetting Our Imperial Crown upon Our Head, upon the Day of Our Coronation in *Scotland*, which was the Firſt of *January* 1651 Years, in Preſence of Our whole Nobility and Eſtates of Our ſaid ancient Kingdom, putting the Crown upon Our Head, with bowed-down Knees, and up-lifted Hands, in Preſence of God, Angels and Men, ſwore as follows, *By the Eternal God, who liveth and reigneth for ever, I ſhall ſupport thee to my uttermoſt: And I ſwear to be a loyal and true Subject, and faithful to the Crown.* And thereafter alſo kneeling, and holding his Hands betwixt Our Hands, did ſwear theſe Words, *By the Eternal and Almighty God, who liveth and reigneth for ever, I become your Liege, and Truth and Faith ſhall bear to you, and live and die with you, againſt all manner of Folk whatſoever in your ſervice.* Notwithſtanding of all which, after the ſaid *Archibald Marquiſs of Argyle* had diſloyally and baſely deſerted our Perſon and Army at *Sterling*, when We were on Our March to *England*, in the Year 1651, did in the Months above-written, or one or other of them, *Anno* 1652, at the Deſire of General *Dean* and Colonel *Overton*, Our known and publick Enemies, they having come to *Innerary* with a Regiment of Soldiers, and there the ſaid *Marquiſs* had Conference and Conſultation with them, and did ſwear, at leaſt ſubſcribed and acknowledged the Government of Our Dominions, as it was then eſtabliſhed by the ſaid wicked Tyrant and Uſurper *Oliver Cromwell*, and his ſaid Adherents in a Commonwealth, without King, or Houſe of Lords; and obliged himſelf to live under it, and be obedient thereto. And conform thereto moſt perjuredly and infamouſly the ſaid *Archibald Marquiſs of Argyle*, after the ſaid Army of Rebels and Sectaries under the Command of the ſaid General, Major *Dean*, and *Overton*, were drawn to ſuch a Strait in their Return from *Innerary*, they being in the Power of certain of the ſaid *Marquiſs* his Friends, and divers others of His Majeſty's loyal Subjects then in Arms, ſtanding in oppoſition againſt them; and they having taken in all Paſſes, the ſaid *Marquiſs* being then Our Juſticiary in theſe Bounds, and Sheriff of *Argyle*, moſt traitorouſly and infamouſly againſt his ſaid Oath and Duty, did interpoſe himſelf in favour of the Enemy, commanding and counſelling Our ſaid faithful Subjects, who ſtood in oppoſition to the ſaid Enemy, did ſuffer them ſafely to paſs without Oppoſition: And by the ſaid *Marquiſs* his Inſinuation, there was a ſafe Paſs given to the ſaid Enemy from the foreſaid Danger. Like as further to evince the ſaid *Marquiſs* his treaſonable Compliance and Affection to the ſaid wicked Tyrant and Uſurper *Oliver Cromwell*, in all his wicked and treaſonable Courſes and Attempts, he in the Month of a thouſand ſix hundred and fifty Years, upon a pretended Call from the ſaid Tyrant and Uſurper, to convene a pretended Parliament, without any Coaction or Neceſſity, did engyre himſelf in favour of ſome Shires, and dealt with them to elect him for their Commiſſioner; at leaſt being elected, he voluntarily accepted thereof; and upon their ſaid pretended Commiſſion, he went to the ſaid pretended Parliament at *Weſtminſter*, and there moſt *perfidiouſly and perjuredly, treacherouſly, treaſonably, and unworthily*, contrary to his own Dignity and Degree, ſate, and acted by Voting, and otherwiſe, in the ſaid pretended Parliament, as a Member of the Houſe of Commons, for eſtabliſhing the ſaid Tyrant in his uſurped Authority, and aboliſhing of Us and Our Royal Race from Our juſt Right and Title to Our Crowns of *Scotland*, *England*, and *Ireland*. And alſo the ſaid *Marquiſs*, in further Proſecution of his treaſonable, rebellious Courſe and Deſigns, in the Months above-written, or one or other of them, in the Year 1653 or 1654, or either of them, ſold and delivered ſeveral Muſquets and other Ammunition to the ſaid Rebels, to the number of ſeventeen Cannon, and ſeven hundred Muſquets, or thereabouts.

Thirdly, in the Year 1654, ſeveral of Our loyal Subjects having, for Vindication of Our Authority, and revenge of Our Royal Father of bleſſed Memory, his Murder, taken Arms under the Command of Our Truſty and right well-beloved Couſins and Counſellors *William* Earl of *Glencairne*, and *John* Earl of *Middleton*, then Our Commiſſioners for that Effect: Againſt whom, and Our Forces under their Command, the ſaid Enemies being about to tranſport eight hundred Men to the North, under the Command of Col. *Cobbet*, and being driven to the Iſle of *Mule*, and ſhip-broken in their way, and ſo ready to periſh, The ſaid *Archibald* Marquiſs of *Argyle*, and the remanent Perſons above complain'd upon, or one or other of them, in the Months above-written or one or other of them, in the Year 1654, or 1655, did gather together all their own Boats, and others, and therein did ſafely tranſport them to *Dunbarton*, from the ſaid Iſle of *Mule*, and to other ſafe Places. At leaſt the ſaid *Archibald* Marquiſs of *Argyle*, and remanent Perſons above complain'd upon, or one or other of them, were Authors, Aiders, Abettors, Aſſiſters, Adviſers, or Art and Part, of the foreſaid Treaſons, and other Crimes and Miſdeeds above libelled.

Fourthly, The ſaid *Marquiſs*, and remanent Perſons above complain'd upon, or one or other of them, in the Months above-written, or one or other of them, in the Year 1654, or 1655, moſt perfidiouſly, treacherouſly, and traitorouſly, went into the ſaid *Engliſh Rebels*, without any Coaction or Neceſſity, to the Highlands in *Lothquhaber*, and ſeveral other Places; and joyned with the ſaid Rebels, for ſuppreſſing of the ſaid Earls of *Glencairne* and *Middleton*, then our Commiſſioners, and our Forces under their Command; and countenanced, counſelled, and conveyed the ſaid *Rebels* through divers Places in the Highlands, in their Expedition againſt our Forces. At leaſt the ſaid Perſons Defendants, and particularly the ſaid *Archibald* Marquiſs of *Argyle*, were Authors, Actors, Aiders, Abettors, Aſſiſters, and Countenancers of the ſaid treaſonable Crimes, and others above ſpecified.

Fifthly, When the ſaid Arch-Traitor and Regicide died, *Richard Cromwell*, his Son, was by order of his Father's traitorous Council, ſitting at *London*, proclaimed Protector of our three Kingdoms, at the *Market-Croſs* of *Edinburgh*; which was done accordingly by a pretended Council ſitting at *Edinburgh*, for the Time. At the doing whereof, the ſaid *Archibald* Marquiſs of *Argyle*, moſt *traitorouſly, treacherouſly*, and *perfidiouſly*, in the Months of a thouſand ſix hundred fifty Years, went up to the ſaid *Croſs* of *Edinburgh*, at the time of the ſaid Proclamation, and did countenance and aſſiſt the ſame; by which our Authority was altogether aboliſhed. And moreover, to further evidence the ſaid Marquiſs of *Argyle* his Willingneſs to ſerve the ſaid Uſurper in the accompliſhing of all his treaſonable Deſigns, and to extirpate us from our Royal Authority and Government, he endeavour'd by all means poſſible, when the foreſaid Tyrant and Uſurper had commanded Commiſſioners from Shires of *Scotland* to appear at *London*, in his pretended Parliament, for Eſtabliſhing his Uſurped Authority, and aboliſhing of Us and Our Royal Race from our juſt Right and Title to our Crowns of *Scotland*, *England*, and *Ireland*; and for ſuppreſſing of the Privileges, Laws and Liberties of this our antient Kingdom of *Scotland*; the ſaid Marquiſs did, in obedience of the ſaid Traitorous Command, obtain himſelf to be Elected Commiſſioner for the Sheriffdom of *Bamf*; and thereafter went up to *England*, and there ſat as a Member of that Traitorous Convention and Meeting at *London*, wherein Declaration was made againſt Us and our Succeſſors, debarring us for ever from our juſt and lawful Right and Title to the Crowns of theſe our three Kingdoms. Likeas thereafter the ſaid *Marquiſs* did embrace the Office of Sheriff-ſhip of *Argyle*, from the Enemy, and exerciſed the ſame under them for his own ends; and did ſeveral times ſwear, at leaſt ſubſcribe, in their Favours againſt Us, our Succeſſors, Crown, Government and Sovereignty; and to be obedient and live peaceably under their Government of our Kingdoms in form of a Commonwealth, as it was then eſtabliſhed by the ſaid Traitor and Uſurper. Of the which treaſonable Deeds and Acts, and others aforeſaid, the ſaid Defenders, and particularly the ſaid *Archibald Marquiſs of Argyle*, or one or other of them, were Authors, Aiders, Abettors, Aſſiſters, Contrivers, Promoters and Countenancers.

Sixthly, To further manifeſt the ſaid *Marquiſs of Argyle* his treaſonable Deeds, Acts and Intentions againſt Us, contrary to his Oath and Duty, the ſame evidently appears by his treaſonable Speeches following; in ſo far as he being preſent in a Provincial Aſſembly at *Innerarey* in the Month of or one or other of the Months above-written, in the Year 1652, or 1653, or one or other of them, ſome Miniſters being then preſent, praying for His Majeſty's Happineſs and Welfare, the ſaid *Marquiſs* did openly ſay and declare before them, *That they were but Fools to pray for that wicked, falſe, malignant King, whom God had caſten off, and would never reſtore again*; and certain other Words to this Purpoſe and Meaning; the ſaid *Marquiſs* having uttered the like treaſonable Speeches at *London*, and elſewhere. And alſo in one or other of the ſaid two Years above-written, in the Month of or one or other of the ſaid Months, the ſaid *Marquiſs* being within a Chamber of his Manſion-Houſe at *Lochhead* in *Kentyre*, ſtamping with his Foot, did vaunt himſelf, ſaying, *That he was the only Man that plotted the riſing of the Forces in the Weſt*, terming the ſame the *Whigrode*, which proved the main Cauſe of our Ruin. Moreover his Correſpondence, Joining, Acting and Conſulting with the Enemy for our Ruin is more manifeſt, in ſo far as he did receive Precepts from the ſaid Tyrant and Uſurper, *Oliver Cromwell*, directed to his Council at *Edinburgh*, for Payment of the Sum of twelve thouſand Pounds Sterling, for good and thankful Service done by the ſaid *Marquiſs*. Likeas he did keep correſpondence with the Uſurper *Richard Cromwell*, and *Charles Fleetwood* in the Year 1658, and 1659, by miſſive Letters and other ways. As alſo with Sir *Archibald Johnſton* of *Wariſton*, his Fellow-Traitor, in the ſaid Year 1659, when he ſate in that traitorous Meeting or Council of the Rebels at *London*, called the Committee of Safety, wherein the ſaid *Wariſton* ſate as Preſident; and did of new emit Declarations for aboliſhing of Us and Our Succeſſors, from our juſt Right and Title to the Crowns of theſe our ſaid Kingdoms. Of all which treaſonable Acts and Deeds aforeſaid, intended or committed in one or other of the Months of the reſpective Years above-written, contrary to our ſaid Laws and Acts of Parliament, and ſeveral other Laws, the ſaid Defendants, and particularly the ſaid *Archibald Marquiſs of Argyle*, at leaſt they, or one or other of them, were Authors, Aiders, Abettors, Aſſiſters, Promoters, Countenancers, Contrivers, or Art and Part.

Seventhly,

Seventhly, Our said deceas'd Sovereign Lord and deareſt Father, having granted Commiſſion upon the Day of *March*, 1643 Years, under his ſaid Majeſty's Hand, authorizing and giving expreſs Order to the ſaid Sir *James Lamond* to proſecute a War, and levy Forces in his Majeſty's Name, againſt thoſe in Rebellion, and particularly againſt the ſaid *Marquiſs of Argyle*, and to invade his Bounds and Lands, as he was the Principal Promoter of theſe odious and rebellious Practices againſt His Majeſty's Authority, as the ſaid Commiſſion by way of a miſſive Letter directed to the ſaid Sir *James* at more length bears. In obedience whereunto the ſaid Sir *James*, according to his Allegiance and bound Duty, levied all his Friends and Followers, and accordingly acted as became a good Subject in His Majeſty's Service, for promoting whereof, 'till the Year 1646. That after his Majeſty's coming to *Newcaſtle*, and caſting himſelf upon the Truſt of his Army lying there, the ſaid Sir *James* did then lay down Arms, and with his Friends retreated in a peaceable manner to his own Houſes of *Towart* and *Eſcog*, there being no other Houſes for the Shelter of his Friends, the Country having been formerly waſted and burnt. After which, in the Month of or thereabout, in the ſame Year, the ſaid Defendants, or one or other of them, being commanded by the ſaid *James Campbell* of *Ardkinglas*, *Dougall Campbell* of *Innerraw*, and others their Officers, and others under the ſaid *Marquiſs* his Command, did in a hoſtile manner lay ſiege to the ſaid two Houſes, uſing all manner of Violence. And the ſaid Sir *James*, after all legal means uſed for his own Defence, did bring them to a Treaty wherein by Articles of Capitulation they did grant to him, and his ſaid Friends and Followers, Indemnity in their Perſons and Fortunes, with Power to paſs freely where they pleaſed; as the ſaid Articles, ſubſcribed by the Hands of the ſaid *James Campbell* of *Ardkinglas*, *Colin Campbell* of *Straquhir*, *John Campbell* Fiare of *Dunſtaffneich*, *Duncan Campbell* of *Ellangreg*, *Dougall Campbell* of *Innerraw*, *Duncan Campbell* Uncle to the Laird of *Lochnell*, and *John Mackſauchlane* Fiare of *Craigintareiff*, of the Date the third Day of *June*, at more length bear: Nevertheleſs the aforeſaid Perſons complain'd upon, or one or other of them, did moſt perfidiouſly, treacherouſly, and treaſonably, ſhortly after the ſaid Capitulation, plunder the ſaid Houſes of their whole Furniture and Goods therein; and did rob and take away from the Perſons within the ſame, their whole Money and Cloaths, did drive their whole Cattle of all ſorts, which together with the Waſtations formerly done by them, to the ſaid Sir *James*, his Friends, Vaſſals and Tenants, did exceed the Sum of *Fifty Thouſand Pounds Sterling*. And in a moſt cruel and barbarous way, whilſt ſome of his poor Friends were reſcuing their own Goods, they barbarouſly murdered and maſſacred a number of innocent Women, as namely, *Marie Gilaſpie*, *Marione Mackleiſh*, a young Maid, *Caleoch Breedmachfoyne*, *Margaret Crawfurde*, and certain others; and inhumanly left their Bodies, as a Prey to ravenous Beaſts and Fowls. At the leaſt, the ſaid Perſons, or one or other of them, and particularly the ſaid *Marquiſs* of *Argyle*, were Authors, Actors, Aiders, Abettors, Aſſiſters, Contrivers, and Art and Part of the ſaid cruel bloody Murders, Robberies, Oppreſſions, and other Deeds and Malverſations above libelled.

Eighthly, The ſaid Perſons Defendants, ſhortly after the ſaid Capitulation, and contrary to the ſame, or one or other of them, and eſpecially the ſaid *James Campbell* of *Ardkinglas*, *Dougall Campbell* of *Innerraw*, *Colin Campbell* of *Straquhir*, *Duncan Campbell* of *Ellangreg*, *Duncan Campbell* Uncle to the Laird of *Lochnell*, *John Campbell* Fiare of *Dunſtaffneiche*, did moſt treacherouſly, perfidiouſly, and traitorouſly felter and bind the Hands of near two hundred Perſons of the ſaid Sir *James* his Friends and Followers, who were comprehended within the ſaid Capitulation; detaining them Priſoners with a Guard, their Hands being bound behind their Backs like Thieves, within the ſaid Sir *James*'s Houſe and Yards of *Towart*, for the ſpace of ſeveral Days, in great Torment and Miſery, they being *His Majeſty*'s free Lieges and People. Likeas moſt traitorouſly and perfidiouſly, contrary to the ſaid Capitulation, they did carry the ſaid Sir *James Lamond* Priſoner to the ſaid Houſe and Caſtle of *Eſcog*, and by that means, and for fear of the ſaid Sir *James* his Life, the Keepers of the ſaid Caſtle being the ſaid Sir *James*'s Friends and Vaſſals, they did ſurrender the ſaid Houſe, upon Capitulation of Life, Fortune and Goods; which Capitulation was moſt traitorouſly and perfidiouſly broken. And in purſuance of their further Villany, after plundering and robbing of all that was within and about the ſaid Houſe, they moſt barbarouſly, cruelly and inhumanly murdered ſeveral, Young and Old, yea ſuckling Children, ſome of them not one Month old. And further, the ſaid Defendants, or one or other of them, and particularly the aforeſaid Subſcribers of the ſaid Capitulations, in the Month of 1646 Years, did moſt traitorouſly and perfidiouſly carry the whole People that was within the ſaid Houſe of *Eſcog* Priſoners, with a Guard, to the ſaid Sir *James* his Houſe of *Towart*; and ſhortly after their Removal from the ſaid Houſe of *Eſcog*, the ſaid Defendants, or one or other of them, cauſed burn the ſame, deſtroying the whole Orchards and Plantings about the ſaid Houſe of *Eſcog*. And not being content with their former Cruelties, they ſhortly thereafter carried all the ſaid Perſons who were Priſoners in both the ſaid Houſes of *Eſcog* and *Towart*, bound Priſoners (being *His Majeſty*'s free Lieges) to ſeveral Boats, ſending the ſaid Sir *James Lamond*, his two Brethren, *Robert Lamond* of *Eſcog*, *Patrick Lamond* his only Son, *Duncan Lamond* his Brother, and *John Lamond* of *Auchingylle*, Priſoners to the ſaid *George Campbell* Sheriff-Deputy to the ſaid *Marquiſs* his Houſe of *Innerarey*, at which time the ſaid Perſons, or one or other of them, moſt villanouſly, contrary to the ſaid Capitulation, Laws, and Acts of Parliament aforeſaid, burnt the ſaid Sir *James Lamond*'s Manſion-Houſe of *Towart*: Of the which cruel Crimes of Treaſon, Murders, Fire-raiſings, Burnings, Oppreſſions, Robberies, and other Crimes above-mentioned, committed contrary to our ſaid Laws and Acts of Parliament, and the Capitulation above-written, the ſaid Defendants, and particularly the ſaid *Marquiſs* of *Argyle*, at leaſt one or other of them, were Aiders, Abettors, Aſſiſters, Countenancers, Contrivers, Promoters, and Counſellors of the ſame.

Ninthly, The ſaid Perſons Defendants, or one or other of them, contrary to the aforeſaid Capitulations, Our Laws and Acts of Parliament, upon the Day of *June*, 1646, moſt traitorouſly and perfidiouſly did carry the whole People, who were in the ſaid Houſes of *Eſcog* and *Towart*, in the ſaid Boats, to the Village of *Denoone*, and there moſt *cruelly*, *traitorouſly*, *and perfidiouſly* cauſe hang *upon one Tree* near the number of *Thirty-Six* Perſons, moſt of them being *ſpecial Gentlemen* of the Name of *Lamond*, and Vaſſals to the ſaid Sir *James*, viz. *Neill Machpatrick* alias *Lamond*, *Archibald Lamond* Son to Baron *Machpatrick* of *Cowſtoune*, *Robert Lamond* his Brother, *Duncan Lamond* Brother to the ſaid *Robert*, and *Hugh Lamond* their other Brother, *Duncan Ger Lamond* in *Kilmarnock*, *Gocie* and *John Lamonds* his Sons, *Ewen Lamond* in *Midtowart*, *Gilbert Lamond*, *Duncan Lamond*, *John Mackquein* alias *Lamond*, *Archibald Mackquein* alias *Lamond* his Brother, *Donald Mackquein* alias *Lamond*, *Duncan and John Lamonds* Sons to *Walter Lamond* Brother German to the Laird of *Eſcog*, *Hugh Lamond* in *Corro* of the *Carrie*, *Robert Lamond* in the *Carrie*, *Duncan Lamond* there, *Angus Lamond* there, *Donald Lamond* there, *Walter Lamond* there, *Duncan Lamond* called *Mackwalter* there, *Alexander Lamond* in *Ardyne* of *Nethercowall*, *William Lamond*, *John Mackquein* younger alias *Lamond*, *Patrick Boigle* Son to the deceaſed Mr. *John Boigle* Miniſter at *Rotheſay*, *Dougall Harper* alias *Mackalaſter*, Servant to the ſaid Sir *James Lamond*, *John Lamond* Son to *Gilbert Lamond* of *Knockow*, *Gilbert Macklay* in *Glendarowall*, *James Lamond* in *Ardyne*, *Donald Lamond*, *James Mackquein* alias *Lamond* in *Nethercowall*, *James Lamond* his Son, and *John Mackpatrick* alias *Lamond* in *Ardyne*. And alſo the ſaid Perſons Defendants, or one or other of them, upon the aforeſaid Day of *June* 1646, moſt cruelly, barbarouſly, inhumanely and unchriſtianly murdered with Durks, and cut down with Swords and Piſtols the Perſons following, viz. *John Lamond* in *Auchinſhallech*, who being about the Age of fourſcore Years, having a Flux upon him, and being alſo pin'd away with Hunger and Thirſt, they moſt cruelly and barbarouſly ſtabb'd him with Durks and Skanes at the Ladder-Foot: And did alſo moſt barbarouſly murder, ſtab and cut down the Perſons following, viz. *Thomas Brown*, *Neill Mackneill*, *Meldonich Mackmaw*, *John Mackmaw* his Brother, *Archibald Hamilton*, *Meldonich Mackilmichael*, *Robert Michael*, *John Mackinlay*, *John Hendry*, *Alexander Hendry*, *Patrick Hendry*, *John Lamond*, *Angus Mackilmune*, *John Mackinnes*, *John Mackdougall*, *John Henry*, *William Mackwilliam* alias *Wilſon*, *Hew Mackcrow*, *John Mackcrow* his Brother, *John Mackperſon*, *Donald Mackperſon*, *Duncan Mackperſon*, *Donald Mackilbreid Lamond*, *Duncan Lamond*, *Duncan Mackalaſter*, *Thomas Menchryd*, *John Michaelſon*, *John Moodie*, and *John Jamiſon*, then Provoſt of *Rotheſay*, who being ſhot thrice through the Body, finding ſome Life in him, did thruſt ſeveral Durks and Skanes in him, and at laſt did cut his Throat with a long Durk; the ſaid *John Jamiſon* not only repreſenting His Majeſty's Authority, as a prime Magiſtrate of his Burgh Royal, was ſo cruelly murdered in Contempt there of, and of the Statutes made in that behalf. And to manifeſt their further Cruelty, they did caſt ſome of the aforeſaid Perſons into Holes made for them, who were ſpurning and wreſtling, whilſt they were ſuffocated with Earth; having denied to them any time to recommend themſelves to God; albeit earneſtly deſired and begg'd by the ſaid murdered Perſons. Inſomuch that the Lord from Heaven did declare his Wrath and Diſpleaſure againſt the aforeſaid inhumane Cruelty, by ſtriking the Tree whereon they were hanged, in the ſaid Month of *June*, being a lively freſh growing Aſh-tree, at the Kirk-yard of *Denoone*, amongſt many other freſh Trees with Leaves, the Lord ſtruck the ſaid Tree immediately thereafter; ſo that the whole Leaves fell from it, and the Tree withered, never bearing Leaf thereafter, remaining ſo for the ſpace of two Years: Which being cut down, there ſprang out of the very Heart of the Root thereof a Spring like unto Blood popling up, running in ſeveral Streams, all over the Root, and that for ſeveral Years thereafter: 'Till the ſaid Murderers or their Favourers, perceiving that it was remarked by Perſons of all Ranks (reſorting there to ſee the Miracle) they did cauſe houck out the Root, covering the whole with Earth, which was full of the ſaid Matter like Blood. Of the which cruel Murders, the ſaid Perſons, and eſpecially the ſaid *Marquiſs* of *Argyle*, or one or other of them, were Authors, Actors, Aiders, Abettors, Aſſiſters, Contrivers, Countenancers and Promoters, many of the ſaid Perſons Defendants being Officers under the Command of the ſaid *Marquiſs of Argyle*.

Tenthly, Upon the Month of 1646, the ſaid Sir *James Lamond*, his ſaid Brethren and Friends, being detained Priſoners at the ſaid *Marquiſs*'s Houſe of *Innerary*, the ſaid *George Campbell* Sheriff and Juſtice-Deputy to the ſaid *Marquiſs*, *James Campbell* of *Ardkinglas*, Col. under the Command of the ſaid *Marquiſs*, *Dougall Campbell* alias *Mackonnochie* of *Innerraw* Major under the Command of the ſaid *Marquiſs*, and certain other Perſons being met in a Kind of Conventicle, who did enquire of the ſaid Sir *James*, whether he would ſubmit his Life and Fortune to them, or not? Who anſwer'd, That he would not, pleading upon his Majeſty's Commiſſion, the Capitulation given to him, and that he being the King's Baron could not be judged by them, none of them being ſuch. Whereunto the ſaid *George Campbell* replied, that the ſaid Sir *James* was a falſe Knave, and that he would judge him whether he would or not, and hang him as Juſtice-Deputy of the ſaid *Marquiſs* of *Argyle*; at which time the ſaid *George Campbell* did rob and ſeize upon the Sum of 1000*l.* belonging to *Archibald Lamond*, Brother to the ſaid Sir *James*; and having within a little time hereafter ſearched the ſaid Sir *James* for the ſaid Capitulation, finding that he had it not, and they conſidering the Prejudice that might follow to them thereby, they cauſed the ſaid Sir *James* to ſubſcribe a Paper penn'd by the ſaid *George*, declaring therein that his Quarrel was unjuſt, and that he repented thereof, as alſo that he did paſs from the Capitulation; which Paper with certain other Articles therein was ſubſcribed by the ſaid Sir *James*, he being compelled thereto for fear of Death, having gotten notice at that very ſame time that his ſaid Friends and Followers were cruelly murdered by them at *Denoone*, as is above-mentioned; after ſubſcribing of the which Paper, two Days after the ſaid Sir *James*, his

his two Brethren, and four Friends aforeſaid, were committed Priſoners, in ſeveral Houſes, appertaining to the ſaid *Marquiſs* of *Argyle*, the ſaid Sir *James* remaining Priſoner in the Houſe of *Dunſtuffnagh* for the ſpace of four Years, thereafter being carried to the Caſtle of *Inchoncill*, where he remained Priſoner for the ſpace of two Years or thereabout, until he was carried from thence to *Sterling*, by virtue of an Order from Us and our Eſtates of Parliament, they having not time to take Trial of the matter at that time, by reaſon of our marching into *England*, ſending the ſaid Sir *James* up to the Caſtle of *Sterling*, for fear of the ſaid *Marquiſs*'s Cruelty; in regard he often threatned, that if ever the ſaid Sir *James* came in his Power, the World ſhould not ſave his Life, and that he repented nothing more, than that he took not that bloody Knave's Life, whilſt he had him in his Power; ſaying likewiſe, that all was but one fault: The which cruel Crimes of Oppreſſion and others above ſpecified, the ſaid Defendants, particularly the *Marquiſs* of *Argyle*, one or other of them, were Actors, Aiders, Abettors, Contrivers, Countenancers or Promoters.

Eleventhly, The ſaid Perſons Defendants, their Cruelty againſt the ſaid Sir *James* is manifeſt, in ſo far as the ſaid Month of 1651, *Donald Campbell* ſent *John Campbell* of *Ardtarich* of the ſpecial cauſing, hounding out, and or under their Command or Direction, came accompanied with 30 Men, all armed with Guns, Swords, Piſtols, and other Weapons, invaſive to the Coaſt ſide of the Sheriffdoms of *Aire* and *Renfrew*, where they heard that the ſaid Sir *James* had his Reſidence, and did ſearch the Houſe of *Southanon* belonging to my Lord *Sempell*, and the Houſe of *Corſby* belonging to the Laird of *Auchnames*, where the ſaid Perſons did make ſearch for the ſaid Sir *James*, two of them coming early in the Morning to the ſaid Houſe of *Auchnames*, the ſaid *Donald* running up Stairs, with a drawn Durk and bended Piſtol in either Hand, making ſearch through the whole Houſe and Beds, to have murdered the ſaid Sir *James*, who by Providence was in the Wood, not knowing any thing of the intended Murder. And the ſaid Perſons being diſappointed of their Intentions, did retire to their Boats, the ſaid Sir *James* flying at that time to the *Iſle* of *Arran* to ſhelter himſelf under the Protection of the now Ducheſs of *Hamilton*, who did reſide there for the time. Likeas immediately thereafter the ſaid *Marquiſs* of *Argyle* and his Accomplices, failing of their ſaid intended Murder, the ſaid *Marquiſs* did deſire a Warrant from the Committee of Parliament, in the ſaid Year 1651, for apprehending the ſaid Sir *James Lamond*, intending thereby to proſecute the aforeſaid Murder; which Warrant was then refuſed to be granted to him; at leaſt the ſaid Defendants, and particularly the ſaid *Marquiſs* of *Argyle*, or one or other of them, were Authors, Actors, Aiders, Abettors, Aſſiſters, Contrivers, Countenancers, of the aforeſaid Crimes of Murder and Oppreſſion, and others aforeſaid.

Twelfthly, And further to evidence the aforeſaid Perſons Defendants, and particularly the ſaid *Marquiſs* of *Argyle*, their Cruelty and Oppreſſion againſt the ſaid Sir *James*, the ſaid *Marquiſs* in the Month of 1647, or thereabouts, came to our Houſe of *Dunſtaffneich*, where the ſaid Sir *James* had been kept moſt unjuſtly and unwarrantably Priſoner ſeveral Years before, and ſending to him the late deceaſed *Archibald Campbell* Keeper of our ſaid Caſtle under the ſaid *Marquiſs*, *Colin Campbell* of *Lochmell*, and *Dowgall Campbell* alias *Mackconnachie* of *Innerraw*, as Commiſſioners, with certain Propoſals following, *viz.* Firſt, that the ſaid Sir *James* ſhould renounce and for ever overgive all Right, Title and Intereſt he had to his own Property, and his Vaſſals Superiority: And upon condition alſo, that the ſaid Sir *James* ſhould under his own Hand abjure *Scotland*, and never to be ſeen therein: Which being done, the ſaid *Marquiſs* ſaid he would give to Sir *James* a conſiderable Sum, threatning alſo that if the ſaid Sir *James* would refuſe the ſaid Offer, ſo long as the ſaid *Marquiſs* had an Houſe in the World, the ſaid Sir *James* ſhould be Priſoner therein, and ſhould torment him with Pain and Miſery, 'till the Marrow ſhould rot within his Bones. The ſaid *Marquiſs* declaring alſo, that he hath already poſſeſs'd himſelf of the ſaid Sir *James* and his Vaſſals Eſtates, which he ſaid he and his ſhould poſſeſs, in deſpite of thoſe who would or would not. Whereupon the ſaid Sir *James* conſidering with himſelf, within ſome few Months thereafter, that what a Priſoner did was Null in Law, and being moſt deſirous of his Liberty, from ſo miſerable and ſo long Impriſonment, profeſs'd to be willing to grant ſome of the former deſires; the ſaid *Marquiſs* hearing thereof, cauſed carry the ſaid Sir *James* with a Guard to the Town of *Innerarey*, where the ſaid Sir *James* did write ſome few Lines, the Subſtance whereof contained the moſt Part of the ſaid *Marquiſs*'s Deſires. Notwithſtanding whereof, and the ſaid Paper was delivered to the ſaid *Marquiſs*, he perſiſting in his former Cruelty and Oppreſſion, did ſend back the ſaid Sir *James* to Priſon, where he remain'd at Our ſaid Houſe of *Dunſtaffneich*, ſo that the ſaid Papers ſo ſubſcribed and delivered to the ſaid *Marquiſs* and *George Campbell* his Juſtice and Sheriff-Deputy (for which they and their Accomplices ought to be puniſh'd as Oppreſſors and as Actors and Art and Part of the aforeſaid Crimes) and all following upon the ſaid Writings and Papers ought to be declared Void and Null.

Thirteenthly, the ſaid Perſons Defendants, and particularly the ſaid *Archibald* Marquiſs of *Argyle* his Friends and Accomplices, perſevering in their further Oppreſſion, in the Month of 1649 Years, cauſed the ſaid deceaſed *Archibald Campbell*, then Keeper of our ſaid Caſtle of *Dunſtaffneich*, under Command of the ſaid *Marquiſs*, compel the ſaid Sir *James* to grant a Band to the ſaid *Archibald*, his Heirs, Executors, and Aſſigns, for payment of the Sum of four thouſand four hundred Marks or thereabouts, for alledging four Years Entertainment in our ſaid Caſtle, where the ſaid Sir *James Lamond* was violently, traitorouſly, and illegally detain'd Priſoner: Unto the which Band the ſaid *Marquiſs* be aſſign'd, he did intend Action thereupon before the *Engliſh* Judges, and for that and certain other pretended Debts, which were paid, the ſaid *Marquiſs* took forth Caption againſt the ſaid Sir *James*, intending thereby to proſecute his forethought Cruelties and Oppreſſions, and to incarcerate him, for obtaining his former Deſigns. And ſo the ſaid *Marquiſs* by Acceptation of the ſaid Aſſignation, purſued thereupon his Impriſonments, Threatnings and others above and after ſpecified.

Fourteenthly, The ſaid *George Campbell* Juſtice under the ſaid Marquiſs, ſtill continuing in his former Cruelties and Oppreſſion, in the Month of 1647 Years, or thereabouts, not only contrary to his ſaid Majeſty's Commiſſion, but alſo contrary to the Articles of Capitulation, our Laws and Acts of Parliament, having taken *Patrick Lamond* Fiare of *Eſcog*, and *John Lamond* of *Auchingylle* out of the ſaid Caſtle of *Eſcog*, after they had rendered the ſaid Caſtle upon the Capitulation above-mentioned, having detain'd them Priſoners, the one in the Caſtle of *Carnick*, and the other in the Caſtle of *Inchoneill*, for the ſpace of a Year and three Quarters, 'till the Day of *January* 1648 Years. At the which Time the ſaid Marquiſs, and the ſaid *George* his Deputy, cauſed call a pretended Court of Juſtice at the ſaid Town of *Innerrarey*; where having conven'd the ſaid *Patrick Lamond* Fiare of *Eſcog*, and *John Lamond* of *Auchingylle*, at the ſaid Town did call an Aſſize, conſiſting of Highland-men, under Power of the ſaid Marquiſs, and his Deputy their Juſticiary, being alſo their Dependants and Followers, and of the ſaid *George* his making uſe of, for the moſt part, for Murders and Oppreſſions. Which Aſſize having Convicted the ſaid *Patrick Lamond* Fiare of *Eſcog*, and having abſolved the ſaid *John Lamond*, in reſpect to ſome Favours done to them, the ſaid *George Campbell* nevertheleſs cauſed the ſaid pretended Inqueſt thereafter to meet, contrary to the expreſs Law and Act of Parliament; the ſaid *George* ſaying, that it was not fit that one Young Man ſhould die alone: Conform to the which unjuſt and illegal Command and Direction, the aforeſaid Perſons of the Aſſize did meet again, and did Convict the ſaid *John Lamond* alſo, who by Virtue of the ſaid *George* his unjuſt and unlawful Sentence, the ſaid two *Gentlemen* were Hanged to Death at *Innerrarey*. Likeas the ſaid Marquiſs of *Argyle* his concourſe, countenancing and promoting of the ſaid cruel Murders and Oppreſſions, the ſaid Marquiſs by himſelf, *James Campbell* of *Ardkinglas*, and their Complices, have ſtill poſſeſs'd the Lands of *Eſcog*, and *Auchingylle*, belonging to the ſaid two murdered Gentlemen; whereof they are yet ſtill in Poſſeſſion to this ſame very Hour: The ſaid John *Lamond* leaving two Children behind him, the eldeſt of them not two Years old, to whom the ſaid Marquiſs refuſed to give any Supply or Entertainment; they living ſtill as yet upon the Charity of the People. Likeas the ſaid Marquiſs of *Argyle* doth moſt violently, illegally and unjuſtly, poſſeſs the Lands belonging to *John Lamond* of *Auchinſhelloch*, who for Age and Infirmity, as ſaid is, was cruelly murdered at the Ladder-foot in manner above-written. At leaſt the ſaid Perſons Defendants, and particularly the ſaid Marquiſs of *Argyle*, *George Campbell* his Juſtice and Sheriff-Deputy, *James Campbell* of *Ardkinglas*, or one or other of them, were Authors, Aiders, Abettors, Aſſiſters, Promoters, Counſellors, Contrivers and Art and Part of the ſaid wicked Murders, Oppreſſions, Burnings, Robbery, and other Deeds, and malvers Actions above-written. And further, to manifeſt the ſaid Marquiſs of *Argyle*, *George Campbell* his ſaid Juſtice and Sheriff-Deputy, and their Complices, their Cruelty and Oppreſſion, they or one or other of them in the Month of 1648 Years, having at that time murdered the ſaid *Patrick Lamond* younger of *Eſcog* as aforeſaid, they cauſed immediately thereafter bring before them *Duncan Lamond* of *Stronalbanoch* his Uncle an Old-Man, being then Priſoner at Caſtle *Lauchlane*, to the Town of *Innerrarey*; threatning him, that if he would not renounce and diſpoſe his Right of the whole Lands of *Keames*, which he held of the Laird of *Lamond*, then they would cauſe Hang him, as his Nephew was immediately before. Likeas for ſafety of his Life, the ſaid *Duncan Lamond* did grant a Diſpoſition of his ſaid Lands of *Keames* to the ſaid Marquiſs of *Argyle*, and did deliver to him the whole Writings thereof, conform whereunto the ſaid Marquiſs remains ſtill in Poſſeſſion.

And in like manner the ſaid Marquiſs of *Argyle*, *George Campbell* his Juſtice and Sheriff-Deputy, and their ſaid Complices, by their Power and Warrant have poſſeſt and do poſſeſs the Lands belonging to the ſaid *James Lamond*, *viz.* The Lands called *Archibald Roy-Stewart*, the Sixth-mark Land of *Ochrechewne*, the Lands of *Craignifroche*; on which Lands of *Craignifroche* the ſaid Marquiſs had his own Bowmen and Heards, keeping thereon a Number of his own proper Goods ſeveral Years: The ſaid Marquiſs poſſeſſing alſo ſeveral other Lands both in Property and Superiority belonging to the ſaid Sir *James*, the Marquiſs having no right thereto, but poſſeſſing the ſame by meer Oppoſition. Of the which Crimes of Oppreſſion and others above ſpecified, the ſaid Marquiſs of *Argyle*, *George Campbell* Juſtice and Sheriff-Deputy to the ſaid Marquiſs, *James Campbell* of *Ardkinglas*, Officer under the ſaid Marquiſs's Command, and remanent Defendants, were Authors, Actors, Aiders, Abettors, Aſſiſters, Contrivers, Promoters, and Art and Part. And further, the ſaid Marquiſs of *Argyle*, *George Campbell* his Juſtice and Sheriff-Deputy, and their Complices and remanent Defendants above named, or one or other of them, in the Month of 1648 Years, or thereabout, did ſeize and apprehend the Perſon of *Dougall Mackdougall* of *Downaach*, after he had ſurrendred the Houſe of *Dounolick*, upon a ſubſcribed Capitulation under the Hands of Lieutenant-General *David Leſley*, for his Life, Liberty and Eſtate. Notwithſtanding whereof the ſaid Marquiſs and his ſaid Servant, or either of them and their Complices, cauſed incarcerate the ſaid *Dougall Mackdougall* in the Houſe of *Inchoneill*, laying Irons upon him; who being in miſerable Torment for the ſpace of a Year and a half and above, was enforced at the ſaid Marquiſs's deſire, to be free of the woful Impriſonment and Torture, to grant to him a Diſpoſition and Renunciation of the ſaid *Dougall*'s Lands of *Barninggar*; whereof the ſaid Marquiſs is ſtill in Poſſeſſion ſince the ſaid Year 1648. Of the which cruel Acts of Oppreſſion, particularly the ſaid Marquiſs of *Argyle* and *George Campbell* his Servant, or one or other of them, were Authors, Aiders, Abettors, Aſſiſters, Countenancers, Promoters, and Art and Part. And in like manner, *Duncan Campbell* of *Elangreg* moſt treacherouſly, traitorouſly and perfidiouſly, after ſubſcribing of the Capitulation by him granted to the ſaid Sir *James*, his Friends and Followers, being a Member of the Conventicle and Meeting at the aforeſaid cruel and wicked Murders committed at *Denogne*, was a main Author, Actor, Abettor, Aſſiſter,

Assister, Contriver and Promoter of the said wicked Murder committed there. Like as thereafter the said *Duncan Campbell* did take unlawful Possession of *Leymont Lamond* of *Cowston*'s Lands of *Stroan* and *Cowston*, and also the Lands of *Trowstonne* and *Ardbeg*, belonging to the said Sir *James* and *Leymount*. And also the said *Duncan Campbell* with certain of his Complices, in the Month of *March* 1646 Years, came from his own House to the said Lands of *Cowston*, and *Stroan*, and there Murdered early in the Morning of Men and Children to the Number of forty Persons, viz. *Archibald Lamond* in *Auchinsoure*, *John Lamond* there, *Lamond* Son to *Ewen Lamond* there a Child, *Archibald Lamond* of *Rive*, *Coll Lamond* his only Son a Child, *Ewen Lamond* in *Midtowart*, *Duncan Lamond* his Brother, *Donald Mackneill* Servant to the said Sir *James Lamond*, *Donald Macklauchlane* in *Kilmichael*, *Finlay Mackilbreid*, *Donald Mackilbreid* his Brother, two of the Name of *Mackalasters* Sons to *Archibald Mackalaster* in *Killennane*; *Macklelland* in *Knockmillie*, *Robert Moodie* in Castle *Towart*, *John Mackiller* Servant to the said Sir *James*, *Harry Lamond*, *Archibald Mackperson*, *John Mitchelson*, *John Leith*, *Dougall Leith*, and several others. As also the said *Duncan Campbell* most traitorously, treacherously and perfidiously, with the said Defendants his Complices, were main Actors, Abettors, Assisters, and art and part of the burning of the said Sir *James* his House of *Towart*, taking away the Goods and Plenishing therein, destroying of the said Sir *James* his own Men, Tenants, Vassals and Servants; robbing and taking away of their Goods the foresaid Years 1645, and 1646, in one or other of the Months thereof. Of the which treasonable Deeds, Murders, Fire-raisings, Oppressions, Robberies, and other cruel Acts and Malversations above-mentioned, the said Persons Defendants, and particularly the said Marquis of *Argyle*, the said *Duncan Campbell* an Officer under the said Marquis's Command, *George Campbell* Sheriff and Justice-Deputy, or one of them, were Authors, Actors, Aiders, Abettors, Assisters, Contrivers and Promoters of the same. And in like manner *Robert Campbell* of *Auchinwilling*, and remanent Defendants aforesaid, or one or other of them, most basely and perfidiously, after the said Capitulation, and contrary thereto, and Our said Laws and Acts of Parliament above-written, in Month of or one or other of the Months above-specified, in the Year of God, 1646, 1647, 1648, 1649, 1650, 1651, 1652, 1653, 1654, or one or other of the said Years, did violently reave and carry away several of the said Sir *James*'s Houshold Plenishing, and did destroy and cut down the whole Plantings in and about the said Sir *James* his House of *Towart*, Orchards, Parks and Walks thereof; and did sell, use and dispone thereupon, burning spailes and branches of the said Trees, socutted upon the Roots of the same, that they might never grow thereafter; demolishing the Walls of the said House, taking away the great hewed Stones thereof, and building therewith Houses to himself. And also being present at the said bloody and cruel Murders committed in *Dencone*, and a main Actor, Aider, Abettor, Assister, Counsellor and Promoter thereof; as also was a main Actor, Aider, Abettor, Assister, and art and part of the great burnings, hairships, and ryffs committed by the said Defendants, or one or other of them, of the said Sir *James* his own Men, Tenants, Vassals and Servants Houses, in the Year of God 1645, and 1646, in one or other of the Months thereof. Of the which cruel Crimes, Deeds and Malversations above-written the said *Robert Campbell* of *Auchinwilling*, and the said Defendants, or one or other of them, were main Actors, Aiders, &c. And also the said *John Campbell* of *Ardtariche* and remanent Defendants above-written, or one or other of them, in the said Month of *June* 1646 Years, most villainously, contrary to the said Capitulation, was accessory to the burning of the said Sir *James* his House of *Towart*, and in the said Month was present at the Meeting, and a main Counsellor, Aider, Abettor or Assister of the said cruel and bloody Murders, committed at the Village of *Denoone*. And to make the Premises manifestly appear, the said *John Campbell*, by meer Oppression having possest the Lands belonging to the Deceas'd *Duncan Lamond* a murdered Person, particularly the Lands of *Knockdaw*, *Innerchellane*, the Lands of *Lettingall* and *Towartfleeming*; and in like manner having by Oppression also possest himself of the Lands of *Gortamleik*, *Kilmarnock* and *Brackleys*, pertaining to the said Sir *James*; taking away also, before the burning of his said House, several of the Houshold-stuff and Plenishing therein. Of the which Deeds and other Crimes above-written, the said *John Campbell* of *Ardtariche*, and remanent Defendants aforesaid, or one or other of them, were Authors, Aiders, &c.

And further Mr. *Colin Macklauchlane*, Minister at *Lochgolisheed*, being present at the meeting in the said Village of *Denoone*, in the said Month of *June* 1646, most villainously and treacherously, contrary to the said Capitulation, was a main Counsellor, Actor, Author, Aider, Assister, Abettor, Promoter, and Art and Part of the foresaid cruel Murders, committed at the said Village of *Denoone*. And further the said *James Campbell* of *Arkinglas* Officer under the said Marquis's command, accompanied with his Regiment in the Low-lands, at the Village of the *Largis*, in the Month of 1645, adding to his former Cruelties, one *Lamond* a Beggar coming to the said *James Campbell*, and craving his Charity, the said *James* caused apprehend the said Beggar, and most cruelly caused *Murder and Hang him*, without any Ground or Warrant. Of the which cruel Crime of Murder the said *James Campbell* of *Ardkinglas*, and the said Defendants, or one or other of them, were Authors, Actors, Abettors, &c. And moreover the said *James Campbell* of *Ardkinglas*, Officer under the said Marquis his command, and remanent Persons Defendants aforesaid, intending never to put a Period to their Cruelty, so long as any of the Name of *Lamond* and their Friends and Followers were left, in the Month of 1646, the said *James Campbell* being accompanied with his said Regiment in the Lowlands, there being brought to him by *Angus Mackilvernock*, *Dermount Campbell*, and the deceas'd *Francis Campbell* his Brother, one *John Machpatrick* alias *Lamond*, the said *James Campbell* of *Ardkinglas*, and remanent Defendants aforesaid, or one or other of them, caused cruelly Murder and Hang the said *John Machpatrick* alias *Lamond*, and that without any Ground or Warrant. Of the which Crime of Murder, the said Defendants, or one or other of them, and particularly the said *James Campbell* of *Arakinglas*; were Authors, Actors, Aiders, Abettors, Assisters, or Art or Part:

And also, *Alexander Campbell* of *Pennymoir*, with certain of his Followers and Complices, upon the Month of 1645 Years, did seize and apprehend, in the Isle of *Comeraw*, one *Robert Lamond* Merchant residenter in *Ireland*, from whence having come about his lawful Occasions, to the said Isle of *Comeraw*, the said Persons did most cruelly and villainously murder and shoot the said *Robert Lamond* to death, at the said Isle: of the which cruel Murder the said Defendants, or one or other of them, and particularly the said *Alexander Campbell* of *Pennymoir*, were Authors, Actors, Aiders, Abettors, Assisters, or Art and Part. And likewise the said *George Campbell*, Justice and Sheriff-Deputy to the said Marquis of *Argyle*, still persisting in his wonted Cruelties and Murders, in the Month of 1645 Years, caused murder and hang one *John Dow Maclauchlan* of *Ardnadanne*, at the said Town of *Inverary*, and that without any Ground or Warrant. Of the which cruel Murder, the said Defendants, or one or other of them, and particularly the said *George Campbell*, were Authors, Actors, Aiders, Abettors, Assisters, or Art and Part.

And further the said *Archibald* Marquis of *Argyle*, and *George Campbell* his Justice and Sheriff-Deputy, likely never to make an End of their Cruelty, in the Month of 1647 Years, or thereby, did most barbarously, cruelly, and unchristianly murder and cut off *Hector Macalastar* of and his two Sons, at *Lochhead* in *Kintyre*, they being His Majesty's free Lieges, having received Capitulation from the said Lieutenant-General *David Lesley*, for Life, Lands, Estate and Goods; who according to the said Capitulation did go home to their dwelling House, living peaceably: Notwithstanding whereof the said *Archibald* Marquis of *Argyle* and the said *George Campbell* his said Justice and Sheriff-Deputy, sending for the said *Hector Macallastar* and his said two Sons, coming and fearing nothing, they most traitorously and villainously, contrary to the said Capitulation, caused to murder and hang the said Persons at *Lochhead* in *Kintyre*. Of the which cruel Murders the said Defendants, or one or other of them, and particularly the said *Archibald* Marquis of *Argyle* and *George Campbell* his Justice and Sheriff-Deputy were Authors, Actors, Aiders, Abettors, Contrivers, Assisters and Promoters, or Art and Part thereof. As also *Archibald Campbell Evinnochan*, Son-in-Law to the Laird of *Otter*, in the Month of or one or other of the Months respective above-written, in the Year 1646, was Accessory, Art and Part, and Aider, Abettor, and Assister of the aforesaid cruel and wicked Murders committed at the Lands of *Stroane*, and at the foresaid Village of *Denoon*, being accessory also to the robbing and taking away of the Houshold-stuff and Plenishing of the said Sir *James* his said House of *Towart*, and of the Burning of the same. Of the which cruel Acts of Murders, Robberies, and Fire-raising, the said *Archibald Campbell* was Actor, Author, Abettor, Assister, Contriver, Counsellor, Promoter, and Art and Part thereof.

And likewise the said Marquis of *Argyle* and *George Campbell* his Justice and Sheriff-Deputy, or one or other of them, in the Month of or one or other of the said Months above-written, in the Year of God 1639, or thereby, caused seize upon and apprehend Col. *Mac Gillespy*, alias *Mac Donald*, he being then his Majesty's free Liege, incarcerate him in our said House of *Dunstafneich*, where he remained Prisoner till the Year 1645, at which time being excambet after the Battle of *Inverlochie* he was taken Prisoner in *Ila* in the Year 1647, being then in His Majesty's Service, and within few Days or Weeks thereafter, the said Marquis and the said *George* caused most cruelly hang the said Col. *Mac Gillespy*, at our said House of *Dunstafneich*. And further, the said *Archibald* Marquis of *Argyle* and *George Campbell* his Sheriff and Justice-Deputy, or one or other of them, upon the Month of or one or other of the Months above-written, in the Year 1647, or 1648, caused cruelly murder and hang *Ronnald Macdonnald* Son to the said Col. at *Inverary*.

And also the said Marquis of *Argyle* and *George Campbell* his Justice and Sheriff-Deputy, most treacherously, traitorously, and perfidiously caused cruelly murder and hang, in the Month of or one or other of the Months above-written, in the Year of God 1647, *Alexander Maccoll Vickronnald* alias *Mackallaster* in *Kilmichell* of *Largy*, notwithstanding of a Capitulation granted by the said Marquis of *Argyle* and Lieutenant-General *Lesley*, or one or other of them: Of the which three cruel Murders immediately preceding, committed at *Inverary* and *Dunstafneich*, the said Defendants, or one or other of them, and particularly the said *Archibald* Marquis of *Argyle*, and *George Campbell* his Justice and Sheriff-Deputy, were Authors, Actors, Aiders, Abettors, Assisters, Advisers, Countenancers, and Promoters, or Art and Part.

Of the which treasonable Crimes, Murders, Robberies, Oppressions, and all other Crimes, Misdeeds, and Malversations above-mentioned, or one or other of them, the forenamed Persons above complained upon, and every one of them, at least one or other of them, were Actors, Authors, Abettors, Assisters, Contrivers, Devisers, Consulters, Advisers, or Art and Part. And thereby they and each one of them, at least one or other of them, have incurred the respective Pains and Punishments prescribed by our said Laws, and Acts of Parliament, *viz.* The forfeiture of Life, Lands, Dignity, Estates, and Goods, the benefit thereof to be applied to our Use, or such Use as we and our said Estates of Parliament, or these impowered by Us for that effect, shall appoint; at the least have incurred such other Censure and Punishment, in their Bodies, Names, Fames, Estate, and Goods, as we and our said Estates of Parliament, or those impowered or authorized by us for that Effect, shall think fit, to be applied, as said is, according to the nature and quality of their several Crimes, Misdeeds and Malversations, done and committed by them, which ought and should be inflicted upon them with all rigour, in example of others.

Our Will is herefore, and we charge you that you lawfully Summon, Warn, and Charge, the whole forenamed Persons, Defendants, abovenamed as followeth, *viz.* so many of them as are within this our Realm of

Scotland, perſonally, if they can be apprehended, and failing thereof, at their Dwelling-Places, and by open Proclamation at the Market-Croſſes of the Head Boroughs of our Sheriffdoms, or other Juriſdictions within the which they dwell; and ſo many of them as are without the ſame, by open Proclamation at the Market-Croſs of our Burgh of *Edinburgh*, Peir and Shore of *Leith*, upon threeſcore Days Warning, to appear perſonally before us and our Eſtates of Parliament, or thoſe impowered or authorized by us for that Effect, at *Edinburgh*, or where it ſhall happen then to be for the time, the Day of with Continuation of Days to anſwer at the Inſtance of our ſaid Advocate, for our Intereſt, and at the Inſtance of the ſaid Sir *James Lamount*, for himſelf, and in Name and Behalf aforeſaid, for his Intereſt above-written. That is to ſay, the ſaid Defendants, to hear and ſee it found and declared, verified and proved, in Preſence of our ſaid Eſtates of Parliament, or ſuch as ſhall be authorized by us and them, that the ſaid Defendants, and every one of them, at leaſt one or other of them, have committed, and are guilty of, the Crimes of *High-Treaſon*, and other Crimes, *Murders*, *Robberies*, *Oppreſſions*, *Miſdeeds*, and *Malverſations* reſpective above ſpecified, or one or other of them; at leaſt they, and every one of them, or one or other of them, were Authors, Abettors, Contrivers, Deviſers, or Art and Part thereof: And the ſame being ſo verified and proved, to hear and ſee it found and declared, by us and our ſaid Eſtates of Parliament, or thoſe impowered or authorized by us for that Effect, that the forenamed Perſons, and every one of them, have thereby incurred the reſpective Pains and Puniſhments, preſcribed by our ſaid Laws and Acts of Parliament; and to hear and ſee the Sentence and Doom of Forfeiture pronounced againſt them for the ſame, *viz.* the Forfeiture and Loſs of *Life*, *Lands*, *Dignities*, *Eſtates* and *Goods*, and the Benefit thereof to be applied to our Uſe, or ſuch as we or our ſaid Eſtates of Parliament, or thoſe authorized by us for that Effect ſhall appoint; at leaſt to hear and ſee themſelves adjudged to be cenſured in their *Perſons*, *Names*, *Fames*, *Eſtates* and *Goods*, as we and our ſaid Eſtates of Parliament, or thoſe impowered or authorized by us for that Effect, ſhall think fit, according to the Nature and Quality of their ſeveral Crimes, Miſdeeds and Malverſations, committed and done by them; and to hear and ſee the foreſaid Pains and Puniſhments decerned to be executed, and inflicted upon them, with all Rigour, in example of others, at the Arbitrement and Determination of us and our ſaid Eſtates of Parliament, or thoſe impowered and authorized by us for that Effect: With Certification to the Diſobeyers, if they be contumacious and appear not, we and our ſaid Eſtates of Parliament, or thoſe impowered and authorized by us, for that Effect, will then inſtantly proceed againſt the ſaid Defendants, and every one of them, who does not appear, as *Rebels* and *Traitors*, and guilty of *High-Treaſon* againſt Us and our Crown, and the Eſtates of this our ancient Kingdom; to the forfeiting of their *Lives*, *Lands*, *Eſtates* and *Goods*, to be applied, as ſaid is; and that their Abſence and Contumacy ſhall be holden as a manifeſt Probation of their Guiltineſs, without Neceſſity of any further Probation. But if they appear and remain preſent at the whole Diets of the Procedure, that then we and our ſaid Eſtates of Parliament, or theſe impowered and authorized by us for that Effect, will proceed againſt the ſaid Defenders upon lawful Probation, to the forfeiting of their ſaid Lives, Lands, Eſtates, and Goods, to be applied as ſaid is, or otherwiſe by puniſhing and cenſuring of them, according to the Nature and Quality of their Crimes, Miſdeeds, and Malverſations, in their Perſons, Eſtates, Goods, Name and Fame, or ſome other manner of way; as we and our ſaid Eſtates of Parliament, or thoſe impowered or authorized by us for that Effect, ſhall think fit and appoint, conform to our Sentence, Decree, and Determination to be given and pronounced by us againſt the ſaid Defenders therein, according to Juſtice, to be called ſummarily without Diet, Table or Continuation of other Summons; becauſe the aforeſaid Action is for Crimes of *High-Treaſon*, and other Acts, Miſdeeds and Malverſations, committed and done by the forenamed Perſons againſt us, and the Eſtates of this our ancient Kingdom, and the publick Good and Peace of the ſame; at leaſt, whereof the forenamed Perſons Defendants were Aiders, Abettors, Aſſiſters, Conſulters, Deviſers, Adviſers, or Art and Part. And therefore merits ſummary Proceſs, conform to daily Practice, uſed in the like Caſes, and a Deliverance granted by our Committee of Eſtates thereanent. Moreover, that you lawfully Summon, Warn, and Charge to appear before Us, and Our Eſtates of Parliament, or thoſe impowered or authorized by us for that Effect, the ſaid Day and Place, with Continuation of Days to bear leill and ſoothfaſt Witneſſing, in ſo far as they know, or ſhall be aſked at them, in the ſaid Matter, under all higheſt Pain and Charge that after may follow: As you will anſwer to us thereupon. The which to do we commit to you, conjunctly and ſeverally, our full Power by theſe our Letters, delivering them by you duly executed, and indorſed again to the Bearer.

Given under our Signet at *Edinburgh*, the Twenty Eighth Day of *December*, and of our Reign the Twelfth Year, 1660.

Ex deliberatione Commiſſionis Parliamenti ſic ſubſcribitur.

Edinburgh, Jan. 23, 1661.

Jo. Cunynghame.

Signed by Warrant from the Parliament.

Sic Subſcribitur,
W. Sharp.

To which Charge the *Marquiſs* put in the following Anſwer.

I. THIS Libel may appear to any to be framed meerly out of Malice, becauſe it takes in all things (either alledged, ſpoken, or done) ſince the Year of God 1638, notwithſtanding his Majeſty's Royal Father's and his own Acts of Oblivion and Approbation.

II. Becauſe it does not ſo much as alledge any Reaſon or Motive for any thing hath been done, nor any End why, or to which any did drive, and ſo making any Man who was engaged more malicious than the Devil, and more unreaſonable than the brute Beaſts.

III. It repeats all that hath been done by Kirk or Kingdom, to be the Marquiſs of *Argyle*'s Deeds, though he neither was at the beginning of the Buſineſs, nor very many of the Particulars mentioned, as the Narration of his Carriage can ſhew; he ſhews both the Reaſons and Ends of his doing all he did, being meerly for Religion, King and Kingdom, according to the Covenant, never preſſing any thing earneſtly, but for the Covenant, nor oppoſing, but when it was refus'd.

1. Mr. *John Stewart*'s Proceſs will clear much of the Falſhood of this Point; for though ſuch a Diſcourſe had been, it was but narratively of a Debate, which was before the ſitting of the Parliament, 1640. Wherein Mr. *Alexander Henderſon* uſed thoſe very Words, though nothing to His Majeſty's Diſadvantage; and whether I related that Debate, no Man's Memory can be charged with ſuch a Thing, after ſo long a time, and a clear Act of Oblivion of his Majeſty's Royal Father, 1641.

2. This is a great Miſtake, when the Defender came to the Houſe of *Airly*, *Montroſs* had put a Garriſon in it for the Uſe of the Country, and when I came there with the Country's Order, *Sibbald*, who was in it, upon ſight of my Commiſſion did preſently leave it; and the Earl of *Airly*'s own Friends know, except what Buſhes were cut for Hutting to Soldiers, I had no Uſe to cut the Planting; and my Stay there a few Days was, expecting the Lord *Ogilby*, whoſe Friends were gone to him for that Purpoſe, and the ſlighting of the Houſe was then a Favour, his Order being more ſtrict, and I believe his Friends or Tenants had no Loſs to my Knowledge: As for burning the Houſe further in *Glenyla*, the Defender knew nothing of it at all, until ſome Days after it was done; and howſoever, it was included in the Act of Oblivion, 1641.

3. Some Men indeed, named under my Command, lay at *Dumbarton*, by order of Committee and Parliament, whereby that Garriſon was loth to come abroad, and ſo many of them fell ſick; whereupon Sir *John Henderſon* ſent for me, that I might come to the Caſtle and receive it from him upon honourable Terms, which I did, and ſuffered him to make his own Articles, for Matter of Honour: And I tranſported none of the Cannon, but when his Majeſty was in *Scotland*, 1641, the Duke of *Richmond* did give the Defender two Cannon, this is known to many; this Buſineſs is likewiſe before the Act of Oblivion, 1641.

4. This is anſwered formerly, there is added a Promiſe of mine, which needed not been mentioned, for I acknowledge my many Obligations to his Majeſty, as ſtrong as that Promiſe could make it: And it were to wrong his Majeſty, to ſay he deſired any Promiſe to take away that, which his Majeſty commands ſo much in the large Treaty, *Scotland*'s Deſire of Unity in Religion, and Uniformity in Church-Government, as a ſpecial Means for conſerving of Peace betwixt the two Kingdoms; neither did *Scotland* at all join with any Army in *England*, in League and Covenant, but with the two Houſes of Parliament.

5. I neither did burn, nor give Order to burn the Houſe of *Menſtre*, though I had great Provocations to it, the Day before *Menſtre* was burnt, the whole Houſes of two Pariſhes, whereof I was only Superior, was burnt, and many poor Families put to extreme Neceſſity by it: And a Son of the Earl of *Stirling*, who had *Menſtre* in poſſeſſion, by compriſing, did concur with the Actors of ſo cruel a Fact, to poor People, that were not wronging them at all; himſelf, and his Father before him, not only holding the ſame of me, but in effect without Money; I and my Father gave them the Land; and when many Years Few Duties had run on, I my ſelf diſcharged that Lady of the ſame, amounting to a conſiderable Sum; ſo far do I abhor to be ungrate, though I have often met with ſuch Dealing; howſoever the 30th Act, 1647, for liberating the good Subjects from the Purſuit and Actions of the Rebels, Civil or Criminal, would ſuffice.

6. This is anſwered formerly, and it is a moſt unjuſt Calumny.

7. There are three or four things in this Article, 1. *Concerning the Men in* Loathhead *and* Dunavarty. 2. *An old Man begging his Son's Life denied.* 3. *Sending* 200 *Men from* Yla, *to ſtarve in* Jura. 4. *The carrying of Col.* Mac Gilleſpie *from* Leith *Road, being brought there by order of Committee of Parliament.* To theſe, I deſire it may be known, that in *May* or *June*, 1646, his Majeſty ſent Order to *Alexander Mac Donald*, and all under him, to lay down Arms; of the which Number theſe Men in *Kintyre* were a part, who continued in Arms contrary to his Majeſty's Order. Next, I deſire it may be known, they were lying under Engagements not to have joined with *Alexander Mac Donald*; notwithſtanding all which they were in Arms, fighting againſt *David Leſly* and his Party; yea, after *Alexander* was beaten, they refuſed to come to him, when other Countrymen did; and went to the Houſe of *Lochhead* and *Dunabarty*, out of which *David Leſly* took them, without any Capitulation, and diſpoſed of them as the Council of War thought fit, which the Defender cannot be charged with. For the Second, of the old Man's Requeſt for his Son, he never heard of any ſuch thing before he ſaw this Libel, ſo he conceives it to be a Fiction; and juſt ſo of the third, for the Defender was never in *Yla* nor *Jura*, but with *David Leſly*, and he does not remember any Colour for ſuch a Diſcourſe. For the 4th, of Col. *Kittack*'s bringing to *Leith* Road by order of either Committee or Parliament, is a meer Fiction; he was taken Priſoner in *Yla*, by the Party under *David Leſly*, and delivered to me; and I put him aboard of Captain *Brown*'s Ship, who undertook to deliver him at *Dunſtaffage*, but Captain *Brown* not being willing to loſe the Opportunity of a fair Wind, did not go to *Dunſtaffage*, but went ſtraight to *Leith* Road, and immediately gave me notice he had my Priſoner aboard, whom I received from him, and ſent to *Dunſtaffage*; Captain *Brown* I think lives at *Weymes*, who can declare this. One thing I ſhall add in general, that I thank the Lord, by his Grace helping me, I never took any Man's Life, but what was done in Conflict, or by Order of Law, for notorious Crimes, according to ſtanding Acts of Parliament.

8. It

8. It is well known I was in *Ireland* by Commiſſion for the getting Aſſiſtance of the *Scots* Army againſt thoſe in Arms in *Scotland* when his Majeſty came to the Army before *Newark*, ſo that his Majeſty's Declarations anent his Majeſty's gracious Intention and Reſolution in coming to the *Scots* Army, was ſent both to the Committee of *Eſtates* of *Scotland*, and to the two Houſes of the Parliament of *England*, before I come to *Newcaſtle*; his Majeſty's Declarations were all recorded in the Committee Books, and Printed, that his Majeſty came not with any Intention to continue that unnatural War any longer, or to make any Diviſion betwixt the Kingdoms, but to comply with his Parliaments, and thoſe intruſted by him, in every thing for ſettling Truth and Peace; and that he would apply himſelf totally to the Councils and Advices of his Parliaments: Upon which the Committee of the Parliament of *Scotland*, and the General Officers of the *Scots* Army, declared to his Majeſty himſelf, and the two Houſes of the Parliament of *England*, their receiving his Majeſty was upon theſe terms: All this was done before the Defender come to *Newcaſtle*, after his Majeſty's coming there to the *Scots* Army: In this Article theſe, whom his Royal Majeſty who then was, and his gracious Majeſty who now is, calls his Parliaments, are called a Factious Party, and the Defender the Ring-leader. It is ſaid in this Article, that I went to *London*, but omits to tell, by his Majeſty's and Commiſſioners order at *Newcaſtle* as one of the Commiſſioners; and only carried Inſtructions to the reſt of the Commiſſioners at *London*, for haſtning the Propoſitions: And likewiſe from his Majeſty was commanded to take the Advice of the Duke of *Richmond* and Marquiſs of *Hartford*, anent what might concern his Majeſty; and particularly, if it was adviſeable that the *Scots* Army ſhould declare for his Majeſty, wherein they told me, and conjured me to tell it to his Majeſty, that it was the only way at preſent inevitably to ruin his Majeſty, and deſired me to ſhew it to his Majeſty in theſe Terms; that himſelf knew, neither the Nobility nor Gentry of *England*, who attended his Majeſty at *Oxford*, deſired him altogether to prevail over his Parliament by his Sword, much leſs would they indure the *Scots* Army to do it, that would make all *England* as one Man againſt his Majeſty; therefore deſired his Majeſty might by any means give way to the Propoſitions, no other being left, which could be of Advantage to his Majeſty. This very Advice he delivered to his Majeſty at *Newcaſtle*, and told the ſame to his Majeſty, who now is, when he was in *Scotland*, and intreated the Lieutenant of the Tower of *London* to propoſe for me that the Marquiſs of *Hartford* then living, might be examined in this, but he put it off from time to time, becauſe of other great Affairs in hand. It muſt likewiſe here be remembred, that at that time the two Houſes of the Parliament of *England* was ſitting fully and freely, and neither Independent nor Sectaries were able to carry one Vote in the Houſes: And that the Houſes declared fully their Reſolution for Maintenance of his Majeſty's Perſon and Authority; and ſuch of them who attended his Majeſty moſt, were moſt for the diſbanding of the *Scots* Army, and his Majeſty's ſtaying in *England*. Next obſerve this Article, that it is a great miſtake that any thing done at *London*, concerning leaving the King in *England*, when the Defender was at *London*, that Alledgeance of a Diſcourſe of mine in the Committee of both Kingdoms muſt be likewiſe forged; for as is ſaid there was nothing moved at that time concerning his Majeſty's Perſon, but meerly for the Army, and what concerned their Satisfaction; ſo that I think the Army, at leaſt to my Knowledge, emitted no ſuch Declaration. And though they had done it, I may ſay, I was never at any of their Conſultations; let them anſwer for their own Deeds. And to what the Parliament did, no Man was ever yet made anſwer for ſuch things, eſpecially where the lawful King hath approved the Parliament as a lawful Parliament: No ſucceeding King will ever queſtion his Predeceſſor's Acts, much leſs can a King in Honour queſtion any Man for acting in a Parliament, which himſelf hath approved. And of ſuch nature are the moſt part in this Libel; yea all of them except Words before 1651. So I may ſay without offence, it were more for his Majeſty's Honour and this Kingdom, to think on a Declaration vindicating the Parliament of *Scotland* from ſuch Acts, than ſo unjuſtly to lay ſuch foul things on them, and call them a factious Party.

9. It is to be obſerved, that the meeting of Parliament, 1648, is called the Eſtates of Parliament met by his Majeſty's ſpecial Authority, and it was ſo indeed, being one of the Seſſions of Parliament, 1644. And in the firſt place there is a great Miſtake; for no Propoſition was made after the Vote of Parliament, the Proteſtation it ſelf will clear this, as is ſaid in the former Libel. I did not come to wait upon the Committee of Eſtates after *Preſton*, but being called, and of neceſſity conſidering the times; neither went I unſent to *Mordington*, neither did the Invader *Cromwell* bring his Army into *Scotland*, only that he reſolving to propoſe ſome things to the Committee, which the Books will clear, he brought a ſmall Party with him to *Lothian*, and the ſtopping him from bringing in his Army, and that he did not require Pledges and the Strengths of the Kingdom, was thought a Mercy at that time both to thoſe who returned out of *England*, and all the Nation: the Margine doubtleſs in one branch is miſtaken, at leaſt as to me, no Man can ſay he heard me; and neither his ſayings nor doings was juſtifiable; for the Truth is, he declared always he would not remove until he had *Berwick*; and the Informers may imagine that was in my Power, and he did remove: and when that was done, what Inſtructions were ſent to, or with Sir *John Cheeſly* were neither of my Dyting or Writing.

10. Being well known how active and inſtrumental the Defender was in every thing concerning his Majeſty's Reſtitution to his Crowns and Royal Authority, this Clauſe or Article is purpoſely for ſoyling his faithful Service, but his Majeſty both knows and hath acknowledged the contrary of this by Word and Write. And for what concerns the Marquiſs of *Montroſſe*'s Death, I neither Conſulted nor Voted in the manner nor matter of it, though it was done in Parliament. The next Point in this Article is correſponding with *Cromwell* after his Majeſty came to *Scotland*, which is moſt falſe; the like was ſaid and recanted by *Hamilton*, who was a Spy, and ſo was hanged at *Sterling*.

For any Declaration at the *Weſt-kirk*, I had no hand in it by Word, Writ nor Meſſage, but on the contrary I did deal with ſome Miniſters who came from the Commiſſion of the Kirk, to forbear preſſing of his Majeſty; and where ſome of his Majeſty's Bed-chamber deſired that I might deal with his Majeſty to ſign it, I told them I could not well preſs the King to a thing he ſaid was ſo contrary to his Conſcience, ſeeing it reflected as he thought on his Royal Father; but to ſpeak to the King I would not refuſe, and if the King had done for a Deſire, I know no crime in it.

11. There are ſome things in this Note in the former Libel, as joining with Colonel *Twiſleton* in his March up *Lochlomount*; he knows, and I hope will not deny, that before I went with him, he told me that one *Wakmſha* was with him, whether from the Earl of *Glencairn* himſelf, or from General *Monk*, concerning him, I do not remember; but he ſaid the Earl of *Glencairn*'s Buſineſs was as good as ended, and except I went with him, I could not but miſs General *Monk*, who had ſent for me, who was upon March, but that he was to meet with him, or hear certainly from him the Day he was going; and all things did fall out accordingly, and being under a Capitulation, I did not know why I might not be in their Company, being reſolved never to joyn with them in any Action.

As for having a Company of Foot under their Pay, it is a Miſtake; the Shire of *Argyle* truſted me with a Watch for the Shire of *Argyle*, which is moſt ordinarily in all Places of the *High-Lands*, in broken Times; I made it known to General *Monk*, the poor Country not being yet well planted after the burning, could not be able to pay Ceſs and entertain the Watch; he was pleaſed to promiſe once Help for a hundred Men, but I hope his Grace will not ſay that ever he required any Engagement of them as Soldiers, nor ever employed he them at all; but becauſe they did not oppoſe my Son, he would not continue his Aſſiſtance to the Shire any longer, and ſpoke againſt me what his Grace pleaſed for my Diſſatisfaction to the *Engliſh*.

And for exchanging Priſoners, it is a Miſtake; two Men, who had been in *Roſeneth*, whereof I have Charge, come from thence, ſhortly after my Boat, in the Twilight; going up *Clyd* to ſee General *Monk*, whom I had never ſeen before, I ſtaid for them, thinking it had been ſome poor Men flying from Abuſes, but coming aboard, they alledged they were Men belonging to the Earl *Glencairn*, which I doubted; however, I chid them for coming that way, and for abuſing the Country where they came; I told them I would only leave them at *Dumbarton* until I returned from *Kilſyth*, where General *Monk* was, and in the mean time, that they might not ſuffer any thing, deſired they might deliver any Arms or Moneys they had to a Servant of mine, and all ſhould be ſafely returned, as it was done at my return; and that they might not go as by way of any Exchange, I would not ſuffer them to be enrolled by Captain *Thompſon*, who was exchanging ſome Priſoners at my Return, but got them from him, and ſent them back, without any Capitulation or Exchange, though ſome Men, I have forgotten who it was, about that time, took out of *Dumbarton* ſome of my Boat-Men, and returned them to me, without any Treaty or Capitulation for that Effect. Becauſe it's ſaid the Earl of *Glencairn* and *Middleton* were commiſſioned by his Majeſty; I can ſay truly, I never knew it, neither did any of their Honours ſo much as by Word, Writ, or Meſſage, intimate ſo much to me; if they had, I am confident I had ſatisfied them concerning my Carriage: And becauſe of this, though there was ſome Hazard in it to me, I did deſire to meet with his Grace the Earl of *Middleton*, in the Hills, but I got no Anſwer; whether the Meſſenger dealt faithfully I know not, but I believe his Grace knew ſo much, and the neceſſary Reaſons I gave for the unſeaſonableneſs of that ſtirring, all which I am ready yet to declare, which doubtleſs wil ſatisfy any.

As for my taking upon me to bring off any, it is certain a Miſtake, for the Perſon mentioned, *John Mac-Dowgal* of *Downolleith* was not at all engaged in that Service, when the Earl of *Glencairn* and *Middleton* was in the Fields.

A Short Anſwer to the Libel and Dittay given in upon the 28th Day of January.

BEfore I ſay any thing particularly, I muſt difference all can be ſaid againſt me, firſt in theſe Heads, and that is before his Majeſty's going out of *Scotland*, 1651, and ſince that *Cromwell* killed and took poſſeſſion, until his Majeſty's Happy Return, in *Anno* 1660.

Theſe again, which were acted before His Majeſty left *Scotland*, in *Anno* 1651, of Publick Concernment. 2. Of Private, relating to particular Perſons: Now for theſe things wherein I was an Actor, in relation to the Publick Concernment, I never acted without the Approbation of Parliament and General Aſſemblies, ratified by his Majeſty's Royal Father and Himſelf.

And ſo the Second, relating to particular Perſons, I never had Acceſſion to any thing but what is warranted by Act of Parliament approven by his Majeſty and his Royal Predeceſſors, for my Acting, after his Majeſty left *Scotland*, 1651, until his Majeſty's Happy Return, 1660. I was ſtill a Priſoner on Demand, and had no Agreement nor Capitulation with the *Engliſh*, after his Majeſty went, until *Auguſt* 1652, being long after the Deputies had taken the Tender, and were gone to *London*, and all others in Arms had Capitulate, and that all the reſt in *Scotland* were living peaceably at their own Houſes, except my Kinſmen and Vaſſals in *Argyle-Shire*, and the Invaders in full Poſſeſſion of the Power and Government, and never did then Capitulate but out of Neceſſity.

In Anſwer to the particular Articles of the Libel.

1. The Commiſſioners for Conſervation of the Peace, eſtabliſhed by his Majeſty in the Parliament, 1641, were to look to the keeping of the Articles of the large Treaty, whereof the Endeavours to procure an Uniformity in Religion was One; and that *Montroſs*, and others, cenſured by Parliament, ſhould not have Acceſs to his Majeſty: And when theſe Commiſſioners found theſe Things ſlighted, and themſelves

themſelves unequal for ſuch a Burden, they met with the Privy-Counſel, and they both, with the Committee of Common Burdens, and all of them together, invited a Convention of Eſtates, and what they did anent their Application to his Majeſty, and their Deſire of ſettling Differences betwixt Him and his People, and the League and Covenant, is ſet down particularly in the Ratification of Parliament, 1644, which Parliament was called and convened by his Majeſty's ſpecial Authority, and which the ſaid Parliament was never diſclaimed, but owned by his late Royal Majeſty, and is the Foundation of all that followed, even of the Parliament 1649, which is not only approven by his Majeſty, but by it his Majeſty was called home and Crowned, and from it the laſt Committee which met (before this Parliament) had then Power; ſo all that was done 1643, is fully ratified by his Majeſty in Parliament.

2. For this it was done in publick Parliament where all the ſame Members who ſat in 1648 were preſent, and it is likewiſe ratify'd by his Majeſty, and it was conceived inevitable and beſt for his Majeſty as matters ſtood for the time being, the leaſt of two evils, and no Man then imagined his Majeſty's Perſon nor Government in any hazard.

3. No Proteſtation 1648, againſt any Act of Parliament, the Proteſtation it ſelf will witneſs, and it was before the Vote in Parliament, the difference then may be mentioned, for it was not as it is reported commonly.

4. The Defender was purſuing no Forces, but coming to meet with the Committee 1648, after the Defeat at *Preſton*, being to conſult what was beſt, fearing no harm (being at *Sterling*) was invaded by *George Monro* and others, and ſome of his Friends who were with him were killed, and others taken Priſoners.

5. There was no Invitation, ſo far as the Defender knows, at all to *Oliver Cromwell* to come into *Scotland*, but on the contrary, an earneſt endeavour was to keep him out by fairneſs, which could not be done by force, as the Acts of Committee and Treaty at *Sterling* can ſhew: And for *Cromwell*'s viſiting of *Edinburgh* and *Edinburgh*-Caſtle, and of viſiting of him in it, the Defender was no Keeper of the ſaid Caſte.

6. The Defender acknowledges his Oath, and he did not deſert either his Majeſty or his Army, but his Stay behind his Majeſty in *Sterling* was by his Majeſty's own allowance, becauſe of his Wife's dangerous Sickneſs.

7. The Defender's Capitulation is not as Libelled, for he agreed not to the Government, though he agreed to live peaceably under the Parliament of the Common-wealth of *England*, and mention not without King and Houſe of Lords, which he particularly refuſed, as the Paper which he was preſt to ſign, yet extant, can ſhew; and never yielded to the ſame Articles which he ſigned, while he was a Priſoner in the Hand, and at ſuch a time when he could not make any Eſcape, being heavily diſeaſed, as Dr. *Cunningham* and many others know, who were with him the ſame time, it being, as in the Preface, in *Auguſt* 1652.

8. He was hardly able to come out of his Chamber when the Forces went out of *Argyleſhire*, ſo he was not preſent; but I think hardly could 200 or 300 Men ſtop the paſſing of two ſtrong Regiments of Foot, *Overton* and *Read*, and about 300 Horſe commanded by *Blackmore*, when that Year all his Hills and Bogs were as paſſable as the beſt Highways in that Country; and though the Defender had done it, it was but according to his Articles, which he could not then alter; and ſure no Man can think it a Crime.

9. The Defender did not accept any Commiſſion at that time, but refuſed to be in the Parliament, and was reſolved to forbear ſtill, if neceſſity had not compelled him afterward.

10. Did ſell ſome Cannon to *Dean*, when he told him he would not ſuffer him to keep them.

11. There is a miſtake, or call it what you will, in this Article, for Col. *Cobbet* had ended his Expedition when ſome of his Ships were broken in *Mull*, one Company went by Land and was not ſo much as challenged; and if the Defender had not given ſome way to go through the Country, it would have been accounted a breach of Articles; or if he had ſtaid upon free Quarter in the Country, until he had ſent to *Air* for new Proviſion, it would have ruined that part of the Country, for it was not ſo much want of Shipping, as Proviſion, made him go the Land way; and if I had betrayed him, I know no Man could like a Traitor, howbeit they had liked the Treachery, neither was *Glencarn* in the Fields, nor the Earl of *Middleton* in *Scotland* at that time, nor had any Man Commiſſion from his Majeſty, for any thing he knows.

12. It is a general only, ſo it cannot but have a general anſwer, that is, moſt falſe.

13. This Article is miſtaken, it was at proclaiming *Oliver* that I was as preſent, being occaſionally in Town, I was commanded by General *Monk* to wait on the Council, before I knew any intention of ſuch a Proclamation.

14. This Article is miſtaken alſo, I was deſired by *Aberdeenſhire*, to go for them to *London* in *Richard*'s time. I had refuſed likewiſe to go then, as I had in *Oliver*'s time, if I had not been driven by neceſſity to it out of reſpect to Religion, my native Country, and to preſerve my ſelf from utter ruin, not without hopes but ſomething might have been thought upon for his Majeſty, becauſe of the freedom of Elections in *England*, and as nothing was ſo much as mentioned at that time to his Majeſty's diſadvantage; ſo the Breach was there made, by which his Majeſty entered by the Lord's Bleſſing thereafter; this I told to ſeveral was moſt probable when I came back to *Scotland*, my endeavour to ſtop the Act of Union, until three things were firſt or jointly done, ſhews my Reſolution for my Religion and Country; the Three things were, that our Laws and Judicatories might ſtand until they ſhould be altered by common conſent. 2. That our Religion in Doctrine, Worſhip, and Diſcipline, might ſtand according to the Covenant. 3. That the Aſſeſs of *Scotland* might be made proportionable with *England*. I did to ſeveral declare, the Union could not be without theſe, and I was told likewiſe, that theſe would never be granted; my own neceſſity was to get off a moſt unjuſt decreat of great Sums laid upon me, by that called the *Exchequer* in *Scotland*, which was impoſſible for me to pay, this I ſhall make clearly to appear: And beſide all this, my going was not until the Invaders had been paſt ſeven Years in poſſeſſion by conſent, and that all the Lawyers did plead their Authority and Ordinances as Laws.

15. It was well known I was hard preſt to accept that, and did it never, until the poor People in whom I was nearly concern'd, were in great Difficulties for want of Juſtice; and I would not then embrace it, but with a Proteſtation, though it was long after the Invaders poſſeſſion, and that there was no other viſible Power nor Authority.

16. I can ſay nothing to this, but it is a moſt falſe Calumny, ſay it who will, and I hope when it comes to be particular in the Circumſtances it will appear to be ſo, for ever when the *Engliſh* were at *Inverary*, the Pariſh Miniſter Mr. *Alexander Gordon*, my own Chaplain, in his Family prayed conſtantly for his Majeſty, and my ſelf in Company did always pray for ſuch whom we were engaged to, by either natural, civil, or Chriſtian Bonds.

17. I can ſay to this as to the former, and that it cannot be true, becauſe that brake out only upon the Earl of *Calender*'s marching to the Weſt, whereof it is not ſaid he was Privy; and though it were true, all that buſineſs is approved in Parliament, ratified by his Majeſty.

18. This is a great miſtake, I had no ſuch Precept, but I had by Act of Parliament of *Scotland*, the half of Exciſe of Wines and Strong-waters in *Scotland* for Payment to me, for a great Sum laid out by me for the *Iriſh* Army, and by my Articles I was to enjoy my Liberty, and theſe Debts due to me; and when I craved performance of my Articles, 1657, the Protector would not let me have the Exciſe, but only ſo much yearly out of it, until I were ſatisfied, wherein I had not what I ought, ſo far was it from favour.

19. I did never correſpond with *Richard Cromwell*, nor *Fleetwood*, except in order to my own Affairs, nor with Sir *Archibald Johnſton*, either to the prejudice of King or Country, or to my Memory at all after the Committee of Safety met.

20, 21, 22, 23, 24, 25. To all theſe Anſwers, *Arch. Kinglas* had his Commiſſion as Colonel from the Parliament, or Committee, and not from him, and if he purſued *Lamond*, doubtleſs it was as a Rebel at that time to the Eſtate of the Kingdom, according to Act and Declaration of Parliament, approved of by his Majeſty, and his Royal Father, and Predeceſſors; ſo what *Arch. Kinglas* or any other did to *Lamond*, let them anſwer for what they did unwarrantably, it cannot reflect on him, but he hopes they will clear themſelves.

26. The Defender was in *England* when *Lamond* was brought out of his Houſe, and knew nothing of the Buſineſs, until he received Letters ſhewing what had paſt, and that *Lamond* had refuſed to return *Alexander Mac-Donald*, according to his Capitulation, chuſing rather to remain a Priſoner with the Defender, the Paper it ſelf may be found if he deny, whereupon he was detained Priſoner, having no Security to give; and having ſo often ſworn and promiſed, and after failed, which will be ſhewn under his Hand, and having Murdered ſo many People, Men, Women and Children, ſeveral of them after Quarter given, beſide the Burning of many Gentlemen his Neighbours Houſes, and deſtroying their Goods and their Lands, and going in to *Alexander Mac-Donald*, notwithſtanding he was in ſervice againſt him with the Defender, not having fairly exonerated himſelf; this can be all clearly inſtructed, and if this was not cauſe to keep him a Priſoner, let any judge.

27. He knew not nor remembers not any ſuch things, ſo it is but forged againſt him.

28. He cauſed no ſuch thing, it was a thing done for his own entertainment, and the Defender being to ſecure *Lamond* for ſome juſt Debts due to himſelf, the Captain of *Dunſtaffage* deſired his bond likewiſe to be purſued in the Defender's Name, which the Gentleman himſelf can ſhew.

29. The Marquiſs is in poſſeſſion of none of their Lands to his knowledge; if he were, it is a legal civil Proceſs.

30. He never knew any ſuch thing.

31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44. To all theſe let every Man anſwer as he is concerned, as he hopes they will clear ſo; but this he muſt ſay for himſelf and his Depute, That it cannot be ſaid they Murdered any of theſe Men with their own Hands, neither did they judge any Man to die by the Hand of Juſtice, but ſuch who were notoriouſly guilty according to ſtanding Law; and no Man can juſtly ſay any Man was ever proceſſed before them who had received any Articles, though it was never conceived by any Judicatory in *Scotland* that any Man taking a Rebel could Pardon him, except the Perſon doer of it had particular Warrant for that effect, otherwiſe the Committee after *Philliphaugh* had been much to blame for ordaining ſo many to be proceſſed, at which Committee were the ſentencing of ſuch who died at *Glaſgow* ſhortly thereafter, at which the Defender was not preſent.

The Proceedings hereupon are thus related by Biſhop Burnet *in his Hiſtory of his own Times*, Vol. I. p. 122, *&c.*

He hath Council aſſigned him, who performed their part very well; the *Marquiſs* made a long Speech himſelf, wherein he chiefly inſiſted, that during the late Wars he was but one among a great many more: He had always acted by Authority of Parliament, and according to the Inſtructions that were given him, as oft as he was ſent on any Expedition or Negotiation. As to all things done before the Year 1641, the late King had buried them in an Act of Oblivion then paſſed, as the preſent King had alſo done in the Year 1651: So he did not think he was bound to anſwer to any particular before that time. For the ſecond head, he was at *London* when moſt of the Barbarities ſet out in it were committed: Nor did it appear that he gave any orders about them. It was well known that great Outrages had been committed by the *Mac-Donalds:* And he believed his People, when they had the better of them, had taken cruel Revenges: This was to be imputed to the heat of the time, and to the tempers of the People, who had been much provoked by the burning of his whole Country, and by much Blood that was ſhed. And as to many Stories laid to the charge of his Men, he knew ſome of them were mere Forgeries, and others were aggravated much

much beyond the truth: But, what truth ſoever might be in them, he could not be anſwerable but for what was done by himſelf, or by his Orders. As to the third Head, of his Compliance with the Uſurpation; he had ſtood out till the Nation was quite conquered: And in that caſe it was the received Opinion both of Divines and Lawyers, that Men might lawfully ſubmit to an Uſurpation, when forced to it by an inevitable neceſſity. It was the epidemical Sin of the Nation. His Circumſtances were ſuch, that more than a bare Compliance was required of him. What he did that way was only to preſerve himſelf and his Family, and was not done on deſign to oppoſe the King's Intereſt. Nor did his ſervice ſuffer by any thing he did. This was the ſubſtance of his Defence in a long Speech, which he made with ſo good a grace and ſo ſkilfully, that his Character was as much raiſed as his Family ſuffered by the Proſecution. In one Speech, excuſing his Compliance with *Cromwell*, he ſaid, What could he think of that matter, after a Man ſo eminent in the Law as his Majeſty's Advocate had taken the Engagement? This inflamed the other ſo much, that he called him an impudent Villain; and was not ſo much as chid for that Barbarous Treatment. Lord *Argyle* gravely ſaid, he had learned in his Affliction to bear Reproaches; but if the Parliament ſaw no Cauſe to condemn him, he was leſs concerned at the King's Advocate's railing. The King's Advocate put in an additional Article, of charging him with Acceſſion to the King's Death, for which all the proof he offered lay in a preſumption: *Cromwell* had come down to *Scotland* with his Army in *September* 1648, and at that time he had many and long Conferences with *Argyle*; and immediately upon his return to *London* the Treaty with the King was broken off, and the King was brought to his Trial: The Advocate from thence inferred, that it was to be preſumed that *Cromwell* and *Argyle* had concerted that Matter between them. While this Proceſs was carried on, which was the ſolemneſt that ever was in *Scotland*, the Lord *Lorn* continued at Court ſoliciting for his Father; and obtained a Letter to be writ by the King to the Earl of *Midletoun*, requiring him to order his Advocate not to inſiſt on any publick Proceedings before the Indemnity he himſelf had paſs'd in the Year 1651. He alſo required him, when the Trial was ended, to ſend up the whole Proceſs, and lay it before the King, before the Parliament ſhould give Sentence. The Earl of *Midletoun* ſubmitted to the firſt part of this: So all farther enquiry into thoſe Matters was ſuperſeded. But as to the ſecond part of the Letter, it looked ſo like a diſtruſt of the Juſtice of the Parliament, that he ſaid, he durſt not let it be known, till he had a ſecond and more poſitive order, which he earneſtly deſired might not be ſent; for it would very much diſcourage this Loyal and Affectionate Parliament: And he Begged earneſtly to have that Order recalled; which was done. For ſome time there was a ſtop to the Proceedings, in which Lord *Argyle* was contriving an eſcape out of the Caſtle: He kept his Bed for ſome Days: And his Lady being of the ſame Stature with himſelf, and coming to him in a Chair, he had put on her Clothes, and was going into the Chair: But he apprehended he ſhould be diſcovered, and his Execution haſtened; and ſo his Heart failed him. The Earl of *Midletoun* reſolved, if poſſible, to have the King's Death faſtened on him. By this means as he would die with the more Infamy, ſo he reckoned this would put an end to the Family, ſince no body durſt move in favour of the Son of one judged guilty of that Crime. And he, as was believed, hoped to obtain a grant of his Eſtate. Search was made into all the Precedents of Men who had been at any time condemned upon Preſumption. And the Earl of *Midletoun* reſolved to argue the Matter himſelf, hoping that the weight of his Authority would bear down all Oppoſition. He managed it indeed with more force than decency: He was too vehement, and maintained the Argument with a ſtrength that did more honour to his Parts than to his Juſtice or his Character. But *Gilmore*, tho' newly made Preſident of the Seſſion, which is the ſupreme Court of Juſtice in that Kingdom, abhorred the Precedent of attainting a Man upon ſo remote a preſumption; and looked upon it as leſs juſtifiable than the much decried Attainder of the Earl of *Strafford*. So he undertook the Argument againſt *Midletoun*: They replied upon one another thirteen or fourteen times in a Debate that laſted many Hours. *Gilmore* had ſo clearly the better of the Argument, that tho' the Parliament was ſo ſet againſt *Argyle* that every thing was like to paſs that might blacken him, yet, when it was put to the Vote, he was acquitted as to that by a great Majority: At which he expreſſed ſo much Joy, that he ſeemed little concerned at any thing that could happen to him after that. All that remained was to make his compliance with the Uſurpers appear to be Treaſon. The debate was like to have laſted long. The Earl of *Lowdon*, who had been Lord Chancellor, and was counted the eloquenteſt Man of that time, for he had a copiouſneſs in ſpeaking that was never exhauſted, (he was come of his Family and was his particular Friend,) had prepared a long and learned Argument on that Head. He had gathered the Opinions both of Divines and Lawyers, and had laid together a great deal out of Hiſtory, more particularly out of the *Scotiſh* Hiſtory, to ſhew that it had never been cenſured as a Crime: But that on the contrary in all their Confuſions the Men, who had merited the moſt of the Crown in all its ſhakings, were Perſons who had got credit by compliance with the ſide that prevailed, and by that means had brought things about again. But, while it was doubtful how it would have gone, *Monk* by an inexcuſable baſeneſs had ſearched among his Letters, and found ſome that were writ by *Argyle* to himſelf, that were hearty and zealous on their ſide. Theſe he ſent down to *Scotland*. And after they were read in Parliament, it could not be pretended that his Compliance was feigned, or extorted from him. Every Body blamed *Monk* for ſending theſe down, ſince it was a betraying the Confidence, that they then lived in. They were ſent by an Expreſs, and came to the Earl of *Midletoun* after the Parliament was engaged in the debate. So he ordered the Letters to be read. This was much blamed, as contrary to the forms of Juſtice, ſince Probation was cloſed on both ſides. But the reading of them ſilenced all farther debate. All his Friends went out: And he was condemned as guilty of Treaſon. The Marquiſs of *Montroſe* only refuſed to Vote. He owned, he had too much Reſentment to judge in that matter. It was deſigned he ſhould be hanged, as the Marquiſs of *Montroſe* had been: But it was carried that he ſhould be Beheaded, and that his Head ſhould be ſet up where Lord *Montroſe*'s had been ſet. He received his Sentence decently, and compoſed himſelf to ſuffer.

The Day before his Death he wrote to the King, juſtifying his Intentions in all he had acted in the Matter of the Covenant: He proteſted his Innocence, as to the Death of the late King: He ſubmitted patiently to his Sentence, and wiſhed the King a long and happy Reign: He cait his Family and Children upon his Mercy; and prayed that they might not ſuffer for their Father's fault.

On the 27th of *May*, the Day appointed for his Execution, he came to the Scaffold in a very ſolemn but undaunted manner, accompanied with many of the Nobility and ſome Miniſters, when he ſpake as follows.

MANY will expect that I ſpeak many things, and according to their ſeveral opinions and diſpoſitions, ſo will their expectations be from me, and conſtructions of me; But I reſolve to diſappoint many; for I come not hither to juſtify my ſelf, but the Lord, *Who is holy in all his Ways, and righteous in all his Works, holy and bleſſed is his Name*; Neither come I to condemn others: I know many will expect that I will ſpeak againſt the hardneſs of the Sentence pronounced againſt me; But I will ſay nothing to it. I bleſs the Lord, I pardon all Men, as I deſire to be pardoned of the Lord myſelf: Let the Will of the Lord be done; That is all that I deſire.

I hope ye will have more Charity to me now, than ye would have had at another time, ſeeing I ſpeak before the Lord, to whom I muſt give an account very ſhortly. I know very well that my Words have had but very little weight with many: And that many have miſtaken my Words and Actings both: Many have thought me to be a great Enemy to theſe great Works, that have of late been brought to paſs. But do not miſtake me, good People: I ſpeak it in the preſence of the Lord, I entered not upon the Work of Reformation with any deſign of advantage to myſelf, or prejudice to the King and his Government; as my latter Will which was written 1655, and thereafter delivered to a Friend (in whoſe hands it ſtill remaineth) can ſhow. As for theſe Calumnies, that have gone abroad of me, I bleſs God, I know them to be no more: And as I go to make a reckoning to my God, I am free as to any of theſe, concerning the King's Perſon or Government. I was Real and Cordial in my deſires to bring the King home, and in my Endeavours for Him when he was at home, and I had no correſpondence with the Adverſaries Army, nor any of them, in the time when his Majeſty was in *Scotland*; Nor had I any acceſſion to his late Majeſty's horrid and execrable Murder, by Counſel or Knowledge of it, or any other manner of way. This is a Truth, as I ſhall anſwer to my Judge. And all the time his Majeſty was in *Scotland*, I was ſtill endeavouring his advantage; my Conſcience beareth me witneſs in it. So much to that Particular. And *(turning about, he ſaid)* I hope, Gentlemen, you will all remember theſe.

I confeſs, many look on my Condition as a *Suffering* Condition: But I bleſs the Lord, that he that hath gone before me, hath trod the Wine-preſs of the Father's wrath; by whoſe Sufferings, I hope that my Sufferings ſhall not be Eternal. I bleſs Him that hath taken away the ſting of my Sufferings: I may ſay that my Charter was Sealed to-day; for the Lord hath ſaid to me, Son, be of good cheer, thy Sins are freely forgiven thee: And ſo I hope my Sufferings ſhall be very eaſy: And ye know the Scripture ſaith, the Captain of our Salvation was made perfect by Sufferings.

I ſhall not ſpeak much to theſe things for which I am condemned, leſt I ſeem to condemn others: It is well known, it is only for *Compliance*, which was the Epidemical fault of the Nation. I wiſh the Lord to pardon them: I ſay no more.

There was an Expreſſion in theſe Papers preſented by me to the Parliament, of the *Contagion of theſe Times*; Which may by ſome be miſconſtructed, as if I intended to lay an Imputation upon the Work of Reformation: But I declare that I intended no ſuch thing; But only related to the corruptions and failings of Men, occaſioned by the Prevailing of the Uſurping Powers. *At this he turned and took them all Witneſſes.*

Now, Gentlemen, concerning the Nation, I think there are three ſorts of People that take up much of the World and of this Nation. There is, 1. The openly Prophane: And truly I may ſay, though I have been a Priſoner, I have not had mine Ears ſhut: I hear aſſuredly, that Drinking, Swearing, Whoring were never more Common, never more Countenanced than now they are. Truly, if Magiſtrates were here, I would ſay to them, if they lay forth their Power for glorifying of God, by reſtraining this, they ſhould fare the better; if they continue in not reſtraining, they ſhall fare the worſe. I ſay no more, but either let People ſhun Prophanity and Magiſtrates reſtrain it, or aſſuredly the Wrath of God ſhall follow on it. 2. Others were not openly Prophane (every one will not allow that) but yet they are *Gallios* in the matter: If matters go well as to their Private Intereſt, they care not whether the Church of God ſink or ſwim. But whatever they think, God hath laid Engagements upon *Scotland*: We are tied by Covenants to Religion and Reformation: theſe that were then Unborn are yet engaged; and in our Baptiſm we are engaged to it. And it paſſeth the Power of all the Magiſtrates under Heaven to abſolve them from the Oath of God: They deceive themſelves, and it may be would deceive others that think otherwiſe. But I would caveat this, People will be ready to think this a kind of inſtigation to Rebellion in me; But they are very far wrong that think *Religion* and *Loyalty* are not well conſiſtent. Whoever they be that ſeparate them, Religion is not to be blamed, but They. It's true, it is the duty of every Chriſtian to be Loyal, yet I think the Orders of things are to be obſerved as well as their Natures; the Order of Religion as well as the Nature of it. Religion muſt not be the Cock-boat, it muſt be the Ship. God muſt have what is his, as well as *Cæſar* what is his: And thoſe are the beſt Subjects that are the beſt Chriſtians. And that I am looked on as a Friend to Reformation, is my Glory.

3. There is another ſort that are truly Godly: And to them I muſt ſay what I fear, and every one hath reaſon to fear (it's good to fear evil.) It's true the Lord may prevent it; but if he do not (and truly I cannot foreſee any probability of it) Times are like either to be very *Sinning* or very *Suffering* Times: And let Chriſtians make their choice: There is a ſad *Dilemma* in the buſineſs, Sin or Suffer; and ſurely, he that would chuſe the Better part would chuſe to Suffer. Others that will chuſe to Sin, ſhall not eſcape Suffering; They ſhall Suffer, but it may be, not as I do *(pointing and turning about to the Maiden*)* but worſe: Mine is but Temporal, theirs ſhall be Eternal; when I ſhall be Singing, they ſhall be Howling. Beware therefore of Sin whatever you are aware of, eſpecially in ſuch Times.

Yet I cannot ſay of my own Condition, but that the Lord in his Providence hath mind of Mercy to me, even in this World: For if I had been more favourably dealt with, I fear I might have been overcome with Temptations, as many others are, and many more I fear will be; and ſo ſhould have gone out of the World with a more polluted Conſcience, than through the Mercy of God now I have. And hence my Condition is ſuch now, as when I am gone, will be ſeen not to have been ſuch as many imagined. It is fit God take me away, before I fall into theſe Temptations that I ſee others are falling into, and many others I fear will fall: I wiſh the Lord may prevent it. Yet bleſſed be his Name, that I am kept both from preſent evils and evils to come. *Here he turned about a little and ſpoke ſome Words to Mr.* Hutchiſon, *when turning again to the People, he ſpoke as followeth.* Some may expect I will regret my own Condition: But truly I neither grudge nor repine, nor deſire any revenge. And I declare I do not repent my laſt going up to *London*; for I had always rather have Suffered any thing, than lie under Reproaches as I did. I deſire not that the Lord ſhould judge any Man; nor do I judge any but my Self: I wiſh, as the Lord hath pardoned me, ſo he may pardon them for this and other things; and what they have done to me, may never meet them in their accounts. I have no more to ſay, but to beg the Lord, that when I go away, he would Bleſs every one that ſtayeth behind.

His laſt Words, immediately before he laid his Head on the Block, after his Doublet was off, were theſe. I deſire you, Gentlemen, all that hear me this Day to take notice (and I wiſh that all who ſee me might hear me) that now when I am entering into Eternity, and am to appear before my Judge; and as I deſire Salvation, and do expect eternal Salvation and Happineſs from him, from my Birth to my Scaffold, I am free from any acceſſion by my Knowledge, concerning Counſel or any other way to his late Majeſty's death: And I pray the Lord to preſerve his preſent Majeſty, and to pour his beſt Bleſſings on his Perſon and Government; and the Lord give him good and faithful Counſellors. *Turning about to his Friends, he ſaid,* Many Chriſtians may ſtumble at this, and my Friends may be diſcontented; But when things are rightly conſidered, my Friends have no Diſcredit of Me, nor Chriſtians no Stumbling-block, rather an Engagement.

When he had done ſpeaking he took his leave of his Friends very decently, and after ſome time ſpent in his private Devotions, he was beheaded.

LIX. *The Trial of Sir* Henry Vane †, *Kt. at the King's-Bench for* High-Treaſon, *June* 2 *and* 6, 1662. *Trin.* 14 Car. II. *Wrote by himſelf.*

SIR *Henry Vane* being committed for *High-Treaſon*, had prepar'd the following Argument for his Defence, before he knew how the Indictment would be laid.

[*The Offence objected againſt me, is* levying War, *within the Statute* 25 Ed. 3. *and by conſequence, a moſt high and great failer in the duty which the Subject, according to the Laws of* England, *ſtands obliged to perform, in relation to the Imperial Crown and Sovereign Power of* England.

The Crime, if it prove any, muſt needs be very great, conſidering the Circumſtances with which it hath been accompanied: For it relates to, and takes in a ſeries of public Action, of above twenty Years continuance. It took its riſe and had its root in the Being, Authority, Judgment, Reſolutions, Votes and Orders of a Parliament, and that, a Parliament not only authorized and commiſſionated in the ordinary and cuſtomary way, by his Majeſty's Writ of Summons, and the Peoples Election and Deputation, ſubject to Adjournment, Diſcontinuance, and Diſſolution, at the King's Will; but which, by expreſs Act of Parliament, was conſtituted in its continuance and exerciſe of its Power, free from that ſubjection, and made therein wholly to depend upon their own Will, to be declared in an Act of Parliament, to be paſſed for that purpoſe, when they ſhould ſee cauſe. To ſpeak plainly and clearly in this Matter; That which is endeavoured to be made a Crime and an Offence of ſuch an high nature in my perſon, is no other than the neceſſary and unavoidable Actings of the Repreſentative Body of the Kingdom, for the preſervation of the good People thereof, in their Allegiance and Duty to God and his Law, as alſo from the imminent Dangers and Deſtruction threatned them, from God's and their own Enemies.

This made both Houſes in their Remonſtrance (May 26, 1642.) *proteſt*; If the malignant Spirits about the King ſhould ever force or neceſſitate them to defend their Religion, the Kingdom, the Privileges of Parliament, and the Rights and Liberties of the Subjects, with their Swords; The Blood and Deſtruction that ſhould enſue thereupon, muſt be wholly caſt upon their account, God and their own Conſciences telling them, that they were clear; and would not doubt, but that God and the whole World would clear them therein.

In his Majeſty's Anſwer *to the* Declaration *of the two Houſes,* (May 19, 1642.) *he acknowledgeth his going into the Houſe of Commons to demand the five Members, was an Error: And that was it, which gave the Parliament the firſt Cauſe to put themſelves in a poſture of defence, by their own Power and Authority, in commanding the Trained-Bands of the City of* London *to guard and ſecure them from Violence, in the Diſcharge of their Truſt and Duty, as the two Houſes of Parliament, appointed by Act, to continue, as above-mentioned.*

The next Cauſe was, his Majeſty's raiſing Forces at York, *(under pretence of a Guard) expreſſed in the humble Petition of the Lords and Commons,* (May 23, 1642.) *wherein they beſeech his Majeſty to diſband all ſuch Forces, and deſiſt from any further Deſigns of that nature, otherwiſe they ſhould hold themſelves bound in Duty towards God, and the Truſt repoſed in them by the People, and the Fundamental Laws and Conſtitutions of this Kingdom, to employ their Care and utmoſt Power to ſecure the Parliament, and preſerve the Peace and Quiet of the Kingdom.*

May 20, 1642, *The two Houſes of Parliament gave their Judgment, in theſe Votes.*

Firſt, That it appears, that the King (ſeduced by wicked Counſel) intends to make War againſt the Parliament, who in all their Conſultations and Actions have propoſed no other End to themſelves, but the Care of his Kingdoms, and the Performance of all Duty and Loyalty to his Perſon.

Secondly, That whenſoever the King maketh War upon the Parliament, it is a Breach of Truſt repoſed in him by his People, contrary to his Oath, and tending to the Diſſolution of this Government.

Thirdly, That whoſoever ſhall ſerve or aſſiſt him in ſuch Wars, are Traitors by the fundamental Laws of this Kingdom, and have been ſo adjudged by two Acts of Parliament, and ought to ſuffer as Traitors.

Die Jovis, Octob. 8, 1642, *In the Inſtructions agreed upon by the Lords and Commons about the Militia, They declare,* That the King (ſeduced by wicked Counſel) hath raiſed War againſt the Parliament, and other his good Subjects.

And by the Judgment and Reſolution of both Houſes, bearing Date Aug. 13, 1642, *upon occaſion of his Majeſty's* Proclamation *for ſuppreſſing the preſent Rebellion, under the Command of* Robert *Earl of* Eſſex, *They do unanimouſly publiſh and declare,* That all they who have adviſed, declared, abetted, or countenanced, or hereafter ſhall abet and countenance the ſaid *Proclamation,* are Traitors and Enemies to God, the King and Kingdom, and guilty of the higheſt Degree of Treaſon that can be committed againſt the King and Kingdom, as that which invites his Majeſty's Subjects to deſtroy his Parliament, and good People, by a Civil War; and by that means, to bring Ruin, Confuſion, and perpetual Slavery upon the ſurviving Part of a then wretched Kingdom.

The Law is acknowledged by the King, to be the only Rule, *by which the People can be juſtly governed; and that, as it is his Duty, ſo it ſhall be his perpetual, vigilant Care, to ſee to it: Therefore he will not ſuffer either or both Houſes by their Votes, without or againſt his Conſent, to enjoin any thing that is forbidden by the Law, or to forbid any thing that is enjoined by the Law.*

The King does aſſert in his Anſwer to the Houſes Petition, (May 23, 1642.) That he is a Part of the Parliament, which they take upon them to defend and ſecure; and that his Prerogative is a part of, and a Defence to the Laws of the Land.

In the Remonſtrance of both Houſes, (May 26, 1642,) *They do aſſert*; That if they have made any Precedents this Parliament, they have made them for Poſterity, upon the ſame or better Grounds of Reaſon and Law, than thoſe were, upon which their Predeceſſors made any for them; *and do ſay,* That as ſome Precedents, ought not to be Rules for them to follow, ſo none can be Limits to bound their Proceedings, which may and muſt vary, according to the different Condition of Times.

And for the Particular, with which they were charged, of ſetting forth Declarations to the People who have choſen and intruſted them with all that is deareſt to them, if there be no Example for it in former Times, They ſay, it is becauſe there never were ſuch Monſters before, that attempted to diſaffect the People towards a Parliament.

They further ſay; His Majeſty's Towns are no more his Care than his Kingdom, nor his Kingdom than his People, who are not ſo his own, that he hath abſolute Power over them, or in them, as in his proper Goods and Eſtate; but fiduciary, for the Kingdom, and in the paramount Right of the Kingdom. *They alſo acknowledge the Law to be the Safeguard and Cuſtody of all publick and private Intereſts. They alſo hold it fit, to declare unto the Kingdom, (whoſe Honour and Intereſt is ſo much concerned in it) what is the Privilege of the great Council of Parliament, herein; and what is the Obligation that lies upon the Kings of this Realm, as to the paſſing ſuch Bills as are offered to them by both Houſes, in the Name, and for the Good of the whole Kingdom, whereunto they ſtand engaged, both in Conſcience and Juſtice, to give their Royal Aſſent.*

Firſt, In Conſcience; *in reſpect of the Oath that is, or ought to be taken by them, at their Coronation, as well to confirm by their Royal Aſſent all ſuch good Laws as the People ſhall chuſe, (whereby to remedy ſuch Inconveniences as the Kingdom may ſuffer) as to keep and protect the Laws already in being.*

The Form of the Oath *is upon Record, and aſſerted by Books of good Authority. Unto it relation is had,* 25 Ed. 3. *entitled,* The Statute of Proviſors of Benefices.

* The *Maiden* is the Name of the Inſtrument uſed in *Scotland* for beheading Criminals.

† Kelyng 14. 1 Lev. 68. 1 Sid. 84. 1 Keb. 304, 315, 324. Burn. *Hiſt. own Times,* Vol. I. p. 163.

Here-

Hereupon, the ſaid Commons prayed our ſaid Lord the King, (ſith the Right of the Crown of England, *and the Law of the ſaid Realm, is ſuch, that upon the Miſchiefs and Damages which happen to this Realm, he ought and is bound by his Oath, with the Accord of his People in Parliament, to make Remedy and Law, for the removing thereof) That it may pleaſe him to ordain Remedy.*

This Right, thus claimed by the Lords and Commons, The King doth not deny, in his Anſwer thereunto.

Secondly, In Juſtice *the Kings are obliged as well as in* Conſcience, *in reſpect of the Truſt repoſed in them, to preſerve the Kingdom by the making of new Laws, where there ſhall be need, as well as by obſerving of Laws already made; a Kingdom being many times as much expoſed to Ruin for want of a new Law, as by the Violation of thoſe that are in being.*

This is a moſt clear Right, not to be denied, but to be as due from his Majeſty to his People, as his Protection. In all Laws framed by both Houſes, as Petitions of Right, *they have taken themſelves to be ſo far Judges of the Rights claimed by them, That when the King's Anſwer hath not been in every Point fully according to their Deſire, they have ſtill inſiſted upon their Claim, and never given it over, till the Anſwer hath been according to their Demand, as was done in the late* Petition of Right, 3 *Caroli.*

This ſhews, the two Houſes of Parliament are Judge *between the King and the People in queſtion of Right, as in the Caſe alſo of* Ship-Money *and other illegal Taxes; and if ſo, why ſhould they not alſo be Judge in the Caſes of the Common Good and Neceſſity of the Kingdom, wherein the Kingdom hath as clear a Right to have the Benefit and Remedy of the Law, as in any other Matter, ſaving Pardon and Grants of Favour?*

The Malignant Party are they, that not only neglect and deſpiſe, but labour to undermine the Law, under colour of maintaining it. They endeavour to deſtroy the Fountain and Conſervators of the Law, the Parliament. *They make other Judges of the Law, than what the Law hath appointed. They ſet up other Rules for themſelves to walk by, than ſuch as are according to Law; and diſpenſe with the Subjects Obedience, to that which the Law calls Authority, and to their Determinations and Reſolutions, to whom the Judgment doth appertain by Law: Yea, though but private Perſons, they make the Law to be their Rule, according to their own Underſtanding only, contrary to the Judgment of thoſe that are the competent Judges thereof.*

The King aſſerts, That the Act of Sir John Hotham *was* levying War againſt the King, *by the Letter of the Statute* 25 Ed. 3. *cap.* 2.

The Houſes ſtate the Caſe, and deny it to be within that Statute; ſaying, If the Letter of that Statute be thought to import this; That no War can be levied againſt the King, but what is directed and intended againſt his Perſon; Or, that every levying of Forces for the Defence of the King's Authority, and of his Kingdom, againſt the Perſonal Commands of the King, oppoſed thereunto, (though accompanied with his Preſence) is Treaſon, or levying War againſt the King; Such Interpretation is very far from the Senſe of that Statute, and ſo much the Statute it ſelf ſpeaks, beſides the Authority of Book-Caſes. For if the Clauſe of levying War had been meant only againſt the King's Perſon, what need had there been thereof, after the other Branch in the ſame Statute, of compaſſing the King's Death, which would neceſſarily have implied this? And becauſe the former doth imply this, it ſeems not at all to be intended, at leaſt, not chiefly, in the latter Branch, but the levying War againſt his Laws and Authority; and ſuch a levying War, though not againſt his Perſon, is a levying War againſt the King; whereas the levying of Force againſt his Perſonal Commands, though accompanied with his Preſence, and not againſt his Laws and Authority, but in the Maintenance thereof, is no levying of War againſt the King, but for him, eſpecially in a time of ſo many ſucceſſive Plots and Deſigns of Force againſt the Parliament and Kingdom, of probable Invaſion from abroad, and of ſo great Diſtance and Alienation of his Majeſty's Affections from his Parliament and People, and of the particular Danger of the Place and Magazine of Hull, *of which the two Houſes ſitting, are the moſt proper Judges.*

In proclaiming Sir John Hotham *Traitor, they ſay, The Breach of the Privilege of Parliament was very clear, and the Subverſion of the Subjects common Right. For though the Privileges of Parliament extend not to theſe Caſes, mentioned in the Declaration of Treaſon, Felony, and breach of the Peace, ſo as to exempt the Members of Parliament from Puniſhment, or from all manner of Proceſs and Trial, yet it doth privilege them in the way and method of their Trial and Puniſhment, and that the Parliament ſhould firſt have the Cauſe brought before them, that they may judge of the Fact, and of the Grounds of their Accuſation, and how far forth the manner of their Trial may or may not concern the Privilege of Parliament: Otherwiſe, under this Pretext, the Privilege of Parliament in this Matter, may be ſo eſſentially broken, as thereby the very Being of Parliaments may be deſtroyed. Neither doth the ſitting of a Parliament, ſuſpend all or any Law, in maintaining that Law, which upholds the Privilege of Parliament, which upholds the Parliament, which upholds the Kingdom.*

They further aſſert; That in ſome Senſe, they acknowledge the King *to be the only Perſon, againſt whom Treaſon can be committed, that is, as he is* King, *and that Treaſon which is againſt the Kingdom, is more againſt the* King, *than that which is againſt his Perſon, becauſe he* is King: *For Treaſon is not Treaſon, as it is againſt him* as a Man, *but* as a Man that is a King, *and as he hath, and ſtands in that Relation to the Kingdom, intruſted with the Kingdom, and diſcharging that Truſt.*

They alſo avow, That there can be no competent Judge of this or any the like Caſe, but a Parliament; *and do ſay, that if the wicked Counſel about the King could maſter this Parliament by force, they would hold up the ſame Power to deprive us of all Parliaments, which are the Ground and Pillar of the Subjects Liberty, and that which only maketh* England *a free Monarchy.*

The Orders of the two Houſes carry in them Law for their Limits, and the Safety of the Land for their End. *This makes them not doubt but all his Majeſty's good Subjects will yield Obedience to his Majeſty's Authority, ſignified therein by both Houſes of Parliament: for whoſe Encouragement, and that they may know their Duty in Matters of that nature, and upon how ſure a Ground they go, that follow the Judgment of Parliament for their Guide; They alledge the true Meaning and Ground of that Statute,* 11 Hen. 7. cap. 1. *printed at large in his Majeſty's Meſſage,* May 4; *This Statute provides, that none that ſhall attend upon the King and do him true Service, ſhall be attainted, or forfeit any thing.*

What was the Scope of this Statute?

Anſw. *To provide, that Men ſhould not ſuffer as Traitors, for ſerving the King in his Wars, according to the Duty of their Allegiance. But if this had been all, it had been a very needleſs and ridiculous Statute. Was it then intended (as they ſeem to make it, that print it with his Majeſty's Meſſage) that thoſe ſhould be free from all Crime and Penalty, that ſhould follow the King and ſerve him in War, in any Caſe whatſoever, whether it was for or againſt the Kingdom, or the Laws thereof? That cannot be; for that could not ſtand with the Duty of their Allegiance, which, in the beginning of this Statute, is expreſſed to be,* to ſerve the King for the time being in his Wars, for the Defence of him and the Land. *If therefore it be againſt the Land, (as it muſt be, if it be againſt the Parliament, the Repreſentative Body of the Kingdom) it is a declining from the Duty of Allegiance, which this Statute ſuppoſes may be done, though Men ſhould follow the King's Perſon in the War. Otherwiſe, there had been no need of ſuch a* Proviſo *in the end of the Statute, that none ſhould take benefit thereby, that ſhould decline from their Allegiance.*

That therefore which is the Principal Verb in this, is the ſerving of the King for the time being, *which cannot be meant of a* Perkin Warbeck, *or any that ſhould call himſelf* King, *but ſuch a one, as (whatever his Title might prove, either in himſelf or in his Anceſtors) ſhould be received and acknowledged for ſuch, by the Kingdom, the Conſent whereof cannot be diſcern'd but by Parliament; the Act whereof is the Act of the whole Kingdom, by the Perſonal Suffrage of the Peers, and the Delegate Conſent of the Commons of* England. Hen. 7th *therefore, a wiſe Prince, to clear this Matter of Conteſt, happening between Kings* de facto *and Kings* de jure, *procured this Statute to be made,* That none ſhall be accounted a Traitor for ſerving in his Wars, the King for the time being; *that is, him that is for the preſent allowed and received by the Parliament in behalf of the Kingdom. And as it is truly ſuggeſted in the Preamble of the Statute; It is not agreeable to Reaſon or Conſcience that it ſhould be otherwiſe, ſeeing Men ſhould be put upon an Impoſſibility of knowing their Duty, if the Judgment of the higheſt Court ſhould not be a Rule to guide them. And if the Judgment thereof is to be followed, when the Queſtion is,* Who is King? *much more, when the Queſtion is,* What is the beſt Service of the King and Kingdom? *Thoſe therefore that ſhall guide themſelves by the Judgment of Parliament, ought (whatever happen) to be ſecure and free from all Account and Penalties, upon the Ground and Equity of this Statute.*

To make the Parliament Countenancers of Treaſon, they ſay, is enough to have diſſolv'd all the Bands of Service and Confidence between his Majeſty and his Parliament, of whom the Law ſays, a diſhonourable thing ought not to be imagined.

This Concluſion then is a clear Reſult from what hath been argued; That in all Caſes of ſuch Difficulty and Unuſualneſs, happening by the over-ruling Providence of God, as render it impoſſible for the Subject to know his Duty, by any known Law or certain Rule extant, his relying then upon the Judgment and Reaſon of the whole Realm, declared by their Repreſentative Body in Parliament, *then ſitting, and adhering thereto, and purſuing thereof, (though the ſame afterwards be by ſucceeding Parliaments, judged erroneous, factious and unjuſt) is moſt agreeable to right Reaſon and good Conſcience; and in ſo doing, all Perſons are to be free and ſecure from all Account and Penalties, not only upon the Ground and Equity of that Statute,* 11 Hen. 7. *but according to all Rules of Juſtice, Natural or Moral.*

Afterwards, in *Eaſter* Term, he was indicted of High-Treaſon, before the *Middleſex* Grand-Jury; and the Bill being found by them, he was upon Monday the Second of *June*, in *Trinity* Term, arraigned to this Effect:

'THAT you, as a falſe Traitor againſt his moſt Excellent Majeſty King *Charles* the Second, your Supreme and Natural Lord, not having the fear of God before your Eyes, and withdrawing that your Duty and Allegiance, which a true Subject ought to have and bear to our ſaid Liege and Sovereign Lord, the thirteenth of *May*, in the eleventh Year of our ſaid Sovereign Lord the King, at the Pariſh of *St. Martin in the Fields*, in the County of *Middleſex*, did Compaſs and Imagine the Death of our ſaid Sovereign Lord the King, and the ancient Frame of Government of this Realm totally to ſubvert, and keep out our ſaid Sovereign Lord from the Exerciſe of his Regal Government. And the ſame the better to effect, the ſaid Sir *Henry Vane*, the ſaid thirteenth Day of *May*, in the ſaid eleventh Year, *&c.* at St. *Martin's* aforeſaid, together with other falſe Traitors, to the Jurors unknown, did traitorouſly and maliciouſly aſſemble and ſit together, and then and there conſulted to bring the King unto Deſtruction, and to hold him out from the Exerciſe of his Regal Authority, and then and there uſurped the Government, and appointed Officers, to wit, Colonels and Captains of a certain Army, raiſed againſt the King; againſt the Peace of our Sovereign Lord the King, his Crown and Dignity, and contrary to the Form of the Statute in that Caſe made and provided.

'And the better to effect this, the twentieth of *December*, in the ſaid eleventh Year, with a Multitude, to the number of a thouſand Perſons, to the Jurors unknown, in warlike manner aſſembled, and array'd with Guns, Trumpets, Drums, *&c.* did levy War againſt the Peace, *&c.* and contrary to the Form of a Statute.'

Which being read, he pray'd to have it read a ſecond time, which was granted him. He then pray'd to have it read in *Latin*, which all the Court deny'd, and *Keeling* the King's Serjeant ſaid, That tho' all Pleas and Entries are ſet down on Record in *Latin*, yet the Agitations of Cauſes in Court, ought to be in *Engliſh*.

The Priſoner moved ſeveral Exceptions to the Indictment, as that the 25 *Ed.* 3. is not purſued; that he had levied no ſuch Force as amounted to a levying of War: Alſo the Place in which, Perſons with whom, are both uncertain; and the particular Acts of levying War being not

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ſet forth, he thought therefore the Indictment was inſufficient. Alſo he ſaid, Here is a long time of Action for which I am charged, and I may be concerned for what I acted as a Member in that Sovereign Court of Parliament; and if any thing concerns the Juriſdiction of that Court, I ought not to be judg'd here. At which the Court and King's Counſel took great Offence.

He ſaid alſo, There hath been an Act of general Pardon ſince that time, whereby all Treaſons are put in utter Oblivion; and though Sir *Henry Vane* were excepted, yet none conſent that he was that Sir *Henry Vane*. But the King's Counſel ſaid, If he would plead that Plea, they would join that Iſſue with him, if he pleaſed; which, if it ſhould be found againſt him, it would be too late to plead *Not guilty*.

But the Court ſaid, In favour of Life a Man may plead a double Plea, and give in his Exception, and plead over to the Felony or Treaſon, *Not guilty*.

But as to the Exceptions taken to the Indictment, they gave little heed to them, but preſſed him to Plead or Confeſs.

Whereupon he pleaded Not guilty; and had four Days, to wit, 'till Friday next, for his Trial.

[*Memorandums for and towards my Defence.*]

Upon hearing the Indictment read, and before Pleading.

FIRST, *To lay before the Court the Impoſſibility that he humbly conceives is already in view, as to the having any ſuch indifferent and equal Trial, as the Law intends him, and doth require and command on the Behalf of all the free People of* England. *The Riſe for this Conception he takes from what hath been already done in relation to the Priſoner himſelf, unheard, unexamined, and yet kept cloſe Priſoner for near two whole Years. This he ſhall leave to the Judgment of the Court, after that he hath made known the Particulars thereof unto them, as neceſſary to precede the thing demanded of him, in pleading* Guilty, *or* Not Guilty.

Secondly, What is the Indifferency which the Law requires and appoints throughout, as well in Matters that go before the Trial, as in the Proceedings at the Trial it ſelf?

Before the Trial, and in the firſt Step to it, which is the keeping and ſecuring his Perſon, Magna Charta *is clear, and gives this Rule, cap.* 29. Nullus liber homo capiatur, *&c.*

No Free-man ſhall be taken or impriſoned, or be diſſeiſed of his Freehold or Liberties, or Free Cuſtoms, or be Outlawed or Exiled, or any otherwiſe deſtroyed; Nor we will not paſs upon him, nor condemn him, but by lawful Judgment of his Peers, or by the Law of the Land: We will ſell to no Man, we will not deny or defer to any Man either Juſtice or Right.

Out of this Chapter, as out of a Root (ſaith Sir Edward Coke) *do many fruitful Branches of the Law of* England *ſpring. It contains nine Branches; ſome whereof I ſhall inſiſt upon in my Caſe.*

Firſt, That no Man be taken or impriſoned but per Legem Terræ, *that is, by the Common Law or Cuſtom of* England; *which Words,* per Legem Terræ, *though put laſt, refer to all the precedent Branches.*

Secondly, The Goods of any Offender cannot regularly be taken and ſeized to the King's Uſe before Conviction, nor be Inventoried, nor the Town charged therewith, before the Owner be Indicted of Record.

Thirdly, No Man ſhall be Exiled or Baniſhed out of his Country, nor be in any ſort deſtroyed, but by the Verdict of his Peers.

This appears by Bracton *and other ancient Writers, quoted by* Coke, *in the third Part of his* Inſtitutes, *fol.* 228.

Upon the whole Matter, ſaith Coke, *theſe two Concluſions are manifeſtly proved.*

Firſt, That before Indictment, the Goods or other things of any Offender cannot be ſearched, inventoried or in any ſort ſeized, nor after Indictment, ſeized, removed, or taken away, before Conviction or Attainder.

Secondly, That the begging of the Goods or Eſtate of any Delinquent, accuſed or indicted of any Treaſon, Felony, or other Offence, before he be Convicted and Attainted, is utterly unlawful; Stat. Ri. 1. *cap.* 3.

And beſides, it maketh the Proſecution againſt the Delinquent, more precipitant, violent and undue, than the quiet and equal Proceedings of the Law and Juſtice would permit: Or elſe, by ſome under-hand Agreement, ſtops or hinders the due Courſe of Juſtice, and diſcourageth both Judge, Juror and Witneſs to do their Duty.

Thirdly, The Judges are not to give ſo much as their Opinion before-hand, concerning the Offence, whether it prove that Offence in that Caſe.

Coke *in the Chapter of* Petty-Treaſon, *fol.* 29, *expreſly ſaith*; And to the end the Trial may be the more indifferent, ſeeing the Safety of the Priſoner conſiſts in the Indifferency of the Court, the Judges ought not to deliver their Opinions before-hand, of any Criminal Caſe, that may come before them judicially. *And he there cites* Humphrey Stafford's *Caſe, that Arch-Traitor, in which* Huſſey, *Chief Juſtice, beſought* Hen. 7. *not to demand of them their Opinions before-hand. And in the 4th of his* Inſtitutes, *in the Chapter of the* High Court of Parliament, *fol.* 37, *he fully ſhews the Evil of aſking the Judges Opinions before-hand.*

But inſtead of this, The Judges being aſſiſtant in the Lords Houſe, when all Acts of Parliament paſs, and whoſe Advice is taken in them, (as appears by what is declared in the ſaid Acts) prejudg'd by their Opinions, and the Opinions of the Parliament before-hand, the Merit of the Cauſe that now appears to be put upon the Iſſue in my Trial. Hereby the Judges are rendred ex parte, *and the Indifferency the Law requires, impoſſible to be afforded.*

Nor is this all; but by the Rules declared in the Act of Indemnity, *all are diſenabled to plead, or make uſe of the Ordinances, Orders and Votes of both, or either Houſes of Parliament, that may have Occaſion thereof; and then by excepting the Priſoner and his Fellows out of the ſaid Act, and all Benefit thereby, a Door is left open to Arraign, bring to Trial and Sentence the whole Cauſe from the Beginning to the Ending, in the Perſon of the Priſoner, and at the ſame time, deprive him of all Means and Poſſibility of Juſtification and Defence.*

Fourthly, It is obſervable how early hard meaſure appeared in the way wherein the Priſoner became excepted out of the Act of Indemnity, when the Commons, his proper Judges, declared him in their thoughts, not fit to be endangered in the point of Life; yet under the Judgment of the Lords, (that ought not to judge Commoners, unbrought before them by the Commons, much leſs, in oppoſite Judgment to the Commons) the Commons were neceſſitated to yield, leſt otherwiſe the Act of Indemnity to the whole Nation ſhould ſtop upon this diſpute and eſſential difference between the two Houſes; A Competition, eaſily over-ruled; although (as it proves by the ſequel) that Act of Indemnity *is like to become* felo de ſe, *or a deſtroyer of it ſelf, if your Lordſhips ſhall conceive your ſelves at liberty, (notwithſtanding that Act) not only to bring anew into Memory upon the Stage, the ſtate of all the paſſed differences, from firſt to laſt, but to try and judge the merit of them in my perſon, and thereby call in queſtion the validity of that whole Act, and make void the benefit intended by it, in caſe the War undertaken and managed by both or either of the Houſes of Parliament be judged unlawful, and within the Statute of* 25 Ed. 3. *For this adjudges all the People of* England *morally guilty of the evil of a ſin and offence againſt the Law of Nature, which once done, whatever promiſed Indemnity be granted for the preſent, the Evil of the Action remains upon Record; not only to the Infamy of the whole People of* England, *but their future danger, upon pretence they have forfeited the very Indemnity granted.*

Fifthly, The length of time taken to ſearch out matter againſt the Priſoner, and the undue practices and courſes to find out Witneſſes, do further evidence how unlike the Priſoner is to have an equal and indifferent Trial. He doubts not, this will appear in his two Years cloſe Impriſonment, (ſix Months whereof was Baniſhment) during which time, he was never ſo much as once examined, or had any queſtion put to him, whereby he might conjecture wherefore he was committed to Priſon, any further than was expreſſed in the Warrants of Commitments.

Now theſe were ſo general, that nothing certain or particular could be gathered out of them. But upon the received opinion, that he was excepted out of the act of Indemnity, and in the ſenſe of both Houſes a great Delinquent, his Eſtate was attempted to be Inventoried, his Rentals demanded, his Rents were actually ſeized in the Tenants hands, and they forbidden to pay them. His very Courts were prohibited by Officers of great Perſonages, claiming the Grant of the Eſtate, and threatning his Officers from doing their duty. By theſe kind of undue proceedings, the Priſoner had not wherewithal to maintain himſelf in Priſon; and his Debts to the value of above ten thouſand Pounds, were undiſcharged, either Principal or Intereſt. The hopes of private lucre and profit hereby, was ſuch in the Tenants and other Perſons, ſought out for far and near, to be Witneſſes, that it is no wonder at laſt ſomething by way of Charge comes to be exhibited.

And as this is the Caſe of the Perſon before his appearance at this Bar, with reſpect to the foreſaid unequal Proceedings towards him, and the great diſadvantages put upon him, and all theſe, as it were, in a continued ſeries of Deſign; ſo, the matters and things themſelves with which it now appears he is charged in the Indictment, make his Caſe ſtill very extraordinary and unuſual, involving him in difficulties that are inſuperable, unleſs God's own immediate Power do ſhew it ſelf in working his deliverance.

The things done, are for many Years paſt, in a time of Differences between King and Parliament, and Wars enſuing thereupon. Many extraordinary Changes and Revolutions in the State and Government were neceſſitated in the courſe of God's Providence, for wiſe and holy ends of his above the reach of humane Wiſdom.

The Authority by which they are done, is prejudged. The Orders, Votes and Reſolutions of Parliament are made uſeleſs, and forbidden to be produced. Hereby, all manner of Defence is taken away from the Priſoner; and that which was done according to Law, as the Laws of theſe times were, is endeavoured to be made unlawful, and ſo the Perſons, acting according to ſuch Laws, are brought to Puniſhment.

The Judges (as hath been ſhewed) are foreſtalled in their Judgments, by the declared ſenſe of Parliaments, given ex poſt facto. *The Jurors are put upon difficulties never known before, for twelve Commoners to judge the Actions of all the Commons of* England, *in whom they are included, as to whoſe Judgment is the right, the one or the other's; and whether their Repreſentatives be truſty.*

The Party indicted is under an Incapacity to bring Witneſſes, as well from the nature of the Place wherein the things were done, within the Walls of the Houſe, as from the ſhortneſs of time, having heard nothing of his Charge, and being kept a cloſe Priſoner, to the laſt day. His Sollicitors and Perſons imployed in his Law-buſineſſes, were alſo reſtrained from him.

It is alſo moſt evident, that the matters for which he is queſtioned, being the Product of ſo many Years Agitations of Parliamentary Councils and Arms, cannot be of a ſingle concern, nor be reputed as the actions of a private Man, done of his own head, nor therefore come within any of the ſix Claſſes of Treaſon, contained in 25 Ed. 3.

It is a Caſe moſt unuſual, and never happening before in this Kingdom; yet it is alledged in the Indictment to be a levying War within that Statute, and ſo comes to have the name of High-Treaſon *put upon it, thereby (if poſſible) to deprive him of the uſe and benefit of Counſel, as alſo of competent time to prepare for his Defence, and all fitting and requiſite means for the clearing of his Innocency. Unto this, unleſs ſome remedy be afforded by the juſtice, candor and favour of this Court, it may be better for the Priſoner (for ought he yet knows) to be immediately deſtroyed by ſpecial Command (if nothing elſe will ſatisfy) within any form of Law, as one to whom Quarter, after at leaſt two Years cool blood, is thought fit to be denied in relation to the late Wars. This may ſeem better, than under a colour and form of Juſtice, to pretend to give him the benefit of the Law and the King's Courts, whoſe part it is, to ſet free the Innocent, upon an Equal and Indifferent Trial had before them, if their Cauſe will bear it: but it is very viſible beforehand, that all poſſible means of Defence are taken and withheld from him, and Laws are made* ex poſt facto, *to forejudge the merit of the Cauſe, the Party being unheard.*

And when he hath ſaid all this, that as a rational Man does occur to him, and is fit for him to repreſent in all humility to the Court, he craves leave further to add; That he ſtands at this Bar not only as a Man, and a Man cloathed with the Privileges of the moſt Sovereign Court, but as a Chriſtian,

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that hath Faith and Reliance in God, through whose gracious and wise Appointment he is brought into these Circumstances, and unto this Place at this time, whose Will he desires to be found resigned up into, as well in what He now calls him to suffer, *as in what He hath called him formerly to* act, *for the good of his Country, and of the People of God in it. Upon this bottom (he blesses the Name of his God) he is fearless, and knows the issue will be good, whatever it prove. God's strength may appear in the Prisoner's weakness; and the more all things carry the face of certain ruin and destruction unto all that is near and dear to him in this World, the more will divine Deliverance and Salvation appear; to the making good of that Scripture, That* he *that is content to* lose his life *in God's Cause and Way,* shall save it, *and* he that *instead thereof goes about to* save his Life *upon undue terms,* shall lose it.

Far be it therefore from me, to have knowingly, maliciously or wittingly offended the Law, rightly understood and asserted; much less, to have done any thing that is malum per se, *or that is morally evil. This is that I allow not as I am a Man, and what I desire with steadfastness to resist, as I am a Christian. If I can judge any thing of my own Case, The true reason of the present difficulties and straits I am in, is because I have desired to walk by a just and righteous Rule in all my Actions, and not to serve the Lusts and Passions of Men, but had rather die, than wittingly and deliberately sin against God and transgress his Holy Laws, or prefer my own private Interest before the Good of the whole Community I relate unto, in the Kingdom where the lot of my Residence is cast.*]

Friday, June 6, 1662.

ON this Day, the Sheriff returned forty-eight Freeholders of the County of *Middlesex*. After thirty-two were challenged by the Kelyng 16. Prisoner, he had a Jury of twelve Men sworn; to wit, Sir *William Roberts*, jun. Sir *Christopher Abdy*, *John Stone*, *Henry Carter*, *John Leech*, *Daniel Cole*, *Daniel Browne*, *Thomas Chelsam*, *Thomas Pitts*, *Thomas Upman*, *Andrew Bent*, and *William Smith*.

Sir Geoffry Palmer, *Att. Gen.* The Indictment is, *For traitorously imagining and intending*, &c. *the Death of the King*. This very Imagination and Compassing, *&c.* is Treason. Yet forasmuch as the Intentions of the Heart are secret, the Law cannot take notice of them, till they are declared by Overt-Act. Therefore we shall give in Evidence, That for accomplishing of these Intentions, the Prisoner sat with others in several Councils, or rather Confederacies, incroach'd the Government, levy'd Forces, appointed Officers, and at last levy'd open and actual War, in the head of a Regiment. If any of these Crimes be proved, it is sufficient to make him guilty within this Indictment. And the open levying of War, and appearing in the head of a Regiment, is not only a Treason of itself, but an Evidence of all those other Treasons he stands charged with in the Indictment.

These things happening before the Act of Oblivion, you will take notice of that Act; and that the Prisoner being excepted by name from the Benefit of that Pardon, though he be chargeable for any Crime of Treason since the beginning of the late War, yet we shall confine the Facts for which we charge him, to the Reign of his now Majesty.

After the House had voted the late King's Concessions in the Isle of *Wight* to be a good Ground for Peace, many of the Members were kept out by Force, others turn'd out; the Peers laid aside, and at last the King murder'd. The first thing then that we shall lay to the charge of the Prisoner, is, That that very Day wherein that horrid Act was committed, we find his Hand and Seal to a Warrant to the Officers of the Navy, to issue out Stores for a Summer's Guard of the Narrow Seas. This was the first Day of the Reign of his now Majesty. And so he enumerated all the Particulars which he intended to charge him with, and proved them, as followeth.

1. The Warrant of the 30th of *Jan.* 48. was proved to be the Hand of Sir *Henry Vane*, by *Thomas Lewis* and *Thomas Turner*, as they believe; neither of them affirming that they saw him write it, but knowing his Hand, believed it to be so.

2. *Ralph Darnel*, an Under-Clerk of the House of Commons, proved the Journal-Book of the House, and said, tho' he will not take upon him to say when Sir *Henry Vane* was there, and when he was absent, yet he said positively, That at what time soever he is set down in the Journal, to have acted or reported any thing, he was there. In which Book, *Febr.* 7. 1648, fol. 653, was the Order to set up a Council of State.

Fol. 684, *Febr.* 13. were the Instructions presented to the House, upon which the Council of State was to act.

1. The first was, *That you, or any four or more, are to suppress all and every Person and Persons pretending Title to the Kingly Government of this Nation, from or by the late King*; Charles Stuart, *his Son*; *or any claiming from or by them, or either of them, or any other single Person whatsoever.*

This, the Attorney said, was in the first part of that Instruction, to destroy the King's Person; and in the second part, the Kingly Government.

2. *That you,* &c. *are appointed to direct the Forces of this Commonwealth, for the preventing and suppressing of Tumults and Insurrections at home, or Invasions from abroad; and for these Ends to raise Forces,* &c.

3. That *Febr.* 14, 1648. fol. 695. Sir *Henry Vane* was chosen a Member of the Council of State, and acted upon these Instructions: which they proved thus; to wit,

First, That Sir *Henry Vane*, (as fol. 893.) 23d of *March* 1648, reported from the Council of State, an Estimate of the Number of Ships for the Summer's Guard of the Narrow Seas.

Secondly, March 30, 1649, Sir *Henry Vane* reports from the Council of State, That ten thousand Pounds, Parcel of the twenty thousand Pounds assessed upon *South-Wales* for their Delinquency, be allow'd towards the setting out of this Fleet, for the Service of the Parliament: which was ordered accordingly, and to be paid to Sir *Henry Vane*, as Treasurer of the Navy.

Thirdly, That Sir *Henry Vane* usually sat in Council; but this Deponent being never admitted to go in, after the Council was sat, proves that he often saw him go in at the Fore-door and Back-door, and often continue there all the time the Council was sitting.

William Dobbins and *Matthew Lock* say, That they several times saw Sir *Henry Vane* sit in a Committee of the Council, in the Years 1651 and 1652, which consisted only of Members of the Council; and particularly at the Committee for *Scotish* and *Irish* Affairs, where Sir *Henry Vane* was often in the Chair, and produced several Orders of that Committee.

Fourthly, *Febr.* 12, 1649, a new Council of State was chosen, of which Sir *Henry Vane* was one: fol. 720.

Febr. 13, 1649. All the Instructions of the former Year were read and assented to.

Febr. 22, 1649, fol. 760. Sir *Henry Vane* reported the Form of an Oath of Secrecy to be administred to every of the Members of the Council; which was, to keep all things which should be transacted in Council secret, and to be true and faithful to their Instructions: which the Attorney said (since their first Instruction was, *to suppress all Persons pretending Title from the King*) was in effect an Oath of Abjuration.

Fifthly, *Anno* 1651, Sir *Henry Vane* was President of the Council of State, and several Warrants were produced, to wit, *May* 20, 1652, and *May* 22, 1652, to deliver to Major *Wigan* two hundred Firelocks and ten Drums. The other, for the delivery of five hundred Foot-Arms, for Recruit of Colonel *Ingoldsby*'s Regiment: and these were subscribed, *By Order of the Council*, H. Vane *President*.

April 2, 1653. A Warrant of that date was produced by the Commissioners of the Navy, of which he was one, for furnishing out the *Hampshire*-Frigate with Provisions and Ammunition for the use of the State.

From this time to 1659, they charge him with nothing; and then the Journal-Book was produced, and attested by *Ralph Darnel*, wherein, *May* 7, 1659, an Order was made for appointing a Committee of Safety, (whereof Sir *Henry Vane* was one) *That they, or any four or more of them, should take care of the Safety of this Commonwealth, and they to sit for eight days and no longer:* fol. 36.

Die Ven. May 13, 1659. Sir *Henry Vane* reported, That they had conferred with all the Foreign Ambassadors: That the Commonwealth is in Amity with all Foreign Princes, but *Spain*.

Resolved, *That* Ch. Fleetwood, J. Lambert, J. Desborough, James Berry, Arthur Haslerig, Edmond Ludlow, *and Sir* Henry Vane, *be Commissioners to nominate Commission-Officers for the Army of this Commonwealth.* By virtue hereof, they proceeded, *June* 17, 1659, to nominate Commission-Officers, appointed *Robert Mosse* a Colonel, presenting a List of his Commission-Officers; and *John Mason* to be Governour of *Jersey*.

Die Ven. May 31, fol. 158. Sir *Henry Vane* reports concerning Affairs between the two Northern Kings in the *Sound*, wherein the Affairs of this Commonwealth are concerned.

Die Ven. Sept. 2, 1659. *At the Committee of State at* Whitehall: An Order was produced for the Re-delivery of the City-Horses to their respective Owners, signed *H. Vane* President.

A Warrant was produced under the Hand of Sir *Henry Vane*, proved by *Thomas Lewis* and one *Falconer*, for so many Hangers to Col. *Thompson*, as he shall require for his Regiment.

Three several Letters, to deliver 1200 Arms for the use of my Regiment; to wit, to *Sam. Linn*, my Captain-Lieutenant, 30 Arms for my Company; to Major *Thomas Shurman*, Major of my Regiment, 4 or 5 Barrels of Powder.

Then one *Marsh* was produced a Witness, who proves, That Sir *Henry Vane* proposed the new Model of Government, *Whitlock* being in the Chair, in these Particulars:

1. *That the Supreme Power, delegated by the People to their Trustees, ought to be, in some Fundamentals, not dispensed with.*

2. *That it is destructive to the People's Liberties (to which by God's Blessing they are restored) to admit any earthly King or single Person, to the Legislative or Executive Power over this Nation.*

3. *That the Supreme Power delegated, is not intrusted to the Peoples Trustees, to erect Matters of Faith or Worship, so as to exercise Compulsion therein.*

Thomas Pury proves, That he was at the debating of the two last of these Propositions, and believes they were proposed to the Chairman *Whitlock* by Sir *Henry Vane*; but affirms confidently, that Sir *Henry Vane* gave Reasons to maintain them.

Tho. Wallis produced, proves Sir *Henry Vane* and Col. *Rich* in the Head of a Company in *Winchester Park* in *Southwark*; and that the Captain Lieutenant *Linn* said to the Soldiers, That Sir *Henry Vane* had given them Five Pounds to drink; That the said *Linn* sent home a Key to his Wife to send him four Pounds out of his Trunk, to give the Soldiers.

John Cook deposeth, That he was sent to the *Horseshoe-Stairs* to meet Sir *Henry Vane* and Col. *Rich*, and that Sir *Henry Vane* delivered five Pounds to Capt. *Linn* to reward the Soldiers. This was all the Evidence given by the King's Counsel: To which Sir *Henry Vane* was required to make his Defence, and to go through with his Case all at once, and not to reply again upon the King's Counsel, who resolved to have the last word to the Jury.

Sir *Henry Vane*. *Coke*, in his *Pleas of the Crown*, *fol.* 6. saith, *King* is to be understood of a King regnant, and in actual Possession of a Crown, and not of a King when he is only *Rex de Jure*, and out of Possession. Now an *Interregnum* is confessed by the Indictment: All Ensigns of Authority, and Badges of Government, were visibly in another Name and Stile; the King's best Friends suing, and being sued, in another Name.

The Court told him, he should first make his Case out in point of Fact, and it would be then seasonable to stand upon Matter of Law; for (say they) it is a good Rule, *in facto jus oritur*, and enjoined him to call his Witnesses, if he had any.

To which Sir *Henry Vane* desired Process of Court to summon them, and a further time to answer the Charge. But it was told him, the Jury were to be kept without Meat, Drink, Fire or Candle, till their Verdict was delivered in; and therefore that could not be granted.

He then cited the fourth Part of *Coke*'s *Institutes* concerning the Privilege of Parliament, and that many of these things being transacted there—

The Court here interrupted him, and ſaid, If the things charged were done, juſtify them; if not, diſprove them. So he went to give anſwer to the Fact.

And as to the firſt Warrant, *Jan.* 30, 1648, he ſaid, That his Hand had been oftentimes counterfeited, and amongſt other Occaſions, for two great Sums, to the Value of Ten Thouſand Pounds: and that he had great reaſon to believe, that this Warrant was forged, and produced two Witneſſes to prove it.

Then ſaid Juſtice *Windham:* It may be your Hand may have been forged for receiving of Money, but it is not to be conjectured, that it ſhould be forged to ſet Ships to Sea; and directed to the Jury to conſider of the Circumſtances.

Sir *Henry Vane.* Neither of the Witneſſes ever ſaw me ſet my Hand to either of theſe Warrants or Orders; nor doth one Witneſs prove that he ever ſaw me ſit in the Council of State. He further ſaid, That he abſented from the Houſe from *December* 3, 1648, till *February* 7. That he was choſen a Member of the Council of State without his Conſent and Knowledge; and being demanded to take an Oath of Approbation of what had been done to the late King, he refuſed, and cauſed it to be expunged; That theſe Actings in Council, (if any were) were by Authority of Parliament, of a Parliament conſtituted in an extraordinary manner, made indiſſolvable but by Act of Parliament. He inſiſted much on the Preamble of that Act, ſo as that Parliament being co-ordinate with the King, (for the Government was in the King and the two Houſes) whatever he acted by them or their Authority, cannot be Treaſon within the Statute of 25 *Ed.* 3.

He cited an Ordinance of Parliament in 1642, and ſaid, That he hoped theſe things had been laid aſleep by the Act of Oblivion; and if they ſhould now riſe in Judgment againſt him, he feared they would ſhake that Security which the People promiſed themſelves under that Act. But if he ſhould be now called in queſtion for thoſe things which were tranſacted in that Parliament, of which he was a Member, he ſhall have the Comfort and Peace of thoſe Actions to ſupport him in his greateſt Sufferings. He added, That if he were excepted, then muſt he be judged for the Crime of the whole Nation, and that Crime muſt be ravelled into thro' him: That the Caſe is ſuch as never yet fell out, to wit, That the Government being intruſted to three Eſtates, they ſhould ſo fall out among themſelves, as the People cannot tell which to obey; That where theſe great Changes fall out, it is not poſſible for any Man to proceed according to all Formalities of Law; That there was a political Power by this Act of 17 *Caroli* co-ordinate with the King; and where theſe Powers are not in Conjunction, but in Enmity to each other, no Court inferior to the Parliament, by whoſe Authority theſe things were acted, ought to be Judges of this Caſe, which certainly never happened before.

He farther ſaith, he was not the firſt Mover in theſe Actions, and that he ſhould be called in queſtion for theſe Matters by a King that was out of Poſſeſſion at a time when theſe things were acted, would be inconvenient, to ſay no more; That when the three Eſtates were diſjoined, he thought it the beſt Policy to preſerve the Government in its Root, to wit, the *Commons*; by whom it was preſerved, and at laſt reſtored to its former Courſe: That as to the Regiment that paſſed under his Name, he diſown'd it; That Reports of Meſſages are not the Fault of the Reporter; for his Judgment does not always go along with them, but he is bound to deliver his Meſſage; That he always loved the Government as it is ſet forth in our antient Law-Books; and that that Parliament (ſo much decried) at laſt reſtored Affairs to the Poſture in which they now are.

As to the Warrants ſigned by him, he ſaid, they appear to be ſigned in the Name, and by the Order of the Council; and his Hand that ſubſcribes, is not ſo much as active or paſſive to the Commands of the Council. If the Council, who commanded the ſigning, were unwarrantable, the Parliament who appointed the Council muſt be much more unwarrantable.

And here he offered theſe Points to be conſider'd and pray'd earneſtly to have Council aſſigned him to ſpeak to them.

1. Whether the collective Body of the Parliament can be impeached of High-Treaſon?

2. Whether any Perſon acting by Authority of Parliament, can (ſo long as he acteth by that Authority) commit Treaſon?

3. Whether Matters acted by that Authority, can be called in queſtion in an inferior Court?

4. Whether a King *de Jure*, and out of Poſſeſſion, can have Treaſon committed againſt him, he not being King *de Facto*, and in actual Poſſeſſion? and pray'd it might be argued by Counſel.

5. Whether Matters done in *Southwark*, in another County, may be given in Evidence to a *Middleſex* Jury?

As to the laſt Exception, the Court ſaid,

That he was indicted for compaſſing and imagining the King's Death Kelyng 15. in *Middleſex*; and any Overt-Act to prove this Imagination, may be given in Evidence, whereſoever it be acted. To which Sir *Henry Vane* prayed the Benefit of a Bill of Exception, upon the Statute of *Weſtminſter* 2. *cap.* 31. and prayed that the Juſtices might ſeal it; which they all refuſed, and held, it lay not in any Caſe of the Crown.

The King's Counſel deſired he might call his Witneſſes, (if any he had) for if they once came to reply to him, he muſt then be ſilent; and conſented, that (if it would aid him) they would allow his Actings to be in the Name and by the Authority of the Council of State; and the Actings of the Council of State to be by Authority of what he called a Parliament.

Sir *Henry Vane* replied, Then what I acted in the *Council of State*, and *Committee of Safety*, conſtituted by the Parliament to endure for eight Days, you will allow me: Then you muſt prove that I ever acted in the other Council of State, after the Parliament was turned out.

Then the King's Counſel produced a Warrant, dated *November* 3, 1659, which was ſent in purſuance of an Order of the *Committee of Safety*, by Sir *Henry Vane*, as Treaſurer of the Navy. This Warrant was for the ſending of divers Arms Northwards after Mr. *Lambert*, who was gone down to oppoſe the now Duke of *Albemarle*.

Sir *Henry Vane* produced *William Angel*, *Briſco*, *Middleton*, &c. Officers of that Regiment which went under his Name; who having recourſe unto him for Orders about *October* 1659, he bad them deſiſt, and declared his Diſſatisfaction in their Proceedings: and this, after their ſeveral Importunities to have Orders from him. And thus he cloſed his Defence.

Sollicitor *Finch.* As to pretence of the Power of Parliament, it is to be known, that it was not the eighth part of the Houſe of Commons; ſuch as were let in to do all that hath been complained, and acting under Authority of ſuch an End of a Parliament, under ſuch a Violation, was no Excuſe, but an Aggravation; but that the Parliament was, in Law, ended by the Death of the late King, notwithſtanding that Act of 17 *Caroli primi*, appears thus:

Firſt, The King's Writ for a Parliament is *ad tractandum nobiſcum*; which is intended as well of the natural Capacity of the King, as of his politick.

Secondly, 'Tis abſurd to ſay, That the Acts of Parliament of King *Charles* the Firſt, ſhould be his Acts in the time of King *Charles* the Second.

Thirdly, A Commiſſion of Sewers, enacted to be on foot for Ten Years, expires by the Death of the King, and the Authority of the Commiſſioners is at an end.

Fourthly, It is not poſſible for one King to impoſe a Parliament upon a Succeſſor. So much for his acting by Colour of Authority of Parliament.

And as to the Queſtion, Whether an Houſe of Parliament can commit Treaſon? If they depart from that Allegiance which they have ſworn at their firſt Meeting, they are impeachable for it.

As to a Co-ordination in the Parliament, he denied it.

As to the Queſtion, Whether the King being out of actual Poſſeſſion, can have Treaſon committed againſt him? he affirmed it, and ſaid, Otherwiſe, if Rebellion ſhould be ſo proſperous as to depoſe or oppreſs the King in Battle, the Offenders are not to be called in queſtion, becauſe they prevailed. He ſaid it was the Plea of *Watſon* the Jeſuit, who being indicted for compaſſing the Death of King *James* in *Scotland*, after he was declared King of *England*, and before his actual entring into this Realm, made this Defence, That the King was never in Poſſeſſion of the Crown.

Juſtice *Windham.* As to the Act of 17 *Caroli*, and the Preamble of that Act, ſo much inſiſted on by the Priſoner; 1. He held, that the Parliament had not greater Authority by it, but were only made Kelyng 14. more durable than other Parliaments have been: but he held, That the Parliament was abſolutely diſſolved by the Death of the King; and put this Caſe: If it ſhould be enacted, that ſuch a Marriage ſhould continue till it was diſſolved by Act of Parliament; if one dies, it is a Determination of it in Fact, ſo as no Man can ſay, but it is abſolutely diſſolved. 2. It muſt continue in the Degree and Dignity of a Parliament. If the Houſe be under a Force, and ſome kept out, ſome let in, to ſerve a turn, whatever they act is a Nullity in Law. For Freedom is the principal Eſſence and Honour of a Parliament; yet though the Houſe be under a Force, the Houſe is not diſſolved by ſuch Force, but the Proceedings are to be ſuſpended, till it acquire its former Liberty; and this as well by the Common Law, as by the Civil and Canon Laws of all other Countries. 3. The Parliament is the King's great Council, the Peers are *Conciliarii nata*; if they be forc'd away, or laid aſide, as here they were, all the reſt is but *magni nominis umbra.*

Twiſden held the ſame Opinion, That it is not the ſitting of a few Members within thoſe Walls, that will continue it a Parliament: And tho' another Parliament, a great many Years after the King's Death, declared it to be at an end; yet that Act was but Declaration, it was at an end before.

Whether a Parliament may commit Treaſon, is not the Queſtion; but whether a few of the Houſe ſhutting out their Fellows, and uſurping the Government, were not Traitors?

Foſter held the ſame Opinion, and ſaid, The Diſtinction between the Politick and Natural Capacity of the King, was the Treaſon of the two *Spencers:* That Privilege of the Parliament is no Shelter for Breach of the Peace, much leſs for Treaſon.

Twiſden added, That to compaſs the Death of the King as a natural Perſon, was Treaſon; to compaſs his Death in his political Capacity, as to depoſe him, was Treaſon; and both provided for by the Act of 25 *Edw.* 3. That in the ſame Inſtant the late King expired, in Kelyng 15. the very ſame his now Majeſty was King *de facto*; and affirmed the Caſes of *Watſon* and *Clark*, 1 *Jac.* If an Army be raiſed againſt the King, and the King is ſlain in the Battle, this Treaſon is queſtionable by the Succeſſor, as *Storie*'s Caſe is in *Dyer.* 298. b.

Thus ended the Queſtions of Law propoſed.

The Sollicitor ſpake after to the Jury concerning the Fact, which after they withdrew to conſider, and being withdrawn about half an Hour, returned with their Verdict; which being delivered by the Foreman, in the name of his Fellows, with their Conſent, found the Priſoner guilty of High-Treaſon from *Jan.* 30, 1648.

They not only found him guilty according to the Indictment, which was laid for what the Priſoner did, 1659; but for a long Series of High-Treaſon (as they reckon) from *Jan.* 30, 1648. Kelyng 16.

A true Copy of the Priſoner's own Papers, containing the Subſtance of what he pleaded on the ſaid Day of his Trial, June 6.

THAT without any ſeeking of mine, I was choſen by Writ under the Great Seal, to ſerve as Burgeſs for the Town of *Kingſton* upon *Hull*, in the Parliament that ſat down on the third of *November* 1640, and having in purſuance thereof taken my Seat in the ſaid Parliament, I was obliged by Law to give my Attendance upon the ſaid Truſt, as well as upon Grounds of Duty and Conſcience.

The ſaid Parliament was not only called and aſſembled after the uſual manner, and had the Power and Privileges incident to that high Court,

Court, but was by expreſs Statute and Conſent of the three Eſtates ſo conſtituted, as to its Continuance, Adjournment, Prorogation and Diſſolution, that in none of theſe Particulars they were ſubject to Alteration, but by their own common Aſſent, declared by Act of Parliament, to be paſſed by themſelves for that purpoſe, with the Royal Aſſent.

In the Preamble to the Act for Continuance of the ſaid Parliament, theſe words are contained: *Whereas great Sums of Money muſt of neceſſity be ſpeedily advanced and provided for the Relief of his Majeſty's Army and People in the Northern Parts of this Realm, and for preventing the imminent Danger this Kingdom is in; and for Supply of his Majeſty's preſent and urgent Occaſions, which cannot be ſo timely effected as is requiſite, without Credit for raiſing the ſaid Monies; which Credit cannot be obtained until ſuch Obſtacles be firſt removed, as are occaſioned by Fears, Jealouſies and Apprehenſions of divers his Majeſty's loyal Subjects, That this preſent Parliament may be adjourned, prorogued or diſſolved, before Juſtice ſhall be duly executed upon Delinquents, and publick Grievances redreſſed, a firm Peace between the two Nations of* England *and* Scotland *concluded, and before ſufficient Proviſion be made for the Repayment of the ſaid Monies ſo to be raiſed,* &c. By all which the very Work that was between the three Eſtates agreed to be done for the Good and Safety of the Kingdom, was in ſundry Particulars declared and expreſſed; and not only ſo, but as is acknowledged by the late King himſelf in his Anſwer to the Nineteen Propoſitions, the Power which thereby was legally placed in both Houſes, was more than ſufficient to prevent and reſtrain Tyranny.

So that, by what hath been ſhewed, the Law it ſelf is with me, and for me, enjoining my continued Attendance on the Truſt which by this means was committed to me, and authorized me in particular to effect the things contained in the ſaid Preamble; and to act in all Matters belonging to the high Court of Parliament, for the Good and Safety of the Kingdom in time of imminent Danger; I had been liable to great Puniſhment by the Law, for Diſ-attendance and deſerting my Station therein, till lawfully or by force diſmiſſed therefrom; and this, whatever Occaſions others might have, by a voluntary or forc'd Departure from Attendance upon that Truſt.

The Actions therefore done by me in this Capacity, and according to the Law, Privileges, Cuſtoms and Power of Parliament, and that ſuch a one as was thus extraordinarily conſtituted neither are nor can be brought within the Statute of 25 *Edw.* 3 *cap.* 2. nor are to be queſtioned, tried, much leſs judged and ſentenced, in any inferior Court. Nay, ſo far is it from this, that by a Declaration and Reſolution of Parliament, *Auguſt* 13, 1642, it is adjudged to be committing Treaſon in the higheſt degree, to bring both or either Houſes of Parliament under that or ſuch like Imputations.

Nor, till of late, have I ever heard but that thoſe who took the Judgment of *Parliament* for their Rule and Guide, (however tortious or erroneous it might afterwards be accounted in ſucceeding times) and they that acted by and under the Countenance of their declared Judgments, Orders or Ordinances, (ever acknowledged binding during the ſitting of the Parliament) were ſafe and indemnified from all Puniſhment. And for Government-ſake, it ſelf, it is requiſite it ſhould be ſo; becauſe none are Judges of the Power and Privileges of Parliament but themſelves. For admit once that their Judgment may be called in queſtion, and diſputed by private Perſons, or by inferior Courts, (whoſe Votes are included in theirs) the Fundamentals of Government are pluck'd up by the Roots. *Par in pares non habet imperium, multo minus in eos qui majus imperium habent:* An Equal has no Command over his Equal, much leſs over thoſe that have a greater Command or Authority.

His late Majeſty, in his Anſwer to the Nineteen Propoſitions, does very briefly and exactly ſtate the Nature and Kind of Government that is exerciſed in this Kingdom, ſaying, *The Laws of this Kingdom are made by a King, a Houſe of Peers, and a Houſe of Commons, choſen by the People all having free Votes, and particular Privilege. Theſe three Eſtates making one incorporate Body, are they, in whom the Sovereignty and Supreme Power is placed, as to the making and repealing of Laws: And the Government, according to theſe Laws, is truſted to the King, who in the Interval of Parliament is ſole in the Exerciſe of Government, which (the Parliament ſitting) he is to exerciſe in conjunction with the two Houſes.*

And his ſaid Majeſty aſſerting three ſorts of Government, *Abſolute Monarchy, Ariſtocracy* and *Democracy*, does moſt rightly diſtinguiſh the Monarchy of *England* from all thoſe three, and commends the Conſtitution of this Kingdom, as it is a Mixture of all three, having the Conveniencies of them all without the Inconveniencies of any one, as long as the Balance hangs even between the three Eſtates, that they run jointly on in their proper Channels, and that the overflowing of either on either ſide raiſe no Deluge nor Inundation.

By the paſſing of the aforeſaid Act for the Continuance of the forementioned Parliament, the Intervals of Parliament were no longer, as before, at the Will and Pleaſure of the King; but the Power to continue in the ſaid Parliament, without Adjournment, Prorogation or Diſſolution, reſided in the two Houſes with the King jointly, and in none of them ſeverally: ſo that in effect the Government of the Kingdom, during the Continuance of that Parliament, was in Conjunction of the three Eſtates, and in their common Conſents and Agreements among themſelves given in Parliament; the aſſembling and meeting whereof was appointed and fixed to a Place certain, by Law.

By reaſon hereof, it is not the Attendance of any of the Members in Parliament (for Diſcharge of the Truſt repoſed in them, confirm'd and enlarged by the ſaid Act) that is faulty or cenſurable by the Law, but thoſe that unwarrantably depart and deſert that their Truſt and Station, are to be blamed; 6 *Hen.* 8. 16.

The King in Conjunction with the Parliament, is *maxime Rex*, and is ſupported in the Throne and Exerciſe of his Regal Power by the joint Concurrence of both Houſes. And becauſe (as his late Majeſty well obſerved) the Happineſs and Good of the Conſtitution of this Government lies in keeping the Balance even between the three Eſtates, containing themſelves within the Bounds of their proper Channels, therefore in Attempts of either to overflow thoſe Bounds, (they being coordinate) the Office of a Parliament is by the very fundamental Conſtitution of the Government, to keep this Balance well poiſed. And to that end (as was before mentioned) his Majeſty's own words are, in his ſaid Anſwer to the Nineteen Propoſitions; *That there was legally placed in both Houſes a Power more than ſufficient to prevent and reſtrain the Power of Tyranny.* If ſo, then are they the legal Judges, when there is Danger of Tyranny; and have legal Power to require their Judgment and Reſolves to be obeyed, not only when Arms are actually raiſed againſt them, but when they diſcern and accordingly declare a Preparation towards it; elſe they may find it too late to prevent the Power of Tyranny. There is no greater Attempt of Tyranny, than to arm againſt the Parliament; and there is no viſible way for the reſtraining ſuch Tyranny, but by raiſing Arms in their own and the Kingdom's Defence. Leſs than this is not ſufficient, and therefore far from more than ſufficient for the Puniſhment of Delinquents, and Reſtraint of Tyranny.

Unto the King, in Conjunction with his two Houſes, according as is provided by the Law in this Capacity of his, as *maxime Rex*, was the Duty of Allegiance to be yielded by his Subjects during the indiſſolved State of that Parliament: For they were the King's great Council, and Supreme Court, exerciſing the known Power and Privileges, that time out of mind have appertained to them, and been put forth by them, as the Exigents of the Kingdom have required, when Differences have happened about the very Title of the Crown, in declaring the Duty of the Subject, by yielding their Allegiance to Kings *de facto*, when Kings *de jure* have been kept out of Poſſeſſion. This our Chronicles, and the Hiſtories of former times, do plentifully inform.

The Cauſes that did happen to move his late Majeſty to depart from his Parliament, and continue for many Years, not only at a diſtance, and in Disjunction from them, but at laſt, in a declared Poſture of Enmity and War againſt them, are ſo well known, and fully ſtated in Print (not to ſay, *written in Characters of Blood)* on both parts, that I ſhall only mention it, and refer to it.

This Matter was not done in a Corner: the Appeals were ſolemn, and the Deciſion by the Sword was given by that God, who being the Judge of the whole World, does right, and cannot do otherwiſe.

By occaſion of theſe unhappy Differences thus happening, moſt great and unuſual Changes and Revolutions, like an irreſiſtible Torrent, did break in upon us, not only to the disjointing that Parliamentary Aſſembly among themſelves (the Head from the Members, the Co-ordinates from each other, and the Houſes within themſelves) but to the creating ſuch formed Diviſions among the People, and to the producing ſuch a general State of Confuſion and Diſorder, that hardly any were able to know their Duty, and with certainty to diſcern who were to command, and who to obey. All things ſeemed to be reduced, and, in a manner, reſolved into their firſt Elements and Principles.

Nevertheleſs, as dark as ſuch a State might be, the Law of *England* leaves not the Subject thereof (as I humbly conceive) without ſome Glimpſes of Direction what to do: in the cleaving to, and purſuing of which, I hope I ſhall not be accounted nor adjudged an Offender; or if I am, I ſhall have the Comfort and Peace of my Actions to ſupport me in and under my greateſt Sufferings.

The Reſolutions of all the Judges in *Calvin*'s Caſe, entitled *Poſt-nati*, in the 7th Book of *Coke*'s Reports, and the learned Arguments thereupon, afford me Inſtruction even in this Matter. It may be 'tis truly thence affirmed, That Allegiance is due only to the King, and how due, is alſo ſhewed.

The King is acknowledged to have two Capacities in him; one a *natural*, as he is deſcended of the Blood Royal of the Realm; and the Body natural he hath in this Capacity, is of the Creation of Almighty God, and mortal. The other is a *politick* Capacity, in reſpect of which he is a Body politick or myſtical, framed by the Policy of Man, which is immortal and inviſible. To the King, in both theſe Capacities conjoin'd, Allegiance is due; that is to ſay, to the natural Perſon of the King, accompanied with his politick Capacity, or the politick appropriated to the natural.

The politick Capacity of the King hath properly no Body nor Soul; for it is framed by the Policy of Man.

In all Indictments of Treaſon, when any one does intend the Death and Deſtruction of the King, it muſt needs be underſtood of his natural Body, the other being immortal. The Indictment therefore concludes *contra Ligeantiæ ſuæ debitum*, againſt the Duty of his Allegiance; ſo that Allegiance is due to the natural Body.

Admitting then, that thus by Law, Allegiance is due to the King (as before recited) yet it is always to be preſumed, that it is to the King in Conjunction with the Parliament, the Law and the Kingdom, and not in Disjunction from, or Oppoſition to them; and that while a Parliament is in being, and cannot be diſſolved, but by the Conſent of the three Eſtates.

This is therefore that which makes the Matter in queſtion, a new Caſe, that never before happened in the Kingdom, nor was poſſible to happen, unleſs there had been a Parliament conſtituted, as this was, *unſubjected* to Adjournment, Prorogation, or Diſſolution, by the King's Will. Where ſuch a Power is granted, and the Co-ordinates thereupon diſagree and fall out, ſuch Effects and Conſequents as theſe that have happened will but too probably follow. And if either the Law of Nature or *England* inform not in ſuch Caſe, it will be impoſſible for the Subjects to know their Duty, when that Power and Command which ought to flow from three in conjunction, comes to be exerciſed by all or either of them, ſingly and apart, or by two of them againſt one.

When new and never-heard-of Changes do fall out in the Kingdom, it is not likely that the known and written Laws of the Land ſhould be the exact Rule; but the Grounds and Rules of Juſtice, contained and declared in the Law of Nature, are and ought to be a Sanctuary in ſuch

such Cases, even by the very Common Law of *England:* For thence originally spring the unerring Rules that are set by the Divine and Eternal Law, for Rule and Subjection in all States and Kingdoms.

In Contemplation hereof, as the Resolve of all the Judges, it was agreed;

1. *That Allegiance is due to Sovereignty by the Law of Nature*; to wit, that Law which God, at the Creation of Man, infused into his Heart for his Preservation and Direction, the Law Eternal. Yet is it not this Law, as it is in the Heart of every individual Man, that is binding over many; or Legislative, but as it is the Act of a Community, or an associated People, by the right Dictates and Persuasions of the Work of this Law in their Hearts. This appears in the Case of the *Israelites*, *Judges*, Chap. 20 & 21, cited in the 4th Part of *Coke*'s *Institutes*, where mention is made of a Parliament, without a King, that made War, and that with their Brethren: They met as one Man to do it, in Vindication of that Justice unto which they were obliged even by the Law of Nature. This is that which Chancellor *Fortescue* calls Political Power here in *England*; by which, as by the Ordinance of Man, in pursuance of the Ordinance of God, the Regal Office is constituted, or the King's Politick Capacity, and becomes appropriated to his natural Person.

Thus Politick Power is the immediate Efflux and Offspring of the Law of Nature, and may be called a Part of it. To this, *Hooker* in his *Ecclesiastical Polity* agrees, and *Selden* on that Subject.

The Law of Nature, thus considered, is part of the Law of *England*, as is evident by all the best received Law-Books, *Bracton*, *Fleta*, *Lambard* upon the *Saxon* Laws, and *Fortescue* in the Praise of the Laws of *England*. This is the Law that is before any judicial or municipal Law, as the Root and Fountain whence these and all Governments, under God and his Law, do flow.

This Politick Power, as it is exercised in Conjunction with, and Conformity to the Eternal Law, partakes of its moral and immutable Nature, and cannot be changed by Act of Parliament. Of this Law it is that *Magna Charta*, and the *Charter of Forest*, with other Statutes rehearsed in the *Petition of Right*, are for the most part declaratory: For they are not introductive of any new Law, but Confirmations of what was good in all Laws of *England* before. This agrees with that Maxim, *Salus Populi suprema Lex*; that being made due and binding by this Law, which in the Judgment of the Community, declaring their Mind by their own free chosen Delegates and Trustees in harmony with the Eternal Law, appears profitable and necessary for the Preservation and Good of the whole Society.

This is the Law, which is put forth by the common Consent of the whole Realm, in their Representative; and (according to the fundamental Constitutions of this Kingdom) is that with which the Kings of this Land, by the joint Co-operation of the three Estates, do make and repeal Laws.

But through the Disorders and Divisions of the Times, these two Powers, the Regal and Political, (which according to the Law of *England*, make up but one and the same supreme Authority) fell asunder, and found themselves in Disjunction from an Opposition to one another. I do not say the Question is now, Which of these is most rightly (according to the Principles of the Law of Nature, and the Law of *England*) to be adhered unto and obeyed? but unto whether Power Adherence is a Crime in such an Exigent of State? Which, since it is such a new and extraordinary Case, evidently above the Track of the ordinary Rules, contained in the positive and municipal Laws of *England*, there can be no Colour to bring it within the Statute of 25 *Ed.* 3. *cap.* 2. forasmuch as all Statutes presuppose these two Powers, Regal and Political, in Conjunction, perfect Unity, and Subserviency, which this Case does not, cannot admit. So exceeding new and extraordinary a Case is it, that it may be doubted whether, and questioned how far, any other Parliament, but that Parliament it self that was privy to all its own Actings and Intentions, can be an indifferent and competent Judge. But however, the Point is of so abstruse and high Consideration, as no inferior Court can or ought to judge of it, as by Law-Books is most undeniable, to wit, *Bracton*, and others.

This then being the true State of the Case, and the Spring of that Contest that ensued, and received its Decision by the late War, the next Consideration is, How far I have had my Share and Part therein, that by the Laws is not warrantable, or by what appears in way of Proof to the Jury.

For the first, I shall crave leave to give you this Account of my self, who have best known my own Mind and Intentions throughout, and would not now, to save my Life, renounce the Principles of that righteous Cause, which my Conscience tells me was my Duty to be faithful unto.

I do therefore humbly affirm, that in the afore-mentioned great Changes and Revolutions, from first to last, I was never a first Mover, but always a Follower, chusing rather to adhere to Things than Persons, and (where Authority was dark or dubious) to do Things justifiable by the Light and Law of Nature, as that Law was acknowledg'd part of the Law of the Land; Things that are *in se bona*, and such as, according to the Grounds and Principles of the Common Law, as well as the Statutes of this Land, would warrant and indemnify me in doing them. For I have observed by Precedents of former Times, when there have arisen Disputes about Titles to the Crown, between Kings *de Facto* and Kings *de Jure*, the People of this Realm wanted not Directions for their Safety, and how to behave themselves within the Duty and Limits of Allegiance to the King and Kingdom, in such difficult and dangerous Seasons.

My Lord *Coke* is very clear in this Point, in his Chapter of *Treasons*, fol. 7. And if it were otherwise, it were the hardest Case that could be for the People of *England:* For then they would be certainly exposed to Punishment from those that are in Possession of the Supreme Power, as Traitors, if they do any thing against them, or do not obey them; and they would be punishable as Traitors by him that hath Right, and is King *de Jure*, in case they do obey the Kings *de Facto:* and so all the People of *England* are necessarily involved in Treasons, either against the Powers *de Facto*, or *de Jure*, and may by the same Reason be questioned for it, as well as the Prisoner, if the Act of Indemnity and the King's Pardon did not free them from it. The Security then and Safety of all the People of *England* is by this means made to depend upon a Pardon, (which might have been granted or denied) and not upon the sure Foundations of Common Law: An Opinion sure which (duly weighed and considered) is very strange, to say no more.

For I would gladly know that Person in *England* of Estate and Fortune, and of Age, that hath not counselled, aided, or abetted, either by his Person or Estate, and submitted to the Laws and Government of the Powers that then were: And if so, then by your Judgments upon me, you condemn (in Effigies, and by necessary Consequence) the whole Kingdom.

And if that be the Law, and be now known to be so, it is worth Consideration, whether if it had been generally known and understood before, it might not have hindred his Majesty's Restoration.

Besides, although, until this Judgment be passed upon me, the People have apprehended themselves as free from Question, and out of Danger, by reason of the Act of Indemnity and General Pardon; yet when it shall appear to them that such their Safety is not grounded on the Common Law, nor upon the Law of Nature, but that against both these and their Actions they are found faulty, and tainted with a moral Guilt, and that as Principals also, (since in Treason there are no Accessaries) what terrifying Reflections must this needs stir up in the Mind of every Man, that will be apt to believe his Turn will come next, at least once in two Years; as hath befallen me in my person, who (however I have been misjudged and misunderstood) can truly affirm, That in the whole Series of my Actions, that which I have had in my Eye hath been to preserve the ancient well-constituted Government of *England* on its own Basis and primitive righteous Foundations, most learnedly stated by *Fortescue* in his Book made in praise of the *English* Laws. And I did account it the most likely Means for the effecting of this, to preserve it, at least in its Root, whatever Changes and Alterations it might be exposed unto in its Branches, through the blustrous and stormy Times that have passed over us.

This is no new Doctrine in a Kingdom acquainted with Political Power, as *Fortescue* shews ours is, describing it to be in effect the common Assent of the Realm, the Will of the People or whole Body of the Kingdom, represented in Parliament. Nay, though this Representation (as hath fallen out) be restrained for a Season to the Commons House, in their single Acting, into which (as we have seen) when by the inordinate Fire of the Times, two of the three Estates have for a Season been melted down, they did but retire into their Root, and were not hereby in their Right destroyed, but rather preserved, though as to their Exercise laid for a while asleep, till the Season came of their Revival and Restoration.

And whatever were the Intents and Designs of others, (who are to give an Account of their own Actions) it is sufficient for me that at a Time critical and decisive (though to my own Hazard and ill Usage) I did declare my Refusal of the Oath of Abjuration, which was intended to be taken by all the Members of Parliament, in reference to Kingly Government, and the Line of his now Majesty in particular. This I not only positively refused to take, but was an occasion of the second Thoughts which the Parliament reassumed thereof, till in a manner they came wholly at last to decline it: A Proof undeniable of the Remoteness of any Intentions or Designs of mine, as to the endeavouring any Alteration or Change in the Government; and was that which gave such Jealousy to many in the House, that they were willing to take the first occasion to shew their Dislike of me, and to discharge me from sitting among them.

But to return to what I have before affirmed, as to my being no leading or first Actor in any Change; it is very apparent by my Deportment at the Time when that great Violation of Privileges happened to the Parliament, so as by Force of Arms several Members thereof were debarred coming into the House, and keeping their Seats there. This made me forbear to come to the Parliament for the Space of ten Weeks, (to wit, from the 3d of *December* 1648, till towards the middle of *February* following) or to meddle in any publick Transactions; and during that Time the Matter most obvious to Exception, in way of Alteration of the Government, did happen. I can therefore truly say, that as I had neither Consent nor Vote at first in the Resolutions of the Houses, concerning the Non-Addresses to his late Majesty, so neither had I in the least any Consent in, or Approbation to his Death: But on the contrary, when required by the Parliament to take an Oath, to give my Approbation *ex post facto* to what was done, I utterly refused, and would not accept of sitting in the Council of State upon those Terms, but occasioned a new Oath to be drawn, wherein that was omitted. Hereupon many of the Council of State sat, that would take the other.

In like manner the Resolutions and Votes for changing the Government into a Commonwealth or Free State were passed, some Weeks before my Return to Parliament: Yet afterwards (so far as I judged the same consonant to the Principles and Grounds, declared in the Laws of *England*, for upholding that Political Power which hath given the Rise and Introduction in this Nation to Monarchy it self, by the Account of ancient Writers) I conceived it my Duty, as the State of Things did then appear to me, (notwithstanding the said Alteration made) to keep my Station in the Parliament, and to perform my Allegiance therein to King and Kingdom, under the powers then *regnant*, (upon my Principles before declared) yielding Obedience to their Authority and Commands. And having received Trust in reference to the Safety and Preservation of the Kingdom, in those Times of imminent Danger, (both within and without) I did conscientiously hold myself obliged to be true and faithful therein. This I did upon a publick Account, not daring to quit my Station in Parliament by virtue of my first Writ: Nor was it for any private or gainful Ends to profit myself, or enrich my Relations. This may appear as well by the great Debt I have contracted, as by the destitute Condition my many Children

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are in, as to any Proviſion made for them. And I do publickly challenge all Perſons whatſoever, that can give Information of any Bribes or covert Ways uſed by me, during the whole time of my publick Acting. Therefore I hope it will be evident to the Conſciences of the Jury, that what I have done hath been upon Principles of Integrity, Honour, Juſtice, Reaſon, and Conſcience, and not, as is ſuggeſted in the Indictment, by *Inſtigation of the Devil*, or *Want of the Fear of God*.

A Second great Change that happened upon the Conſtitution of the Parliament, and in them of the very Kingdom itſelf, and the Laws thereof, (to the plucking up the Liberties of it by the very Roots, and the introducing of an arbitrary Regal Power, under the Name of *Protector*, by Force and the Law of the Sword) was the Uſurpation of *Cromwell*; which I oppoſed from the Beginning to the End, to that Degree of Suffering, and with that Conſtancy, that well near had coſt me not only the Loſs of my Eſtate, but of my very Life, if he might have had his Will, which a higher than he hindered: Yet I did remain a Priſoner, under great Hardſhips, four Months in an Iſland, by his Orders.

Hereby, that which I have aſſerted is moſt undeniably evident, as to the true Grounds and Ends of my Actions all along, that were againſt Uſurpation on the one hand, or ſuch extraordinary Actings on the other, as I doubted the Laws might not warrant or indemnify, unleſs I were enforced thereunto by an over-ruling and inevitable Neceſſity.

The third conſiderable Change was the total diſappointing and removing of the ſaid Uſurpation, and the returning again of the Members of Parliament to the Exerciſe of their primitive and original Truſt, for the Good and Safety of the Kingdom, ſo far as the State of the Times would then permit them; being ſo much, as they were, under the Power of an Army, that for ſo long a time had influenced the Government. Towards the Recovery therefore of Things again into their own Channel, and upon the legal Root of the Peoples Liberties, to wit, their common Conſent in Parliament, given by their own Deputies and Truſtees, I held it my Duty to be again acting in publick Affairs in the Capacity of a Member of the ſaid Parliament, then re-enter'd upon the actual Exerciſe of their former Power, or at leaſt ſtruggling for it. In this Seaſon I had the Opportunity of declaring my true Intentions as to the Government, upon occaſion of refuſing the Oath of *Abjuration* before mentioned.

And whereas I am charged with keeping out his Majeſty that now is, from exerciſing his Regal Power and Royal Authority in this his Kingdom; through the Ill-will borne me by that part of the Parliament then ſitting, I was diſcharged from being a Member thereof about *Jan.* 9, 1659, and by many of them was charged, or at leaſt ſtrongly ſuſpected, to be a Royaliſt. Yea, I was not only diſcharged from my Attendance in Parliament, but confined as a Priſoner at my own Houſe, ſome time before there was any viſible Power in the Nation that thought it ſeaſonable to own the King's Intereſt. And I hope my ſitting ſtill will not be imputed as a Failure of Duty, in the Condition of a Priſoner, and thoſe Circumſtances I was then in. This I can ſay, That from the time I ſaw his Majeſty's Declarations from *Breda*, declaring his Intentions and Reſolutions as to his Return, to take upon him the actual Exerciſe of his Regal Office in *England*, and to indemnify all thoſe who had been Actors in the late Differences and Wars, (as in the ſaid Declaration doth appear) I reſolved not to avoid any public Queſtion, (if called thereto) as relying on mine own Innocency, and his Majeſty's declared Favour, as before ſaid. And for the future, I determined to demean myſelf with that Inoffenſiveneſs and Agreeableneſs to my Duty, as to give no juſt Matter of new Provocation to his Majeſty in his Government. All this, for my Part, hath been punctually obſerved, whatever my Sufferings have been. Nor am I willing in the leaſt to harbour any diſcouraging Thoughts in my Mind as to his Majeſty's Generoſity and Favour towards me, who have been faithful to the Truſt I was engaged in, without any malicious Intentions againſt his Majeſty, his Crown, or Dignity, as before hath been ſhewed; and I am deſirous for the future to walk peaceably and blameleſly.

Whatever therefore my perſonal Sufferings have been ſince his Majeſty's Reſtoration, I rather impute them to the falſe Reports and Calumnies of mine Enemies, and Misjudgers of my Actions, than reckon them as any thing that hath proceeded from his Majeſty's proper Inclination, whoſe Favour and Clemency I have had juſt Reaſon, with all Humility, to acknowledge.

Firſt, with regard to his Majeſty's Speech, made the 27th of *July*, 1660, in the Houſe of Peers, wherein his Majeſty expreſly declared it to be no Intention of his that a Perſon under my Circumſtances ſhould be excepted out of the Act of Indemnity, either for Life or Eſtate.

And Secondly, However it was the Parliament's Pleaſure (myſelf unheard, tho' then in the *Tower*, and ready to have been brought before them) to except me out of the common Indemnity, and ſubject me to queſtion for my Actions, yet they themſelves of their own accord (admitting the Poſſibility that in ſuch Queſtioning of me I might be attainted) made it their humble Deſire to his Majeſty, that in ſuch Caſe Execution, as to my Life, might be remitted. Upon this his Majeſty readily gave his Grant and Aſſent. And I do firmly believe, if the Houſes had pleaſed to give me the Opportunity and Leave of being heard, they would never have denied me the Indemnity granted to the reſt of the Nation.

That which remains of further Charge yet to me is the Buſineſs of a Regiment, an Employment which I can in truth affirm, mine own Inclinations, Nature, and Breeding, little fitted me for, and which was intended only as honorary and titular, with relation to Volunteers, who, by their Application to the Council of State, in a Time of great Commotions, did propound their own Officers, and (without any ſeeking of mine, or not conſidering any farther of it, than as the uſe of my Name) did (among others) nominate me for a Colonel, which the Council of State approved, granting Commiſſions to myſelf, and all other Officers relating thereunto; and the Parliament confirmed my ſaid Commiſſion, upon Report thereof made to them.

This will appear by ſeveral Witneſſes I have to produce in this Matter, that will be able to affirm how little I took upon me, or at all, to give any Orders, or make uſe of ſuch my Commiſſion, any otherwiſe than in Name only.

'Tis true, indeed, that at a certain time, when I was ſummoned to appear at the Committee of the Militia in *Southwark*, whereof I was a Member, that which was called my own Company of Foot (from the Reſpect which they and their Officers pretended to me) were deſirous to be in a Poſture fit for me to ſee them; and as I paſſed by, I took the Opportunity, at their Deſire, to ſhew myſelf to them, and only (as taking notice of their Reſpect) in ſome few Words, expreſſing the Reaſon I had to receive it in good part, I told them I would no longer detain them from their other Occaſions. After I was gone from them, I appointed my Captain-Lieutenant to give them from me ſomething to drink, as might be fitting on ſuch an Occaſion, which, to my beſt Remembrance, was five Pounds; and he laid it out of his own Money.

More than this (as I remember) was not done by me; ſo much as to the ſeeing any more the Companies of that Regiment gathered together, or giving Orders to them: Which I publickly and avowedly declined, perſuading the Officers to lay down their Charges in mine own Example, ſo ſoon as I diſcerned the Intentions of the ſitting down of the *Committee of Safety*, and the exorbitant Power committed to them to exerciſe, and the way of Proceedings by the Army, in intereſting themſelves in the Civil Government of the Nation, which I utterly diſliked.

And although I forbore not to keep my Station, in reference to the Council of State, while they ſat, or as a Commiſſioner of the Admiralty, during the time by them appointed to act by Parliamentary Authority, and ſo had occaſion to be daily converſant with the Members of the Committee of Safety (whereof myſelf, with others that would not accept, were named); yet I perfectly kept myſelf diſintereſted from all thoſe Actings of the Army, as to any Conſent or Approbation of mine, (however, in many Things, by way of Diſcourſe, I did not decline Converſe with them) holding it my Duty to penetrate as far as I could into their true Intentions and Actions; but reſolving within myſelf to hold true to my Parliamentary Truſt in all Things wherein the Parliament appeared to me to act for the Safety and Good of the Kingdom. However, I was miſinterpreted, and judged by them as one that rather favoured ſome of the Army, and their Power.

Upon the whole Matter, there is not any Precedent that ever both or either of the Houſes of Parliament did commit Treaſon: For tho' Privilege of Parliament does not ſo hold in Treaſon, but that particular Members may be puniſhed for it, yet it is unprecedented, that both or either Houſes of Parliament, as a collective Body, ever did or could commit Treaſon.

All the Acts done in Parliaments have been reverſed indeed, and repealed, as what was done 11 *Ric.* II. was repealed 21 *Ric.* II. and what was done 21 *Ric.* II. was repealed 1 *Hen.* IV. 3. as appears by the printed Statutes: Yet I do not find that both or either Houſe of Parliament were declared Traitors for what they did in thoſe Parliaments; or that any which acted under them ſuffered for the ſame in any inferior Courts. And ſurely the Reaſon is obvious: For they had a Co-ordinancy in the Supreme or Legiſlative Power for the making, altering, and repealing Laws. And if ſo, *par in parem non habet imperium.* And by Authorities out of *Bracton*, *Fleta*, and others, it may appear what Superiors the King himſelf hath, (who yet hath no Peer in his Kingdom, *(niſi Curiam Baronum)*, God, Law, and Parliament.

And if either or both Houſes cannot commit Treaſon, then thoſe that act by their Authority cannot: For, *plus peccat Author quam Actor*, the Author offends more than the Actor. If thoſe that command do not, nor can commit Treaſon, how can thoſe that act by their Authority be guilty of it?

Further, I muſt crave leave to aſſert, by reaſon of what I ſee opened upon the Evidence, that what is done in Parliament, or by their Authority, ought not to be queſtioned in any other Court: For every Offence committed in any Court, muſt be puniſhed in the ſame, or in ſome higher, and not any inferior Court. Now the Court of Parliament hath no ſuperior Court, as is ſaid in *Coke's Juriſdiction of Courts.* And the Reaſon there given that Judges ought not to give any Opinion in a Matter of Parliament, is, Becauſe it is not to be decided by the Common Laws, but *ſecundum Legem & Conſuetudinem Parliamenti.* This the Judges in divers Parliaments have confeſſed. And that Reaſon is not to be waved, which the Lord *Coke* gives, That a Man can make no Defence; for what is ſaid and acted there, is done in Council, and none ought to reveal the Secrets of the Houſe: Every Member hath a judicial Voice, and can be no Witneſs.

June *the* 11*th.*

After the cuſtomary Formalities of the Court,

The Clerk demanded of Sir *Henry Vane* what he had to ſay why Sentence of Death ſhould not be paſſed upon him?

Sir *Henry Vane* firſt alledged, That he had not yet heard the Indictment read in *Latin.* The Debate upon this took up ſome Time: At length ſome of the King's Counſel deſired that the Priſoner might be ſatisfied in that Point. Sir *Henry* deſired that Counſel then might alſo be aſſigned him, to make Exceptions thereto, if they found Cauſe; otherwiſe he valued not the hearing of it read in *Latin.* This was over-ruled by the Court: He ſoon therefore deſiſted from any further urging it.

The next thing Sir *Henry* offered in his own Defence was the Bill of Exceptions, which he brought with him ready drawn, and offered it to the Judges, deſiring them, according to the Statute of *Weſtm.* 2. 31. made 13 *Edw.* I. to ſign it. This he urged ſo home, that the Statute was conſulted and read in open Court, running in favour of the Priſoner to this effect: *That if any Man find himſelf aggrieved by the Proceedings againſt him before any Juſtices, let him write his Exception, and deſire the Juſtices to ſet their Seals to it.* 'This Act was made (ſays *Coke*)

'that the Party wronged might have a Foundation for a legal Proceſs 'againſt the Juſtices by a Writ of Error, having his Exception entered 'upon Record in the Court where the Injury is done, which through 'the Juſtices over-ruling it, they could not before procure, ſo the Party 'grieved was without Remedy; for whoſe Relief this Statute was made. 'The Juſtices refuſing to ſet their Seals, the Party grieved may have a 'Writ grounded on this Statute, commanding them to ſet their Seals to 'his Exception. This Exception extends not only to all Pleas dilatory 'and peremptory, *&c.* but to all Challenges of any Jurors, and any 'material Evidence, given to any Jury, by which the Court is over-'ruled.' As in this Priſoner's Caſe the Teſtimony about falſifying of his Hand to Writing, *&c.* was, by what was offered to the Jury by Juſtice *Windham*.

Further, ſays *Coke* on this Statute, 'If the Juſtice (or Juſtices) die, 'their Executors or Adminiſtrators may be proceeded againſt for the In-'jury done. And if the Judge (or Judges) deny to ſeal the Exception, 'the Party wronged may in the Writ of Error take Iſſue thereupon, if he 'can prove by Witneſſes the Judge or Judges denied to ſeal it.'

Notwithſtanding all this, the Judges over-ruled this Plea alſo, by ſuch Interpretation as themſelves put upon that Statute, to wit, That it was not allowable in criminal Caſes for Life. This makes the Law leſs careful for the Preſervation of a Man's Life, than any Particulars of his Eſtate, in Controverſies about which this Statute is affirmed by them to hold. Whereas Life is the greater, and innocent Blood, when ſpilt, is irreverſible, as to the Matter, it cannot be gathered up again: The Eſtate is the leſſer; and if an erroneous Judgment paſs about it, 'tis reverſible upon Traverſe, Writ of Error, or otherwiſe.

Kelyng. 15.

The Reaſon they alledged for their pretended Opinion was this, That if it be held in Criminal Caſes for Life, every Felon in *Newgate* might plead the ſame, and ſo there would be no Goal-Delivery.

Sir *Henry* anſwered, His Caſe was not the Caſe of common Felons, alledging the Grant of his Majeſty to the Petition of both Houſes for his Life, in caſe he ſhould be attainted. There is no need therefore ſure (ſaid he) of fearing the Conſequence of ſpinning out the Time a little with a Perſon in his Circumſtances. Beſides, (he ſaid) he had been a Priſoner two Years, and never called on to give any Account of himſelf and his Actions, (ſo is it not with Felons;) which, with other Conſiderations, may ſufficiently evince that there is no need of ſuch haſtening his Death. He told them withal, that he deſired not this for his own Sake only, but for theirs, and for Poſterity; that they might, on a more leiſurely and unprejudiced hearing of what may be ſaid on all hands, prevent the bringing of innocent Blood upon themſelves and the Land.

But being in this alſo over-ruled by the Court, (ſay what he would) he only deſired he might underſtand whether they would all give it as their common Judgment they would ſtand to, That what he deſired was not his Due by the Law? By this means they were all put upon it, one by one, to declare themſelves in that Point, unanimouſly denying him the Benefit of that Act. To the By-ſtanders their chief Reaſon ſeemed to be, That it had not been practiſed this hundred or two of Years.

The third thing Sir *Henry* deſired was, That the Petition of both Houſes, with his Majeſty's Anſwer thereunto, might be read in the Court; which, after ſome Diſpute, was concluded to be a thing they were not bound to take notice of, not being an Act of Parliament. Yet what is any Act of Parliament, but a Bill preſented with the Petition of both Houſes to his Majeſty, with his Royal Aſſent thereto, upon publick Record? At length they condeſcended to read it; and that was all.

The fourth and laſt thing Sir *Henry Vane* offered to the Conſideration of the Bench was this, That in regard there were Queſtions touching Matter of Law in his Caſe, which muſt receive their Determination in Parliament, he deſired he might have Counſel aſſigned him, to argue them before their Lordſhips. Some of theſe Points he inſtanced in, to wit;

1. Whether a Parliament were accountable to any inferior Court?

2. Whether the King, being out of Poſſeſſion, and the Power Regent in others——

Here they ſtopp'd him, not ſuffering him to proceed, nor admitting that the King was ever out of Poſſeſſion. To which Sir *Henry* replied, The Words of his Indictment ran thus, *That he endeavoured to keep out his Majeſty*; and how could he keep him out of the Realm, if he were not out?

But when he ſaw they would over-rule him in all, and were bent upon his Condemnation, he put up his Papers, appealing to the Righteous Judgment of God, who (he told them) muſt judge them as well as him, often expreſſing his Satisfaction to die upon this Teſtimony; which *Keeling*, one of the King's Counſel, inſultingly anſwered, *So you may, Sir, in good time, by the Grace of God.* The ſame Perſon had often before ſhewed a very ſnappiſh Property towards the Priſoner; and Sir *Henry* ſometimes anſwered him according to his Folly: For when he would have had the Book out of the Priſoner's Hand, wherein was the Statute of *Weſtminſter*, 2d. C. 31;

Sir *Henry* told him, *he had a very officious Memory, and when he was of Counſel for him, he would find him Books* (Whereby was verified what was ſaid to be ſpoken by him, at firſt, in anſwer to one of his Brethren, on the Arraignment-Day, *Though we know not what to ſay to him, we know what to do with him.)*

[*The* Bill of Exceptions, *tranſlated out of the beſt* Latin *Form the Priſoner could procure; no Council learned in the Law daring to aſſiſt him in thoſe Circumſtances, without Aſſignment from the Court, which was denied.*]

Firſt, *Concerning my Impriſonment.*

(1.) I Shall here mention my Entrance into this new Scene of Sufferings under the preſent Power (after my having been handled at Will and Pleaſure, under the ſix Years Uſurpation of *Cromwell)* which I conceive not to have been at all according to the Law of the Land, as may appear by the 29th Chap. of *Magna Charta*, and *Coke* upon it, with many other Statutes and Law-Books: In all which it appears that the Law of *England* is ſo tender, not to ſay curious, in providing for the Subject's Liberty, that he is not to ſuffer the leaſt Reſtraint, Confinement or Impriſonment, but by the lawful Judgment of his Peers, or by the Law of the Land. Contrary to all which, I was committed at mere Will and Pleaſure, and have been detained cloſe Priſoner theſe two Years, without any Cauſe ſpecified, or any particular Crime laid to my Charge.

Secondly, *Concerning Tranſactions at the Grand Jury.*

(2.) The Grand Jury of *Middleſex*, without my Privity, Knowledge or Preſence, (after I had been kept a cloſe Priſoner two full Years) did meet, take the Depoſitions of Witneſſes, and find the Bill againſt me, which inevitably expoſed me to a Trial at the *King*'s-*Bench* Bar, for I knew not what: whereas Major *Rolf* and others have had the Right of *Engliſhmen* granted them, to be preſent at the Grand Jury's Proceedings; yea, and to have Counſel alſo preſent to plead any thing in a way of Reaſon or Law, for invalidating the Teſtimony, or diſabling the Witneſſes, whereby the Indictment hath been immediately quaſh'd; and ſo the Party accuſed delivered from any Shadow of Infamy, by ſo much as appearing in the Circumſtances of a Malefactor at any public Bar of Juſtice.

That this Priſoner had great need of that Privilege of being preſent himſelf, or having Counſel and other Friends preſent at the Grand Jury, will appear hereafter, by the ſubdolous and injurious handling of Matters there.

Thirdly, *Concerning the Juriſdiction of the Court.*

(3.) The Offences ſuppoſed to be committed by me, are things done not of my own Head, but as a Member of the *Long Parliament*, or in purſuance of their Authority. The Matters done by me, in the one reſpect or other, if they be deemed Offences, are puniſhable only in Parliament; and I ought not to be queſtioned for them in any inferior Court, as *Coke* ſhews in the 4th Part of his *Inſtitutes*, *chap.* 1. concerning the High Court of Parliament. For the Parliament is not confined in their Actings by the Law, which inferior Courts are tied up to; but in divers Caſes are privileged to act extraordinarily and unaccountably to any but themſelves, or ſucceeding Parliaments. Moreover, that Parliament was extraordinarily commiſſioned, qualified and authorized by expreſs Act of Parliament, beyond all preceding Parliaments, for the Cauſes and Ends declared in the Preamble of the Act for their Eſtabliſhment, accorded and paſſed by the joint Conſent of King, Lords and Commons, whereby they became unſubjected to Adjournment, Prorogation or Diſſolution, but by their own reſpective voluntary Conſents, to be by them expreſſed and paſſed for that purpoſe, with the Royal Aſſent; which occaſioned his late Majeſty in his Anſwer to the Nineteen Propoſitions, to ſay, *That the Power hereby legally placed in both Houſes, was more than ſufficient to prevent and reſtrain the Power of Tyranny.*

And further, the bringing of this Caſe under the Juriſdiction of this Court, or of any other but a Parliament, may prove of very dangerous Conſequence, in point of Precedent, and moſt diſagreeing to all Rules of Juſtice. For,

Firſt, By the ſame Reaſon that I am queſtioned in this Court, not only every Member of Parliament, but the very Houſes themſelves, with all their Debates, Votes and Orders, may not only be queſtioned, but referred to a Petty-Jury, and ſo come to be judged and ſentenc'd by a Court inferior to themſelves; which Judges in all times have diſclaimed and acknowledged to be out of their Power, according to the known Rule, *Par in pares non habet imperium, multo minus in eos qui majus imperium habent.*

Secondly, In ſuch caſe the Parties accuſed will be debarred of Evidence or Witneſs for their Juſtification and Defence. For no Members, *&c.* preſent at Debates in Parliament, (who are the only Eye and Ear-Witneſſes of what is ſaid and done there) ought to diſcover the Counſels of the Houſe.

Fourthly, *Concerning the Indictment.*

1. I have not been permitted to have a Copy or Sight of the Indictment, nor ſo much as to hear it read in *Latin*, which is the original Record of the Court, and ought to be the Foundation of their whole Proceeding with me. I often deſired theſe things of the Court; yea, or at leaſt to have but the Tranſcripts of ſome particular Clauſes in the Indictment, to enable me to ſhew the Deficiencies thereof in Law, (all which, others in ſuch Caſes have often obtained) but nothing would be granted herein.

This then was my hard Lot and Uſage; I was put (after two Years cloſe Impriſonment) to anſwer for my Life to a long Indictment read in *Engliſh*, which whether it were rightly tranſlated how ſhould I know, that might not hear the original Record in *Latin?* Counſel alſo learned in the Law were denied me, though preſſed for by me again and again, before I pleaded. And had they been granted, what could they have ſaid as to Defects of Law in the Indictment, unleſs they might have a Copy of it? What can any Counſel ſay to any petty Buſineſs concerning any part of a Man's Eſtate that's in Controverſy, unleſs they may have a leiſurely View and Peruſal of the Writings thereabouts? Much more ſure will it appear requiſite to the Reaſon of all Mankind, when a Man's whole Eſtate, Life and all, are at ſtake. 'Tis true, before I pleaded, this Court promiſed I ſhould have Counſel aſſigned me after pleading, *(God forefend elſe*, ſaid the Lord Chief Juſtice) but 'tis as true, I never could yet ſee that Promiſe made good. All things tending to a fair Trial were promiſed me in general before pleading, but every material Particular for the juſt Defence of my Life, hath been denied me ever ſince. And my Trial for Life was huddled up the next Day of my appearing before you: The Jury (as was told me) muſt not eat nor drink till they had done their Work: (So the more than forty Jewry-Men that reſolved to kill *Paul*, Acts xxiii. 21.) But why ſuch Haſte and Precipitancy for a Man's Life, that's more than Meat or Eſtate, when you can

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let Civil Cauſes about Mens Eſtates depend many Years? And if an erroneous Judgment be paſſed in ſuch Matters, 'tis reverſible; but if innocent Blood be ſpilt, it cannot be gathered up again, as the wiſe Woman of *Tekoah* ſaid, 2 *Sam.* xiv.

2. But Secondly, then, as to Defects in the Indictment, which I was in ſome Meaſure enabled to obſerve from that broken hearing thereof, that was afforded me here in the Court; I ſay there are many, and thoſe very conſiderable: And by the Law of *England* I ought not to have been urged to plead or make Anſwer to ſuch an illegal and defective Indictment.

1. There is no ſufficient Overt-Act therein alledged of the Priſoner's imagining the King's Death, or that he had any the leaſt Intention that way.

2. The Levying of a War is alledged in *Southwark*, and cannot therefore be tried by a Jury of *Middleſex*, *Dyer*, *Fol.* 234. and the 3d Part of *Coke*'s Inſtitutes, *Fol.* 34.

3. There is Uncertainty and Obſcurity in the main thing alledged againſt me in the Indictment; to wit, *That I, together with a Multitude of Perſons, to the Number of a Thouſand, unknown to the Jury*, &c. whereas no criminal Act can be tried that is not certain; *Certa res debet eſſe quæ deducitur in Judicium.*

4. The Treaſon laid to my Charge, is alledged to have been committed with a Multitude of other falſe Traitors, which were pardoned by the Act of Indemnity: Such ſuppoſed Crimes therefore of theirs cannot be remembered or alledged, without a manifeſt Breach of the Act of Indemnity and Oblivion.

The Indictment is, or ought to be founded on ſome Clauſe or Branch of 25 *Edw.* III. *Chap.* 2. but no ſuch Overt-Act is alledged in the Indictment, or proved by Witneſſes, as doth diſcover that I had any Intention to kill, depoſe, or hold out the King from the Poſſeſſion and Exerciſe of his Regal Power.

Whereas I am accuſed of *compaſſing or imagining the Death of the King*, this muſt be underſtood of his natural or perſonal, not politick Capacity, for in this latter Senſe the Law ſays, *The King cannot die.*

Firſt then, to compaſs only the Depoſition of the King, is not within the Words of that Statute (ſeveral Kings have been depoſed by Parliament ſince the Conqueſt); and as to my compaſſing or deſigning the natural Death of the King's Perſon, with what Colour can I be accuſed of ſuch Intentions, in the Circumſtances the King at that time was in beyond the Seas?

Secondly, The aſſembling of Men together, without any Hoſtility or Injury offered to any Perſon, but for a Man's own Security and Defence in a time of Confuſion and Diſtraction, is not Levying War, or Treaſon at the Common Law, or by that Statute. Yea, in this Caſe, and at the Seaſon wherein ſuch an Act as this is alledged, it might be ſuppoſed to be done for the King's Reſtoration, as well as in Oppoſition thereunto; and the moſt favourable and advantageous Conſtruction ought to be made and put upon the Priſoner's Actings or Words, where there is Ambiguity, ſo that they may be taken or interpreted divers ways. For the Law always preſumeth Actions to be innocent, till the contrary be manifeſtly proved. However, in a time of Vacancy or an *Interregnum*, when the Foundations of Government are out of Courſe, by the Law of Reaſon, Nature, and common Prudence, every man may ſtand upon his own Guard, endeavouring his own Security and Protection from Injury and Violence.

Thirdly, To be adherent to the King's Enemies within this Realm, *&c.* cannot, ought not to be underſtood of any Adheſion to a Parliament, wherein the King by Law is ſuppoſed always preſent, as a Part thereof. Nor can the *Long Parliament* be called the King's Enemies, without overthrowing the Act of Indemnity, which the King hath declared to be the Foundation of the Nation's preſent Peace and Security.

Laſtly, The Treaſons alledged in the Indictment are ſaid to have been committed when the King was out of Poſſeſſion: So the Indictment runs, *To keep out the King*, &c. Now my Lord *Coke* in the third Part of his *Inſtitutes*, *Fol.* 7. ſaith, *A King* de jure, *and not* de facto, *is not within the Statute; againſt ſuch a one no Treaſon can be committed. For if there be a King regnant in Poſſeſſion, though he be* Rex de facto, *and not* de jure, *yet he is* Seigneur le Roy, *within the Purvieu of this Statute; and the other that hath Right, and is out of Poſſeſſion, is not within this Act. Nay, if Treaſon be committed againſt a King* de facto, & non de jure, *and after the King* de jure *cometh to the Crown, he ſhall puniſh the Treaſon done to the King* de facto.

And after, in the ſame Place he ſaith, *That by Law there is always a King, in whoſe Name the Laws are to be maintained and executed, otherwiſe Juſtice would fail.* The Act alſo of 11 *Hen.* VII. was made for Security of the Subject on this behalf. The Word *King* alſo may and ought to be taken largely for any Sovereign Power in a King or Queen, as *Coke* in the Place fore-quoted ſhews; and why not, by the ſame Reaſon, in a Protector, though an Uſurper, or any other Perſons, one or more, in whom Sovereignty is lodged, or that have all the Badges of Sovereignty; as the calling of Parliaments, enacting of Laws, coining of Money, receiving foreign Ambaſſadors, *&c?* His Majeſty that now is, is granted by the very Indictment to have been then out of Poſſeſſion: If ſo, then was there either ſome other King, or what was equivalent, ſome Sovereign Power in actual Poſſeſſion and Exerciſe, or none. If the former, then was there a King *de facto*, ſo no Treaſon could be committed againſt him that was King *de jure* only: If the latter, then the Government was diſſolved, no Allegiance was due to any Perſons, and ſo no Offence could be properly Treaſon within the Statute.

But had the late Protector had the Name and Style of a King, no Treaſon could have been committed againſt the King *de jure* only. Now God forbid that you ſhould give away my Life upon ſuch Niceties, becauſe an uſurping Protector was not clothed with the Title as well as Power of a King. The Protector or any Uſurper's taking or not taking the Title of a King, in caſe he have the Power, cannot alter the State of my ſuppoſed Crime. You ought not to be biaſſed by popular Reports concerning me. 'Tis eaſier to be innocent, than ſo reported: The one is in our own Power, not the other.

Fifthly, *Concerning the Evidence:*

1. No Allegation was directly proved by two poſitive lawful Witneſſes; as in this Caſe it ought to be.

2. One of the Witneſſes for the King confeſſed in open Court, That to his Knowledge my Hand had been counterfeited, to my Prejudice and Damage, in great Sums of Money; yet Orders pretended to be ſigned by me (wherein my Hand may as well be counterfeited), are taken as Evidence againſt me.

3. The Iſſue of the whole Cauſe depended on the Solution of ſome difficult Queſtions of ſo high a Nature, and great Importance, as could not ſafely be determined but in the High Court of Parliament: As,

1. *Whether the Long Parliament called in* November, 1640, *were diſſolved by the late King's Death?*

2. *Whether the ſucceſſive remaining Powers that exerciſed the Royal Supreme Authority from* 1648, *to the Reſtoration of his now Majeſty, were not within the true Senſe and Meaning of* 25 Edw. III. *and* 11 Hen. VII.

[*Reaſons for an Arreſt of Judgment, writ by the Priſoner, but refuſed to be heard by the Court.*]

I. I Have been denied ſo much as to hear the Indictment read in *Latin*, as it is the original Record of the Court; yea, ſo much as a Copy of it in *Engliſh* hath been denied me during the whole Time of my Trial; by the Sight whereof I might be able to aſſign the Defects of Law that may be in it.

Counſel alſo hath been denied, not only before I pleaded, but after; and all Points by me offered in Law to the Judges of the Court have been over-ruled, without admitting me Counſel to argue the ſame, and better inform the Judgment of the Court. I have demanded that I might put in a Bill of Exceptions upon the Statute of *Weſtminſt.* 2. *Cap.* 31. This likewiſe is denied me, over-ruled, and judged as out of that Statute. Neither will Counſel be allowed me in this, to ſhew Cauſe why it ought to be admitted as of Right. And as no Counſel was allowed, ſo neither were the Judges Counſel to me, as they ſaid themſelves they would and ought to be, but rather ſuffered me to wrong and prejudice myſelf; ſome of them ſaying, *Let him go on, the worſt will be his own at laſt.* And they neither checked nor reſtrained the King's Counſel in their high and irritating Expreſſions to the Jury, to find me guilty: one of whom was ſeen to ſpeak privately with the Foreman of the Jury, immediately before the Jurors went from the Bar, after he had ſpoken openly, *That the Priſoner was to be made a publick Sacrifice, in reference to the Actions done againſt his Majeſty that now is.*

All this is very far from that Indifferency in Trial, and from that Equality which the Law requires, and they are bound by their Oaths to afford me; beſides the undue Proceedings in the Buſineſs of the Petty Jury. A Liſt of forty-eight Perſons was preſented to me, who being to me unknown, and no Time allowed me to gain any Knowledge of them, tho' I was permitted to challenge, and refuſe three Juries, without ſhewing Cauſe, yet could not that Refuſal be upon ſuch rational Grounds as the Law ſuppoſes, which doubtleſs intends ſubſtantial Relief to the Priſoner, in allowing him the Liberty of ſuch Refuſal; whereas, through my Ignorance of the Perſons, I might refuſe the beſt, and chuſe the worſt, as to my Safety. And then whereas the Law further allows me the Refuſal of any other beyond the thirty-five, on juſt and exceptionable Cauſe ſhewn, what juſt Exception was I capable to alledge in a ſudden Hurry againſt Perſons to me altogether unknown, unleſs it would be taken for a juſt one, That they were unknown to me?

All theſe Things being ſo contrary to the Right which the Judges ſtand obliged to do every one, as they are for that Purpoſe intruſted by God and the King, is juſt Cauſe for an Arreſt of Judgment, and a good Reaſon why they ſhould yet at length allow me a Copy of the Indictment, and aſſign Counſel to argue for the Priſoner againſt the Defects in Law that may be found therein. Without this, Law is denied me, which is my Birthright and Inheritance; the beſt Birthright a Subject hath, ſays *Coke* on *Magna Charta*: For thereby (ſays he) his Goods, Lands, Wife, Children, his Body, Life, Honour, and Eſtimation, are protected from Injury. The Life, Birthright, or Inheritance, we have from our Parents, may ſoon be gone, if this Fence thereof be broken down. How great a Wrong then, it is for the Court to withhold it from me, is manifeſt. Are they not therefore in Effect chargeable with my Blood, by ſuch unequal Proceedings as I have had in my Trial?

II. My Second Reaſon for an Arreſt of Judgment is drawn from the Iſſue that is joined in my Caſe, which ſeems to depend chiefly upon Matter of Law; and that in ſuch tender and high Points, as are only determinable in the High Court of Parliament.

For it is become the Queſtion, Whether I am guilty or not guilty, according as theſe Propoſitions following are truly or erroneouſly reſolved.

1. Whether the Parliament that began *November* 3, 1640, were diſſolved by the King's Death? And whether this Court may judge things done in Parliament?

2. Whether the Powers regnant, and *de facto*, that ſucceſſively were in being, from *Jan.* 30, 1648, to *Decemb.* 20, 1659, were ſuch Powers, *de facto*, as are the King, or *Seigneur le Roy*, within the Purview of the Statute of 25 *Edw.* III. having the Exerciſe of Regal Power in all the Particulars of it, though not the Name?

3. Whether during that time fore-mentioned, his Majeſty that now is were properly King *de facto?* Or whether he were not out of Poſſeſſion, and without all Exerciſe of his Regal Authority within the Realm?

4. Whether the Caſe now in Queſtion be a Treaſon literally within the Words of the Statute 25 *Edw.* III. or at moſt, any other than an interpretative and new Treaſon, not declared before the very time of my Trial; and that only by the Judgment of the Court, or Opinion of my

my Judges, eleven Years after ſome of the Things charged on me, are alledged to have been committed?

As for the firſt of theſe, the Act for Continuance of the *Long Parliament* is expreſs: *That all and every thing or things whatſoever, done or to be done, for the Adjournment, Proroguing or Diſſolving of that Parliament, contrary to that Act, ſhall be utterly void and of none effect.* I then thus argue:

The Judges do upon occaſion of this Trial reſolve, That the King's Death diſſolv'd that Parliament. No Act of Parliament hath yet declared it to be ſo; and the Judges ought to have ſome Law for their Guide, as *Coke* well ſays. To be ſure, if in proceſs of time the Parliament ſhall expreſly declare, That not the King's Death, but the Act for the Diſſolution of that Parliament, did diſſolve it; in ſuch caſe, theſe Judges Reſolution by virtue of ſuch Act is abſolutely void. But innocent Blood in the mean time may be ſhed, and an Eſtate wrongfully taken away. And in caſe what the Judges aſſert herein were Law, 'tis Law not known or declared till many Years after the Fact committed. At this rate, who is ſecure of Eſtate or Life?

As to the ſecond and third Queries or Propoſitions, it does appear out of the third part of *Coke*'s *Inſtitutes*, fol. 7. and the Statute 11 *Hen.* VII. *cap.* 1. that Actings for the King in *Fact*, are not to be queſtion'd by the King *in Right*. If it be ſaid, That there was *no* King in this Caſe; it may be replied, That they who had the Power and Exerciſe of the Royal Juriſdiction, as to Peace and War, Coinage of Money, Power of Life and Death, &c. which are the higheſt Enſigns of Regal Authority, muſt needs be the Powers regnant, though not under the Name of King, as are within the Statute of 25 *Edw.* III. *cap.* 2. as a Queen alſo is adjudg'd, and any Sovereign Prince, though under the Title only of Lord, as was the Caſe of *Ireland* before it was a Kingdom. And if ſo, why not in more ſuch Perſons as well as one, that *de facto* exerciſe the Royal Power and Sovereign Authority, under what Name or Title ſoever? If upon this Nicety, Judgment be given againſt me, becauſe the Powers regnant wanted the Name and Formality of a King, I ſhall doubtleſs have very hard Meaſure. For the Reaſon and Equity is the ſame, if the Powers regnant had the Thing, though not the Title. And where there is the ſame Reaſon, there is the ſame Law, as is a known Rule. Now there is the ſame Reaſon the Subject ſhould be equally indemnified, that acteth under any Sovereign Authority that hath not the Name of a King, as if it had. If there had been many Kings, as a Heptarchy hath been in *England* heretofore, thoſe would have been underſtood to be within the Statute; and the Reaſon and Equity of the Statute is the ſame in all Caſes. For the Law is made for the Benefit and Security of the Subject, whom the Law requires not to examine the Right of Sovereignty. Nor is the Danger leſs under one Government than another.

The Statute is, for ſecuring the Subjects from all dormant Titles, that they may ſafely pay their Allegiance when they receive Protection, and that they may not be in danger of being deſtroy'd by two Powers at the ſame time. For that Power which is ſupreme and *de facto*, will be obey'd, and make it Treaſon to do otherwiſe, be it right or wrong. And if the Subject be at the ſame time in danger of committing Treaſon againſt the Power *de jure*, then is he in a miſerable Condition, and State of unavoidable Neceſſity, which is provided againſt by the Laws of the Land. Otherwiſe, if he be loyal to the King *de jure*, he ſhall be hanged by the King *de facto*; and if he be faithful to the King *de facto*, he ſhall die by the King *de jure*, when he recovers Poſſeſſion.

Againſt this it was, that the Statute of 11 *Hen.* VII. was provided, in the Difference betwixt the two Houſes of *York* and *Lancaſter*. My Caſe is either the ſame with that, and then I deſire the Benefit of that Statute; or elſe it is new, and then I deſire as is provided 25 *Edw.* III. that it be referred to the Parliament. So that it is either within the Equity of the Statute 11 *Hen.* VII. or elſe it is a new Caſe, and not to be judged by this Court.

If the Judges in the Reſolves by them delivered, upon any of the Particulars before alledged, have not declared that Law that ought to guide them, but their particular Judgments or Opinions, as undertaking to guide the Law, and that in Points of ſo grand Concern as to touch the Subjects Life, in caſe their Judgments after ſhould prove erroneous, the Verdict given upon ſuch Errors muſt needs be illegal and void. Judgment therefore ought to be ſuſpended, till ſuch time as the Truth and Certainty of the Law may be fully argued and cleared, and that in the proper Court for the hearing and judging of this Caſe. If this be not done, but I be forthwith proceeded againſt (notwithſtanding any thing however rationally or legally alledged to the contrary) by ſuch undue Precipitation and given Sentence, I am (contrary to *Magna Charta*, or Law of the Land) run upon and deſtroy'd, without due Form and Courſe of Law. And I am like to be deprived of Eſtate and Life upon no Law or certain Rule, which was declared before the Fact; no, nor before the Trial.

Upon theſe Conſiderations, I deſire an Arreſt of Judgment, and that Counſel may be aſſigned me, and competent time allow'd to make good my Averments.

As an Argument to preſs this, I deſire Leave of the Court, That the Petition of the two Houſes, and the King's Aſſent to it, may be read in open Court, atteſted by one that is preſent, who examined and compared it with the Book of Record in the Lords Houſe; by which it evidently appears, that as well the King as both Houſes of Parliament were agreed, that admitting I were attainted, yet Execution, as to my Life, ſhould be remitted. And if ſo, there is *no* cauſe to precipitate the paſſing Sentence; eſpecially when alſo ſuch weighty Points in the Law are yet to be argued and cleared, unleſs the Judges will evidently charge themſelves with my innocent Blood.

III. My third Reaſon for an Arreſt of Judgment, is the manifeſt Newneſs of this Caſe, being ſuch as never happen'd before in the Kingdom; which withal is of ſo vaſt a conſequence to People of all Sorts and Conditions within this Realm, as nothing more. And being ſo, (as I doubt not with your Lordſhips patience I ſhall make it appear) it is the known Law, witneſſed by *Bracton*, and ancient approved Law-Books, That in ſuch Caſes the Judges in the inferior Courts ought not to proceed, but bring it before the High-Court of Parliament.

To prove therefore the Newneſs of this Caſe, (beſides what I have already alledged in my Defence, before the Verdict) give me leave to add that, which yet further ſhews the Newneſs and Extraordinarineſs thereof. And I beſeech your Lordſhips to let me go on without interruption, in my endeavouring to make it out as clearly as God ſhall enable me, and as briefly alſo, not to ſpend too much of your Time.

In general, I do affirm of this Caſe, That it is ſo comprehenſive, as to take in the very Intereſts of Heaven and Earth: Firſt, Of God the Univerſal Sovereign and King of Kings: Secondly, That of earthly Sovereigns, who are God's Vicegerents: As alſo the Intereſts of all Mankind that ſtand in the Relation of Subjects to the one or both thoſe Sorts of Sovereigns.

This in general. More particularly: Within the Bowels of this Caſe is that Cauſe of God, that hath ſtated itſelf in the late Differences and Wars that have happen'd and ariſen within theſe three Nations, and have been of more than twenty years continuance: which, for the greater Certainty and Solemnity, hath been recorded in the form of a *National Covenant*, in which the generality of the three Nations have been either implicitly involved, or expreſly concern'd, by the ſigning of their Names.

The principal things contained in that Covenant, were the known and commonly-received Duties, which either as Men or as Chriſtians we owed and ſtood obliged to perform either to God, the higheſt and univerſal King in Church or State, or to our natural Lord and Sovereign, the Kings of this Realm, in Subordination to God and his Laws.

Again, It contains as well the Duties which we owe to every particular and individual Perſon, in their ſeveral Stations and Callings, as to the King in general, and our Repreſentative Body in Parliament aſſembled. Theſe Duties we are thereby obliged to yield and perform, in Conſiſtency with, and in a juſt Subordination and manifeſt Agreeableneſs to the Laws of God, as is therein expreſs'd: And this alſo, in no Diſagreement to the Laws of the Land as they then were.

By this *Solemn Covenant* and *Agreement* of the three Nations, giving up themſelves in ſubjection to God and to his Laws, in the firſt place, as the Allegiance they owe to their higheſt Sovereign, (as the Creator, Redeemer, Owner, and Ruler of all Mankind) they have ſo far intereſted the Son of God in the ſupreme Rule and Government of theſe Nations, that nothing therein ought to be brought into practice, contrary to his revealed Will in the Holy Scriptures, and his known and moſt righteous Laws.

This Duty which we owe to God, the univerſal King, Nature and Chriſtianity do ſo clearly teach and aſſert, that it needs no more than to be named. For this Subjection and Allegiance to God and his Laws, by a Right ſo indiſputable, all are accountable before the Judgment Seat of Chriſt.

It is true, indeed, Men may *de facto* become open Rebels to God and to his Laws, and prove ſuch as forfeit his Protection, and engage him to proceed againſt them as his profeſſed Enemies. But (with your Lordſhips favour) give me leave to ſay, that that which you have made a Rule for your Proceedings in my Caſe, will indeed hold, and that very ſtrongly, in this; that is to ſay, in the ſenſe wherein Chriſt the Son of God is King *de jure*, not only in general, over the whole World, but in particular, in relation to theſe three Kingdoms. He ought not to be kept out of his Throne, nor his viſible Government (that conſiſts in the Authority of his Word and Laws) ſuppreſſed and trampled under foot, under any pretence whatſoever.

And in the aſſerting and adhering unto the Right of this higheſt Sovereign, (as ſtated in the *Covenant* before mentioned) the Lords and Commons jointly, before the Year 1648, and the Commons alone afterwards, to the very times charged in the Indictment, did manage the War and late Differences within theſe Kingdoms. And whatever Defections did happen by Apoſtates, Hypocrites, and time-ſerving Worldlings, there was a Party amongſt them that continued firm, ſincere and chaſte unto the laſt, and loved it better than their very Lives; of which number I am not aſhamed to profeſs myſelf to be: not ſo much admiring the Form and Words of the Covenant, as the righteous and holy Ends therein expreſſed, and the true Senſe and Meaning thereof, which I have reaſon to know.

Nor will I deny, but that, as to the Manner of the Proſecution of the Covenant to other Ends than itſelf warrants, and with a rigid oppreſſive Spirit, (to bring all diſſenting Minds and tender Conſciences under one Uniformity of Church-Diſcipline and Government) it was utterly againſt my Judgment. For I always eſteemed it more agreeable to the Word of God, that the Ends and Work declared in the Covenant ſhould be promoted in a Spirit of Love and Forbearance to differing Judgments and Conſciences, that thereby we might be approving ourſelves *in doing that to others which we deſire they would to us*; and ſo (though upon different Principles) be found joint and faithful Advancers of the Reformation contained in the Covenant, both publick and perſonal.

This happy Union and Conjunction of all Intereſts in the reſpective Duties of all Relations, agreed and conſented to by the common Suffrage of the three Nations, (as well in their public Parliamentary Capacity, as private Stations) appear'd to me a Rule and Meaſure approved of, and commanded by Parliament, for my Action and Deportment, though it met with great Oppoſition, in a tedious, ſad, and long War; and this under the Name and Pretext of Royal Authority. Yet, as this Caſe appeared to me in my Conſcience, under all its Circumſtances of Times, of Perſons, and of Revolutions inevitably happening by the Hand of God and the Courſe of his wiſe Providences; I held it ſafeſt and beſt to keep my Station in Parliament to the laſt, under the guidance and protection of their Authority, and in purſuance of the Ends before declared in my juſt Defence.

This general and publick Caſe of the Kingdoms is ſo well known by the Declarations and Actions that have paſſed on both ſides, that I need but name it; ſince this matter was not done in a Corner, but frequently contended for in the high places of the Field, and written even with

with Characters of Blood. And out of the Bowels of these public Differences and Disputes doth my particular Case arise, for which I am called into Question. But admitting it come to my Lot to stand single, in the Witness I am to give to this Glorious Cause, and to be left alone, (as in a sort I am) yet being upheld with the Authority before asserted, and keeping myself in Union and Conjunction therewith, I am not afraid to bear my Witness to it in this great Presence, nor to Seal it with my Blood, if called thereunto. And I am so far satisfied in my Conscience and Understanding, that it neither is nor can be Treason, either against the Law of Nature, or the Law of the Land, either *malum per se*, or *malum prohibitum*; that on the contrary, it is the Duty I owed to God the universal King, and to his Majesty that now is, and to the Church and People of God in these Nations, and to the innocent Blood of all that have been slain in this Quarrel. Nothing it seems will now serve, unless by the Condemnation passed upon my Person, they be rendered to Posterity Murderers and Rebels, and that upon Record in a Court of Justice in *Westminster-Hall*. And this would inevitably have follow'd, if I had voluntarily given up this Cause, without asserting their and my Innocency; by which I should have pulled that Blood upon my own Head, which now I am sure must lie at the Door of others, and in particular, of those that knowingly and precipitately shall embrue their Hands in my innocent Blood, under whatever Form or Pretext of Justice.

My Case is evidently new and unusual, that which never happen'd before; wherein there is not only much of God and of his Glory, but all that is dear and of true Value to all the good People in these three Nations. And (as I have said) it cannot be Treason against the Law of Nature, since the Duties of the Subjects in relation to their Sovereigns and Superiours, from highest to lowest, are owned and conscientiously practised and yielded by those that are the Assertors of this Cause.

Nor can it be Treason within the Statute of 25 of *Edw.* III. since besides what hath been said of no King in possession, and of being under Powers regnant, and Kings *de facto*, as also of the Fact in its own Nature, and the Evidence as to Overt-Acts pretended; it is very plain it cannot possibly fall within the Purview of that Statute. For this Case, thus circumstantiated (as before declared) is no Act of any private Person, of his own Head, as that Statute intends; nor in relation to the King there meant, that is presumed to be in the Exercise of his Royal Authority, in conjunction with the Law and the two Houses of Parliament, if they be sitting, as the fundamental Constitutions of the Government do require.

My Lords, if I have been free and plain with you in this matter, I beg your Pardon: For it concerns me to be so, and something more than ordinarily urgent, where both my Estate and Life are in such eminent Peril; nay, more than my Life, the Concerns of thousands of Lives are in it, not only of those that are in their Graves already, but of all Posterity in time to come. Had nothing been in it, but the Care to preserve my own Life, I needed not have staid in *England*, but might have taken my Opportunity to withdraw myself into foreign Parts, to provide for my own Safety. Nor needed I to have been put upon pleading, as now I am, for an Arrest of Judgment; but might have watch'd upon Advantages that were visible enough to me, in the managing of my Trial, if I had consulted only the Preservation of my Life or Estate.

No, my Lords, I have otherwise learned Christ, than to fear them that can but kill the Body, and have no more that they can do. I have also taken notice, in the little reading that I have had of History, how glorious the very Heathens have rendered their Names to Posterity, in the Contempt they have shew'd of Death, (when the laying down of their Life has appeared to be their Duty) from the Love which they have owed to their Country.

Two remarkable Examples of this, give me leave to mention to you upon this Occasion. The one is, of *Socrates* the divine Philosopher, who was brought into Question before a Judgment-Seat, as now I am, for maintaining that there was but one only true God, against the Multiplicity of the superstitious Heathen Gods; and he was so little in love with his own Life upon this Account, (wherein he knew the Right was on his Side) that he could not be perswaded by his Friends to make any Defence, but would choose rather to put it upon the Conscience and Determination of his Judges, to decide that wherein he knew not how to make any Choice of his own, as to what would be best for him, whether to live or to die; he ingenuously professing that for ought he knew, it might be much to his Prejudice and Loss, to endeavour longer Continuance in this bodily Life.

* *Codrus.* The other Example is that of a chief Governour *, that (to my best Remembrance) had the Command of a City in *Greece*, which was besieged by a potent Enemy, and brought into unimaginable Straits. Hereupon the said Governour makes his Address to the Oracle, to know the Event of that Danger. The Answer was, *That the City should be safely preserved, if the chief Governour were slain by the Enemy.* He understanding this, immediately disguised himself, and went into the Enemy's Camp, amongst whom he did so comport himself, that they unwittingly put him to death; by which means, immediately Safety and Deliverance arose to the City, as the Oracle had declared. So little was his Life in esteem with him, when the Good and Safety of his Country required the laying of it down.]

As to other pertinent Queries, thou mayest see them, Reader, in other Parts of this Trial.

That which remains as an *Appendix to the Bill of Exceptions*, is to lay before thee the Grounds which plainly shew that there was a downright Conspiracy in Sir *Henry Vane*'s Tenants and others, to prosecute him for Life and Estate, under colour and pretence of Justice.

1. Presently after I was committed to the *Tower* for High-Treason, and made a close Prisoner, Mr. *O-Neale*, Sir *William Darcy*, and Dr. *Cradock*, obtained an Order from the King to seize and take into their Possession all the Estates of such Persons that were already, or should be forfeited to his Majesty.

Hereupon the said Mr. *O-Neale* and Sir *William Darcy* appointed some under them, in the Bishoprick of *Durham*, (by Name, *Thomas Bowes*, Esquire, now deceased, and Captain *William Darcy*) to join with the said Dr. *Cradock*, to put in execution the said Warrant, as their Deputies; who thereupon went to *Raby-Castle*, and demanded the Rent-Books of *Thomas Mowbray* my Steward, offering him his Place under them, which he refused.

Contrary to this Proceeding, Sir *Edward Coke* expresly declares, 'That 'before Indictment, the Goods or other things of any Offender, cannot 'be searched, inventoried, or in any sort seized; nor after Indictment, 'seized, moved or taken away before Conviction or Attainder, *Instit. Part.* '3. *Chap.* 133, concerning the Seizure of Goods, *&c.* for Offences, *&c.* 'before Conviction.'

2. At the Instance and Prosecution of my Tenants and others, an Order was made by the House of Commons (not of the Lords) requiring the Tenants of such Persons as were excepted out of the *General Pardon*, to detain their Rents in their own Hands. By pretence of this Order, (though that Parliament that made it were dissolved) the Tenants refused to pay their respective Rents as they grew due, contrary to all Law and Equity; and joined together in open Defiance and Conspiracy against their Landlord.

3. The said Tenants (when legally prosecuted in his Majesty's Courts at *Westminster*, for the Recovery of the said Rents out of their Hands) did petition the late House of Commons to put a Stop to such legal Prosecution and Suits, which Motion of theirs put the House into a great Heat and Violence against me, insomuch as that they had almost passed a Vote to sequester all my Estate, though unheard or unconvicted.

4. *William Watson* of *Cockfield*, and other of the said Tenants, have continued in *London* to carry on this Conspiracy against me; by whose Means, with others, the King hath been importuned to send for Men from the Isle of *Scilly*, in order to this Trial.

5. By common Fame (which at least affords a strong Presumption) my Goods and Estate have been long begg'd by several Persons, and granted: whereas the begging of the Goods and Estate of any Delinquent, accused or indicted of Treason, before he be convicted and attainted, is utterly unlawful; because 'till then nothing is forfeited to the King, and so not his to dispose of; as Sir *Edward Coke* shews in the fore-mentioned Chapter about the Seizure of Goods, *&c.*

6. I am credibly informed, that about *December* last a certain Captain came from the Duke of *Albemarle* to Captain *Linn*, with threatning Language, that if he would not confess things against Sir *Henry Vane*, he should be fetched up before the Council, and made to do it. *Linn* answered, He knew nothing against Sir *Henry Vane*, nor had any Orders from him, but from the Parliament and Council.

The same Captain came again, about a Fortnight after, from the Duke of *Albemarle*, with a Parcel of fine Words, That if he the said *Linn* would testify, That Sir *Henry Vane* was in the Head of his Regiment, and that he received Orders from him, the Duke of *Albemarle* would gratify him with any Civility he should desire. *Linn* replied, he knew no Regiment Sir *Henry Vane* had; but that it was the Parliament's and Council of State's Regiment. The same Captain came again to him from the Duke of *Albemarle*, and told him, the Duke desired him to testify Sir *Henry Vane*'s being in the Head of his Regiment, and that he received Orders from him to fight Sir *George Booth*. *Linn* replied, He knew no such things. The Captain told him as from the Duke, he should have any Place or Office in the Court: Be not afraid to speak, said he, I warrant you we shall hang Sir *Henry Vane*, for he is a Rogue.

7. I am credibly informed, That one of the Grand Jury declared, That after the Bill of Indictment against me was brought in, some from the King's Counsel came to desire them, they would please to come into the inward Court of Wards: Upon which, one of the Jury said, They were there to judge of Matters brought before them, and ought not to go in thither; but if the Counsel had any thing to say, they ought to come to them. This was seconded by some; others said, They were the King's Counsel, and it was but Matter of Civility to grant them their Request. Whereupon they went into the inward Court of Wards, where the King's Counsel were, to wit, Attorney-General *Palmer*, Solicitor-General *Finch*, Serjeant *Glynne* and Serjeant *Keeling*. After a while they caused all to withdraw but the Jury. Then the Clerk read the Indictment in the usual Form for levying War from 1659. After it was read, one of the Counsel told them, It was a Bill of High-Treason against his Majesty, and they were to consider of it according to their Evidence. Then they proceeded to examine their Witnesses.

Jefford said, Sir *Henry Vane* offered him a Commission to go against Sir *George Booth*; which, said Serjeant *Keeling*, was to go against the King.

Wright being examined, Whether he saw Sir *Henry Vane* in the Council, said Yes. The Attorney-General replied, That if he was amongst them, they might find the Bill upon that.

Upon this the Jury withdrew, and were by themselves. Then Sir *John Cropley*, the Foreman, said, *We must pass this Bill:* At which all the Jury were silent. At last, one stood up and said; 'This Bill contains 'Matter of Fact, and Matter of Law. Some of this Jury, to my 'Knowledge, were never of any Jury before, as well as I, therefore ig-'norant of the Law, (in so difficult and unusual a Point as this is) and 'consequently could not give in their Verdict, as to Law, but only Fact.' Several others of the Jury seconded him in this; and protested against giving in their Verdict, as to Matter of Law: Notwithstanding all which, the Bill was carried up to the *King's-Bench*.

8. On the Day of my Arraignment, an eminent Person was heard to say, I had forfeited my Head, by what I said that Day, before ever I came to my Defence: What that should be, I know not, except my saying in open Court, *Sovereign Power of Parliament*, which the Attorney-General writ down, after he had promised, at my Request, no Exceptions should be taken at Words. And whole Volumes of Lawyers

Books pass up and down the Nation with that Title, *Sovereign Power of Parliaments.*

9. Six moderate Men that were like to consider of what they did, before they would throw away my Life, were summoned to be of my Petty-Jury; which the King's Counsel hearing, writ a Letter to one of the Sheriffs not to summon them: And a new List was made the Night immediately before the Day of Verdict, on purpose that the Prisoner might not have any Knowledge of them, 'till presented to his View and Choice in *Westminster-Hall.* Yet one of the Forty-eight of this List (who said, He would have starv'd himself before he would have found Sir *Henry Vane* guilty of Treason) was never called, though he walked in the Hall all the while. And in that Hurry of those that compassed him about, he being alone, stripp'd of all Assistance, Sir *William Roberts*, Foreman, and Sir *Christopher Abdy*, were sworn by the Court, before I was aware; so my challenging them, might seem a personal Disobliging, and Exasperation of them against me, after they were sworn and fixed.

The Solicitor also had a long Whisper with the Foreman of the Jury in the Court, before they went to Verdict, telling him, *The Prisoner must be sacrificed for the Nation*, &c.

Suddenly after which, I am here called to receive my Sentence.

10. After the Day of my Trial, the Judges went to *Hampton-Court.*

11. None were more forward to absolve the King from his Grant about my Life, than they that had appeared most forward in promoting the Bill by way of Petition to the King for it. This Grant being upon Record, may seem to have the same Validity that other Acts of Parliament have; which are still but the two Houses Petition to the King for his Assent to the Bills by them drawn up and passed. They used this as a Means to induce the King to exempt me from all Benefit of the Act of Indemnity and Oblivion; and then at last persuade and absolve him from making good this Grant also, thereby depriving me of all visible Relief for my Life. I conceived my Life as secure by that Grant, as others Lives or Estates are by the Act of Indemnity itself; for what is that, but the Bill of both Houses, with the King's Assent to it, upon their Petition?

The Petition *of both Houses of Parliament to the King's most Excellent Majesty, on the Behalf of Sir* Henry Vane, *and Colonel* John Lambert, *after they left them uncapable of having any Benefit of the Act of Indemnity.*

To the King's Most Excellent Majesty;

The humble Petition of the Lords *and* Commons *assembled in Parliament, Sheweth,*

'THAT your Majesty having declared your gracious Pleasure to proceed only against the immediate Murderers of your Royal 'Father: We your Majesty's most humble Subjects, the Lords and Com-'mons assembled, not finding Sir *Henry Vane* nor Col. *Lambert* to be of 'that Number, are humble Suitors to Your Majesty, that if they shall 'be attainted, That Execution, as to their Lives, may be remitted.

And as in Duty bound, &c.

The said Petition being read, it was agreed to, and ordered to be presented to his Majesty by the Lord Chancellor.

The Lord Chancellor reported, That he had presented the Petition of both Houses to the King's Majesty, concerning Sir *Henry Vane* and Col. *Lambert*, and his Majesty grants the Desires in the said Petition.

John Brown, Cler. Parliamentorum.]

Whereupon the usual Sentence was pronounced against him.

After Sentence, Chief Justice *Forster* endeavour'd to persuade the King, that he lay under no Obligation by Granting the Petition of both Houses, saying, *That God, though full of Mercy, yet intended his Mercy only for the Penitent.*

By which means the King was wrought on (notwithstanding his Engagement to the contrary) to Sign a Warrant for his Execution, that he should be Beheaded on *Tower-Hill* the 14th of *June.*

The Day before his Execution his Friends had liberty to visit him, he receiv'd them with very great Chearfulness; and when they would have persuaded him to make some Submission to the King, and to endeavour the obtaining of his Life; he said, *If the King did not think himself more concern'd for his Honour and Word, than he did for his Life, he was very willing they should take it. Nay, I declare* (said he) *that I value my Life less in a good Cause, than the King can do his Promise.* And when some others were speaking to him, of giving some thousands of Pounds for his Life; he said, *If a thousand Farthings would gain it, he would not give it: And if any should attempt to make such a Bargain, he would spoil their Market: For I think the King himself is so sufficiently obliged to spare my Life, that it is fitter for him to do it, than myself to seek it.*

On *Saturday*, the Day of his Execution, he said to a Friend, God bid *Moses* go to the top of Mount *Pisgah* and die: So he bid him go up to the top of *Tower-Hill* and die.

Several Friends being with him in his Chamber this Morning, he oft encouraged them to Chearfulness, as well by his Example as Expression. In all his Deportment, he shew'd himself marvellously fitted to meet the King of Terrors, without the least affrightment. But to shew where his Strength lay, he said, He was a poor unworthy Wretch, and had nothing but the Grace and Goodness of God to depend upon. He said moreover, Death shrunk from him, rather than he from it. Upon the Occasion of parting with his Relations, he said, there is some Flesh remaining yet, but I must cast it behind me, and press forward to my Father.

Then one of the Sheriff's Men came in and told him, There was no Sled to come, but he was to walk on Foot.

He told his Friends, the Sheriff's Chaplain came to him at Twelve of the Clock that Night, with an Order for his Execution, telling him, he was come to bring him that fatal Message of Death. I think, Friends, that in this Message was no Dismalness at all. After the Receipt of which, I slept four Hours so soundly, that the Lord hath made it sufficient for me, and now I am going to sleep my last, after which I shall need Sleep no more.

Then Mr. Sheriff coming into the Room, was friendly saluted by him, and after a little Pause, communicated a Prohibition that he said he had receiv'd, which was, That he must not speak any thing against his Majesty, or the Government. His answer to this he himself relates on the Scaffold. He further told Mr. Sheriff, he was ready; but the Sheriff said, he was not, nor could be this half hour yet: Then, Sir, it rests on you, not on me (said Sir *Henry*), for I have been ready this half hour. Then the Sheriff, at his Request, promised him his Servants should attend him on the Scaffold, and be civilly dealt with; neither of which were performed: for (notwithstanding this Promise) they were beaten and kept off the Scaffold, 'till he said, What, have I never a Servant here?

After this, one of the Sheriff's Men came and told him, there must be a Sled *; to which Sir *Henry* replied, Any way, how they please, for I long to be at home, to be dissolved and to be with Christ, which is best of all. He went very chearfully and readily down the Stairs from his Chamber, and seating himself on the Sled, (Friends and Servants standing about him) then he was forthwith drawn away towards the Scaffold. As he went, some in the *Tower* (Prisoners as well as others) spake to him, praying the Lord to go with him. And after he was out of the *Tower*, from the tops of Houses, and out of Windows, the People used such Means and Gestures as might best discover, at a distance, their Respects and Love to him, crying aloud, The Lord go with you, the great God of Heaven and Earth appear in you, and for you; whereof he took what Notice he was capable in those Circumstances, in a chearful manner accepting their Respects, putting off his Hat and bowing to them. Being ask'd several times, how he did, by some about him, he answer'd, Never better in all my Life. Another replied, How should he do ill that suffers for so glorious a Cause? To which a tall black Man said, Many suffered for a better Cause; And may for a worse, said Sir *Henry*; wishing, that when they come to seal their *better Cause* (as he call'd it) with their Blood (as he was now going to seal his) they might not find themselves deceiv'd; and as to this Cause, said he, it hath given Life in Death to all the Owners of it, and Sufferers for it.

Being pass'd within the Rails on *Tower-Hill*, there were loud Acclamations of the People, crying out, The Lord Jesus go with your dear Soul, &c. One told him, That was the most glorious Seat he ever sat on; he answer'd, It is so indeed, and rejoiced exceedingly.

Being come to the Scaffold, he chearfully ascends, and being up, after the Crowd on the Scaffold was broken in two Pieces, to make way for him, he shew'd himself to the People on the front of the Scaffold, with that noble and christian-like Deportment, that he rather seem'd a Looker on, than the Person concern'd in the Execution, insomuch that it was difficult to persuade many of the People that he was the Prisoner. But when they knew that the Gentleman in the black Suit and Cloke (with a scarlet silk Waistcoat, the victorious Colour shewing itself at the Breast) was the Prisoner, they generally admir'd that noble and great Presence he appeared with. How chearful he is! said some: He does not look like a dying Man! said others; with many like Speeches, as astonish-ed with that strange Appearance he shined forth in.

Then (Silence being commanded by the Sheriff) lifting up his Hands and Eyes towards Heaven, and resting his Hands on the Rails; and taking a very serious, composed, and majestick View of the great Multitude about him, he spake as follows.

Gentlemen, Fellow-Countrymen, and Christians:

WHEN Mr. Sheriff came to me this Morning, and told me he had receiv'd a Command from the King, that I shou'd say nothing reflecting upon his Majesty or the Government; I answer'd, I shou'd confine and order my Speech, as near as I could, so as to be least offensive, saving my Faithfulness to the Trust reposed in me, which I must ever discharge with a good Conscience unto Death; for I ever valued a Man according to his Faithfulness to the Trust reposed in him, even on his Majesty's Behalf, in the late Controversy. And if you dare trust my Discretion, Mr. Sheriff, I shall do nothing but what becomes a good Christian and an *Englishman*; and so I hope I shall be civilly dealt with.

When Mr. Sheriff's Chaplain came to me last Night about twelve of the Clock, to bring me, as he call'd it, the fatal Message of Death, it pleased the Lord to bring that Scripture to my Mind in the third of *Zechary*, to intimate to me, that he was now taking away my filthy Garments, causing my Iniquities to pass from me, with intention to give me Change of Rayment, and that my Mortal should put on Immortality.

I suppose you may wonder when I shall tell you that I am not brought hither according to any known Law of the Land. It is true, I have been before a Court of Justice (and am now going to appear before a greater Tribunal, where I am to give an Account of all my Actions); under their Sentence I stand here at this time. When I was before them, I could not have the Liberty and Privilege of an *Englishman*, the Grounds, Reasons, and Causes of the Actings I was charg'd with duly consider'd; I therefore desir'd the Judges that they would set their Seals to my Bill of Exceptions; I press'd hard for it again and again, as the Right of myself and every free-born *Englishman*, by the Law of the Land, but was finally deny'd it——

Here Sir *John Robinson* (Lieutenant of the *Tower*) interrupted him, saying; Sir, you must not go on thus, and (in a furious manner, generally observ'd even to the Dissatisfaction of some of their own Attendants) said that he rail'd against the Judges, and that it was a Lye, and I am here, says he, to testify that it is false.

* *A Circumstance very singular, and never used to those who are executed at that Place.*

Sir

Sir *Henry Vane* replied, God will judge between me and you in this Matter. I speak but Matter of Fact, and cannot you bear that? 'Tis evident the Judges have refus'd to sign my Bill of Exceptions—Then the Trumpets were order'd to sound or murre in his Face, with a contemptible Noise, to hinder his being heard: At which Sir *Henry* (lifting up his Hand, and then laying it on his Breast) said, What mean you, Gentlemen? Is this your usage of me? Did you use all the rest so? I had even done, as to that, could you have been patient, but seeing you cannot bear it, I shall only say this, *That whereas the Judges have refused to seal that with their Hands that they have done, I am come to seal that with my Blood that I have done.* Therefore leaving this Matter, which I perceive will not be borne, I judge it meet to give you some Account of my Life.

I might tell you I was born a Gentleman, had the Education, Temper, and Spirit of a Gentleman, as well as others, being (in my youthful Days) inclin'd to the Vanities of this World, and to that which they call *Goodfellowship*, judging it to be the only means of accomplishing a Gentleman. But about the fourteenth or fifteenth Year of my Age (which is about thirty-four or five Years since) God was pleas'd to lay the Foundation or Ground-work of Repentance in me, for the bringing me home to himself, by his wonderful, rich, and free Grace, revealing his Son in me, that by the Knowledge of the only true God, and Jesus Christ whom he hath sent, I might (even whilst here in the Body) be made Partaker of eternal Life in the first Fruits of it.

When my Conscience was thus awaken'd, I found my former Course to be Disloyalty to God, Profaneness, and a way of Sin and Death, which I did with Tears and Bitterness bewail, as I had cause to do. Since that Foundation of Repentance laid in me, through Grace I have been kept stedfast, desiring to walk in all good Conscience towards God and towards Men, according to the best Light and Understanding God gave me. For this I was willing to turn my Back upon my Estate, expose myself to Hazards in foreign Parts; yea, nothing seem'd difficult to me, so I might preserve Faith and a good Conscience, which I prefer before all things; and do earnestly persuade all People rather to suffer the highest Contradictions from Men, than disobey God, by contradicting the Light of their own Conscience. In this it is I stand with so much Comfort and Boldness before you all this Day, and upon this Occasion, being assur'd that I shall at last sit down in Glory with Christ, at his right Hand. I stand here this Day to resign up my Spirit into the Hands of that God that gave it me. Death is but a little Word, but 'tis a great Work to die; it is to be but once done, and after this cometh the Judgment, even the Judgment of the great God, which it concerns us all to prepare for. And by this Act I do receive a Discharge once for all out of Prison, even the Prison of the mortal Body also, which, to a true Christian, is a burdensome Weight.

In all respects, where I have been concern'd and engag'd, as to the Publick, my Design hath been to accomplish good Things for these Nations. Then (lifting up his Eyes, and spreading his Hands) he said, I do here appeal to the great God of Heaven, and all this Assembly, or any other Persons, to shew wherein I have defiled my Hands with any Man's Blood or Estate, or that I have sought myself in any publick Capacity or Place I have been in.

The Cause was three times stated.

First, In the *Remonstrance of the House of Commons.*

Secondly, In the *Covenant, the Solemn League and Covenant.*——Upon this the Trumpets sounded, the Sheriff catch'd at the Paper in his Hand; and Sir *John Robinson*, who at first had acknowledg'd that he had nothing to do there, wishing the Sheriff to see to it, yet found himself something to do now, furiously calling for the Writers Books, and saying, He treats of Rebellion, and you write it. Hereupon six Note-Books were deliver'd up. The Prisoner was very patient and composed under all these Injuries, and Soundings of the Trumpets several times in his Face, only saying, 'Twas hard he might not be suffer'd to speak; but, says he, my Usage from Man is no harder than was my Lord and Master's; and all that will live his Life this Day, must expect hard Dealing from the worldly Spirit——The Trumpets sounded again, to hinder his being heard. Then again *Robinson*, and two or three others, endeavour'd to snatch the Paper out of Sir *Henry*'s Hand; but he kept it for a while, now and then reading part of it; afterwards, tearing it in pieces, he deliver'd it to a Friend behind him, who was presently forc'd to deliver it to the Sheriff. Then they put their Hands into his Pockets for Papers (as was pretended), which bred great Confusion and Dissatisfaction to the Spectators, seeing a Prisoner so strangely handled in his dying Words.

The Prisoner suspecting beforehand the Disorder aforemention'd, writ the main Substance of what he intended to speak on the Scaffold in that Paper they catch'd at, and which he tore in pieces, delivering it to a Friend, from whom the Sheriff had it, as aforesaid; the true Copy whereof was, by the Prisoner, carefully committed to a safe Hand before he came to the Scaffold, which take as follows:

The Work which I am at this time call'd unto, in this Place (as upon a publick Theatre) is to die, and receive a Discharge once for all, out of Prison, to do that which is but once to be done; the doing or not doing of which well, and as becomes a Christian, does much depend upon the Life we have been taught of God to lead, before we come to this: They that live in the Faith do also die in it; Faith is so far from leaving Christians in this Hour, that the Work of it breaks forth then into its greatest Power, as if till then it were not enough at freedom to do its Office, that is, to look into the things that are unseen with most Stedfastness, Certainty, and Delight, which is the great Sweetner of Death and Remover of its Sting.

Give me leave therefore, in a very few words, to give you an Account of my Life, and of the wonderful great Grace and Mercy of God, in bringing me home to himself, and revealing his Son in me; that by the Knowledge of the only true God, and Jesus Christ whom he hath sent, I might (even whilst here in the Body) be made Partaker of eternal Life, in the first Fruits of it, and at last sit down with Christ in Glory at his right Hand.

Here I shall mention some remarkable Passages and Changes of my Life; in particular, how unsought for by myself I was call'd to be a Member of the *Long Parliament*, what little Advantage I had by it, and by what Steps I became satisfied with the Cause I was engag'd in, and did pursue the same.

What the Cause was, did first shew itself in the first *Remonstrance of the House of Commons.*

Secondly, In *the Solemn League and Covenant.*

Thirdly, In *the more refin'd pursuit of it by the Commons House, in their Actings single*; with what Result they were growing up into, which was in the Breast of the House, and unknown; or what the three Proposals, mention'd in my Charge, would have come to at last, I shall not need now to say; but only, from all put together, to assert, That this Cause, which was owned by the Parliament, was the Cause of God, and for the promoting of the Kingdom of his dear Son Jesus Christ, wherein are comprehended our Liberties and Duties, both as Men and as Christians.

And since it hath pleased God, who separated me from the Womb to the Knowledge and Service of the Gospel of his Son, to separate me also to this hard and difficult Service at this time, and to single me out to the Defence and Justification of this his Cause, I could not consent, by any Words or Actions of mine, that the Innocent Blood that hath been shed in the Defence of it, throughout the whole War (the Guilt and moral Evil of which must and does certainly lie somewhere) did lie at my Door, or at theirs that have been the faithful Adherers to this Cause. This is with such Evidence upon my Heart, that I am most freely and chearfully willing to put the greatest Seal to it I am capable, which is, the pouring out of my very Blood in witness to it; which is all I shall need to say in this Place and at this Time, having spoken at large to it in my Defence at my Trial, intending to have said more the last Day, as what I thought was reasonable for Arrest of the Judgment, but I was not permitted then to speak it; both which may, with Time and God's Providence, come to publick View.

And I must still assert, that I remain wholly unsatisfied that the Course of Proceedings against me at my Trial were according to Law, but that I was run upon and destroy'd, contrary to Right, and the Liberties of *Magna Charta*, under the Form only of Justice; which I leave to God to decide, who is the Judge of the whole World, and to clear my Innocency; whilst in the mean time I beseech him to forgive them, and all that have had a Hand in my Death; and that the Lord, in his great Mercy, will not lay it to their Charge.

And I do account the Lot of mine no other than what is to be expected by those that are not of the World, but whom Christ hath chosen out of it; for the Servant is not greater than his Lord: And if they have done this to the green Tree, they will do it much more to the dry.

However, I shall not altogether excuse myself. I know, that by many Weaknesses and Failures, I have given occasion enough of the ill Usage I have met with from Men, tho' in the main, the Lord knows the Sincerity and Integrity of my Heart, whatever Aspersions and Reproaches I have or do lie under. I know also that God is just in bringing this Sentence and Condemnation upon me for my Sins; there is a Body of Sin and Death in me deserves this Sentence; and there is a Similitude and Likeness also, that, as a Christian, God thinks me worthy to bear with my Lord and Head, in many Circumstances, in reference to these Dealings I have met with; in the Good I have been endeavouring for many Years to be doing in these Nations, and especially now at last, in being numbred among Transgressors, and made a publick Sacrifice, thro' the Wrath and Contradictions of Men, and in having finished my Course, and fought the good Fight of Faith, and resisted in a Way of Suffering, (as you see) even unto Blood.

This is but the needful Preparation the Lord hath been working in me, to the receiving of the Crown of Immortality, which he hath prepar'd for them that love him. The Prospect whereof is so chearing, that thro' the Joy (in it) that is set before the Eyes of my Faith, I can, thro' Mercy, *endure the Cross, despise this Shame*, and am become *more than Conqueror*, thro' Christ that hath loved me.

For my Life, Estate and all, is not so dear to me as my Service to God, to his Cause, to the Kingdom of Christ, and the future Welfare of my Country; and I am taught, according to the Example, as well as that most Christian Saying of a noble Person *, that lately died after this publick Manner in *Scotland*; *How much better is it to choose Affliction and the Cross, than to Sin or draw back from the Service of the living God, into the Ways of Apostacy and Perdition?*

That noble Person, whose Memory I honour, was with myself at the beginning and making of the *Solemn League and Covenant*; the Matter of which, and the holy Ends therein contain'd, I fully assent unto, and have been as desirous to observe; but the *rigid* Way of prosecuting it, and the *Oppressing Uniformity* that hath been endeavour'd by it, I never approv'd.

This were sufficient to vindicate me from the false Aspersions and Calumnies which have been laid upon me, of *Jesuitism* and *Popery*, and almost what not, to make my Name of ill Savour with *good Men*; which dark Mists do now dispel of themselves, or at least ought, and need no Pains of mine in making an Apology.

For if any Man seek a Proof of Christ in me, let him read it in this Action of my Death, which will not cease to speak when I am gone: *And henceforth let no Man trouble me, for I bear in my Body the Marks of the Lord Jesus.*

I shall not desire in this Place to take up much time, but only, as my last Words, leave this with you: *That as the present Storm we now lie under, and the dark Clouds that yet hang over the reformed Churches of Christ, (which are coming thicker and thicker for a Season) were not unforeseen by me for many Years past (as some Writings of mine declare): So the coming of Christ in these*

* *He seems to intend the Marquis of* Argyle, *who spake to that effect.*

Clouds

Clouds, in order to a ſpeedy and ſudden Revival of his Cauſe, and ſpreading his Kingdom over the Face of the whole Earth, is moſt clear to the Eye of my Faith, even that Faith in which I die, whereby the Kingdoms of this World ſhall become the Kingdom of our Lord, and of his Chriſt. Amen. *Even ſo, come, Lord Jeſus.*

Before the Stroke, he ſpake to this Effect: *I bleſs the Lord, who hath accounted me worthy to ſuffer for his Name. Bleſſed be the Lord that I have kept a Conſcience void of Offenſe to this Day. I bleſs the Lord I have not deſerted the righteous Cauſe, for which I ſuffer.*

When he had laid his Neck on the Block he concluded his Life with theſe Words; *Father, glorify thy Servant in the Sight of Men, that he may glorify thee in the Diſcharge of his Duty to thee and to his Country.* Upon which the Executioner did his Office.

LX. *The Trial of* John Crook, Isaac Grey, *and* John Bolton, *Quakers, at the* Old Baily, *for refuſing to take the* Oaths *of Allegiance and Supremacy*, June 25, 1662. 14 Car. II. *Related by* John Crook.

I BEING in *John's Street, London*, about the 13th day of the 3d Month called *May*, with ſome others of the People of God to wait upon him, as we were ſat together, there came in a rude Man called *Miller* with a long Cane in his Hand, who laid violent hands upon me, with ſome others; who having no Warrant were not willing to meddle, but as his threatnings prevailed, they being afraid of him, joined with him to carry us before Juſtice *Powel*, who the next Day ſent us to the Seſſions at *Hicks's-Hall*, where after ſome diſcourſe ſeveral times with them, manifeſting to them the Illegality both of our Commitment and their Proceedings thereupon, yet notwithſtanding they committed me, together with *Iſaac Grey* and *John Bolton*, to *New-Priſon*, where we continued for ſome Days, and were then removed to *Newgate*, where we remained until the Seſſions at the *Old Baily*; when I was brought to the Bar.

* *Sir* Robert Forſter. * *Chief Judge. John Crook*, when did you take the Oath of Allegiance?

J. Crook. I deſire to be heard.

Chief Judge. And to the Queſtion, and you ſhall be heard.

J. Crook. I have been about ſix Weeks in Priſon, and am I now called to accuſe my ſelf? For the anſwering to this Queſtion in the Negative is to accuſe myſelf, which you ought not to put me upon; for, *nemo debet ſeipſum prodere.* I am an *Engliſhman*, and by the Law of *England* I ought not to be taken nor impriſoned, nor diſſeized of my Freehold, nor called in queſtion, nor put to anſwer, but according to the Law of the Land; which I challenge as my Birth-right, on my own behalf, and all that hear me this day (*or words to this purpoſe*). I ſtand here at this Bar as a Delinquent, and do deſire that my Accuſer may be brought forth to accuſe me for my Delinquency, and then I ſhall anſwer to my Charge (if any I be guilty of).

Chief Judge. You are here demanded to take the Oath of Allegiance, and when you have done that, then you ſhall be heard about the other; for we have power to tender it to any Man.

J. Crook. Not to me upon this occaſion, in this place; for I am brought hither as an Offender already, and not to be made an Offender here, or to accuſe my ſelf; for I am an *Engliſhman*, as I have ſaid to you, and challenge the benefit of the Laws of *England*; for by them, is a better Inheritance derived to me as an *Engliſhman*, than that which I receive from my Parents; for by the former the latter is preſerved: and this the 29th Chapter of *Magna Charta*, and the *Petition of Right*, mentioned in the 3d of *Car.* I. and in other good Laws of *England*; and therefore I deſire the benefit and obſervance of them: And you that are Judges upon the Bench ought to be my Counſel, and not my Accuſers, but to inform me of the benefit of thoſe Laws; and wherein I am ignorant you ought to inform me, that I may not ſuffer through my own ignorance of thoſe advantages which the Laws of *England* afford me as an *Engliſhman*.

Chief Judge. We ſit here to do Juſtice, and are upon our Oaths, and we are to tell you what is Law, and not you us: Therefore, Sirrah, you are too bold.

J. Crook. Sirrah is not a Word becoming a Judge; for I am *no Felon*; neither ought you to menace the Priſoner at the Bar: for I ſtand here arraigned as for my Life and Liberty, and the Preſervation of my Wife and Children, and outward Eſtate (they being now at the ſtake); Therefore you ought to hear me to the full what I can ſay in my own Defence, according to Law, and that in its ſeaſon, as it is given me to ſpeak: Therefore I hope the Court will bear with me, if I am bold to aſſert my Liberty as an *Engliſhman* and as a *Chriſtian:* and if I ſpeak loud, it is my *Zeal* for the *Truth*, and for the *Name of the Lord*; and mine *Innocency* makes me *bold*——

Judge. It is an evil Zeal. [interrupting *John Crook.*]

J. Crook. No, I am bold in the Name of the Lord God Almighty, the everlaſting Jehovah, to aſſert the Truth, and ſtand as a Witneſs for it: Let my Accuſer be brought forth, and I am ready to anſwer any Court of Juſtice——

Then the Judge interrupted me, ſaying, *Sirrah*, with ſome other Words I do not remember: But I anſwered, *You are not to threaten me, neither are thoſe Menaces fit for the mouth of a Judge: for the Safety of a Priſoner ſtands in the Indifferency of the Court; And you ought not to behave your ſelves as Parties; ſeeking all advantages againſt the Priſoner, but not heeding any thing that may make for his clearing or advantage*——The Judge again interrupted me, ſaying,

Judge. Sirrah, you are to take the Oath, and here we tender it you [*bidding me to read it*].

J. Crook. Let me ſee mine Accuſer, that I may know for what Cauſe I have been ſix weeks impriſoned, and do not put me to accuſe my ſelf by aſking me Queſtions; but either let my Accuſer come forth, or otherwiſe let me be diſcharged by Proclamation, as you ought to do——*Here I was interrupted again.*

Judge Twiſden. We take no notice of your being here otherwiſe than of a Straggler, or as any other Perſons, or of the People that are here this day; for we may tender the Oath to any Man. *And another Judge ſpake to the like purpoſe.*

J. Crook. I am here at your Bar as a Priſoner reſtrained of my Liberty, and do queſtion whether you ought in Juſtice to tender me the Oath on the account I am now brought before you, becauſe I am ſuppoſed to be an Offender, or elſe why have I been ſix Weeks in Priſon already? Let me be cleared of my Impriſonment, and then I ſhall anſwer to what is charged againſt me, and to the Queſtion now propounded; for I am a Lover of Juſtice with all my Soul, and am well known by my Neighbours where I have lived, *to keep a Conſcience void of Offence both towards God, and towards Man.*

Judge. Sirrah, leave your Canting.

J. Crook. Is this Canting, to ſpeak the words of the Scripture?

Judge. It's Canting in your mouth, though they are St. *Paul's* Words.

J. Crook. I ſpeak but the Words of the Scripture, and it is not Canting though I ſpeak them; but they are Words of truth and ſoberneſs in my mouth, they being witneſſed by me, and fulfilled in me.

Judge. We do aſk you again, whether you will take the Oath of Allegiance? It is but a ſhort Queſtion, you may anſwer it if you will.

J. Crook. By what Law have you Power to tender it? *Then, after ſome Conſultation together by whiſpering, they called for the Statute-Book, and turning over the leaves, they anſwered,*

Judge. By the 3d of King *James.*

J. Crook. I deſire that Statute may be read; for I have conſulted it, and do not underſtand that you have Power by that Statute to tender me the Oath, being here before you in this place upon this Occaſion, as a Delinquent already; and therefore I deſire the Judgment of the Court in this Caſe, and that the Statute may be read.

Then they took the Statute-Book and conſulted together upon it, and one ſaid; We are the Judges of this Land, and do better underſtand our Power than you do, and we do judge we may lawfully do it.

J. Crook. Is this the Judgment of the Court?

Judge. Yes.

J. Crook. I deſire the Statute to be read that impowers you to tender the Oath to me upon this Occaſion in this Place; for, *Vox audita perit, ſed litera ſcripta manet*, therefore let me hear it read.

Judge. Hear me.

J. Crook. I am as willing to hear as to ſpeak.

Judge. Then hear me: You are here required to take the Oath by the Court, and I will inform you what the Penalty will be in caſe you refuſe: for, your firſt denial ſhall be Recorded, and then it ſhall be tendered to you again at the end of the Seſſions, and upon the ſecond refuſal you run a *Premunire*, which is the forfeiture of all your Eſtate (if you have any) and Impriſonment during Life.

J. Crook. It is Juſtice I ſtand for; let me have Juſtice, in bringing my Accuſer face to face, as by Law you ought to do, I ſtanding at your Bar as a Delinquent; and when that is done, I will anſwer to what can be charged againſt me, as alſo to the Queſtion; until then I ſhall give no other Anſwer than I have already done (at leaſt at preſent).

Then there was a Cry in the Court, *Take him away*, which occaſioned a great interruption, and *J. Crook* ſpake to this purpoſe, ſaying, Mind the Fear of the Lord God, that you may come to the knowledge of his Will, and do Juſtice; and take heed of oppreſſing the Innocent, for the Lord God of Heaven and Earth will aſſuredly plead their Cauſe: and for my part, I deſire not the hurt of one of the Hairs of your Heads, but let God's Wiſdom guide you. *Theſe words he ſpake at the Bar, and as he was carrying away.*

On the ſixth Day of the Week in the forenoon, the Court being ſate, John Crook *was called to the Bar.*

Chief Judge. Friend *Crook*, We have given you time to conſider of what was ſaid yeſterday to you by the Court, hoping you may have better conſidered of it by this time: therefore, without any more Words, will you take the Oath? *and called to the Clerk, and bid him read it.*

J. Crook. I did not, neither do I deny Allegiance, but do deſire to know the Cauſe of my ſo long Impriſonment; for, as I ſaid, I ſtand at your Bar as a Delinquent, and am brought hither by Force, contrary to the Law; therefore let me ſee my Accuſer, or elſe free me by Proclamation, as I ought to be, if none can accuſe me: For the Law is grounded upon right Reaſon, and whatſoever is contrary to right Reaſon, is contrary to Law; and therefore if no Accuſer appear, you ought to acquit me firſt, and then I ſhall anſwer, as I have ſaid, if any new Matter appear; otherwiſe it is of force, and that our Law abhors, and you ought not to take notice of my ſo being before you; for what is not legally ſo, is not ſo; and therefore I am in the condition, as if I were not before you: and therefore it cannot be ſuppoſed in right Reaſon, that you have now Power at this time, and in this place, legally to tender me the Oath.

Judge. Read the Oath to him. [*And ſo the Clerk began to read.*]

J. Crook. I deſire Juſtice according to the Laws of *England:* for you ought firſt to convict me concerning the Cauſe of my ſo long Impriſonment:

priſonment: For you are to proceed according to Laws already made, and not to make Laws; for you ought to be Miniſters of the Law.

Judge. You are a ſaucy and an impudent Fellow; will you tell us what is Law in our duties? *Then ſaid he to the Clerk*, Read on; *and when the Clerk had done reading*,

J. Crook ſaid, Read the Preface to the Act; I ſay again, read the Title and Preamble to the Act; for Titles to Laws are *Claves Legum*, as Keys to open the Law; for by their Titles Laws are underſtood and known, as Men by their Faces. *Then the Judges would have interrupted me, but I ſaid as followeth*, If you will not hear me, nor do me Juſtice, I muſt appeal to the Lord God of Heaven and Earth, who is Judge of quick and dead, before whom we ſhall all appear to give an Account for the Deeds done in the Body; for he will judge between you and me this Day, whether you have done me Juſtice or not.

Theſe Words following (or the like) I ſpake as going from the Bar, being pulled away, *viz.* Mind the Fear of the Lord God, that you may do Juſtice, leſt you periſh in his Wrath: For ſometimes the Court cried, *Pull him away*, and then ſaid, *Bring him again*; and thus they did ſeveral times, like Men in confuſion and diſorder.

The ſame Day in the Afternoon, Silence being made, *John Crook* was called to the Bar before the Judges and Juſtices aforeſaid: the Indictment being read, the Judge ſaid,

Mr. *Crook*, You have heard your Indictment, what ſay you, are you Guilty, or Not Guilty?

J. Crook. I deſire to ſpeak a few Words in Humility and Soberneſs, in regard my Eſtate and Liberty lies at ſtake, and am like to be a Precedent for many more; therefore I hope the Court will not deny me the right and benefit of the Law, as being an *Engliſhman*; I have ſome Reaſon, before I ſpeak any thing to the Indictment, to demand and tell you, that I deſire to know mine Accuſers; I have been kept this ſix Weeks in Priſon, and know not, nor have ſeen the Faces of them.

Judge. We ſhall afford you the Right of the Law as an *Engliſhman*, God forbid you ſhould be denied it; but you muſt anſwer firſt, Guilty, or Not Guilty, that ſo in your Trial you may have a fair Hearing and Pleading: but if you go on as you do (and will not anſwer Guilty, or Not Guilty) you will run your ſelf into a *Premunire*, and then you loſe the Benefit of the Law, and expoſe your ſelf, Body and Eſtate, to great Hazards; and whatever Violence is offered to your Perſon or Eſtate, you are out of the King's Protection, and loſe the Benefit of the Law, and all this by your not anſwering Guilty, or Not Guilty: if you plead Not Guilty, you may be heard.

J. Crook. It is recorded in the Statutes of the 28 *Edw.* 3 and 3. and 42 *Edw.* 3 and 3. in theſe Words, *No Man is to be taken, or impriſoned, or be put to anſwer without Preſentment before Juſtices, or matter of Record, or by due Proceſs, or Writ original, according to the old Law of the Land*; *and if any thing from henceforth be done to the contrary, it ſhall be void in Law, and holden for Error:* and alſo in the 25 of *Edw.* 1, 2. and the 3 *Car.* 1. and the 29 cap. *Mag. Chart. No Freeman ſhall be taken and impriſoned but by the Law of the Land:* Theſe words [*The Law of the Land*] are explained by the Statute of 37 *Edw.* 3, 8. to be *without due proceſs of Law:* and if any Judgments be given contrary to *Mag. Chart.* they are void, 25 *Edw.* 1, 2.

Judge. Mr. *Crook*, you are out of the way, and do not underſtand the Law; though you adore the Statute Law ſo much, yet you do not underſtand it.

J. Crook. I would have you tell me the right way.

Judge. Mr. *Crook*, hear me. You muſt ſay, Guilty, or Not Guilty; If you plead Not Guilty, you ſhall be heard, and know how far the Law favours you. And the next thing is, there is no Circumſtance whatſoever that is the Cauſe of your Impriſonment that you queſtion, but you have, as a Subject, your Remedies, if you will go this way, and wave other Things, and anſwer Guilty, or Not Guilty; and what the Law affords you, you ſhall have, if you do what the Law requires you, or elſe you will loſe the Benefit of the Law, and be out of the King's Protection.

J. Crook. Obſerve how the Judge would draw me into a Snare, *viz.* by firſt pleading Guilty, or Not Guilty; and when I have done ſo, he and his Brethren intend ſuddenly to put me (as an Out-law'd Perſon) out of the King's Protection; and how then can I have remedy for my falſe Impriſonment? Therefore firſt clear me, or condemn me for my falſe Impriſonment, while I am in a capacity to have the Benefit of the Law, and not to Out-law me for an Offence created by your ſelves; and then to ſtop my Mouth, you tell me, that if I have been wronged or falſe impriſoned, I may have my Remedy afterwards; this is to trepan me, and contrary to both Law and Juſtice, *&c.*

Judge. You muſt plead Guilty, or Not Guilty.

J. Crook. I do deſire in Humility and Meekneſs to ſay, I ſhall not, I dare not betray the Honeſty of my Cauſe, and the honeſt Ones of this Nation, whoſe Liberty I ſtand for as well as my own, as I have cauſe to think I ſhall, if I plead to the preſent Indictment before I ſee the Faces of my Accuſers; for truly, I am not ſatisfied in my Judgment and Conſcience that I ought to plead to a created Offence by you, before I be firſt acquitted of the Cauſe of my being brought Priſoner to your Bar, and therefore it ſticks with me to urge this further, *viz.* That I may ſee my Accuſers.——*Interruption.*

Judge. The arranteſt Thief may ſay he is not ſatisfied in his Conſcience.

J. Crook. My Caſe is not theirs, yet they have their Accuſers; and may not I call for mine? And therefore call for them, for you ought to do ſo, as Chriſt ſaid to the Woman, (*Woman, where are thine Accuſers?*) ſo you ought to ſay to me, (*Man, where are thine Accuſers?*)——*Interrupted.*

Judge. Your Indictment is your Accuſer, and the Grand Jury hath found you Guilty, becauſe you did not Swear; what ſay you, Mr. *Crook*, are you Guilty or Not Guilty? If you will not anſwer, or what you have ſaid be taken for your Anſwer, as I told you before, you loſe the Benefit of the Law; and what I tell you is for your good.

J. Crook. What is for good I hope I ſhall take it ſo.

Judge. If you will not anſwer, you run your ſelf into a *Premunire*; and you will loſe the Benefit of the Law, and of the King's Protection, unleſs you plead Guilty, or Not Guilty.

J. Crook. I ſtand as brought forcibly and violently hither, neither had I been here but by a violent Action, and that you ſhould take no Notice of it, ſeems ſtrange to me; and not only ſo, but that you ſhould haſten me ſo faſt into a courſe that I ſhould not be able any ways to help my ſelf, by reaſon of your ſo haſty and faſt Proceedings againſt me to put me out of the King's Protection, and the Benefit of all Law; was ever the like known or heard of in a Court of Juſtice!

Judge. Friend, this is not here in Queſtion, whether you are unjuſtly brought here, or not: Do you queſtion that by Law, but not diſable your ſelf to take Advantage by the Law; if brought by a wrong hand, you have a Plea againſt them, but you muſt firſt anſwer Guilty, or Not Guilty.

J. Crook. How can I help my ſelf when you have Out-lawed me? Therefore let Proclamation be made in the Court, that I was brought by Force hither, and let me ſtand cleared by Proclamation, as you ought to do; for you are *diſcernere per Legem, quid ſit juſtum*, and not to do what ſeems good in your own Eyes. [Here I was interrupted again, but might have ſpoken Juſtice *Crook*'s Words in *Hamden*'s Caſe, who ſaid, *That we who are Judges ſpeak upon our Oaths, and therefore muſt deliver our Judgments according to our Conſciences*; *and the fault will lie upon us if it be illegal, and we deliver it for Law:* and further ſaid, *We that are Judges muſt not give our Judgments according to Policy, or Rules of State, nor Conveniencies, but only according to Law.* Theſe were his Words, which I might have ſpoken, but was interrupted.]

Judge. What though no Man tendred the Oath to you when you were committed (as you ſay), it being now tendred to you? From the time you refuſed it, being tendred to you by a lawful Authority, you refuſing, are Indicted; We look not upon what you are here for, but here finding you, we tender you the Oath, and you refuſing it, your Impriſonment is now juſt and according to Law.

J. Crook. How came I here, if you know not? I have told you it is by Force and Violence, which our Law altogether condemns; and therefore I not being legally before you, am not before you; for what is not legally ſo, is not ſo; and I not being legally brought to your Bar, you ought not to take notice of my being here.

Judge. No, no, you are miſtaken: ſo you may ſay of all the People gazing here, they not being legally here, are not here. I tell you, a Man being brought by Force hither, we may tender him the Oath, and if he take it not, he may be committed to Priſon; Authority hath given us the Power, and the Statute-Law hath given us Authority to tender the Oath to any Perſon, and ſo have we tendred it you, and for your not taking of it, you are Indicted by the Grand Jury: Anſwer the Accuſation, or confute the Indictment, you muſt do the one or the other; anſwer Guilty, or Not Guilty.

[*J. Crook.* Here I was interrupted, but might have ſaid, that the People that were Spectators, beholding and hearing the Trials, are not to be called Gazers, as the Judge terms them, becauſe it is their Liberty and Privilege as they are *Engliſhmen*, and the Law of *England* allows the ſame; ſo that they are not to be termed Gazers upon this account, but are legally in that Place, to hear Trials and ſee Juſtice done, and might have ſpoken (if occaſion had been) any thing in the Priſoner's Defence, tending to clear up the Matter in difference, and the Court muſt have heard them or him, and this as a Stander-by, or *Amicus Curiæ*, ſo ſaith *Coke.*]

J. Crook. The Law is built upon right Reaſon, or right Reaſon is the Law: and whatever is contrary to right Reaſon, is contrary to Law, the Reaſon of the Law being the Law itſelf. I am no Lawyer, and my knowledge of it is but little, yet I have had a love to it, for that Reaſon I have found in it, and have ſpent ſome leiſurable Hours in the reading thereof; and the Law is that which I honour, and is good in its Place; many Laws being juſt and good (not all) but I ſay a great part of it, or much of it, and that is not my intention in the leaſt to diſparage or derogate from.

Judge. Mr. *Crook*, You have been told you muſt plead Guilty, or Not Guilty, or elſe you will run your ſelf into a *Premunire*; be not your own Enemy, nor be not ſo obſtinate.

J. Crook. I would not ſtand obſtinately before you, neither am I ſo; if you underſtand it otherwiſe, it is a miſtake indeed.

Judge. Will you ſpeak to the Indictment? and then you may plead if you will not anſwer Guilty, or Not Guilty, we will Record it, and Judgment ſhall go againſt you. *Clerk*, enter him.

Recorder. Mr. *Crook*, If you will anſwer you may plead for your ſelf, or will you take the Oath? The Court takes no Notice how you came hither? What ſay you, will you anſwer? For a Man may be brought out of *Smithfield* by Head and Shoulders, and the Oath tendred to him, and may be committed, without taking notice how he came here.

J. Crook. That kind of Proceeding is not only unjuſt but unreaſonable alſo—(*here was ſome interruption*) and againſt the Laws aforeſaid, which ſay, *No Man ſhall be taken, or impriſoned, but by Warrant, or due Proceſs of Law*; ſo that this Speech of the Recorder's favours more of Paſſion than Juſtice, and Cruelty than due obſervance of Law: for every forcible reſtraint of a Man's Liberty is an Impriſonment in Law. Beſides, this kind of practice, to take Men by Force and Impriſon them, and then aſk them Queſtions, the anſwering of which makes them Guilty, is not only unrighteous in itſelf, but againſt Law, and makes one evil Act the ground of another, and one Injury offered to one the Foundation of another; and this is my Caſe this Day——*Interruption.*

Judge. Mr. *Crook*, you muſt not be your own Judge, we are your Judges; but for our parts we will not wrong you: will you anſwer Guilty, or Not Guilty? If not, you will run yourſelf into a *Premunire* unavoidably, and then you know what I told you would follow; for we take no Notice how you came hither, but finding you here we tender you the Oath.

J. Crook. Then it ſeems You make the Law a Trepan to enſnare me, or as a Noſe of Wax, or what you pleaſe: Well! I ſhall leave my

Cauſe with the Lord God, who will plead for me in Righteouſneſs. But ſuppoſe I do take the Oath [now] at this time, you may call me again [to-morrow] and make a new Tender; or others may call me before them.

Judge. Yes, if there be new Matter; or if there fall out any emergent occaſion, whereby you miniſter on your part new occaſion: Mr. *Crook*, will you ſwear?

J. Crook. If I do take it to-day, it may be tendred me again to-morrow, and ſo next Day, *ad infinitum*; whereby a great part of my time may be ſpent and taken up in taking the Oath and Swearing.

Chief Judge. When you have [once] ſworn, you may not be put upon it again, except you miniſter occaſion on your part.

J. Crook. Is this the Judgment of the Court, that the Oath [once] taken by me is ſufficient, and ought not to be tendred a ſecond time, without new Matter miniſtred on my part?

Judge. Yes, you making it appear you have [once] taken it.

J. Crook. Is this the Judgment of the whole Court? for I would not do any thing raſhly.

Judges. Yes, it is the Judgment of the Court; *to which they all ſtanding up, ſaid*, Yes.

J. Crook. Then it ſeems there muſt be ſome new occaſion miniſtred by me after I have [once] taken it, or it ought not to be tendred to me the ſecond time?

Judges. Yes.

J. Crook. Then by the Judgment of this Court, if I make it appear that I have taken the Oath [once] and I have miniſtred no new Matter on my part, whereby I can be juſtly charged with the Breach of it, then it ought not to be tendred me the ſecond time; but I am the Man that have taken it [once] being a Freeman of the City of *London*, when I was made free, witneſs the Records in *Guildhall*, which I may produce, and no new Matter appearing to you on my part, if there do, let me know it; if not, you ought not by your own Judgment to tender me it the ſecond time; for, *de non apparentibus & non exiſtentibus, eadem Ratio eſt*—Interrupted by the ſhout of the Court, when theſe laſt words might have been ſpoken.

Judge. Mr. *Crook*, you are miſtaken, you muſt not think to ſurprize the Court with Criticiſms, nor draw falſe Concluſions from our Judgments.

J. Crook. If this be not a natural Concluſion from the Judgment of the Court, let right Reaſon judge; and if you recede from your own Judgments in the ſame Breath (as it were) given even now, what Juſtice can I expect from you? for, if you will not be juſt to yourſelves and your own Judgments, how can I expect you ſhould be juſt to me?

Judge. Mr. *Crook*, If you have taken it, if there be a new Emergency, you are to take it again; as for Inſtance, the King hath been out of *England*, and now is come in again; there be many have taken it twenty, thirty, or forty Years ſince, yet this new Emergency requires it again; and although you have taken it, yet you muſt not make it appear before you anſwer Guilty, or Not Guilty; therefore do not wrong yourſelf, and prejudice yourſelf and Family: Do you think that every Fellow that comes hither ſhall argue as you do? We have no more to do but to know of you whether you will anſwer (Guilty, or Not Guilty) or take the Oath, and then you ſhall be freed from the Indictment; if you will not plead, Clerk record it; what ſay you? are you Guilty, or Not Guilty?

J. Crook. Will you not ſtand to your own Judgments? Did you not ſay even now, that if I had [once] taken the Oath, it ought not to be tendred to me the ſecond time, except I adminiſtred new Matter on my part that I have not kept it, *&c.* but no ſuch Matter appearing, you ought not to tender it to me the ſecond time by your own Confeſſion, much leſs to Indict me for Refuſal.

Judge. If you will not plead, we will record it, and Judgment ſhall be given againſt you; therefore ſay, Guilty, or Not Guilty, or elſe we will record it. [*The Clerk beginning to record it.*]

J. Crook. Before I anſwer, I demand a Copy of my Indictment; for I have heard it affirmed by Counſel learned in the Law, that if I plead before I have a Copy, or have made my Exceptions, my Exceptions afterwards againſt the Indictment will be made void: Therefore I deſire a Copy of the Indictment.

Judge. He that ſaid ſo, deſerves not the name of a Counſel: for the Law is, You muſt firſt anſwer, and then you ſhall have a Copy. Will you plead Guilty, or Not Guilty?

J. Crook. If my pleading Guilty, or Not Guilty, will not deprive me of the Benefit of quaſhing the Indictment for Inſufficiency, or other Exceptions that I may make againſt it, I ſhall ſpeak to it.

Judge. No, it will not. Will you anſwer, Guilty, or Not Guilty? If you plead not, the Indictment will be found againſt you: Will you anſwer? We will ſtay no longer.

J. Crook. I am upon the point: Will not my pleading deprive me of the Benefit of the Law? for I am tender in that reſpect, becauſe it is not my own Caſe [only] but may be the Caſe of [thouſands] more; therefore I would do nothing that might prejudice others or myſelf, as a Chriſtian, or as an *Engliſhman*.

Judge. Underſtand your ſelf, (but we will not make a bargain with you, ſaid another Judge) you ſhall have the Right done you as an *Engliſhman*, the way is to anſwer, Guilty, or Not Guilty: If you plead, and find the Indictment not good, you may have your Remedy; anſwer, Guilty, or Not Guilty.

J. Crook. As to the Indictment it is very large, and ſeems to be confuſed, and made up of ſome things true, and ſome things falſe; my Anſwer therefore is, what is true in the Indictment I will not deny, becauſe I make Conſcience of what I ſay, and therefore, of what is true, I confeſs my ſelf Guilty, but what is falſe I am Not Guilty of that.

Judge. That is not ſufficient: either anſwer Guilty, or Not Guilty, or Judgment will be given againſt you.

J. Crook. I will ſpeak the Truth as before the Lord, as all along I have endeavour'd to do, I am Not Guilty of that which is falſe contained in the Indictment, which is the Subſtance thereof.

Judge. No more ado, the form is nothing, Guilty, or Not?

J. Crook. I muſt not wrong my Conſcience, I am Not Guilty of what is falſe, as I ſaid before, what is true I am Guilty of; what is not true, I am Not guilty of that, which is the Subſtance thereof, as I ſaid before.

Recorder. It is enough, and ſhall ſerve turn. Enter that, Clerk.

Iſaac Grey *being call'd to the Bar.*

Judge Will you take the Oath of Allegiance?

Grey. I have been near five Weeks in Priſon, I deſire to know for what.

Judge. We take no notice of your Impriſonment, nor how you came here; will you take the Oath?

Grey. I deſire to know for what I am impriſon'd, and then I am ready to anſwer; for no Man (in this particular) hath received ſo much wrong as my ſelf, having received a Wound, whereby I was in Jeopardy of my Life.

Judge. If any have wronged you, take your Courſe in Law. Will you ſwear?

Grey. I am a Man of a tender Conſcience, and do deſire time to conſider.

Judge. Take him away. Which was accordingly done.

The next Day *Iſaac Grey* was called to the Bar, and aſked by the Judge, if he would yet take the Oath? *Recorder* ſpeaking unto him on this wiſe; Mr. *Grey*, you are a wiſe underſtanding Man, and a Scholar; be adviſed what you do, and do not ruin yourſelf, but take the Oath.

Grey. I deſire time to conſider, and to do nothing raſhly.

Then in the Afternoon were all three again called to the Bar, and the Indictment read.

Judge. Mr. *Grey*, will you take the Oath? Crier, hold him the Book.

Grey. I deſire to know the Cauſe of my firſt Impriſonment, and to diſcharge me of the ſame before I give my Anſwer to the Oath; for I do not know myſelf guilty of any Crime.

Judge. The Law ſuppoſeth you to be diſaffected to the preſent Government, and therefore the Oath is tendred to you.

Grey. I underſtand that the fundamental Law of *England* alloweth no Man to be accuſed or condemned upon Suppoſition: I do further affirm, and that in the Light of God, that I am not an Enemy to the King, nor to any Man living upon the Face of the Earth.

Judge. Will you anſwer, Guilty, or Not Guilty?

Grey. I deſire Time to conſider of the Truth of this Matter; the Indictment being large, and having much contained in it which indeed I do not well underſtand.

Judge. Will you yet ſwear, or plead to the Indictment?

Grey. I have told you, and that for Conſcience ſake, I dare do nothing raſhly.

Judge. What do you talk to us of Conſcience? Every Fellow may plead Conſcience.

Grey. Do you uſe to ſwear ſuch as make no Conſcience?

Judge. Guilty, or Not Guilty? When you have anſwer'd to this, you may plead what you can in your own Defence; but firſt anſwer, Guilty, or Not Guilty: The Rule of the Law is, you muſt firſt anſwer.

Grey. Would you have Men ſwear whether they will or nay, eſpecially when againſt their Conſciences?

Judge. We have Conſciences as well as you: If there be any thing as to Matter of Conſcience, it is nothing! you muſt plead Guilty, or Not Guilty, that we may not ſpend time any longer.

Grey. Truly, I deſire not that the time ſhould be taken up in any thing that may not advantage the good of the People; therefore before I plead, give me a Copy of the Indictment, and then I ſhall plead.

Judge. Sirrah, Guilty, or Not Guilty?

Grey. I deſire firſt to be heard as a Chriſtian, and then as an *Engliſhman*.

Judge. Do not I tell you (Sirrah) if you will plead Not Guilty, you ſhall be heard; but if you will not, you will run yourſelf into a *Premunire?*

Grey. I appeal then to God Almighty, for I ſhall not wrong my Conſcience.

Judge. It is no Matter of Conſcience: Guilty, or Not Guilty?

Grey. Not Guilty.

John Bolton having made the ſame Objections, was at laſt oblig'd to plead Not Guilty.

The Seventh Day of the Week, called *Saturday*.

Silence being made, *Iſaac Grey*, *John Bolton*, and myſelf were brought to the Bar.

The Clerk of the Seſſions read ſomething concerning the Jury, which was empanell'd on purpoſe (as was ſaid) the Jury being diſcharged, who were Eye-witneſſes of what paſſed between us and the Court: And this Jury being divers of them Soldiers, ſome of whom did by Violence and Force pull and hale Friends out of their Meetings, and ſome of us out of our Houſes; and theſe were of the Jury by whom we were to be tried. The Clerk reading the Indictment (as I remember.)

J. Crook. I deſire to be heard a few Words, which are theſe, That we may have Liberty till the next Quarter-Seſſions to traverſe the Indictment, it being long, and in *Latin*, and like to be a Precedent; and I hope I need not preſs it, becauſe I underſtood that you promiſed, (and eſpecially the Recorder, who anſwered (when it was deſired) *You ſhall)* that we ſhould have Counſel alſo, the which we cannot be expected to have had the Benefit of, as yet, the time being ſo ſhort, and we kept Priſoners, that we could not go forth to adviſe with Counſel, neither could we tell how to get them to us: We having no Copy of the Indictment before this Morning, and becauſe ſo ſuddenly hurried down to the Seſſions, we cannot reaſonably be ſuppoſed to be provided (as to Matter of Law) to make our Defence.

C. Judge. We have given you time enough, and you ſhall have no more; for we will try you at this time, therefore ſwear the Jury.

J. Crook. I deſire we may have Juſtice, and that we may not be ſurprized in our Trial, but that we may have time 'till the next Quarter-Seſſions, our Indictment being in *Latin*, and ſo large as it is; and this is but that which is reaſonable, and is the Practice of other Courts; for, if it be but an Action above Forty Shillings, it is not ordinarily ended under two or three Terms. And in the Quarter-Seſſions, if one be Indicted for a Treſpaſs, if it be but to the Value of Five Shillings, he ſhall have Liberty to enter his Traverſe, and, upon Security given to proſecute, he ſhall have Liberty 'till the next Seſſions, which is the ordinary Practice; which Liberty we deſire, and we hope it is ſo reaſonable it will not

be denied, eſpecially upon this Occaſion, we being like to be made a Precedent; and Courts of Juſtice have uſed to be eſpecially careful in making of Precedents, for we are not provided according to Law to make our Defence at this time, and therefore if we be put upon it, it will be a Surprizal.

Judge. There is no great matter of Law in the Caſe, it is only matter of Fact, whether you have refuſed to take the Oath or not; that is the Point in iſſue: And what Law can ariſe here?

Record. Mr. *Crook*, the Keeper of the Priſon was ſpoken to, to tell you that we intended to try you this Day, and therefore ordered him that Counſel might come to you if you would, and alſo that the Clerk ſhould give you a Copy of your Indictment: This is fair, therefore we will go on to ſwear the Jury; for the Matter is, whether you refuſe the Oath or not? And that is the ſingle Point, and there needs neither Law nor Counſel in the Caſe; and therefore we conſidered of it laſt night, when we ſent you word and did determine to try you, and therefore it is in vain to ſay any thing, for the Court is reſolved to try you now, therefore ſwear the Jury, Crier.

J. Crook. I hope you will not ſurprize us: Then the other Priſoners (who alſo were indicted) cried out (having ſpoke ſomething before), Let us have Juſtice, and let not the Jury be ſworn till we be firſt heard; ſo there was a great Noiſe, the Court being in a Confuſion, ſome crying, Take them away; others, Stay, let them alone; others ſaying, Go on to ſwear the Jury, which the Crier in this Uproar and Confuſion, did do ſomething, as if he had done it; then we all cried out for Juſtice, and Liberty till the next Seſſions; the Court being in a Confuſion, ſome crying one thing, and ſome another, which now cannot be called to mind, by reaſon of the great Diſtraction that was in the Court, neither what we ſaid to them, nor they to us, the Noiſe was ſo great, and the Commands of the Court ſo various to the Officers, ſome commanding them to take us away, others, to let us alone, others, to bring us nearer, others cried, put them into the Bail-Dock, others, to put them within the furtheſt Bar where the Felons uſed to ſtand, where we were forced into accordingly; and in this Hurliburly and Confuſion that was among them, ſome Men were ſworn to teſtify that we refuſed to take the Oath, which we never poſitively did; other Officers of the Court whom they would have ſworn, refuſed to ſwear; though preſſed to it by the Chief Juſtice, they deſired to be excuſed. Then ſpake one of the Priſoners again pretty much, but could hardly be underſtood by reaſon of the Noiſe in the Court, but the People, to whom he ſpake with a loud Voice by way of Exhortation, might hear the Subſtance of what he ſaid, which cannot now particularly be called to mind; but it was to expreſs the Preſence and Love of God to himſelf, and to exhort others to mind his Fear, that they alſo might be acquainted with God, *&c.*

Judge. Stop his Mouth, Executioner; which was accordingly done.

Priſoners. Then we cried out, Will you not give us leave to ſpeak for our ſelves? We except againſt ſome of the Jury, as being our Enemies, and ſome of them who by force commanded us to be pulled out of our Meetings, contrary to Law, and carried us to Priſon without Warrant, or other due Proceſs of Law; and ſhall theſe be our Judges? We except againſt them.

Judge. It is too late now, you ſhould have done it before they had been ſworn Jury-men. Jury, go together; that which you have to find, is, whether they have refuſed to take the Oath or no, which hath been ſworn before you that they did refuſe. You need no go from the Bar; and like Words ſaid the Recorder and others, there being a Confuſion and Noiſe in the Court, many ſpeaking together.

Priſoners. Then we cried for Juſtice, and that we might be heard, to make our Defence before the Jury gave their Verdict: but the Judge and Recorder ſaid, we ſhould not be heard, (making good by their practice what the Chief Judge had ſaid the Day before, *viz.* That if we had liberty to ſpeak, we would make our ſelves famous and them odious) crying again, Stop their Mouths, Executioner; which was done accordingly with a dirty Cloth, and alſo endeavoured to have gagg'd * me, ſtriving to get hold of my Tongue, having a Gag ready in his Hand for that Purpoſe, and ſo we were ſerved ſeveral Times; then I called out with a loud Voice, Will you condemn us without hearing? This is to deal worſe with us than *Pilate* did with *Chriſt*, who though he condemned him without a Cauſe, yet not without hearing him ſpeak for himſelf; but you deny us both.

* *J. Crook.*

Grey. I deſire to know whether according to Law and the Practice of this Court, my ſelf, and my Fellow-Priſoners, may have Liberty to put in Bail to proſecute our Traverſe at the next Seſſions?

Court. No, we will try you preſently.

Judge. Stop their Mouths, Executioner: And this was the Cry of many upon the Bench, they being ſtill in a continued Confuſion, ſome crying to the Jury, Give in your Verdict, for we will not hear them; with other Words which could not be heard for the Noiſe, the Court being in Confuſion.

J. Crook. You might as well have cauſed us to have been murder'd before we came hither, as to bring us hither under Pretence to try us, and not give us leave to make our Defence; you had as good take away our Lives at the Bar, as to command us thus to be abuſed, and to have our Mouths ſtopt: Was ever the like known? Let the righteous God judge between us. Will you hear me? You have often promiſed that you would.

Judge. Hear me, and we will hear you; then he began to ſpeak, and ſome others of the Bench interrupted him, ſometimes they ſpeaking two or three at a time, and a Noiſe amongſt the Officers of the Court; but the Judge ſaid, we may give you Liberty till the next Seſſions, but we may chuſe; and therefore we will try you now.

J. Crook. I bade the People take notice of their Promiſe, that I ſhould have Liberty to ſpeak, ſaying, See now you be as good as your Words.

Judge. The Law of *England* is not only juſt but merciful, and therefore you ſhall not be ſurprized, but ſhall have what Juſtice the Law allows——Interruption.

J. Crook. I remember what the Judge ſaid even now, that the Law of *England* was a Merciful Law, that the Court had ſaid before, they might, if they would, give us liberty till the next Seſſions, but they would not; and the Maxim of the Law alſo is, *Summum Jus eſt ſumma Injuria*; therefore I hope your Practice will make it good, that it is a Merciful Law, and not to execute *Summum jus, &c.* upon me, and thereby condemn your ſelves out of your own Mouths.

Judge. Jury, give in your Verdict.

J. Crook. Let me have Liberty firſt to ſpeak, it is but few Words, and I hope I ſhall do it with what brevity and pertinency my underſtanding will give me leave, and the occaſion requires; it is to the point in theſe two Heads, *viz.* Matter of Law, and Matter of Conſcience: to Matter of Law I have this to ſay, firſt, as to the Statute it ſelf, it was made againſt the Papiſts, occaſioned by the Gunpowder-Plot; and is Entituled, *For the better diſcovery and ſuppreſſing of Popiſh Recuſants:* but they have Liberty, and we are deſtroyed, what in you lies——*(Interrupted by the Judges and diſturbance of the Court.)* As to Conſcience, I have ſomething to ſay, and that is, It is a tender thing, and we have known what it is to offend it, and therefore we dare not break Chriſt's Commands, who hath ſaid, *Swear not at all*; and the Apoſtle *James* ſaid, *Above all things, my Brethren, ſwear not*——*(interrupted)* the Court calling again to the Executioner to ſtop my Mouth, which he did accordingly with his dirty Cloth as aforeſaid, and his Gag in his hand.

Judge. Hear the Jury: who ſaid ſomething to him, which was ſuppoſed to give in the Verdict according to his Order, for they were fit for his Purpoſe, as it ſeems, they beginning to lay their Heads together before we had ſpoke any thing to them, only upon his Words.

Judge. Crier, make Silence in the Court; then the *Recorder* taking a Paper into his Hand, read to this purpoſe, *viz. The Jury for the King do find that* John *Crook*, John Bolton, *and* Iſaac Grey *are Guilty of Refuſing to take the Oath of Allegiance, for which you do incur a* Premunire, *which is the forfeiture of* all your real Eſtates *during Life, and* your perſonal Eſtates for ever, *and you to be out of the* King's Protection, *and to be* impriſoned *during his pleaſure: and this is your Sentence.*

J. Crook. But we are ſtill under God's Protection.

Recorder. Adjourn the Court; which was done accordingly, and we remanded to *Newgate*, where we remain Priſoners.

LXI. *The Trial of* John James, *at the King's-Bench, for* High-Treaſon, November 14, 1662. Mich. 14 Car. II. *Wrote by his Friends.*

BEING carried in a Coach to *Weſtminſter* by the Under-Sheriff, and brought to the *King's-Bench* Bar, Chief-Juſtice *Forſter*, Juſtice *Mallet*, Juſtice *Twiſden*, and Juſtice *Windham*, being Judges upon the Bench; he was commanded, according to Cuſtom, to hold up his Hand: and he did ſo, and told them he did hold up his Hand to ſignify he was there to anſwer to what ſhould be laid to his Charge. But he held up his Hand with his Glove on, which ſome were offended at, and told him he muſt pull it off. *John James* anſwered, it was all one to him, to hold up his Hand with it off or on; and then he did pull off his Glove, and held up his Hand, and then his Charge was read.

The Subſtance of the Indictment.

HE ſtood indicted by the Name of *John James:*

'1. For Compaſſing and Imagining the Death of the King.

'2. For endeavouring to levy War againſt the King.

'3. For endeavouring a Change of the Government. And in this his Compaſſing, Imagining, and Contriving the King's Death, he had 'maliciouſly, traitorouſly, and by Inſtigation of the Devil, not having 'the Fear of God before his Eyes, declared theſe Words: (1.) That 'the King was a Bloody Tyrant, a Blood-ſucker, and Blood-thirſty 'Man, and his Nobles the ſame. (2.) That the King and his Nobles 'had ſhed the Blood of the Saints at *Charing-Croſs*, and the Blood of the 'Covenanters in *Scotland*. (3.) That the King was brought in to this 'end, to fill up the Meaſure of his Iniquity; and that the King's Cup of 'Iniquity had filled more within this laſt Year, than in many years be'fore. (4.) That he did bemoan that they had not improved their 'Opportunity when they had Power in their Hands; and that he did ſay 'it would not be long before they had Power again, and then they would 'improve it better; and that he did bewail the Apoſtacy of the People 'of God, and ſay, They had not fought the Lord's Battles thoroughly; 'but when the Lord ſhould give Power to them again, and give his 'Work into their Hands, they would do it better. (5.) That the Death 'and Deſtruction of the King drew very near.'

The

The Indictment being read, the Clerk called upon *John James* to answer to his Charge, and plead Guilty, or Not Guilty.

John James desired, before they did proceed, that he might have a Copy of his Charge, and Time to consider of it.

The Lord Chief Justice answered, That a Copy of the Charge was not allowed in Cases of *High-Treason*; and he told him he must plead *Guilty*, or *Not Guilty*, or else a worse thing would follow.

John James answered, he humbly conceived it was his Privilege as an *Englishman*; and till he had that, he was not free to plead one way or other. He alledged that Chief Justice *Coke* had declared it good Law; and that Judge *Heath* had declared it also good Law; and that he did at *Oxford* give *John Lilburne* a Copy of his Charge, being arraigned there for *High-Treason*.

Then one of the King's Counsel told him, That the Law would not grant him a Copy of his Charge in case of *Felony*, much less in case of *High-Treason*; and told him, If he would not plead, they would proceed against him as a Person contemning the Court, and look upon him a Mute.

John James made answer, Seeing he was over-ruled, he pleaded *Not Guilty*, neither in Form nor Matter.

The Clerk asked him how he would be tried?

He answered, By the Law of God. *At which the Lawyers gave a great Hiss.*

And it was answered thus, or to this effect; *It was not a Place or Time to talk of the Laws of God.* But *John James* was willing to urge it again, That seeing the Judge did sit there as Judge of the Law, and of God's Law, as they thought, it was meet they should give him Liberty to appeal to God's Law.

Whereupon the Judge told him he must proceed according to their Law, or else a worse Thing would follow; and say, *By God and the Country.*

John James answered, He was ignorant of their Law, and knew not what Snare there might be in it, never having been at any Bar before; and therefore desired him he would open the Terms, what they meant by *God*, and what they meant by the *Country*.

The Judge answered, God forbid but he should open the Terms: By *God*, (says he) is meant your first Demand, to wit, the Law of God.

John James asked him, Why then his first Demand was not granted?

The Judge said, God forbid but that you should be so tried; but you must use the Form of the Court.

John James said, If it were so, he was satisfied.

And by the *Country*, (saith the Judge) twelve *Middlesex* Men, Men of Truth, that would judge impartially between the King and him.

John James said, If that be the Meaning, he put himself upon the Trial of God and the Country.

When this was done, *John James* was sent by a *Habeas Corpus* to the *King*'s-*Bench* Prison in *Southwark*, and there continued till the 19th Day of *November*, and then was brought again to the *King*'s-*Bench* Bar at *Westminster*, to his further Trial.

In this Interval betwixt the Commitment and Trial, upon the first Day of the Week, being the 18th of *November*, *John James* received a Letter from a Person of Note, to advertise him that there was such a Jury of Life and Death impannelled to proceed upon him, as had not been for many Years before, being all pick'd Men, and most of them Knights and Gentlemen; and that if he did not except against them, or most of the chief of them, he was a dead Man.

The Second Day.

UPON the 19th of *November* he appeared the second Time at the *King*'s-*Bench* Bar, according to the Order of the Court, where were present,

The Judges;

Sir *Robert Forster* Chief Justice.
Sir —— *Mallet* Justice.
Sir *Thomas Twisden* Justice.
Sir *Wadham Windham* Justice.

Sir *Jeoffry Palmer* Attorney-General.
Sir *Heneage Finch* Sollicitor-General.

The King's Counsel;

Serjeant *Maynard*. Serjeant *Wilde*.
Serjeant *Glynne*. Serjeant *Keeling*.

The Witnesses Names appearing in the Court;

Alderman *Chard*. *John Tipler*. *Bernard Osburn*. The fourth Witness's Name not yet known.

The Names of the Jury.

Charles Pitfield.	*Humphrey Higgens.*
Ralph Halsaye.	*Thomas Snow.*
Thomas Eglesield.	*William Cole.*
Daniel Charlwood.	*Thomas Upnel.*
Ambrose Hanburough.	*Gilbert Mese.*
Anthony Hall.	*William Blunt.*

The Witnesses and Jury being called into the Court, *John James* having excepted against divers Knights and Gentlemen pick'd for his Jury, and the afore-named standing for his Jury, the Clerk bid *John James* hold up his Hand as before. He did so; and again told them it was to signify he was there; *(and then they laughed)* and the Judge said, *O ho, are you come?*

Afterwards, the Indictment being read again, the Clerk proceeded to tell the Court for what he was indicted and arraigned; and that he pleaded Not Guilty, and had put himself upon God and the Country for Trial; and therefore told the Jury they were to judge between the King and him in that Matter.

Serjeant Keeling's *Speech.*

Hereupon Serjeant *Keeling*, one of the King's Counsel, stepp'd up, and said, My Lord, and you Gentlemen of the Jury, *John James*, Prisoner at the Bar, stands indicted for High-Treason; for that he, with other disaffected Persons, Enemies unto the Government of the King, being assembled at *Bulstake-Alley* in *White-Chapel*, not having God before his Eyes, but being moved by the Instigation of the Devil, spake and published these Words, *viz. That King* Charles *was a Blood-thirsty Tyrannical King*; *and that the Nobles of* England *were Blood-thirsty and Tyrannical Men*; *and that the Cup of their Iniquity was begun to be filled by the shedding of the Blood of the Covenanters in* Scotland; *and that it was almost filled by the shedding of the Blood of the Saints this time Twelve-month*; *and that the Time of their Destruction was near at hand: And did condole the Neglect of the Opportunity and Price they had put into their hands*; *and that if ever the like Occasion were administred unto them again, they would fight the Lord's Battle more effectually than they had done before.* And (said he) if we prove that these Words were spoken by *John James*, you are to find him Guilty of High-Treason *(and so he sat down)*. Then stood up Sir *Jeoffry Palmer*, Attorney-General.

The Substance of Sir Jeoffry Palmer's *Speech.*

First he spake of the Antiquity of Monarchy, and did fully assert the present Government. Then, by way of Reflection, he reviewed the twenty Years Troubles that had passed over our Heads in these Nations; and that the Vessel of this Commonwealth had been beaten and blown upon the Waves and Billows of a tempestuous raging Sea, being almost broken to pieces, and like utterly to be lost, unless God by a miraculous Providence had restored his Majesty *Charles* the Second to his Crown and Dignity; for which (he said) ever blessed be his Name. Then he observed that the beginning of our Sorrows was by the seditious preaching of some discontented Ministers in this Nation, and about this City. Then he told them how much Care the Law had taken for the Preservation of his Majesty's Person and Government; and that it was as much Treason in the Heart, as in the Act, *Mens rea facit reum*. Then he did descant upon the Words of the Indictment, and opened them, and told the Jury, that according to the Law of *England* they were Treason, for which he ought to die: *and then sat down.* 13 Car. 2. c. 1.

Then the Court called *John Tipler*, the first Witness, the Judge bidding him look upon the Prisoner. Serjeant *Glynne* asked him, what he could say concerning the Words spoken by *John James?* Who said, at the Time the Indictment alledged, (which was on *Saturday*) he was at a House near adjoining unto the Place where they usually did meet; and that about Two of the clock in the Afternoon he stood at a Window in a Yard, next adjoining to the Meeting-place, and saw *John James*, the Person at the Bar, preaching, (as they call it, *said he*) and repeated the Words that were opened by Serjeant *Keeling* exactly; only further, That he did wonderfully adore *Oliver Cromwell*, saying, *That every Finger of his was a Champion*; *and that when they had Power again, they should do the Work more thoroughly.* And said, That thereupon he told it presently to a Justice, and afterwards to a Neighbour of his, who was in an extreme Fright and Horror, and so they both went together to Alderman *Chard* Justice, who then came immediately, and surprized and seized upon them; the Women only they let go, but the Men the Justice did commit to Prison that would not take the Oath of Allegiance: That they seized *John James* in the Pulpit, where he was preaching when they came in. The Court asked him, what Time of the Day it was? And he said it was about Two of the Clock in the Afternoon. And they asked him, where he stood? And he said he stood directly opposite in a Window, in a Yard next adjoining to the Meeting-place; and that he could easily discern him. Demanding of him some other Questions, that might induce the Jury to believe the Evidence given was neither with Thought of Malice to the Prisoner, nor Hope of Reward; then the Court gave the Prisoner leave to ask *Tipler* what Questions he pleased.

The Exception that *John James* took unto the Witness, was, That it was a hard thing for him to swear that he was the Person that was then preaching, he being without the Window, which might intercept his Sight. To which he answered, That he knew him very well; and that he was not deceived.

Another Witness was Alderman *Chard*, the Justice; who said, He could say nothing as to the Words that were spoken; but so soon as *John Tipler* came to him, and informed him of the Words spoken by *John James*, he enquired the Place where it was, and immediately he and his Clerk and the Constable hasted thither, where they found *John James* preaching, and about thirty or forty assembled there to hear him. And said, He there seized *John James*, and pulled him out of the Pulpit where he was preaching; and all those Men that would not take the Oath of Allegiance, he committed, but the Women he let go. So the Court asked him, if it were at the Time alledged in the Indictment? And he said, Yea.

Another Witness was a *Yorkshire* Man, whose Name we know not: Who coming into the Court, was commanded to look upon the Prisoner at the Bar, and declared what he heard him say. Who answered, he was at *Tipler*'s House, and heard very loud Speaking, which caused him to come out, and hearken, and he heard very dangerous Words. The Judge asked him, what those dangerous Words were? He said, He could remember no more than this, that one said, *That the Lord had a great Work to do for his People*; and *that they were the People that must do it.* The Judge asked him if he heard nothing concerning the King's Cup of Iniquity? To which he answered, No. And they bid him look upon the Prisoner at the Bar, and asked if that were the Man? He answered, He could not say that he was the Man.

Whereupon *John James* desired the Judge to ask him, if he was the Man? And he turned his Face towards *John James*, as if he directed his Speech to him, and said, he could not say he was the Man.

Another was *Bernard Osburn*, whom the Judge commanded to look upon the Prisoner at the Bar, and tell the Court what he heard him say concerning the King, and the Powers that were now in being.

Hereupon *John James* told *Osburn*, He hoped he was a Man of some Conscience and Integrity, and that he feared wrongfully to take away the Life

Life of a Man; and how great a Sin it was, especially to shed the Blood of them that fear the Lord.

Then the Court asked the Witness, where he was when the Words were spoken? He said he was in the Meeting-Place: And he said he heard *John James* say, *That King* Charles *was a blood-thirsty tyrannical King*; *and that the Nobles of* England *were blood-thirsty: That he had drank pretty deep of the Blood of the Saints already, in that he had shed their Blood twelve Months agone at* Charing-Cross, *and the Blood of the Covenanters in* Scotland; *and that God had brought him in to that end, to fill up the Measure of his Iniquity, and he had filled it up more in twelve Months, than in many Years before.* They asked him if he heard nothing concerning the Lord's Battles? And he told them (as though he had forgot it) that he had heard him say, *That they should have Power in their Hands*; *and that they should fight the Lord's Battles more thoroughly.* And they asked him if he heard any thing concerning the Ruin of the King? He answered, Yes, he heard him say, *That the Ruin of the King was very near.* Then they asked him if those were the Words? He said, He could not say they were the same Words, but to the same Substance.

Having done this, the Judge told *John James* he had Liberty to speak for himself.

Whereupon he desired the Favour of the Court to those Witnesses he had attending the Court, in respect of *Bernard Osburn*. Whereupon four Witnesses were called into the Court, that gave Evidence that this *Bernard Osburn* confessed to them he had sworn against *John James* he knew not what. One of them declared further and more largely, (that was near Marriage to *Bernard Osburn*) That he had told her *he did not only swear he knew not what, but that he was affrighted into what he swore.* He did say, That what he swore to, was first sworn to by another Man, and then brought to him in Writing. The former Witnesses declared, That moreover they desired to know of *Bernard* what he had sworn against *John James:* And he told them, *He could not tell, except he heard the Words repeated.* (Though *Bernard Osburn* denied in the Face of the Court that ever he said any such Things) *John James* then told the Court, he had several Witnesses attending the Court, that were free, if they pleased, to prove that the Words charged upon him were not spoken. The Judge told him he might call in as many Witnesses as he would. Whereupon *John James* called in four Witnesses more; all which did testify in the Face of the Court, That the Words charged upon him were not spoken. And the Court did, as before, give them the Hearing.

Then the Judge bid the Jury take notice what had been spoken by the King's Witnesses and his. And then the Court told *John James* that now he had free Leave to speak for himself, as much and as long as he pleased, if he had called all his Witnesses; and told him, That when the King's Council had concluded, he could speak no more; but now he might say as much as he pleased. Then he spake with much Liberty and Freedom, the Court and all present giving Attention to what he said, which was to this Purpose:

John James's *Defensive Speech.*

HE said he had somewhat to say, first, as to the Form of the Charge, *viz. That he had maliciously, wickedly, traitorously, and by the Instigation of the Devil, not having the Fear of God before his Eyes, &c.* He told them, That in the Fear of God he did deny it; and told them he had not a malicious Thought against the Person of the King, but desir'd the Salvation of his Soul, as of his own; that he had not dealt maliciously against the King, neither was instigated thereto by the Devil; and that by the Goodness of the Lord, what he had done, he had done it in the Fear of God. Neither could he be judged, as he told them, as a malicious Person against the King, in regard he never had any publick Employment in the Nation, either against this King in being or his Father, being a Man of no account in the World, having not worn a Sword this eleven Years; and therefore desired they would in their Understanding clear him from this Charge, as a Person malicious against the King. And further he said, He was a Person that could not be supposed to have in his Eye any thing of Advantage in the World in so acting against the King. And as to the Matter of the Charge, whereas it runs, *That I* John James *had compassed, imagined and contrived, the Death of the King*; *John James* told the Court he did not well understand what they meant by *compassing the Death of the King*, as compassing and imagining is ordinarily taken: He had not, neither was he capable of endeavouring the King's Death; nor the Change of the Government; being a mean inconsiderable Person, a Man that had lived upon his Calling. And as to those Particulars lastly charged upon him, he said he was not guilty of them: He did not say *the King was a Bloody Tyrant, a Blood-sucker, a Blood-thirsty Man*; That in the Fear of the Lord he did utterly deny; neither did he say any thing tending thereto. He further said, He did not say *the King had shed the Blood of the Saints at* Charing-Cross *this Time Twelve-month:* He did not say, *They, when they had Power in their Hands, would improve it more thoroughly for God*; *and that we did not fight the Lord's Battles thoroughly.* And whereas he was charged for contending for *Cromwell*, and that Power, (that God hath so eminently wiped off from the Stage) he said he did declare against that Power, and was averse to it, and did suffer under it in his measure; and told them he did not stand there as *Cromwell*'s Advocate. Then did he endeavour to speak more particularly to the Jury, letting them know, that in a secondary way his Life was in their Hands; and it was in the Eye of Reason, in their Power to save or destroy him, and wished them to have a care of shedding innocent Blood: and told them, Because of innocent Blood the Land did mourn; to wit, for the Blood shed in Queen *Mary*'s Days, and King *Henry* the Eighth's; and if there were any innocent Blood shed since, he desired no more to be added to it. He told them he did desire they would act conscientiously, and not to be over-awed by any Man. He told them they were his Judges in Law of Matter of Fact, and desired them to be tender of his Blood. He said, He should say very little more for himself, but one Word for the Lord, and therefore desired he might have his Fear before him, and although he was the poorest and meanest for such a Work, yet he was called forth, and did declare, *That the Lord Jesus Christ was King of Nations as well as King of Saints*; *and that the Government of Kingdoms did of Right belong to him.* And he quoted *Rev.* xi. 15. *And the seventh Angel sounded, and there were great Voices in Heaven, saying, The Kingdoms of this World are become the Kingdoms of our Lord, and of his Christ, and he shall reign for ever and ever.*

And when he had so spoke, the Lord Chief Justice *Forster* interrupted him, saying, *Hold, Sirrah*; *Sirrah, you think you are in the Conventicle in* White-chapel *preaching.* And thereupon commanded the Clerk to read the Act of Parliament, entituled, *An Act for the Preservation of the King's Person and Government*; wherein was express'd to this purpose, *That whosoever shall contrive or endeavour to levy War against the King or Government, &c. or endeavour to compass or contrive the Death of the King, his Wound or Maim*; *or that by Printing, Preaching, Writing, or other Speaking, endeavour the same*; *then every such Person or Persons shall be looked upon as Traitors to the King, and shall be proceeded against as in the Case of High-Treason, &c.* Which when the Clerk had read,

John James desired Liberty to speak, desiring the Court to produce a Statute that would reach his Case, for that did not, but the Case of such as had endeavoured to levy War against the King, or had compassed or contrived his Death or Maim: But he had not contrived or compassed the Death of the King, or the Change of the Government within or without his Dominions; and therefore desired a Statute might be produced that might reach his Case, for he conceived that was short.

The Judge told him it fully reached his Case.

And one of the King's Counsel made answer, That it reached him in every Case.

And another of the Counsel said, Treason was the first Conception and the first evil Thought in the Heart; and Treason was made visible by Preaching, or Printing, or Speaking, *&c.* which was a Manifestation of the Things that were in the Heart.

This being spoken, the Judge asked him if he had any more to say for himself; and told him, if he did not speak now, the King's Counsel would enter upon their Plea, and then he must speak no more for himself.

He told them he had one Word to the Jury, which he desired to lay before them: It was a Scripture written in the 29th of *Isaiah*, ver. 21. *That make a Man an Offender for a Word, and lay a Snare for him that reproveth in the Gate.*

Whereupon the Judge told him it was not to be borne: for he did inveigh against the Parliament.

Though he said, He had not the least Thought of the Parliament; but he spake it to let the Jury know, that if he were guilty of those Words, there was no Law of God to take away a Man's Life or Words.

Hereupon the King's Counsel spake severally one after another.

First Serjeant *Glynne* stood up, and said, Brother *Maynard*, shall we not answer something to what the Prisoner hath objected? So *Glynne* began.

The Substance of Serjeant Glynne's *Speech.*

He told the Jury, That if they proved the Words alledged in the Indictment substantially, though it were not adequate thereunto in every Tittle and *Iota*, yet it was sufficient to satisfy their Consciences, and to find the Prisoner guilty of High-Treason.

First, He began with the Exception taken unto the first Witness, That he stood without the Window, and therefore could not easily discern the Visage and Physiognomy of the Prisoner that was there a preaching. He told them he had sworn expressly it was the same Person; and that as he came into the Yard he was there a preaching, and as he went away to the Justice of Peace he saw him: and the Justice did seize the same Person, and find him preaching when he came; and therefore it must be him, and no other. And told them, that the Witness could have no end in discovering of it; for if he had kept Silence, he had consented, and so been guilty of Misprision of Treason.

Then said he, As to the Exception taken against the fourth Witness, That he said he swore he knew not what, and could not tell what he had sworn to.

He said, This was no Cause to reject this Evidence; for peradventure he could not well call to mind the several words that were spoken; or peradventure he would not tell them, because he might suppose that they were sent to ensnare him in his Evidence, that they might make it void.

Then as to the Witnesses that were brought on the part of the Prisoner, to testify that no such Words were spoken; he said, As to that he must refer it unto the Consciences of the Jury. But he said, he conceived that it was altogether immaterial; for the Question is not, what he did not say, but what he did say. They say that he did not say these Words, but they do not say what he did.

Then stept up Serjeant *Maynard*, and said, That as to the Evidence of those three Persons, his Brother *Glynne* had spoken so much, and so well, that he could add no more, or very little: And urged the same things that Serjeant *Glynne* did. And further said, That the Prisoner spoke much of his Integrity and Innocency; I believe (saith he), Gentlemen of the Jury, never was there any Offender, or the vilest Miscreant in the World, that would ever have received the Reward of his Doings, if his own Excuse and Protestation might have saved him.

Then he said, As for the Blood of the Saints that was spilt this time Twelvemonth, he said they were sad Saints, such Saints (said he) as would have cut all our Throats.

Then *John James* desired to be heard one Word, that that Gentleman had untruly alledged against him; but the Court refused to allow him the Liberty.

Then stood up Sir *Heneage Finch*, Sollicitor-General.

The Substance of Sir Heneage Finch's *Speech.*

My Lord, and you Gentlemen of the Jury, be it known unto you, and to all that hear me this Day, that the Priſoner at the Bar is not arraigned for his Conſcience or Religion, but for Treaſon and Rebellion, for horrid Treaſon and Rebellion, for ſpurning againſt the meekeſt King in the Earth. His Majeſty, to the great and inexpreſſible Grief of his Heart, did not think there was a Perſon ſo unworthy left within his Dominions, that would have lifted up the Heel againſt him, after twenty Years rejecting of his Majeſty and his Royal Father; and having alſo conferred his Grace upon us, to reduce us to a State of Innocency, he could not think there was any Gall left in our Hearts, or any Guile to be found in our Mouths.

He then preſs'd his Treaſon upon the Conſciences of the Jury, who, as he told them, would affright their Conſciences with his Innocency. And told them, how that the Puniſhment of this Offender might affright the like Malefactors for the future: And ſaid, that there were a People, that under the pretence of Religion had the Liberty of Conſcience allow'd by the King for a time, 'till they were better informed; but this Man, and thoſe of his Mind, are none of thoſe Men: but they endeavour not only to deſtroy the Monarch, but Monarchy itſelf; not only in *England*, but all the World over. This is the Principle that they are of, therefore I deſire the Jury to take notice, what may be their Duty upon that Account. And that when the Priſoner was preaching that pernicious Sermon, he preſs'd it with the Peril of their Salvation, and now would affright you upon the Account of innocent Blood: But you ſhall find, if his Blood be rightly and ſwiftly purſued, it may be a means of preventing the ſhedding of the Blood of thouſands, for the time to come. And withal did deſire them to conſider further, That the great Trouble this Nation had undergone for theſe twenty years laſt paſt, ſprung from Pulpits, Conventicles, and ſeditious Preaching; and therefore if theſe Cauſes were taken away, it might prevent ſuch evil Effects for the future. And ſaid, That as to the Evidence he had produced, it had been well ſpoke to by the two Serjeants that ſpoke laſt: And as to that Evidence by the Women, he ſaid they had no reaſon to tell what was ſaid by *John James*, for thereby they would make themſelves guilty of Miſpriſion of Treaſon; which is to be puniſhed with perpetual Impriſonment, Confiſcation of Goods, and the Loſs of the Profits of Lands during Life.

That's well obſerved, ſaid my Lord to the Sollicitor.

Then Judge *Forſter* endeavoured further to inform the Jury, and to incenſe them againſt his Principle, telling them, that he was of the ſame Spirit with thoſe that did endeavour heretofore to put all the Nation in a Flame, and to ſet every one againſt each other; and ſaid, No Treaſon was comparable to that Treaſon that was covered with a Pretence of Religion.

This being done, and the Jury ready to go forth, *John James* deſired the Court to favour him with one Word to the Jury.

They told him he had had a great deal of Liberty, and time to ſpeak; but now he ſhould ſpeak no more.

Then *John James* reply'd, That if they would not ſuffer him to ſpeak to his Jury, they had as good have hanged him at *Bull-ſtake-Alley* Gate, before he came there, and not brought him thither to cover over the Matter with the Pretence of Law.

This being ſpoken, the Judge gave him a ſore Rebuke, and told him he was not to be Judge in the Caſe.

Then my Lord and the Judges laid their Heads and conferred together, whereupon my Lord ſaid thus to the Jury, or to this effect: You have heard the Evidence, you are to find the Matter of Fact as it is laid before you, whereof you are the proper Judges, and I pray God direct you.

Then the King's Counſel and the Jury departed from the Bar; and at the Return of the Jury, being about a Quarter of an Hour, the Attorney and Sollicitor-General came back into the Court with them.

Whereupon the Crier called them all by name, and the Clerk aſked them if they were all agreed, and they anſwered, Yes.

Then the Clerk of the Crown commanded the Priſoner to hold up his Hand, and aſked the Jury, How ſay you, is *John James*, who hath been arraigned and tried, Guilty of the Treaſon alledged in the Indictment, or Not guilty?

And the Foreman, which was *Charles Pitfield*, ſaid, Guilty according to the Indictment.

Then the Attorney-General pray'd Judgment for the King. To that the Court anſwered, Never the ſame Day he is arraigned, but appoint what Day the Priſoner ſhall be brought, and it ſhall be granted. Then the Attorney and Sollicitor conferred together, and the Attorney ſaid, On *Friday* next. 'Till which time he was remanded to the *King*'s-*Bench* Priſon in *Southwark*.

His Wife's Application to the King after her Huſband was caſt.

In the Interval, betwixt his Caſting and Condemnation, upon the fourth Day of the Week in the Evening, his Wife, by Advice of ſome Friends, endeavoured to make Addreſs to the King, to acquaint him with her Huſband's Innocency, and the Condition of thoſe looſe Perſons who had falſly accuſed him; which ſhe put in writing, leſt ſhe might either want an Opportunity, or not have Courage enough to ſpeak to him. And with ſome Difficulty at laſt ſhe met with the King as he came out of the *Park*, going into the Gallery; where ſhe preſented him with the Paper, which on the Back-ſide was endorſed, *The humble Requeſt of* Elizabeth James: Acquainting him alſo by Word who ſhe was, to whom he held up his Finger, and ſaid, *Oh Mr.* James, *he is a ſweet Gentleman!* But following him for ſome further Anſwer, the Door was ſhut againſt her; which was all ſhe could obtain at that time. The next Morning ſhe came again to the ſame Place, where ſhe had not long been, but the King came out of the Gallery to go into the *Park*, whom ſhe follow'd down the ſtairs, imploring his Anſwer to her Requeſt; who then replied, *That he was a Rogue, and ſhould be hanged.* One of the Lords attending him, aſked her of whom ſhe ſpake; whereunto the King anſwered, *Of* John James, *that Rogue: He ſhall be hanged, yea he ſhall be hanged.* And ſo ſhe came away, ſatisfied in her Conſcience, that what ſhe had done was but her Duty.

The Third Day, Novemb. 22.

BEING this Day brought to the Bar, according to former Order, the Clerk proceeded according to their manner, and told the Court, that *John James* had been arraigned and try'd, *&c.* and had committed himſelf to God and the Country for Trial, and by the Country was found guilty of the Crimes and Treaſons alledged againſt him in the Indictment. And then it was demanded of *John James*, what he had to ſay for himſelf why Sentence of Death ſhould not be paſſed upon him according to the Law? To which *John James* anſwered, That he had not much to ſay, only two or three Scriptures he would leave with them. The firſt Scripture was *Jer.* xxvi. 14, 15. *As for me, do as ſeemeth good unto you; but know ye for certain, that if ye put me to death, you ſhall ſurely bring innocent Blood upon yourſelves, and upon this City, and upon the Inhabitants thereof.*

The ſecond Scripture was *Pſal.* cxvi. 15. *Precious in the ſight of the Lord is the Death of his Saints.* He alſo minded that good Word of the Lord, *He that toucheth the Lord's People, toucheth the Apple of his Eye.* He told them he had not more to ſay for himſelf, only one word for the Lord, and ſo he had done: *That Jeſus Chriſt the Son of God was King of* England, Scotland, *and* Ireland, *and of all the Kingdoms of this World.* Which being ſpoken, they ſilenced him, and the Court proceeded to Sentence, and the Judge pronounced Sentence according to the Law, and ſaid thus:

'*John James*, thou haſt been here indicted, arraigned, and tried as a 'falſe Traitor to his Majeſty, his Crown and Dignity, and haſt put thy 'ſelf upon the Trial of God and the Country, and the Country have 'found thee guilty; and therefore, *John James*, thou art to be carried 'from hence to Priſon, and from thence to the Place of Execution, and 'there to be hanged by the Neck, and being yet alive, to be cut down, 'and thy Bowels to be taken out, (a Fire being prepared) and to be burnt 'before thy face; and thy Head to be ſevered from thy Body, and thy 'Body to be quartered, and thy Head and Body to be diſpoſed according 'to the King's Pleaſure.'

This being done, *John James* had only time to ſay, *Bleſſed be God; whom Man hath condemned, God hath juſtified.* He was executed in purſuance of the Sentence, *Nov.* 26.

A Little before his going forth, ſeeing ſome of his Friends come in who had particularly deſired to accompany him to the Place of Execution, he ſaid, *Here come my Bride-men*, embracing them with much Joy, But, ſaid he, *Muſt not the Sacrifice be bound?* One anſwer'd, *Yea, it muſt be bound with Cords:* He rejoicing, ſaid, ſo he had heard.

Soon after the Keeper came into the Room, and calling him down to deliver him to the Sheriff, he told him he was a welcome Meſſenger, he had waited long for him; and ſo he came with Joy after the Keeper, from his Chamber into the Preſs-yard, where hearing the Noiſe of the Multitude without, ſaid to a Friend, *There would be by and-by as many Hallelujahs, as Shoutings of the People without*; and there they bound him about the Back with a new Cord, and ſo had him into the Street; and being placed upon the Sled, drawn by a Team of Horſes, attended by the Sheriffs Men, and a Company of Foot-ſoldiers, was drawn along to *Tyburn*; the Way out of the Town being very foul, he was drawn thro' very much water and dirt, beſides the very much ſlapping of the Horſes that went beſides him.

Being come to the Place of Execution, he aſked Mr. *Sterling* the Sheriff, whether he might not have Liberty to ſpeak to the People? He told him he might, if he would not ſpeak ſeditiouſly (or Words to that purpoſe). Then *John James* addreſſed himſelf to ſpeak as followeth.

Firſt of all, that which I have to ſay before I go out of this World, is to remove that which hath been thrown upon me by way of Aſperſion, as if I were a Jeſuit. * Here at this Place, at this Time, are ſome that knew me from my Childhood, and can clear me in this Particular: And therefore I ſhall only ſay this to it, That I am an *Engliſhman*, never was out of the Nation in all my Life; never had any Knowledge of any other Tongue but the *Engliſh* Tongue, therefore altogether uncapable of ſuch Work and Employment as Jeſuits are uſually put upon, they being commonly Men of great Parts and Learning, which I am not. I ſhall only ſpeak this in reſpect of my Parentage and Education; I came of a very mean Family; I may truly ſay, as once *Gideon* did, *My Family is the leaſt in all Manaſſeh, and I am the leaſt in the Family:* And in truth I may juſtly ſay, my Family, the Family that I came of, it was a very mean Family, the meaneſt among all the Families of the People of the Lord at that Day, as I knew of; and for my Parents, they were People fearing God, thoſe that durſt not for their Lives, I ſay, they were thoſe that durſt not for their Lives ſtain their Conſciences in reſpect of Idolatry and Superſtition that was up at that Day.

I ſhall not need to ſpeak any more to that, I came not here to boaſt of my Parentage; I declare I came of a mean Family, only my Parents were People fearing God, and did, to their utmoſt, endeavour what they could to bring me up in the Nurture and Admonition of the Lord; and I hope my Father at his Death had not ought to be charged with by way of Blame: And my Mother is yet alive, and attained to a good old Age, and I truſt ſo ſhe is. But I ſhall not trouble you more about this Matter; for I only ſpeak this, to take off that which was caſt upon me, wherein I judged the Name of God would have ſuffer'd, had I not cleared myſelf.

The ſecond thing that I ſhall ſay, is what I am in my Principles, what I am in reſpect of my Religion and Judgment, and I ſhall be brief as to that.

* *This Vindication was occaſioned by the coming of a Courtier (and, as ſome ſaid, one of the Bed-chamber), two or three Nights before he ſuffer'd, to know if he was not a Jeſuit, and if he had not been beyond the Seas.*

that. I do own the Title of a *Baptized Believer*, I do own the *Ordinances* and *Appointments* of Jesus Christ, I do own all the Principles in *Heb.* vi. 1, 2. about the Doctrine of *Faith towards God*, and *Repentance from dead Works*, the Doctrine of *Baptism*, and *laying on of Hands*, the *Resurrection of the Dead*, and *eternal Judgment*. These are the Principles that I desire to own, and have in some weak Measure been found walking in: I do not only own the Principles and Doctrines declared in the sixth of the *Hebrews*, but I do own the Commandments of God, the *Ten Commandments*, as they are expressed in the 20th of *Exodus*. I do here, as before the Lord, testify, I durst not, I durst not willingly break the least of those Commandments to save my Life; I do declare that the rather, because I would inform Persons that I do own the Lord's holy *Sabbath*, the *seventh* Day of the Week to be the *Lord's Sabbath*; you know the Commandment, *Remember that thou keep holy the Seventh Day*. I shall forbear to speak any more to that.

Again, further, in respect of my Principle (as that for which I judge I am here this Day to suffer), That I do own the Kingdom of our Lord Jesus Christ (to wit), the *visible Kingdom of Jesus Christ here on Earth*, and I do desire to declare it humbly and in the Fear of the Lord, *That JESUS CHRIST the Son of God is King of all the Nations in the World*, according to that in *Rev.* xi. 15. upon the sounding of the seventh Trumpet there was a great Voice in Heaven, *The Kingdoms of this World are become the Kingdoms of our Lord, and of his Christ; and He shall reign for ever and ever*. There needs no more to be said, though many more Scriptures might be brought to prove that it is so. It cannot be a spiritual Kingdom, the Text cannot be allegorical; for the Text saith expresly, *The Kingdoms of this World*, &c. I shall endeavour not to tire you with many Words; I do not come here (the Lord knows) to sow Sedition, I have it not upon my Heart, it hath not been my Practice, though this be the pretended Cause of bringing me hither; but the Lord knows, before whom I stand, and with whom I shall shortly be, that whatever I am accused of, as to Matter of *Fact*, I am free from it; I desire you may hear it, and take Notice of it, the Things charged upon me are notoriously false, I speak it as my last Words, the Lord that knows all Hearts, and one Day will call all Men to an Account, knows I speak true, both in respect of the Manner of the thing charged upon me, and in respect of the Matter, notwithstanding that several Witnesses took the Boldness to swear it in Court. I do in the Fear of the Lord also tell you, that I bless the Lord I have not the least hard Thought of them that swore against me, I have not the least hard Thought upon that Account, not the least rising of Spirit against either Judge, or Jury, or Witnesses, or any other, the Lord knows it, but have sought their Pardon upon my bended Knees, and I hope further shall do it, if God permit. I have one Word to say to the People of God, and that is this; I would intreat you not to think ever the worse of the Ways of God, because you see such a poor Worm as I brought hither to suffer upon that Account. Let not the assembling of yourselves together be any way a Burden to you; know that Word, *forsake not the assembling of yourselves together, as the Manner of some is, but be instructing one another so much the more as you see the Day approaching*, Heb. x. 25. and let not any of the Ways of God, any of the Ordinances of God, any of the Commandments of God be ever the worse in your Eyes, because a poor Worm that has professed them, and has in some poor Measure tasted in them of the Love of God, is brought hither; do not think the Words and Commandments of God are the worse for that; and I would intreat you that you would stick close to them, whatever Dispensation may be at the Door, which no Man here knows one or other: But I say, whatever the Ways and Dispensations of God may be, tho' you may expect to suffer more and more, yet know that was the Way that our Lord did go, the Captain of our Salvation was made perfect through Sufferings; and the Apostles and holy Christians of old counted it great Joy, they accounted it great Joy to be filling up the Measure of Christ's Sufferings that are behind. And now, my dear Friends, for Jesus Christ's Sake, be exhorted in the Fear of God, not only to stick to those Ordinances and Commandments of God, wherein you are enlightened, but take that good Word of God in 1 *Chron.* xxviii. 8. it was *David*'s Advice to *Solomon*, the Words are, *Solomon, my Son, keep and seek for all*, &c. do not content yourselves with what you do already know, but endeavour, in the Fear of the Lord, to be seeking after more. I would further charge every one of the People of the Lord, to have a care of defiling themselves with any Idolatry, with any Superstition, by treading in By-paths that may not suit the Mind of God, however it may be accepted in the Land.

I shall not trouble you with much more, only a Word to those that have not yet an Interest in Jesus Christ, that cannot call God *Father*. I beseech such to consider, it may be that God hath a Mind, by the Words of a dying Man, to do their Souls good, and I would add a Word; I beseech you consider, though you may not go the same Way I go, you do not know how soon God may call for you by Death; and therefore I speak to them that are young ones in the first Place, *That they remember their Creator in the Days of their Youth, before the evil Day is come*, and the Days wherein they themselves shall say, *They have no Pleasure in them*. And to those that are ancient, that have spent the greatest Part of their Time here, in sporting in their own Lusts, I would only say this to them, There is yet a Day of Grace, *To-day if you will hear his Voice*. Jesus Christ is held forth in the Gospel freely; he holds forth his Blood freely; for the worst of Sinners are not too old, nor too wicked, nor too great, they are not too unclean for Jesus Christ to pity; and therefore, Friends, consider in the Fear of the Lord whereabouts you are, and how the Case stands with your poor Souls. I have said what I have to say, only I would desire that I might have Liberty to wait upon God, to commit my Soul, and the Concernments of each other to the Lord in Prayer. Then he addressed himself to the Lord in Prayer.

His Prayer being ended, he said he could not speak more, being very much tired, and his Body brought very low. The Hangman said, *The Lord receive your Soul*. He replied, *I thank you*. Then another said, *This is a happy Day*. He said, *I bless the Lord, it is so*. The other said, *The Lord make your Passage easy*. He said, *I trust he will so*. One asked if he had any thing to say to the Sheriff? He said, *No, but only thank him for his Civility*. Then the Hangman having prepared him for his Death, drew away the Cart, *John James* said aloud (lifting up his Hands), *Father, into thy Hands I commit my Spirit*, and so finished his Course.

The Sheriff and Hangman were so civil to him in his Execution, as to suffer him to be dead before he was cut down; the Hangman taking out his Heart, and burning his Members and Entrails, returned his Head and Quarters back to *Newgate*, put in a Basket in a Cart, and from thence were disposed by the King, *viz.* his Quarters to the Gates of the City, and his Head first upon the Bridge, but afterwards (by Appointment) taken down thence, and put upon a Pole in *White-Chapel*, over against the Passage to the Meeting-Place, where he and his Company were apprehended.

LXII. *The Trial of* Thomas Tonge, George Phillips, Francis Stubbs, James Hind, John Sellers, *and* Nathaniel Gibbs *, *at the* Old Baily, *for* High-Treason, Decemb. 11. 1662. 14 Car. II.

THE Commission of *Oyer* and *Terminer* being read, and Proclamation made, the Grand Jury were sworn: Whose Names are,

Arthur Jourdan,	*George Compere,*	*William Standen,*
John Freestone,	*Isaac Rutter,*	*John Worth,*
Thomas Fawson,	*Chr. Rigly,*	*John Rigby,*
Thomas Coney,	*Rowland Steed,*	*Leonard Staples.*

And several Witnesses being called, there appeared *William Hill, Edward Riggs*, ... *Tyler*, ... *Godolphin*, ... *Bonfoy*, and several others; who being all sworn, were directed up to the Grand Jury.

After some Hours Examination of the Witnesses, and Consultation, the Grand Jury returned the Indictment *Billa Vera*.

Clerk of the Peace. You good Men of the City of *London*, summoned to appear here this Day, to inquire between our Sovereign Lord the King, and the Prisoners that are and shall be at the Bar, answer to your Names, as you shall be called, every one at their first Call, upon Pain and Peril that shall fall thereon. Good Men of the Ward of, &c.

Serjeant *Glynne*, Serjeant *Maynard*, his Majesty's Serjeants at Law; Sir *Jeoffry Palmer*, Attorney-General; Sir *Heneage Finch*, his Majesty's Sollicitor; Serjeant *Keeling*, his Majesty's Serjeant; Sir *Edward Turner*; taking their Places in Court.

The Prisoners were commanded to be set to the Bar.

Clerk of the Peace. Thomas Tonge, hold up thy Hand; *George Phillips*, hold up thy Hand; *Francis Stubbs*, hold up thy Hand; *James Hind*, hold up thy Hand; *John Sellers*, hold up thy Hand; and *Nathaniel Gibbs*, hold up thy Hand.

Which they severally doing, their Indictment was read, the Substance whereof is as followeth, *viz.*

'YOU the Prisoners that were last called to the Bar, stand indicted in *London* by the Names of *Thomas Tonge* late of *London* Distiller, *George Phillips* late of *London* Yeoman, *Francis Stubbs* late of *London* Cheesemonger, *James Hind* late of *London* Gunner, *John Sellers* late of *London* Compass-maker, and *Nathaniel Gibbs* late of *London* Felt-maker; for that you six, together with divers others particularly in the Indictment mentioned, and others not yet taken, as false Traitors to the Illustrious, Serene, and most Excellent Prince, *Charles* the Second, by the Grace of God, of *England*, *Scotland*, *France*, and *Ireland*, King, Defender of the Faith, &c. minding and with all their Force intending the Peace and Tranquillity of this Kingdom of *England* to disturb, and our said Sovereign Lord the King to Death and final Destruction to bring, and put, the 31st Day of *October* in the fourteenth Year of the Reign of our said Sovereign Lord King *Charles* the Second, traitorously did compass, imagine and intend the killing of our said Sovereign Lord the King, and the ancient Government of this Kindom of *England* to change;' [as in the Indictment more particularly was mentioned.]

What sayest thou, *Thomas Tonge*, art thou guilty of this High-Treason in Manner and Form as thou standest indicted, or not guilty?

Tonge. Not guilty.

Clerk. How wilt thou be tried?

* Kelyng's *Reports, p.* 17.

Tonge.

Tonge. By God and my Country.

Clerk. What ſayeſt thou, *George Phillips*, art thou guilty, *&c.*

Phillips. I am guilty in hearing and not diſcovering of it.

Clerk. Art thou guilty of this High-Treaſon whereof thou ſtandeſt indicted?

Phillips. I am guilty, but not in Manner and Form as I ſtand indicted; I have heard the Words, as I formerly confeſſed to Sir *Richard Brown:* Not guilty, as to the Manner and Form.

Clerk. How wilt thou be try'd?

Phillips. By God and my Country.

Clerk. How ſayeſt thou, *Francis Stubbs*, art thou guilty *&c.*

Stubbs. Not guilty.

Clerk. How wilt thou be try'd?

Stubbs. By God and my Country.

Clerk. What ſayeſt thou, *James Hind*, art thou guilty*s &c.*

Hind kneeling down, and diſcovering much Penitency, anſwered, I am guilty, and humbly beg Mercy of his Majeſty.

Court. Record his Confeſſion.

Clerk. How ſayeſt thou, *John Sellers*; art thou guilty, *&c.*

Sellers. Not guilty.

Clerk. How wilt thou be try'd?

Sellers. By God and the Country.

Clerk. How ſayeſt thou, *Nathaniel Gibbs*; art thou guilty, *&c.*

Gibbs. Not guilty.

Clerk. How wilt thou be try'd?

Gibbs. By God and the Country.

Court. Carry up *Hind* to the Goal.

And the reſt ſtanding at the Bar, Silence was commanded.

Clerk. *Thomas Tonge*, *George Phillips*, *Francis Stubbs*, *John Sellers*, and *Nathaniel Gibbs*; you the Priſoners that were laſt called to the Bar, thoſe Men that you ſhall hear called are to paſs upon Trial for your ſeveral Lives and Deaths: if you or any of you will challenge them or any of them, you muſt challenge them when they come to the Book to be ſworn, before they be ſworn.

Edmond Butler.

Tonge. I challenge him. [But afterwards admitted him.]

Clerk. *Edmond Butler*, *Clement Punge*, *George Dixon*, *Samuel Paine*, *John Bagnal*, *John Gourney*, *William Gayler*, *Ralph Silverton*, *William Dudley*, *Joſeph Drake*, *John Peake*, and *Robert Morrice*, were ſeverally ſworn in this manner: *Lay your Hand on the Book, look upon the Priſoner; You ſhall well and truly try, and true Deliverance make between our Sovereign Lord the King and the Priſoners at the Bar, whom you ſhall have in charge, according to your Evidence. So help you God.*

Clerk. Count theſe, Crier, *Edmond Butler*; *Crier.* One. *Clement Punge*, Two, *&c.* Twelve good Men and true, ſtand together, and hear your Evidence.

Clerk. Crier, make Proclamation.

Crier. O Yes! If any one can inform my Lords the King's Juſtices, the King's Serjeants, or the King's Attorney, before this Inqueſt be taken, let them come forth, and they ſhall be heard; for now the Priſoners ſtand at the Bar upon their Deliverance: and all others that are bound by Recognizance to give Evidence againſt any of the Priſoners at the Bar, come forth and give Evidence, or elſe you forfeit your Recognizance. And all manner of Perſons that were ſummoned upon the Jury, and have not yet been ſworn, they are diſcharged, and may depart the Court.

Clerk. *Tho. Tonge*, hold up thy Hand; [and ſo to the reſt of them at the Bar.] You of the Jury, look upon the Priſoners, and hearken to their Cauſe; you ſhall underſtand that they ſtand indicted in *London* by the Names of *Tho. Tonge*, late of, *&c.* [and ſo as in the Indictment aforementioned] who together with *James Hind*, who ſtands convicted by his own Confeſſion, and the reſt alſo aforementioned: [and ſo reads the Indictment again.]

Upon which Indictment they have been arraigned, and thereunto have ſeverally pleaded, Not guilty; and for their Trial have put themſelves upon God and the Country, which Country you are: Your Charge is to enquire whether they be guilty of the High-Treaſon in Manner and Form, as they ſtand indicted, or not guilty; if you find that they, or any of them are guilty, you ſhall inquire what Goods and Chattels, Lands and Tenements, they or any of them had at the time of committing the ſaid Treaſons, or at any time ſithence; if you find that they are not guilty, you ſhall enquire whether they or any of them did flee for it; if you find that they fled for it, you ſhall enquire of their Goods, Chattels, *&c.* as if you had found them guilty; if you find that they were not guilty, nor that they did flee, ſay ſo, and no more, and hear your Evidence.

Sir *Edward Turner.* May it pleaſe your Lordſhips, and you Gentlemen that are ſworn of this Jury, the five Priſoners at the Bar, by the name of *T. Tonge*, *G. Phillips*, *F. Stubbs*, *J. Sellers*, and *N. Gibbs*, do ſtand indicted, for that they as falſe Traitors, together with ſeveral other Perſons mentioned in the Indictment, the 31ſt of *October* laſt, did, in the Pariſh of St. *Michael*'s in the Ward of *Cornhill*, *London*, aſſemble and meet together, conſult, contrive, and deſign to levy War againſt the King, to ſubvert and change the Government as it is now eſtabliſhed, to depoſe and kill the King: And in order to effect this, they did likewiſe then and there agree and deſign to ſeize and take in their hands the King's Royal Palace called *Whitehall*, where the King reſides. For this they have been indicted, arraigned, and all theſe five have ſeverally pleaded Not guilty: if we prove them guilty, you muſt find them ſo.

Serjeant *Maynard.* Gentlemen of the Jury, you have heard the Indictment read, you have heard the Subſtance of it opened, it is ſhort in words, but of as high conſequence as any thing can be. I ſhall open the Particulars of that Evidence, that we conceive will be made good by the Oaths of Witneſſes to be produced to you. You ſee here what the Indictment is: I ſhall inſiſt upon theſe Particulars, which I ſhall open and make good to you: Firſt, What was their Deſign: Next, What was their Means of Accompliſhment, what Encouragements they uſed one to another, and what Colours they put upon this wicked Action. For the firſt, Gentlemen, I ſhall begin at the higheſt, higher no Man can go in this World, that is, to deſign and compaſs, to contrive to put the King himſelf to death, to ſeize his Perſon; ſome of them called it *ſecuring*, you know the *Engliſh* of that, a King ſecured. We will go further, for we ſhall prove to you the Perſon that with his own wicked Hand undertook the Slaughter and Murder of the King; he did contrive how he might do it, ſometimes when the King was performing an Office of Piety to viſit his Mother, other times when he ſhould recreate himſelf by Hunting: higher than this they could not go, and this they coloured over with Religion. This merciful King that had pardoned his People beyond their own Deſires, and contended to do it; this King they would murder. Had there been no more, it had been exceeding heinous; but they went further, their Malice reſted not upon his Perſon, but the Family, the Noble and Excellent Duke of *York* is deſign'd to be ſecured likewiſe, and uſed like his Brother: not they only, they went further, the whole Nobility was in deſign; not (Gentlemen) that every one of theſe before you uſed theſe Expreſſions, but they and their Complices, ſome one and ſome another Expreſſion: but all joined in this, to deſtroy the King and his Family, Root and Branch, that was their Expreſſion. King, his Family, Nobility, nay, go down to the Gentry, and it ceaſed not there, they go to the Clergy, as one of the Priſoners at the Bar (as you will hear) did expreſs himſelf, I think it was *Stubbs*, That there ſhould be never a Lawn-Sleeve, never a Surſingler ſhould have a Hole to hide his head in.

Stubbs. I never opened my Mouth to that purpoſe.

Serj. *Maynard.* That will be left to Proof: I undertake not of myſelf to prove this, but to open it, let the Witneſſes ſpeak. In diſcourſe ſome went further than that, whoſoever would not join with them in their Deſign (it was one *Strange*) was an Enemy; and thereupon one *Cole*, who is gone, deſerted them, though he was contented to have the King murdered, the Nation ruin'd, yet would not agree in that Principle. To accompliſh this, we ſhall prove to you they did treat of levying a War, that among themſelves it was given out that Arms were provided, ſome delivered; and their Deſigns to raiſe Money, ſeizing all the Treaſury at *White-hall*, *Worceſter-houſe*, and the Chamber of *London*; to ſeize the Perſon of the noble Duke of *Albemarle*, and all about him, and Quarter to be given to none; that was their Expreſſion. They did give out among themſelves (for a while there was ſome difference among theſe Foxes, whoſe Tails were tied together, and had fire in them), and *Tonge* told them (as we ſhall prove) that all Parties were now agreed and would join: they had framed Declarations to juſtify their Proceedings, framed Papers to raiſe a Mutiny among the Mariners, and encouraged them to join with them, this will be proved. For their Means, *Phillips* at the Bar undertakes to procure the Word that the Guard in the City had, ſo to betray them. There was a Deſign made for ſeizing the *Tower*, ſeveral Men appointed for that purpoſe, they and their Complices were to come there with Papers in their Hands, as if they were Mariners and had Accompts to make up, theſe were to go up to thoſe that ſat there to finiſh Accompts. To encourage themſelves, they gave out that they had dealt with the Soldiers at *Windſor*, and ſecured that Caſtle; if this be proved to you, there can nothing be higher. There was this one Pretence, it was given out (and perchance the Rumours of the City are come to your ears) that they had deſign'd a Day for the Execution of this Miſchief; ſeveral Days were appointed, one on the Lord Mayor's Day, another on *Allhallows* Eve. They gave out by a feigned Letter, that there would be a Maſſacre by the *French* and Papiſts, of the Proteſtants; this was to raiſe a Fear and Diſcontent among the Nation, to induce them to join when this Deſign ſhould be attempted. Gentlemen of the Jury, had they gone on in this wicked Purpoſe, having poſſeſſed the People with theſe Fears, who could have told how to behave himſelf? And it ſeems ſtrange and wonderful, eſpecially looking upon the Perſons, Men of little Conſideration, deſpicable Men, and who live under the Mercies of ſo good a Sovereign, that they ſhould take ſuch a Deſign in their Hearts, and undertake the Performance. Though the Spear hath not entered into the Sides of our Sovereign, yet it muſt needs crown his Head with abundance of Thorns, that ſuch People ſhould be ſo deſperately wicked. But we ſhall call our Witneſſes, and when you have heard this proved, we cannot be ſo uncharitable to think you ſhall need any further Aggravation, or doubt of your giving a Verdict againſt ſuch Miſcreants as theſe are.

Sir Jeoffrey Palmer, *Attorney-General.* Theſe few Priſoners at the Bar were not all in this Contrivance, tho' we have not all their Names; but in the Evidence you will hear, there was a Council of Forty, and then of Six, but none diſcovered. Theſe Six acted and infuſed into theſe and divers others what they intended, and then broke up, and gave out all was ready, and would be done on ſuch a Day. We ſhall not trouble the Jury with giving Evidence particularly againſt theſe Men, they are joined and knit together in one Cauſe. But hear the Evidence.

William Hill, *Edward Riggs*, and one *Bradley* were ſworn.

Counſel. Mr. *Hill*, ſpeak your Knowledge in this Buſineſs, to my Lords and the Jury.

Mr. *Hill.* May it pleaſe your Lordſhips, about the middle of *October* laſt, I met *John Baker*, one that is now indicted, he was a Captain formerly called; I met him in *Cheapſide:* he meeting me (after a Salutation) invites me to drink with him; I went into a Houſe with him. When I was with him, he began to aſk me what News there was in the Country; I told him I had a little to inform him. He told me, if I would ſtay a while he would tell me ſome. I aſked him of what nature? Says he, Not long ago the King went a hunting, ſent ſome Stags to Sir *John Robinſon*, now the Lord Mayor, and went but with a ſmall Guard, and I could have been one of the twenty that would have ſlain that Outlandiſh Dog. Then ſaid I, Mr. *Baker*, that's nothing to me; but what other News have you? Says he, I know thou art right, and I know your Father; there is ſomething on foot in the City, and if you will meet to-morrow, I will bring ſome Perſons to you that will give you Information. Sir, ſaid I, (underſtanding it of dangerous conſequence, and willing to get it out), I will

I will meet you: and we agreed to meet the next Morning. That Morning three Persons came early to my Quarters, *Hill* the Cloth-drawer, Mr. *Bradley*, and this Mr. *Riggs*; he appointed them to meet him there, but failing himself, they being Strangers said nothing to me then, and so I departed, and left them a drinking. The Morrow after, he himself came to my Lodgings, fetches me out of my Bed, and tells me he had appointed some Persons on the *Exchange* to give me an Account. I went with him thither, and there we met with some Persons that were his Acquaintance; and from thence we went to the *Ship* in *Leadenhall-street*; and among us was *Hind*, that confessed himself guilty: and there the Business was fully discoursed of, what their Intention was, that all Interests were agreed, *Fifth-Monarchy-Men*, *Anabaptists*, *Independents*, and *Fighting Quakers*; and the Congregational Churches were consenting, and were resolved to endeavour their Deliverance from Adversaries at *Whitehall:* many Passages more. On the Morrow after we met again, and there met with us *Hind*, and *Brown*, and *Baker*. There we were acquainted of their Magazine and Arms provided, and about their Correspondence in the several Counties, that they were sure of *Windsor-Castle*, that the Head Gunner and Serjeant there were privy. We had Information concerning this *Tonge*, as an active Person in this Design; I studied to know this *Tonge*, and I was brought to him at his House; and there I met one *Ward*, *Stubbs*, and *Hind*, and some others, and there we had discourse concerning the Business. *Tonge* told us something of the Business of *Windsor-Castle*, and proposed something in reference to the taking the *Tower*, what Arms and Men they had for this Design. We met many times at the *Ship*, that *Gibbs* we met at *Bridewell-Dock*, and there was *Stubbs* and one *Beazley* with me; there we waited for a Brother of this *Gibbs*'s, to give us Intelligence when the Day of the Insurrection would be: we waited not long, but in came his Brother, and two Persons more, one *Thomas* a Bridler or Bit-maker in *Shoe-Lane*, and another Person in a handsome Garb came along with him. His Brother was somewhat shy (because I was a Stranger) to speak any thing, but calls for this *Gibbs* and *Stubbs*, and had some private Discourse with them, and away departed: After they were gone, we desired to know the Intelligence; they told us that the Council of Six was broken up, all Business was settled, *Ludlow* was Commander in chief, and *Alhallows*-Eve was the time, that Horse and Arms were provided. For *Phillips*; that Day that the Meetings were intercepted, that the Trained-Bands did surprize them, that Day this Gentleman and I (pointing to *Riggs*) came to the Main-Guard at the *Exchange*; where Serjeant *Phillips* was with a Buff Coat and a Halbert; and this Gentleman (meaning *Riggs*) saluted him, and thanked him for his Service in sending down notice to the Meeting to be gone, for he was coming with the Trained-Bands to surprize them. He asked him, what was the occasion of the Bustle: says he, they say——

Sir Robert Forster, *Chief Justice*. Who is that he?

Hill. That *Phillips* said, They say they were up in the West, and if they were not, I would they were, and here too, for a few would do the Work. Upon the *Monday* after, we met him near the *Exchange*; and so likewise *Riggs* thanked him for his Service, and then he (*Phillips*) promised his further Service when the time of the Insurrection would be.

For *Sellers*, I was by Agreement to have thirty Arms delivered me, and I was very pressing to have the Arms out of the Magazine. *Sellers* met with this Gentleman (*Riggs*), and he urging *Sellers* about the Arms, *Sellers* told him that they were all delivered out the Night before, about five or six hundred; and that forty of their Friends went away without Arms, but that within two or three Days there would be more laid in.

Sir Heneage Finch, *Sollicitor-General*. Mr. *Hill*, I will ask you one Question (with my Lord's favour); as you have given a general Account, I will keep you to one particular Person, *Tonge:* Did *Tonge*, in any Discourse with you, tell you of one *Strange* that was gone into the Country?

Hill. One Night he told us he had spoke with *Strange:* that he was gone into the Country, and would come back the Morrow, and then we should have more Intelligence.

Sir *Heneage Finch*. What concerning the *Tower* and *Windsor-Castle?*

Hill. He talked of the good Service that he had done in being at *Windsor-Castle*, with the Serjeant and Gunner, for the securing of that Castle; that near five hundred of their Friends were in and about *Windsor*, ready to assist for surprizing that Castle.

Court. Who told you this?

Hill. *Tonge* told me himself, That he was instrumental in it.

Finch. Did he tell you any thing of the *Tower?*

Hill. Only he said, it was fit some care should be taken to surprize the *Tower* at the time.

Finch. Any thing of *Alhallows* Eve?

Hill. He did not fix the very instant time, but said, he look'd for Intelligence from *Strange*.

Sir *Jeoffrey Palmer*. What Day of the Month was that?

Hill. I cannot remember the very Day.

Serj. *Maynard*. What did he say concerning Declarations?

Hill. The Declaration was read, *Stubbs* acquainted us, against Popery, and Monopolies, for Liberty of Conscience, and a Free Commonwealth.

Finch. Any thing of the Popish Massacre?

Hill. Yes, I had this Paper of them, a Copy of a Letter.

Sir *R. Forster*. How many Copies of that Letter were to be dispersed in the City?

Hill. About five thousand.

Sir *Jeoffrey Palmer*. These things were to be dispersed, to possess the People that the Papists about that time would massacre the Protestants, that so they might draw all against that Party to join with them; a brave Colour, when in truth there was no such thing, but only to carry on their Design of killing the King, and altering the Government.

The Letter was read by the Clerk, and follows *in his verbis*.

SIR,

'OUT of the Respect which I bear to you in particular, and to the 'Protestant Party in general, I give you notice of this Passage: 'About a fortnight since, a Woman, which you must be ignorant where, 'who had it from a Correspondent of the Papists, that they intend to 'make use of their Army (which all the World sees they have provided) 'against *Alhallows*-Eve next; it was thought good therefore, in as pru-'dent way as may be, to give notice to our Friends in remote Parts, that 'they may do what Piety to God, Loyalty to their Prince, Love to their 'Country, and Self-preservation should direct them. Sir, I call the 'Eternal God to witness, that this is not to trepan, to put a trick upon 'you, but a sober Truth; and also communicated to a Justice of the 'Peace, and by him to the Privy-Council: And what the Issue of it is, 'I have not heard; I hope you will inquire and tell us.

'From *Yexford* in *Suffolk*,
'*Octob.* 31. 1662.'

Serj. *Keeling*. Do you (Mr. *Hill*) remember any Discourse of the Way of taking *Whitehall?* Name who were there, and who spoke.

Hill. There was *Hind*, and one Captain *Brownt*, a Shoe-maker in the *Strand*, and some other Persons.

Counsel. Was *Stubbs* there.

Hill. Not at this Discourse: but we talked of taking *Whitehall* at *Stubbs*'s House, when a Sea-Captain was there, that was to go to *Surinam*, and *Stubbs* invited him to stay at home to assist them; who was to come down with a Party by *Charing-Cross*, and another Party to come up by the *Cock-Pit*, and to kill my Lord Duke of *Albemarle*, and to slay Sir *Richard Brown* in the City, and the Party in the City to keep a Drum beating, *&c.* And *Tonge* said, That their main Care must be to keep down Sir *Richard Brown*, and the Trained-Bands, or else they should never be able to stand.

Counsel. What concerning the *Privy-Garden* Way?

Hill. They discoursed concerning the getting down the Door and the Wall, and so get the sooner to *Whitehall*.

Counsel. What was *Stubbs*'s Opinion at that Communication?

Hill. His was at *Blackfriers*, the last *Tuesday* Night before they were taken, this *Stubbs*, *Thomas*, and *Gibbs*.

Court. Which *Gibbs?*

Hill. This black *Gibbs* at the Bar: They discoursed that they would be sure to make an end of Kings, Princes, and Dukes, that they might have a free State, and be troubled no more with any such kind of Persons, neither Lawn-Sleeves nor Surslinglers.

Counsel. Do you remember that *Stubbs* proposed any other Way to *Whitehall?*

Hill. No, Sir.

Maynard. Did they say what Number was provided, Ten, or Twenty Thousand?

Hill. *Stubbs* assured us, that there was a great Party in *East-Smithfield* right for the Work, and had their Arms.

Counsel. What Employment had *Sellers* about delivering the Arms?

Hill. He said, the Arms were delivered out at *Crutchedfriers*, about six hundred; and that forty of their Friends went away last Night for lack of Arms; that within two or three Days there would be more.

Counsel. Did he name a Magazine?

Hill. Yes, the Magazine in *Crutchedfriers*.

Counsel. Did you know any thing touching the Discovery of the Word, and by whom?

Hill. No, Sir: But I understood that *Tonge* was assured by *Phillips*, that *Phillips* would get him the Word that very Night that they intended the Insurrection.

Counsel. What was propounded, if they had taken the King, what would they do?

Hill. He should have the same Quarter as *Ludlow* was to have.

Court. Who said that?

Hill. *Stubbs*, and *Gibbs*, and *Tonge*.

Counsel. That's three of the Prisoners at the Bar: Lord have Mercy upon us!

Court. Were you not acquainted of a Council of Six?

Hill. Yes, they named several at a venture, but they believed some of them were of the Six: That they met not twice in a place, sometimes here, and sometimes in another Place.

Counsel. Who did they name?

Hill. Colonel *Danvers*, *Phillips*, *Nye* the Minister, *Lockyer*, and one *Cole* of *Southampton*, that these five were part of the six.

Counsel. What Discourse touching the Distance of Place where they engaged any?

Hill. Forty Miles about the Town.

Counsel. Did *Tonge* tell you that *Strange* had lodg'd any Horse?

Hill. He said, he had taken out the Horse that were provided for a time: but *Gibbs* and *Stubbs* at *Blackfriers* assured us of the Horse coming into the Town the Night before.

Counsel. Did *Tonge* tell you of any Back, Breasts, Blunderbusses?

Hill. Not he, Sir. It was talked of that Night at the *Blackfriers*.

Counsel. What did you hear concerning sending into *Dorsetshire*, to spread Rumours there?

Hill. That they had four hundred of their Friends there, that they were sure of, and several Cases of Pistols were sent down by the Carrier.

Court. Who said that?

Hill. I know not what particular Person, but at that Meeting, and in that Company.

Counsel. Who was present?

Hill. *Gibbs* and *Stubbs*.

Counsel. None of the rest? Was *Tonge* or *Phillips* there?

Hill. No, Sir.

Counsel. Did you hear of any other Country, either *Kent*, or *Worcestershire*, or *Derby*, or *Leicestershire?*

Hill. *Tonge* informed us of the Faithfulness of Col. *Kendrick* in *Kent*, to bring him some Arms.

Court. If the Prisoners will ask him any Questions, they may.

Sellers. Friends, all that are here present, I did ever abhor such an Action. Ask him whether he did hear me speak those Words, that I should say, *That there was Arms delivered out, and that forty went away lacking, and in one or two Days there would be more:* Which Words I never did speak in my Life, or any such thing, only what I heard from

Wapſhot, as *Wapſhot* declared to my Lord Mayor he told me, to whom I appeal. It's true, meeting with that *Wapſhot*, ſays he, *We hear there will be a Riſing, and there are ſome Arms delivered out.* Said I, *I would adviſe you to have a care of ſuch a Buſineſs.*

Sir *Orl. Bridgman.* I would not interrupt you, you will be admitted to make your Defence afterwards; but if you will, aſk him any Queſtion.

Sellers. My Lord, I ſhall come to that: *Wapſhot* told me there were Arms delivered, but further told me, he knew not of the Certainty of theſe things; that at Night he ſhould go to a Houſe where he ſhould know. I bid him have a care. At Night, as I was paſſing along, I met *Riggs* at *Stubbs*'s Door; he aſked me, What News at *London?* I ſaid, I was told there would be a Riſing, and that Arms were deliver'd. Is there, ſays he? Said I, I do not believe it, but I ſhall know certainly to-morrow. I did call the next Morning, and aſked, Is the Story true? No, ſays he, I was there, and there was no Arms; that was all that I know of the Buſineſs. Friend, did I tell you any ſuch thing?

Counſel. Tell him, and upon what occaſion.

Hill. Upon occaſion of *Riggs*'s aſking him for thirty Arms for me, (this upon the *Exchange*) *Sellers* took him a little aſide, and told him, they were all delivered out, that forty went away lacking, that more would be there within two or three Days.

Sellers. That which I ſaid to *Riggs*, was the Meſſage I received from *Wapſhot*; but that I inquired, and there was no Arms there; ſo that it was but a Fallacy: for I adviſed him not to meddle with any ſuch thing. Mr. *Hill* never ſaw my Face, till I was apprehended upon the *Exchange*, and brought before Sir *Richard Brown.*

Hill. I ſaw him upon the *Exchange* with this Man, *(Riggs.)*

Counſel. Did he ſay that any Arms were deliver'd before, and what Number?

Hill. About five or ſix hundred.

Sellers. He never heard me ſpeak a word.

Counſel. How long before he was apprehended?

Hill. Never but that time with *Riggs* upon the *Exchange*, about nine Days before his Apprehenſion; and he confeſſed upon his Examination, That he did ſee me with *Riggs.*

Court. Have you, or any other the Priſoners, any Queſtions more?

Sellers. I have more: Whether he will poſitively affirm that he ſpake with me upon the *Exchange?*

Hill. No. Sir, you anſwered the Queſtion to *Riggs.*

Counſel. You heard the Anſwer?

Hill. Yes, Sir.

Sellers. May be at the ſecond hand.

Counſel. Did you hear the Priſoner anſwer it, or had you it at the ſecond hand?

Hill. I heard it from *Sellers* himſelf, anſwering *Riggs.*

Sellers. Did you hear me?

Hill. Yes, to Mr. *Riggs.*

Sir *Hen. Finch.* He ſwears it, and you wonder at it, and ſo we do all.

Sellers. Who was there then?

Hill. It was upon the *Exchange*, when almoſt full.

Sellers. What Day of the Month?

Hill. I cannot remember the Day.

Sellers. I do declare before this honourable Bench, Gentlemen of the Jury, and this great Auditory, That I never ſaw this Man's Face till I was apprehended. That which I told Mr. *Riggs*, was what I heard *Wapſhot* ſay. I never till then ſaw this Man's Face, nor exchanged one word with him; whereas he ſays, he heard me. I do not believe Mr. *Riggs* ſaw him near me, when I gave him the Anſwer.

Hill. Seeing he doth invalidate my Teſtimony, Mr. Adjutant *Carent* took him upon the *Exchange*, I ſhew'd him the Perſon; and therefore certainly I muſt ſee him before.

Sellers. It was not he, but the other in the white Cloths, that came and took me, that knew me.

Court. Will any of the reſt aſk him him any Queſtion?

Sellers. Here is that that I am accuſed of, That I delivered Arms, which is altogether falſe: my Lord Mayor can bear witneſs, *Wapſhot* confeſſed he told me ſuch a thing. I did ever abhor any ſuch thing; I was always ſerviceable to his Majeſty upon all occaſions, and all times: my Neighbours can witneſs my civil Converſation.

Court. Have you any thing more to aſk him?

Sellers. I would fain know whether the Bench and Jury are ſatisfied with this Evidence.

Court. That you will hear anon: What elſe will you aſk him?

Stubbs. What he accuſes me, you have all heard: I do in the preſence of God, and this honourable Bench, and the Jury, deny it; for it is very falſe, and believe none will verify the ſame upon Oath.

Court. Have you any Queſtion?

Gibbs. We all ſtand in the preſence of God; and I am very conſcientious of what I ſay and do; I muſt give account of all things before the Lord. This Gentleman, Mr. *Hill*, has aſſerted concerning me, That I ſhould deliver divers Caſes of Piſtols, as knowing the Delivery of them: if Mr. *Hill*, who ſtands likewiſe in the preſence of God, can produce any Man to prove, that I delivered to any Man any Piſtols, or that any were ſo delivered by my Order, or that I convey'd or ſent them away into the Country; do this in the ſight of the Lord and his own Conſcience, I expect not Mercy. But I would have him ſpeak no more of me, but what he knows of me, or by me; whether he knows I ever received any Piſtols, or delivered any at any time, for ſuch an End as he is pleaſed to ſpeak: which my Soul abhors, and God can witneſs.

Stubbs. This Mr. *Hill* was the Man that mentioned this, and that he had four Horſes and Arms himſelf, and had two hundred Pound in order to it. I was never any Plotter, nor contrived any thing, but am as innocent as the Child unborn; but being by an accident at *Tonge*'s Houſe, a Strong-water-Man: Aſk the other Witneſſes, whether he ſpeaks Truth—

Sir *Orl. Bridgman.* I would have put you in a right Way: You ſhall be all heard at large, when you make your Defence. But will you aſk him any Queſtions?

Gibbs. I propounded one; I deſire an Anſwer: Whether I received or delivered any Piſtols to ſuch a Uſe?

Hill I did not ſay he did: But at that Meeting at *Black-Friers* it was diſcourſed among them, That ſeveral Arms were ſent to *Dorſetſhire*, to ſeveral Friends there; and he was there then: I believe he cannot deny it.

Stubbs. There was Arms ſpoken of; but that Man (Mr. *Hill*) ſpoke of them, and upon this Conſideration, That there were Arms delivered to every Hall, Ammunition and Powder. *Riggs* knows he ſpoke it at that time.

Hill. Sir, that was ſpoken after the Queſtion was put, What was the occaſion of ſending the Powder and Ammunition to the Halls? Theſe Arms were ſpoken of in reference to the Deſign. I do acknowledge I told them I had ſome Arms my ſelf; and ſaid, I had two hundred Pound for carrying it on. And I know the grounds of my ſpeaking; and ſo do ſome of this honourable Bench.

Stubbs. *Hill* adviſed, That they fall upon Sir *Richard Brown* as an Enemy to all honeſt Men.

Gibbs. This *Hill* ſays that I ſhould ſay theſe Things; there were more there, and had Ears as well as he, let them ſpeak.

Hill. There was *Riggs*, *Stubbs*, my ſelf, and I know not the other Names.

Gibbs. This *Hill* and Mr. *Riggs* whoſe Face I never ſaw, came to my Neighbour's Houſe, where I was alone, found me plotting with no Man.

Hill. We were brought into his Company by one *Beazley:* He had been at *Tower-Hill*, about Two or Three o'clock, to give ſome Intelligence to ſome Perſons there about the Deſign. *Riggs* and I took a Coach, and went after him; and *Stubbs* told us we might meet him at a Baker's Houſe near the *Tower.* We found *Beazley*, and he ſaid he could not ſignify any thing to us, but would carry us to *Black-Friers*, to one *Gibbs:* And there he brought us to this very Man. Firſt enquiring at a Houſe for him, *Beazley* was told he was at a Tavern at *Bridewell-Stairs:* We went there, and found him. He told us he could tell us little himſelf, till his Brother came; and accordingly he preſently after came. That was the occaſion that I came into his Company.

Gibbs. He ſays that I ſpoke of Piſtols delivered, and a Number; but how many he knows not: And that I ſhould talk of the Death of the King; which is as falſe as God is true. Again, I knew not of his coming, never appointed him, never was privy to any ſuch Plot; I abhor it in my Soul. I never engaged in any ſuch Deſign with any Man at any time———

Court. You do your ſelf much wrong, and take away that Time which you may happily ſpend better.

Stubbs. I deſire to know of Mr. *Hill*, who was preſent at that Meeting that I ſhould ſay, The King ſhould have ſuch Quarter as *Ludlow.*

Hill. It was ſpoken at that Meeting at *Black-Friers:* After his Brother and the other Perſons were gone, it was there ſpoken, That the Council was broke up, and all ready; *Alhallows-Eve* the Time, and then the ſame Quarter to be given as *Ludlow* ſhould have, if taken.

Stubbs. You do not anſwer the Queſtion: Who was there beſides your ſelf?

Hill. There was *Riggs*, and that *Gibbs* there.

Stubbs. You have only his Evidence.

Tonge. Who was in Company when I talked of 300 Men at *Windſor?*

Hill. It was at your own Houſe; and there was *Ward*, *Stubbs*, *Riggs*, *Hind*, and myſelf.

Phillips. Whether did he ever ſee my Face at any Meeting?

Hill. I never ſaw you before that Time in *Cornhill.*

Phillips. Upon what account did I ſpeak to *Riggs* then?

Hill. When you came off the *Exchange*, you told him you could not ſtay, your Captain was coming. *Riggs* thanked you for your Favour, in ſending Word to the Meeting to be gone to a certain Quaker.

Phillips. I never ſent to any Quaker to that purpoſe. I did not ſee this Man upon the Sabbath-day: But *Riggs* came down to me, and thought I had ſent notice to *Anchor-Alley*; but I did not.

Sellers. He affirmed that there was ſeveral Meetings of forty, and then of ſix; aſk Mr. *Hill* whether I was in either of thoſe Numbers at any time.

Counſel. He did not charge you with any ſuch Thing, of being in that Number: He aſks a Queſtion about Things not laid to his Charge. Let Mr. *Riggs* ſpeak.

Edward Riggs. About three and twenty Weeks ſince I became acquainted with Mr. *Tonge*, upon this occaſion: Captain *Baker* did ſay that he was a Man of Intelligence, but Mr. *Tonge* did not care for him; and told me that I might be acquainted with him. A while after I came acquainted with him accidentally, when I came to his Houſe.

Court. Whoſe Houſe?

Riggs. *Tonge*'s Houſe. Mr. *Stubbs* was there. He ſaid, That he had been at *Windſor*, ſpoken with the Gunner and Serjeant; and that they promiſed it ſhould be ready upon ſome certain notice given. That Night he had received a Letter of ſome Buſineſs concerning a Suit of Law, he ſaid; in which there was a myſtical Meaning, which he did not tell me of. But this he ſaid, That he had made ſure of *Windſor* by the Gunner and Serjeant's Promiſes. This is that I know of him.

Counſel. Is this all of *Tonge?*

Riggs. This likewiſe he has told me, That he had ſometimes met with a certain Company; he did not ſay thirty or forty, but a pretty many there was. He named Mr. *Cole*, Captain *Elton*, Captain *Leigh*, that they had often met, but could not well agree. But at laſt Mr. *Strange* did meet with them, give them one Meeting; they could not agree neither. They went away, and ſaid theſe Words, to the beſt of my Remembrance; Mr. *Strange* did refuſe to join with them; but when God did bid him go, he would go, whether this Day, or next Week, or next Year, matters not; but when God bids him go, he would go. Mr. *Cole* was ſomewhat troubled to hear it: But ſays Mr. *Cole*, If you will go, give me but notice, if I cannot go ſo faſt as you ride, I will hold by your Horſe-tail. A little while after he told me, They had not met again; that Mr. *Cole*, becauſe they could not agree about this Buſineſs, was gone beyond-Sea; but before he was gone, he did tell me of ſome Conſiderations that were drawn, as he judged, about a Government by Maſter *Cole*; and gave me in a Paper ſome certain Propoſitions,

three

three or four concerning Seamen: The Substance was this, What great Benefits they had by a Commonwealth.

Court. Who gave you them?

Riggs. Tonge: But it came from Mr. *Cole*, as he said. In general, they were to declare against the Misgovernment of Church and State; In particular, to Seamen; what great Advantages there would be to them. And three or four Things propounded in order to them: 1. That no Seaman should pay Custom for any Commodity that he did bring under the Value of ten Pounds; upwards they must. And likewise there should be care taken upon our own Coasts, and beyond Sea, that where any of our *English* Ships should be cast away, there should be care taken out of the Customs that might keep them, in their travelling homewards, either from begging or starving. But Mr. *Cole*, when they met, as *Tonge* said would not agree; and therefore went beyond-Sea. After he was gone, within a Week or a Fortnight they had another Meeting.

Court. They: Which they? Name them.

Riggs. I did not hear him name many, unless *Leigh* and Captain *Elton*; I remember no more. And there, he said, they had under Consideration the Government of a Commonwealth; and so to declare against the Misgovernment of the Church and State: and that there was to be a Meeting at *London-Wall* in a little time after; and he was there. He afterwards told me he missed that Meeting; but had Intelligence brought him, That that Time that he missed, thirty or forty, I know not the certain Number, had referred it to six Men: They called it, *The Council of Six*; but the Names of them I never heard from him; and indeed, he said he knew them not, by reason of his Absence from that Meeting. But what I gathered from him was this, That he judged Captain *Elton* was one of them.

Counsel. He told you there was a Council of Six?

Riggs. Yes; That he heard there was, but knew them not.

Sir *Heneage Finch.* To make things short: Were you ever at any Meeting where there was a Discourse touching surprizing the King, altering the Government? And who was there, upon your Oath?

Riggs. That *Friday* immediately before we were taken, I think *October* 24, there was some Discourse in general concerning *Whitehall*; what might be done as to the procuring of that, and likewise concerning the *Tower*.

Counsel. Who was present that *Friday*?

Riggs. My self, *Hill*, *Tonge*, *Stubbs*, *Ward*, *Hind*, and *John Baker*: And then to the best of my Knowledge, there was this Discourse in general. Concerning the taking of the *Tower*, there was some Propositions on all hands concerning the taking of that. Mr. *Hind*, he only mention'd, but did not say he would undertake it, the righting of Gunners Accompts. Mr. *Tonge*, he said that the Way that he thought convenient might be this; When Sir *John Robinson*, now Lord Mayor, did late in the Evening go into the *Tower*, there should be a Party following his Coach in, and so might do it. And *John Baker*, at that present Instant of Time did say, That it was necessary the King should be surprized: And likewise said then, That there should be no Quarter; he would give nor take none.

Counsel. Who was present?

Riggs. Mr. *Hill*, my self, *Bradley*, *Hind*, Captain *Brown*, and *Baker*, and another *Hill*, the Drawer, I think.

Counsel. Was not *Tonge* and *Stubbs* there then at that Time?

Riggs. Yes; they were there.

Sir *Heneage Finch.* I ask you this; I do not desire large Stories, but firm and close Answers: Were you present at any Meeting when the securing the King, *Tower*, or *Whitehall*, was discoursed of, or no?

Riggs. Sir, that *Friday*, *October* 24, immediately before we were taken there was this Discourse: *Tonge* did propound such a Way for surprizing the *Tower*, by following Sir *John Robinson*'s Coach in at Night; and *Baker* did say, That it was necessary to undertake the securing of the King's Person, and assaulting *Whitehall*; and that if there were five hundred Horse and Foot, they would undertake it, by going into the Privy-Garden, and Back-stairs.

Counsel. Were you present when *Stubbs* did advise the assaulting of *Whitehall* by the Privy-Garden?

Riggs. No: But *Baker* did say he would undertake it.

Counsel. Who was present?

Riggs. Mr. *Hill*, *Bradley*, *Stubbs*, and *Hind*, was there: But that *Stubbs* undertook it, I cannot say; but he was there.

Sir *Heneage Finch.* Did *Tonge* ever tell you any thing of *Phillips*, or that he had Hopes of the Word?

Riggs. I came acquainted with *Phillips* presently after I was acquainted with Mr. *Tonge*. *Phillips* once met me, and I carried him to *Tonge*'s; and then *Phillips* freely said, That there was three hundred Arms at the *Artillery-Garden*; he being one of the Artillery, knew where they lay, and could tell them how they might come by those Arms. And that for the Word, it was necessary to be got. And if in case that it so fell out, that the White Regiment was then out, or he then in Office, he would endeavour to procure it. But afterward, meeting him several times, he declared he would not meddle any more with it.

Sir *Heneage Finch.* Were you upon the *Exchange* with *Sellers* when there was a Discourse about delivering out of Arms? And what did *Sellers* say?

Riggs. Mr. *Hill* saying that he had two hundred Pound to buy Horses, and that he had four already, and wanted Swords, and had Friends in Town wanted Arms, asked me if I knew if any were given out. I told him, that one Mr. *Sellers* told me, That he had heard some Arms were given, and to be given out that Day. Upon the *Exchange*, Mr. *Hill* and *Bradley*, and I being together, Mr. *Hill* said, Ay, there is the Person that told me of the Arms: I will go and ask him if there be any such thing. Whether Mr. *Hill* heard the Discourse, I cannot tell; but he said, says he, I have enquired, and some Arms are delivered, and forty went without; but within two or three Days there would be more.

Sir *Heneage Finch.* Did *Hill* see *Sellers* upon the *Exchange* at that Time?

Riggs. Yes; but whether he heard him, I cannot tell.

Sir *Robert Forster.* What induces you to believe he did see him?

Riggs. We were close together.

Sir *Robert Forster.* What about *Nathaniel Gibbs*?

Riggs. For *Gibbs*, I brought Mr. *Hill* acquainted with Mr. *Stubbs*; and he said he knew one at *Fleet-Bridge*, that sells Plumbs and such Things; and if we would go along with him, he would tell us News. *Hill*, *Stubbs*, and I, that Day I was taken, went to *Beazley*. *Stubbs* asked him; What News? Says he, I heard the Business goes on; but if you will go to one *Gibbs*, meaning him that is fled, he has Intelligence. So we went to an Alehouse near him, but he was not at home; and we were told, if we would go to *Bridewell*, they said they would send for his Brother, meaning him at the Bar; and so should have an Account. *Gibbs*, at the Bar, being with us, he told us he knew little himself; but when his Brother came, we should hear. Three quarters of an Hour after came *Gibbs* that is gone, *Thomas*, and another Man; I knew him not; and *Gibbs* called his Brother. *Beazley*, *Stubbs*, and *Hill*, and I, sat still. When this *Gibbs* came, he said his Brother knew little, hoped we were honest Men. The News was this, That he heard that *Ludlow* was in Town; and that now the Council was broken up.

Court. What Council?

Riggs. The Council of Six was broken up; and that they had sent Messengers into the Country to give notice, and to make their Interests good abroad. This is that he said there, or as much as I remember.

Finch. Now I will ask you in general: Did you ever hear of any Discourse at any time of these Meetings touching a Rising by the Papists and a Massacre of the Protestants?

Riggs. Being upon the *Exchange*, *Hill*, *Bradley*, and I, there was a Lieutenant came to me, and ask'd me whether I heard of the Massacre to be? I said, No. Says he, I can let you see a Copy of a Letter to that purpose; and gave it me. *Hill* going to the *Ship*, I told him of this, and he was desirous of having a Copy. And this was the Copy that was this Day read in Court.

Sir *Jeoffry Palmer.* What did you hear concerning the surprizing of the King at *Camberwell*, when he came from his Mother? And what did *Phillips* say?

Riggs. Phillips, *Tonge*, *Stubbs*, and my self, being together, they were discoursing concerning the King's going abroad: and at that *Phillips* said the King was to come from *Hampton-Court*, to see the Queen Mother at *Greenwich*, and hinted that he might be surprized. *Tonge* said it need not; there might be such an Opportunity twice every Week.

Court. Prisoners, will you ask the Witnesses any Question?

Phillips. Did you not meet me on a Sabbath-day? You may remember I met you in *Cheapside*; we walked to *Birchin-Lane* End. You asked me of a Rising that should be: I said, what Rising? Says you, To surprize the King coming from *Hampton-Court* to *Greenwich*. And I came and spoke it openly in my Family, as News that I heard. This Gentleman had me to *Tonge*'s House; and there grew the Discourse. *Riggs* told me *Tonge* could tell further: And *Riggs* told me, That the Reason why the Time for it was not appointed, was because the Fifth-Monarchy-Men and Anabaptists were not agreed. *Riggs*, did not I disclaim this Business, and declared I would have nothing to do with it?

Riggs. This is certain, That afterwards he did say he would not have any thing to do with it; and I did not see him a great while after that. Concerning *Baker*'s surprizing the King, it is true, he did say before *Hill*, and I, and *Bradley*, That the King was a Hunting, and came through the City; and said, He would have been one of the Fifty would have surprized him, and pulled him out of the Coach.

Court. Who said that?

Riggs Baker.

Court. Who present?

Riggs. Bradley, Mr. *Hill*, and the other *Hill*, *Brown*, and others.

Finch. Do you remember no Discourse concerning the coming in at the *Privy-Garden*?

Riggs. I have under my Hand to the Grand-Jury declared, That *Baker* said he knew the way to the Back-stairs through the *Privy-Garden* better than any. And *Bradley* did once, and but once, say, That he knew it as well as any, and would undertake to do the same, in the Presence of *Stubbs*, *Tonge*, *Hill*, and the rest of them that were there that *Friday* Night.

Court. Who were the rest?

Riggs. Hill, my self, *Ward*, *Stubbs*, *Hind*, and *John Baker*, at *Tonge*'s House.

Sir *John Maynard.* We do conceive that these two Witnesses have given Evidence against all of them; if any thing stick with the Jury, let them speak.

Counsel. Here, *Bradley*. This Witness that we call, he was no Conspirator; but when there was Notice of the Design, he was employed to find it out, and to give us an Account of it.

Sir *Heneage Finch.* Mr. *Bradley*, were you present at any Debate?

Gibbs. Whether did *Riggs* hear me say, That *Ludlow* was in Town; or that the Council was broke up, and the Business went forward?

Riggs. This I said, That *Hill*, *Stubbs*, and *Beazley*, were present; and he said he knew nothing himself, but from his Brother: This was the News, That he heard that *Ludlow* was in Town, Council broke up, and that there was sent out Messengers to give notice to prepare for the Business; that it would be on *Alhallows*-Eve, or the latter end of the Week, being *Saturday* the next Day.

Gibbs. I never spake these Words; and do desire that the Honourable Bench will enquire of the Persons then present, whether they will avouch the same; whether I said it from my Brother? These Words I did not speak; and others being present, had Ears as well as he.

Tonge. Mr. *Riggs* told me *Ludlow* was in Town; and told me he would enquire after him.

Riggs. I confess I did so.

Tonge. And that he was like to be taken in *Cheapside*. He was continually at my Shop, and would not let me alone, prompting and inducing me to these Things.

Counsel. Mr. *Bradley*, were you at any Meeting touching Discourse of surprizing *Whitehall*?

Bradley. I was one *Friday* Night at *Tonge*'s House, a Strong-water-Man on *Tower-Ditch*, where there was these two Gentlemen with me (pointing

(pointing to Mr. *Hill* and Mr. *Riggs*) and there was Mr. *Stubbs*, and *John Baker*, and another Gentleman, one *Ward*; and we had some Discourse about surprizing of *Whiteball*, which way it might be done. Some said that a Party might go through the Guard, and so surprize General *Monk*'s Guard; others said they might come down by *Charing-Cross*: But *Tonge* said, There was no coming down by *Charing-Cross*, because there was two great Guns planted at the bottom, and commanded all that way: But said, The only way he conceived, was to bring a Party thro' *King's-Street*, and, if it were possible, to get into the *Privy-Garden*, and so into the Lodgings that way. This is all that I remember.

Serjeant *Keeling*. Do you know any thing about the *Ship* at the *East-India* House?

Bradley. I went to this *Ship* sometimes; and with *Riggs*, *Hill*, *Brown*, *Hind*, and one *Hill* a Cloth-Drawer; we had divers Discourses concerning the Design, and the News on foot.

Court. What Design? Express it.

Bradley. To alter the Government; the surprizing the King, the Duke, and the General, and as many more of the Council as they could lay Hands on.

Counsel. What about the Guards, surprizing *Whitehall?*

Bradley. At another Meeting they discoursed about the bringing down Forces to *Whitehall*.

Counsel. Who were present then? Which of the Prisoners at the Bar?

Bradley. None, unless *Hind* be there.

Counsel. At what other Meetings were you?

Bradley. I was never at any other, but twice at *Tonge*'s House. The Friday Night we had a Discourse about taking *Whitehall*. And the Day before we were taken, I met this Mr. *Riggs* upon the *Exchange*. He asked me to go home, and dine with him; and we intended to go and see a Ship. His Dinner not being ready, we went over to *Tonge*'s Shop, and had a Quartern of Strong-Waters; and I took a Pipe of Tobacco. *Riggs* went away, and said he would not stay: *Hind* staid with me the whilst. After we had taken a Pipe of Tobacco, he came again, and said he heard the Business was near at Hand, and that there would be speedy Action. *Hill* was at the Shop. And after Dinner, *Riggs* and I, Mr. *Hill* and *Hind*, went all out together to *Stubbs*'s House. *Riggs* and *Hill* went in; *Hind* and I staid. Standing there a little, said I to *Hind*, What mean these Gentlemen to stay so long? *Riggs* said he staid for a Friend; but I will go and meet him. Said I, Will you not go on board a Ship with Master *Hind* and I? Says *Riggs*, No, I will go to meet my Friend: Do you go on board the Ship, and come to my House; if I am not there, pray stay a little. We asked Mr. *Hill* if he would go with us; but he went with *Riggs*: And they told me coming back, That *Gibbs* had informed them the Design was ready, Council broke up, and Messengers sent to give notice; and *Ludlow* in Town, and to be General.

Court. Who told you this?

Bradley, *Riggs* did, when he returned from *Bridewell*.

Tyler *sworn*.

Sir *Heneage Finch*. Mr. *Tyler*, do you know *Tonge?*

Tyler. I know him very well.

Sir *Heneage Finch*. Have you ever been in his Company, and spake of any Design about securing the King?

Tyler. Often.

Counsel. Tell what you have heard.

Tyler. I have met Mr. *Tonge* and others in three or four several Places: At the *Wheat-Sheaf* at *Lion*'s once, if not twice; at the *Half-Moon*, Widow *Jordan*'s, within *Bishopsgate*, twice at the least. Near *Duke*'s-*Place*, at the *Shears*, I have heard several Things, and have noted it down, to be sure to deliver the Truth. I have heard them speak about *Whitehall*, and securing of it, and of the two Guns there. *Elton* and he said, That they might come with a Party backwards, breaking through a Barber's Shop in *King's-Street*, and dismount the two Guns. But as touching the King, the Duke, and the Noble Duke of *Albemarle*, they proposed what excellent Service it would be to secure these Persons: He said it was not a Thing that would admit of much Debate, inasmuch as he had a Friend a Courtier. (I know not his Title) that would give him notice at any time when the King was gone a hunting, or his Progress; and that it was easy to take it. *Tonge* said he served the *Tower*-Suttlers, and was acquainted there; and said, There was no way to surprize that but this, either about Ten or Eleven o'clock, I will undertake we may do it with Forty Persons thus, says he; Some to go in dropping, one by one, or two together, and others to be at several Alehouses near, to be ready; and they within seizing on the Guard by a private Sign, we should secure those without; and the Soldiers being of the old Army, will readily comply. And said, There was a Person that lived nigh him, wears Ropes about him, is a Porter when off the Guard, and believes he can command the whole Company, and would undertake it. For *Windsor*-Castle, there was an old Gunner that he kept a Correspondence withal; and he served the Suttlers of that Castle also with Tobacco, I think he named Strong-water; and that the Soldiers were many of them his Acquaintance; and that he had received Letters from this Gunner under some strange Title. And said it was easy; and knew that at any time, when the Word was given, let him go, or send by such a Token, and that Place were our own.

Court. Who said this?

Tyler. Mr. *Tonge*. As to the other Person, *Phillips*, I can only say this of him: There is one Lieutenant *Chapman*, so formerly, now a Prisoner in the *Tower*. This Lieutenant was a Carrier of *Norwich*. I went to his Inn, the *George* in *Lombard-Street*, and asked for him: I was told he was at Captain *Foster*'s House, in *Leadenhall-Street*, and there I might find him. I went to Captain *Foster*'s; and Captain *Foster* told me he was at Supper there with his Master. I went up: There was this Lieutenant *Chapman* and *Phillips*, which was the first time I laid my Eyes on *Phillips*. My Business was to speak with Mr. *Chapman* the Carrier; but I perceived by some Discourse of Mr. *Phillips*, there was something driving on: But I must say that Captain *Foster* walked about the Room as if he minded not the Discourse. There was *Chapman*, *Phillips*, *Elton*, and a Man looking a-squint; I heard *Phillips* call him Muster-Master, but I know not the Man. I heard them discourse very promiscuously about Ships, and something wildly. I tarried while I spent Two-pence, and came away with Mr. *Chapman*, and asked him, what that young Blade was that talked so promiscuously? *Chapman* told me he was a Serjeant, belonging to the Trained-Bands. Tell me his Name? His Name is *Phillips*. Do you know his Trade or Dwelling? He is a Gilder, I think. Then this is the same Person I have heard of at a Coffee-House; which was thus: A Perfumer in *Southwark*, he heard of great Rumours about a new Commonwealth; and pressing this Perfumer how he came to be thus informed, says he, There is one *Phillips*, that lives in *Abchurch-Lane*; this Man knows of it: For, says he, he hath said himself, that he has gone from Committee to Committee, where Officers met about these Things; and he named Captain *Foster* for one that was engaged in the Business. Said I, This is strange! I hastened back again in the Morning to Captain *Foster*'s: Sir, said I, do you know that *Phillips* that was here last Night? Yes, says he. What is he, said I? He answered, A Serjeant. The thing is this, this Man does talk abroad, That there is a Meeting of the old Officers, and that you are engaged. At which Captain *Foster* seemed to be troubled that he should be aspersed, answered, I know nothing, no not one Word of this: I do declare an Abhorrence thereto, or of any Action against his Majesty; and thereupon presently went to *Phillips*, and charged him with this Report: and soon after this Perfumer comes to my House, and desired me to go over to the *Cross-Keys* where *Phillips* was. When I came there, says *Phillips*, Sir, I saw you the last Night, when we were talking of Ships, I hope you do not mind the Report about Captain *Foster*, for I am troubled such a thing is mentioned: for my part, I know not that I said so; I am sure I knew no such thing. This was all as to *Phillips*; but for *Tonge*, I must needs say, in all the Meetings where I was, the several Places that I formerly named, and the *Whalebone* behind the *Exchange*, he still discoursed of this Business.

Counsel. What was done there concerning chusing the Council of Six?

Tyler. He was spoke to, to be at the *Shears*, but he sent a Note sealed and directed, in which was inclosed either Nine or Eleven of the Rump-Parliament Names of Persons: And says he, for my part, I cannot come this Day, because the Hamlets are to go out into the Field; (it was when Sir *John Robinson* marched with his Regiment) that I may avoid Suspicion, I must go with him.

Counsel. What were those Names?

Tyler. I cannot tell; but they were Nine or Eleven of those in the *Tower*: And he promised he would get a Note of those Mens Names in the *Tower*; for he was confident of it, that they would sit as Members, and do good Service upon the account of a Commonwealth: and said, there were some that had a Correspondence with them in the *Tower*.

Counsel. What Correspondence had they in the Country?

Tyler. *Tonge* told me at the *Wheat-sheaf*, That, if a Rising should be, it were necessary that the old Commanders up and down the Country should head them: And therefore, says he, what Forces can be raised, should go under that Conduct, or to that effect. He and *Elkin* did propose several Colonels, I think most that are now living, both in *England* and beyond the Seas.

Counsel. Can you tell any thing of the Rumours abroad, expecting this Design?

Tyler. *Tonge* told me this, That there was one that they called the Lord *Lockhart*; he said he was Governor of *Dunkirk*; That he had thirty or forty Servants about him; That these Persons expected a Rising; and that they and himself would engage. We heard that Col. *Rossiter*, not particularly from *Tonge*, but there in Company, was expected to be at *Sturbridge-Fair*, to head fifteen Hundred Horse, to be at *London*. Also he asked me this Question at his House, Whether I was acquainted with Captain *Leigh*, a Man with one Arm, a stout honest Fellow, and an active Fellow, of his Acquaintance?

Counsel. Speak your Knowledge both of Persons and Things.

Tyler. There was one Mr. *Cole* of *Southampton*, *Swetnam*, *Gibbs* a Hat-maker, not he at the Bar, *Tonge*, *Thomas Elton*, *Elkin*, *Pryor*, and one *Cox* a Gardiner, and *Ward* now a Prisoner in the *Tower*, and one *Ward* a *Southwark* Man, and *Dyer* a young Scholar; there was one *Rose* of *Chesterfield*, and the Perfumer I spoke of, I know not his Name, he lives in *Southwark*; and there was a Quaker, I know not his Name: the great Business was to unite all Interests. *Elkin* said, There were several Meetings in St. *Martins*, and other Places.

Tonge. If there be any one of the Six in *London*, I believe this Mr. *Tyler* is one.

Tyler. To clear that I am none of them, I will name those whom I said were the six; *Thomas* of *Shoe-Lane* the Coppersmith, one *Elton* in *White-Chapel*, one *Raddon*, Captain *Spurway* of *Tiverton*, a West-country Gentleman, Dr. *Ward* in *Southwark*, and *Jones* a Minister.

Sir *Hen. Finch*. Did *Tonge* tell you that the time was appointed when the Rising should be?

Tyler. I know nothing of that.

Maynard. What about *Leicester?*

Riggs. *Hill*, said, he dwelt there, and came from some that dwelt there, and others in *Gloucestershire*; but there was another Person with *Stubbs* and *Tonge*, and said, There was a Report in the Country, That there would be some Rising; and he came to Town to bring his Child to put him Apprentice with his Brother, and would go down again, and carry the Certainty of the News: He was one of *Lambert*'s Soldiers.

Phillips. Mr. *Tyler*, did not you come in with the Carrier of *Norwich* to Capt. *Foster*'s?

Tyler. No, I did not.

Phillips. I am sure I came accidentally to Captain *Foster*'s, and going I saw you there.

Gibbs. Did I tell you, Mr. *Riggs*, that my Brother said *Ludlow* was in Town, and there would be a Rising shortly?

Riggs. Mr. *Hill*, *Beazley*, *Stubbs*, and I and you were together; Mr. *Thomas* and your Brother came in: your Brother, *Beazley*, *Stubbs* and *Thomas* were private in Discourse. When you came again to us, we asked you what News? You said, Before we came you knew not much, but your Brother could tell; but then you said, *Ludlow* was in town, the Council was broke up, and that Messengers were sent to give notice to the Country.

Gibbs. I deny that I or my Brother said so.

May-

Maynard. Know you any thing of suprizing the King's Council, or *Whitehall*, or any thing of that, or altering the Government?

Tyler. As for altering the Government, that must needs be designed; for *Tonge* said, It was debated, and thought convenient, as being the Desire of several in the Country, that the old Parliament should be chosen again: That was to say, That so many of them that had approved themselves faithful from first to last, to a Commonwealth's Interest, especially in the Times of Declension. Secondly, that none should have Power to elect, or be elected, but such also as have approved themselves faithful, as aforesaid. Thirdly, This House was to be filled up within a Month. Fourthly, That it should continue one Year, and no more. Fifthly, That they should not have Power in things of an Ecclesiastical Nature, to impose any thing upon the Consciences of the People. Sixthly, That it should be High-Treason amongst them to assert the Interest of a King, House of Lords, or single Person. Seventhly, that they should not appoint any Salary-Officers. Eighthly, that while they keep to this, it should be High-Treason to disturb them. As touching Arms, and things of that nature, the Truth is, the Business which was very much urged is this: That there should be an Uniting of all Interests together, Quaker, Fifth-monarchy-Men, Anabaptist, Independent, Presbyterian, and Leveller; to which purpose every one was obliged at the Meeting to see what Interest they could make among the Presbyters, because they looked upon them as Persons that had most Money and Strength. I think there was no Presbyterian spoken of, except one, who is lately secured in the *Tower*: He said, that if so be that Colonel *Beanes* was at liberty, he could engage him. There was one Man that was there, which was one *Prior*, I suppose *Tonge* knew him; he said, He had very much Acquaintance with the Presbyters, knew many in the Country; and that there they did not meet with any Difficulties, as here; for all Interests, Quakers and Presbyterians, and the rest, are all agreed.

Sir *Hen. Finch.* Very well, you see *Tonge* was at all these Meetings at the *Wheat-Sheaf* and *Shears*; and there were the Colonels proposed. Did you hear of any Orders given out, in any of these Consultations, to make the Rising in the Country at the same time as in *London?*

Tyler. Mr. *Gibbs*'s Brother told us, That he kept a Correspondence in the Country; that in *Essex* he knew there were divers Horse ready there; and I myself spoke with one who is lately secured, who said, There were divers Horse ready thereabouts. I remember there were several at the *Half-Moon* at *Bishopsgate*, one *Smith* a *Northamptonshire* Man, and one *Elese* of *Chesterfield*, and *Tonge*; and we heard, that at *Mansfield* and *Nottingham* there was a Rising intended; and it was assured, that the Country was very ripe and forward for Action. We were informed that there were two hundred Horse at *Bristol*; one Person, not yet secured, did affirm to us, That one Colonel *Templar* in *Essex* had two or three thousand Men ready, his Name was *Thomas*: That *Templar* was now in Town, if we would, we might go and speak with him. Said I, Surely he doth but tell you this. Saith he, His Lieutenant-Colonel gave me this Information, and assures me, that his Colonel had converted his Estate into Money to pay his Soldiers. Upon this, having occasion to go down into *Essex*, I promised *Tonge* I would enquire further there; and understanding that one *Thornback* a Glover was one of this *Templar*'s Men formerly, I went to his House, and not being at home, I rode to *Halsted* Fair; and riding there, the Man pulled me by the Coat, for he knew me; saith he, Mr. *Tyler*, my Servant said you were at my House to speak with me. Yes, said I, I understand your Name is *Thornback*: That you can give me some Account concerning Colonel *Templar*; we hear in *London* that he hath two or three thousand Men in readiness, I pray inform me. Saith he, I do not believe any such matter; I have served him long, and, if Occasion were, he would be for you. I asked him the News: Saith he, We all dread a Massacre; we understand by a Letter from *Ipswich*, That the Papists intend a Massacre of all Protestants about *All-hallontide*, and that that Country was in great fear about it. This *Thomas* the Copper-smith told us another Story about some *Roman* Catholicks in *Southwark*, that had a Purpose to rise and take off all Fanaticks.

After this the Court directed, that *Phillips*'s Examination should be shewed him at the Bar, and he acknowledged his Hand thereto; and was read as followeth:

The Examination of George Phillips, *Serjeant and Bringer-up to Col. Sir* William Wales's *Company of Trained-Bands in the City of* London, *taken this* 29*th of* October, 1662, *before me* Richard Brown.

Who saith,

THAT he knoweth one Parson *Riggs*, late Chaplain to *Blake*, who is now Clerk to one *Friend* a Brewer in *Cat's-Hole*, near the *Iron-gate* in *St. Catharine*'s; which said *Riggs* told him, this Examinant, That there would be a Rising of divers godly People in Arms, for Preservation of Religion, about the time the Queen came to Town; and that they intended to seize the King's Person about *Camberwell*, in his Passage to see the Queen Mother at *Greenwich*: But after the Queen was come to Town, this Examinant asked the said *Riggs*, why it was not done according to their Intendment? Who replied, They were not then ready, because the Congregational Churches and they were not fully agreed; but now they were come all to an Agreement, and the Work would be done in a short time: That all things were now near ready both in Country and City; and that a Frigate or more would revolt from the King to them. Not long after the said *Riggs*, carried him the said *Phillips* to the House of one *Tonge*, an old Army Captain, but now a Seller of Tobacco and Strong-water in *Tower-Ditch*; where he heard *Tonge* say unto *Riggs*, That he had been at *Windsor-Castle*, and had made a Captain, two Serjeants and a Gunner to be of their Party; and that they had undertaken to deliver up the said Castle to that Party which were now to rise. To which *Riggs* replied, You have done well: And further said, I am going now to surprize two Castles in *Kent*; one of them, as this Deponent remembreth, was to be *Deal-Castle*; and this he would and could do, for that he had some Correspondence therein, and much Acquaintance near, where he formerly used to preach. And further saith, That *Tonge* asked *Riggs* who should lead the Men that were to rise, and who commanded in chief? To which *Riggs* replied, That *Ludlow* was appointed for that Work.

He further saith, That he asked *Riggs* and *Tonge*, how this Business might be carried on with Safety and Secrecy? *Riggs* told him, That there was a Council of Six which managed the Design, who sat but one Day in a Place, and would not be spoken with, but by the Agitators of each County; who were employed by them to and fro in this Work, to prepare and make ready all Parties in the several Counties; and that these Six were of several Congregations and Opinions, to the end that all Parties might unite. And further saith, That one *Wade*, or some such Name, whom he heard *Riggs* and *Tonge* say was a Ship-Chandler in *East-Smithfield*, did furnish Powder to carry on this Design, in whose Company he once was, and heard himself say as much; which said Person he believes he knows when he seeth him again. He also saith, That *Riggs* told him all the Congregational Churches were now agreed to join in this Design; and that *Riggs* and *Tonge* desired this Examinant to furnish what Men and Arms he could: Which, he saith, he never intended to do it, though they earnestly requested it of him. Only he saith, In some things he was too faulty, which he prayeth Pardon for; which was, in sending word to the several Meetings on *Sunday* last, That the Trained-Bands were coming to seize them: Upon which the chiefest of them made their escape before the Soldiers Arrival; and that he being deluded by their fair Speeches, did promise to give them the Word when the general Rising was to be; in which Rising all the Churches aforesaid promised to join, and the Fifth-Monarchy-men to lead the Van. And further saith, That *Riggs* told him, They had a Declaration ready to fling among the People, against *Bishops* and *Common-Prayer*; and that *Liberty of Conscience* was held forth therein. But first, before this Declaration, they would seize on the King's Person, and that then their Declaration would take with the People. And also saith, That one Capt. *Baker*, one *Bradley* and *Tonge* were privy to all these Transactions which were debated by them in his presence; and that the said *Baker* came afterwards to this Examinant, and discoursed all the aforesaid Particulars, and incited him to help on with the Work; and told him; their Arms and Powder were distributed, and that a Porter, which was formerly a Soldier, carried the Powder to several Places in a Sack. And further saith, That *Riggs* told him they had divers Friends both in *London* and the Country, who had, and would help them to Money; and that all their Friends were now ready in all Countries, waiting only for the Day when they were to Act; and that the Treasure in the *Guild-hall* was likewise to be seized.

And that the said *Riggs* also told him, That they intended to surprize the *Tower*, which they could easily do, having some therein that would assist: And this was to be put in execution in some Evening when Sir *John Robinson* came home late, by following close after his Coach with a Party of Men, which should lie ready for that purpose. *George Phillips.*

Sir William Morice, *and Sir* Henry Bennet, *Principal Secretaries of State, sworn.*

Sir *William Morice.* I have had Intelligence, and several Advertisements from several Parts of the Kingdom, that there was a Design of Rising, and an Insurrection, that it was the general Expectation and common Discourse of the discontented and disaffected Party; nay, it was likewise preached about, that the Papists had a Design to rise and cut the Throats of the Protestants. I had four or five Letters to that effect sent and brought me; and these Rumours were spread to excite others to join with these.

Sir *Henry Bennet.* Divers Letters of mine were to the same effect, That there was an Insurrection intended at that time, and calling upon one another to be ready at that time.

Sir John Talbot *sworn.*

Sir *John Talbot.* I suppose that the Evidence that I can give in relation to the Prisoners, is only the Consequences of this Report, which they had rumoured about the Papists massacring the Protestants: The Consequence was this, That it made a very great Disturbance in *Worcestershire* and *Warwickshire*, insomuch that many Gentlemen that lived in the Country in very good Repute, came under a very great Suspicion of all their Neighbours; and the Lieutenants wrote to one another to secure many: There were Guards set to satisfy the Fears of the Country. *Friday* Night, which the Rising should have been on, they would not intrust the Catholicks to be in Arms, but other Volunteers.

Mr. Hodges *sworn.*

Mr. *Hodges.* In *Dorsetshire* the 23d of *October* last, there was a Discovery made by some of the Town, of an Intention of a general Rising; and some of the Town were engaged in it: One Mr. *Harvey* a Justice of the Peace examined divers Persons; four that were privy to it were sent to the Goal, and an Express sent to Mr. Secretary *Morice*. Sir *John Weld* the younger gave such an Account of *Shrewsbury*.

Stubbs. My Lord, the Occasion of my going that *Friday*-Night, was by Mr. *Hill* and Mr. *Riggs* suggesting the Papists rising; I was never known to be a Plotter; I had not gone forth that Night, but only by their Persuasions: I never heard of any Arms, but only the Rumours of the People.

Sellers. I would fain know of Mr. *Riggs* what Number of Arms I told him was delivered?

Riggs. I know not the Number.

Major Thomas Bonfoy *(at his desire) was sworn.*

Major *Bonfoy.* I do not remember that I ever saw *Phillips*'s Face; but I did understand it was his Custom to come to the *Exchange* to insinuate himself into my Officers, making merry with them, and endeavouring to get the Word; and I believe it was his common Practice.

Phillips. He may remember I came on the *Exchange* and spoke to him, and was looking for one of his Serjeants; I asked no Man the Word, but

but presently went to the *Black-Lion* in the new Alley, and from thence I went home; I did not ask the Word of any one. I have confessed before the Council, that at the beginning of *August* I met Mr. *Riggs* in *Cheapside*; he then came and closed with me, and walking along, said he, Do not you hear of a Rising which should have been on *Friday*? No, said I; and then I asked him where? He said, At *Camberwell*: and I thinking nothing of it, came home and spoke of it in my Family, as News from Mr. *Riggs*. On *Tuesday* I met Mr. *Riggs* on *Tower-Hill*, and he brought me to the House of Mr. *Tonge*; *Tonge* told *Riggs* he had been at *Windsor*, and made some Party to secure the Castle. *Riggs* said he could go down to *Kent*, and secure *Deal* and another Castle; for he had been a Preacher there. As for Mr. *Tyler*, one Night coming near Captain *Foster*'s Door, and having not seen him in three Years before, he asked me, if I would not drink? I said, Yes: Then came in the Carrier of *Norwich*, I never saw this Carrier 'till then: Then came Mr. *Tyler*, and there was talking of a Frigate, and the time of the lanching of it, and how it was to be mann'd; but a little after Captain *Foster* came and charged me with a Report, that I should say he was engaged. I told him I knew it not, nor said it not: I have often declared I would have nothing to do in it. It's true, Mr. *Riggs* came and thanked me that I sent notice to the Meeting to be gone; and I told him I would do the People any Good I could; but Mr. *Riggs* knows I told him it was a dangerous Business, and I would not meddle with it: I am sure in the time of the Fifth-Monarchy Insurrection I was faithful to the King, ventured my Life as far as any Man; Sir *William Wales* put trust in me, and I did that Service there, that the Colonel himself did not venture to do. But that I was engaged in this Business, it is a Trouble to me, and I hope the King will be merciful to me, I did not think that such a thing would be disclosed in so short a time. For my part, I did not mind it, I knew nothing the Night I was taken, I was in Bed, and did not offer to escape; I hope the King will look upon me as one drawn in.

Stubbs. I never had any Meeting with any of the Council; most of the things I heard at Mr. *Tonge*'s House, meeting with Mr. *Riggs* by chance. For those Gentlemen Mr. *Tyler* speaks of, the Council of Forty and of Six, I never knew them: I am sorry I should be concerned in such Discourse, and I hope his Majesty will have Mercy on me.

Gibbs. My Lord, I was at a Neighbour's House at that time, and went to drink a Cup of Beer alone in their Kitchen, not knowing of *Hill*, *Riggs* or *Stubbs* coming there: I never appointed them any Meeting, they came in, and when they came in, they asked if there was not one *Gibbs* there; so the People of the House told them there was. They came and told me, there were some Gentlemen would speak with me; whereupon, they being strange Faces, I stood up, and said, Gentlemen, what is your Business with me? Said they, We would drink a Cup of Beer with you. Then said I, Sit down, They had a Desire to be private, and to go up. Whereupon, not knowing their Business, I went up, supposing they meant some Matters of my Trade; but we sitting down, Mr. *Riggs* said to me, Mr. *Gibbs*, what is the best News? And Mr. *Hill* also did urge and ask for News. Said I, Gentlemen, I know no News, nor none can I tell you. So they made Enquiry then for my Brother: Said I, I cannot tell where my Brother is, may be your Business is most with him: I will send for him: And I sent the Maid for him, and directed her, that if he was not at home, she should leave word for him to come. Again they urged for News, and I told them I knew none but only this, That the Meeting was seized upon the last *Sunday* by armed Soldiers: But to tell them there would by any Rising, or of any Arms delivered, or Pistols, as Mr. *Hill* has related it, was a thing I was wholly ignorant of. I speak as in the Presence of God, and I know I must one Day give an Account before the great Assizes of the World; and I fear that which they have said, is out of some Fear lying upon them, being guilty of some Fact, and so to shroud themselves under False Lies. They, nor no other can prove that ever I received or delivered any Arms, or that any were delivered by my Order; these Men speak falsly.

Sir *Orl. Bridgman.* You mistake yourself, they do not charge you with receiving or delivering Arms, but you related it: your Brother speaks such things had been done, and if you know of this, and do consent and conceal it you are equally guilty.

Gibbs. After they had asked the News, in a short time my Brother came into the Room, and I rose from the Table, and went towards my Brother; and then my Brother asked me what those Gentlemen were? I said they were Strangers to me, and knew not what they came for. Says he, they are Strangers to me also. Immediately we arose, paid our Reckoning, and went away. But that ever I said my Brother told me, *The Council of Six was broke up, all is ready*, Ludlow *to be General, and* Alhallow-Eve *the time*, or *that things went on well*; I deny it: My Brother said no such thing to me, nor I to any Man. When there was an Insurrection by the Fifth-Monarchy Men, I was then presently ready at Beat of Drum, went out in my own Person to serve his Majesty at Twelve o'clock at Night, tho' I had Servants of my own. My Affections were such, that I have always, ever since his Majesty's Restoration, been an obedient Subject to all his lawful Commands. I belonged then to Major *Kilby*'s Company, and did continue marching in the Company 'till the whole Business was over, and ventur'd my Life, and never did contrive any Plot, or knew of any Plot, received or delivered any Arms. As to the Inhabitants among whom I have lived many Years, they have known my Conversation; I have been a peaceable Neighbour, subjecting myself under the Government that now is, whom God continue. I desire this Certificate may be read concerning my Neighbours Testimony of my Conversation.

Sir *Orl. Bridgman.* If you have any of them here, they may speak; but the Certificate cannot be read.

The Porter's Man of *Bridewell* said, he knew nothing but that he lived very quietly among his Neighbours.

Sir *R. Foster.* Nor I neither.

Court. Mr. *Tonge*, what have you to say?

Tonge. I have nothing to say, but that the first Man that brought me into this Business was *Tyler*.

Sellers. All that I am charged with is a Report of the Delivery of some Arms; seeing that a Number of Arms are mentioned, I would ask what was the Number?

Mr. *Riggs.* I cannot well tell the Number, but you said there were some Arms given, and some to be given, and that several had come to that Place, and went away without Arms, and that within two or three Days there would be more given; but as to the Number, I cannot remember.

Sellers. Now take notice of Mr. *Hill*'s Evidence, he hath asserted that there were five or six hundred; how do these agree? I can have sufficient Testimony of my Life and Conversation.

Court. If you have any thing more to say in this Business, speak in the Name of God, no body hinders you, but keep to the Business.

Sellers. I intreat the Bench to take notice what I am charged withal; it's only a Report I received from one Man, and told to another, and the very Original was a Lye, there was no such Matter; and yet here is audacious Evidence: he says I named five or six hundred, and yet *Riggs*, to whom I spoke, heard me name no Number.

Counsel. One speaks to the Arms, but does not remember the Number; they both speak to the thing.

Sellers. How can Mr. *Hill* be a competent Witness against me, when he never saw my Face before, but says Mr *Riggs* told him?

Hill. I said not so, but that I heard it from your own Mouth.

Mr. Sollicitor. Mr. *Riggs*, why did you go to Mr. *Sellers* to help Mr. *Hill* to Arms?

Riggs. Because Mr. *Sellers* told me the Day before, that he heard there was some delivered, and more would be: and the next Day we went to the *Exchange*, and there he told me this Story.

Sellers. I cannot hear him.

Sir *Orl. Bridgman.* He says you told him the Day before there was Arms delivered, and more would be delivered; and then the next Day he and Mr. *Hill* came on the *Exchange*, and then you spoke those Words which they both witness against you.

Sellers. I never spoke such a Word. It's true, what *Wapshot* told me, I told *Riggs*, which was, that there were Arms delivered; but it seems there was none: and I told him I would tell him the truth the next Day on the *Exchange*. And so in the mean time speaking with *Wapshot*, he told me there was no such thing, and I told Mr. *Riggs*, *Wapshot* said there was none.

Court. Pray what made you so busily inquire after Arms, if you were not concern'd?

Sellers. I did not inquire after it, but accidentally meeting him in *Mark-Lane*, he told me.

Tonge. My Lord, as you are my Judge, so I hope you will be my Counsellor; and I pray your Advice, whether Mr. *Tyler* and Mr. *Riggs* be competent Witnesses against me, they being in the same Case.

Sir *Orl. Bridgman.* Where is the Cause of your Exception?

Tonge. Because they are in the same Case.

Sir *Orl. Bridgman.* There are four Witnesses all against you, your own Confession and Examination against you; through the whole Business you are a principal Person.

Tonge. I confess I did confess it in the *Tower*, being threatned with the Rack.

Sir *Orl. Bridgman.* There is Mr. *Hill*, Mr. *Riggs*, Mr. *Bradley*, and Mr. *Tyler*: there is *Hill* and *Bradley* without Exception; *Bradley*, he was not at all concerned, he went along with you to know what you said; and Mr. *Hill* was not a Person in the Design, but made use of only to find out the Plot: They did nothing unjustifiable, so they are Witnesses without Exception.

Serj. *Glynne.* We desire your Lordship to declare whether *Riggs* and *Tyler* be lawful Witnesses.

Sir *Orl. Bridgman.* I would have you know this: Where you make exception against those Persons that are guilty of the same Crime, that's a Mistake to say they are not Witnesses: in Cases of Treason, where there are Works of Darkness, these are things Men will not do by Daylight, but in Darkness; and who can discover these Works of Darkness better than they that have to do with them, if God turn their Hearts? It's true, such Persons as these are, if they had been convicted, they are not Witnesses; but tho' they are in the same Fault, it is frequent Practice, they are allow'd in case of Felony. Besides, they are not Witnesses alone, and there are divers Circumstances concurring. 1 *Edw.* VI. 5 *Edw.* VI. both Statutes say, There shall be lawful Witnesses in Cases of High-Treason; but that is, such Witnesses as the Law would allow before those Statutes: The meaning of the Statutes was, that Men might not be taken upon bare Surmises; therefore the Law says, there shall be two Witnesses. When one is accused of Treason, another in the same Offence unconvicted, his Evidence is made use of; and tho' he is not so upright a Witness as others, yet he is such a Witness as the Jury is to take notice of. Such Testimony was allowable before those Statutes; and the Trial is still by Jury, not Witnesses, and the Jury are to consider of the Credit of the Witnesses. In King *James*'s Time a * Great Person was condemned upon the Evidence of one in the same Treason. It is plain by several Circumstances, you have been a principal Person, a Leader-on of the Business: Tho' a Man be but present when Treason is spoken, or designed and acted; if this Man be present, and shew any thing of Approbation, his concealing of it is as much Treason as he that did it, they are all Principals in Treason. Kelyng. 17.

Sir *Heneage Finch.* May it please your Lordships, and you Gentlemen of the Jury, you have heard the Evidence of the Prisoners at the Bar; Five of them have stood out their Trial, a Sixth hath confessed the Fact. Against those Persons that now stand at the Bar, under good Favour, there is a clear and unquestionable Proof of the Crime charged against them, and they have not said any thing that hath either taken away the Credit of the Evidence, or excused the Matter. If you consider first *Tonge*, ther care against him four Witnesses, and those unquestionable; as you

* *Sir* Walter Raleigh, *Trial* XVIII.

you heard the Direction of the Court, that he knew of the Deſign, approved of it, contrived how to ſurprize *Windſor-Caſtle*, had corrupted the Head Gunner and Serjeant there: That he did contrive to ſeize *Whitehall*, and if you believe *Bradley*, adviſed, as the fitteſt way, to break into the Privy-Garden: All this againſt *Tonge*, with a World of other Evidence how active he has been, his Houſe was the Place of Conſultation, he imparts the Deſign to *Phillips*, and *Phillips* undertakes to get the Word of the Trained-Bands; I think none can prove more than is proved againſt him. When you come to hear the Proof againſt *Phillips*, it is proved that he offered to betray 300 Arms in the Artillery, where he had ſome Kind of Truſt, and that he was ready to endeavour the Word when the Inſurrection was to be; and but a very little before, he is the Man that diſcovers to the Congregational Meetings, that the Trained-Bands were coming to ſurprize them, that is in his own Confeſſion, as well as the Willingneſs in him to diſcover the Word. It is proved, that *Tonge* and *Stubbs* were preſent at thoſe Diſcourſes touching ſurprizing the *Tower*, ſecuring the King, this is proved expreſly againſt them; *Stubbs*, he thinks he has ſaid fairly for himſelf, when he doth aſk Mr. *Hill* whether he did not ſay he had Horſes and 200*l.* to carry on the Work; Mr. *Hill* ſays he did ſay ſo: Then it ſeems *Stubbs* was inquiſitive what Helps there were to carry it on. Mr. *Hill* goes further; that in the Preſence of *Stubbs* it was ſaid there ſhould be no Quarter given, but ſuch as *Ludlow* ſhould have if he were taken. When you come to *Gibbs*, he does deny all the whole Matter, and indeed ſo they would all; and they have nothing to ſay, but to cry the Witneſſes have ſworn falſely, and God is a righteous God, and he will require their Blood one Day: But remember what a horrid Proteſtation was in that Letter that was ſent abroad, to alarm the whole Kingdom, as if a Maſſacre was intended by the Papiſts, and the Watch-word they ſhould all riſe by; that Letter ſays, *I call the eternal God to witneſs, this is no Trepan, but a ſober Truth.* Do you think that Men who are not aſhamed to call the Eternal God to witneſs to a Lye, when 'tis to raiſe Sedition, will make any Scruple of ſuch Proteſtations at the Bar, when 'tis to ſave their Lives? And if a Man may eſcape by his own Proteſtation, who ſhall ever be found guilty? But *Gibbs* thinks he ſays a great deal for himſelf, when he ſays his Neighbours can give great Teſtimony of his good Converſation. Alas! who will deny to give a good Report of any Man till he hear Evil proved againſt him? But do you think a little demure and ſober Carriage amongſt a Man's Neighbours will ſerve to balance an Evidence of High-treaſon? Is not the Proof clear, that he did both know the Deſign and approve it? Mark what *Gibbs* tells the Company.

My Brother, ſaith he, for his Part he will not ſpeak before you; but if you be honeſt Men, this is the News that was ſpoke, like one that was not conſenting to it. Well then, what is the News? He tells them why the Council of Six are broke up, *Friday* is the Day of Action, *Ludlow* is to be General. Can any Man be privy to theſe things and relate them ſo chearfully, and yet not be conſenting? Believe it, it is a hard Matter to find greater Evidence of a Knowledge and Conſent againſt any Conſpirator, until he break out into open Action. *Sellers*, he ſays that the Witneſſes do not agree; for Mr. *Hill* ſpeaks that he ſaid there was five hundred Arms delivered, and forty Men went without Arms, but within two or three Days there would be more. And when *Riggs* comes to ſpeak he ſays, he did ſay Arms were delivered, and more would be, but he did not remember what Number; and becauſe they agree in the Thing, but not in the Number, therefore he thinks they diſagree in the Matter. Obſerve what Reaſon was there that *Riggs* comes to inquire of *Sellers* for Arms, becauſe *Sellers* told him the Day before Arms were delivered, and more would be, he thought therefore he came to a very proper Perſon to tell him. If you mark, *Sellers* does deny openly in the Court that ever he ſaw the Face of *Hill* till he was apprehended, although *Hill* was with *Riggs* when the Arms were ſpoken of upon the *Exchange*: And then he ſays again, that *Hill* ſpeaks by Hearſay, he is out in that too; for Mr. *Hill* ſwears expreſly, he heard the Words themſelves from *Sellers*. Then here are theſe before you, four Witneſſes againſt *Tonge*, two againſt *Phillips*, and his own Confeſſion: Here are two againſt *Gibbs*, with theſe Circumſtances, *If you be honeſt Men, this is the News*, &c. Here are two Witneſſes likewiſe againſt *Stubbs*, who was likewiſe preſent at all their Debates, even when the King himſelf was to have had the ſame Quarter with *Ludlow*. Now, Gentlemen, that there was a Conſpiracy, I think you have a clear Evidence: We may thank God, and the Care of the King and his Miniſters, that it went no further; but 'tis no Thanks to theſe Men, they would have carried it to the Extremity, had they had Power. And without Queſtion this was formed by other Kind of Wits than theſe poor contemptible Agitators, who are now tried for it: You ſee there was a Council of Forty, and an Under-Council of Six, a Declaration framed to ſcatter at the time of Action, and that Action directed to be both in the City and Country, juſt in effect at the ſame pitch of time; and that it might be ſo, a wicked and an impudent Letter is contrived, and many thouſand Copies diſperſed, and it wrought ſo far, that the Countries, much about the time appointed, were in great Diſorder, as you have heard it proved. Is it not plain, that an evil Spirit went throughout the whole Nation, and animated the whole Party of Malecontents? Moſt evidently it was a terrible Conſpiracy. Gentlemen, 'tis true, it is a Queſtion of Blood, but 'tis Royal Blood, 'tis the Blood of Princes and Nobles, and it concerns the Peace and Security of the Kingdom, and every Man's Propriety, and of Religion, for they had left no Man of Conſcience or Reputation behind, if they had prevailed. Conſider the Maſſacre theſe Men would have committed, had they proſpered, and oppoſe that to the pretended Maſſacre which they gave out by their Letter the Papiſts would have committed. Conſider that you have the Life of the King in your Hands, and I doubt not but he and the whole Kingdom ſhall always be ſafe in the Verdicts of honeſt Men.

Sir *Robert Forſter*. My Maſters of the Jury, I cannot ſpeak loud to you, you underſtand the Nature of this Buſineſs, ſuch as I think you have not had the like Precedent in your Time. My Speech will not give me Leave to diſcourſe of it; for the Witneſſes, they are none but ſuch as may ſatisfy all honeſt Men: It is clear they all agreed to ſubvert the Governmet, to deſtroy his Majeſty; what can you have more? Two of the Witneſſes are without Exception, but I do not ſee any way but their Teſtimony is good. For the Parties, they in themſelves are very inconſiderable; theſe are but the Out-Boughs, and if ſuch Fellows are not met withal, theſe kind of People are the fitteſt Inſtruments to ſet up a *Jack Straw* and a *Wat Tyler*: Therefore you muſt lop off theſe, or elſe they will encourage others. You ſee one of their own Company hath confeſſed the Fact, out of Remorſe of his own Conſcience. But I leave the Evidence to you: Go together.

Officer was ſworn to keep the Jury.

The Jury withdrew; and after an Hour's Conſultation, the Jury return'd. Silence was commanded, and *James Hind* fetch'd from the Goal to the Bar.

Clerk of the Peace. Gentlemen, anſwer to your Names; *Edmond Butler*, *Clement Pung*, [and the reſt of the Jury before-mentioned] are you all agreed of your Verdict?

Jury. Yes.

Cl. of the Peace. Who ſhall ſay for you?

Jury. The Foreman.

Cl. of the Peace. Set up *Thomas Tonge* to the Bar: *Thomas Tonge*, hold up thy Hand; look upon him, Maſters: How ſay you, is he guilty of the High-Treaſon whereof he ſtands indicted, or not guilty?

Jury. Guilty.

Clerk of *Newgate*. Look to him, Keeper.

Cl. of the Peace. What Goods and Chattels?

Jury. None.

Cl. of the Peace. *George Phillips* to the Bar: How ſay you, is he guilty of the High-Treaſon whereof he ſtands indicted, or not guilty?

Jury. Guilty.

Clerk of *Newgate*. Look to him, Keeper.

Cl. of the Peace. What Goods and Chattels?

Jury. None.

Cl. of the Peace. *Francis Stubbs* to the Bar: How ſay you, is he guilty of the High-Treaſon whereof he ſtands indicted, or not guilty?

Jury. Guilty.

Clerk of *Newgate*. Look to him, Keeper.

Cl. of the Peace. What Goods and Chattels?

Jury. None.

Cl. of the Peace. *John Sellers* to the Bar: How ſay you, is he guilty of the High-Treaſon whereof he ſtands indicted, or not guilty?

Jury. Guilty.

Clerk of *Newgate*. Look to him, Keeper.

Cl. of the Peace. What Goods and Chattels?

Jury. None.

Cl. of the Peace. *Nathaniel Gibbs* to the Bar: How ſay you, is he guilty of the High-Treaſon whereof he ſtands indicted, or not Guilty?

Jury. Guilty.

Clerk of *Newgate*. Look to him, Keeper.

Cl. of the Peace. What Goods and Chattels?

Jury. None.

Cl. of the Peace. Hearken to your Verdict, as the Court hath recorded it. You ſay that *Thomas Tonge* is guilty of the Treaſon whereof he ſtands indicted, and ſo all the reſt. And you ſay, that they, nor any of them, had any Goods or Chattels, Lands or Tenements at the time of committing the ſaid Treaſon, or at any time ſithence, to your Knowledge; and this you ſay all?

Jury. Yes.

Cl. of the Peace. *Thomas Tonge*, hold up thy Hand, thou haſt been indicted of High-Treaſon, thou haſt thereunto pleaded Not Guilty, and for thy Trial haſt put thyſelf upon God and the Country, and the Country hath found thee guilty; what haſt thou to ſay for thyſelf, why the Court ſhould not proceed to Judgment, and thereupon award Execution of thee according to the Law?

Tonge. I pray Mercy from the King, I cry for Mercy from the King.

Clerk of *Newgate*. Tye him up, Executioner.

Cl. of the Peace. *George Phillips*, hold up thy Hand; thou art in the ſame Caſe that *Thomas Tonge* is, what canſt thou ſay, &c.

Phillips kneeled down, and ſaid, I pray the Mercy of the King and the Honourable Bench.

Clerk of *Newgate*. Tye him up, Executioner.

Cl. of the Peace. *Francis Stubbs*, hold up thy Hand; thou art in the ſame caſe the two laſt Priſoners before thee are, what canſt thou ſay, &c.

Stubbs. I beg Mercy, I was merely drawn in.

Clerk of *Newgate*. Tye him up, Executioner.

Cl. of the Peace. *John Sellers*, hold up thy Hand; thou art, &c. What canſt thou ſay, &c.

Sellers. I would intreat this Honourable Bench to conſider my Condition, and what my Charge is; I delivered no Arms, if I had known where they had been, I would have diſcovered them: I beg Mercy from the King and this Honourable Bench.

Clerk of *Newgate*. Tye him up, Executioner.

Cl. of the Peace. *Nathaniel Gibbs*, hold up thy Hand; thou art, &c. What canſt thou ſay, &c.

Gibbs. And pleaſe this Honourable Bench, I have ſomething to ſay, I am innocent as to my Conſcience of acting any thing treaſonable againſt his Majeſty; the Lord forgive the Witneſſes: I beg the Mercy of the King.

Clerk of *Newgate*. Tye him up, Executioner.

Cl. of the Peace. *James Hind*, hold up thy Hand; thou art guilty of the Treaſon whereof thou ſtandeſt indicted by thy own Confeſſion, what canſt thou ſay, &c.

Hind. I have nothing to ſay, but humbly beg the Mercy of the King.

Clerk of *Newgate*. Tye him up, Executioner.

Crier. O Yes! my Lords, the King's Juſtices, command all Manner of Perſons to keep ſilence while Judgment is in giving, upon pain of Impriſonment.

Sir *Robert Forſter*. *Thomas Tonge*, *George Phillips*, *Francis Stubbs*, *James Hind*, *John Sellers*, and *Nathaniel Gibbs*, you ſix Priſoners at the Bar, you have been here indicted for one of the greateſt Crimes that can be committed

committed upon Earth, as to this World, againſt God, our King, and your Country, and againſt every good Body that is in this Land, for that capital Sin of High-Treaſon, which is a Sin inexpiable, and indeed hath no equal Sin as to this World. Upon this you have ſeverally been arraigned, and have ſeverally (except one) pleaded Not Guilty, and put yourſelves upon God and the Country for your Trials; and your Country have found you guilty: For the five that are found guilty, I muſt ſay that in you I find little Remorſe, little Senſe of your Sin. For the little Man there, *Hind*, he hath much ſhew'd his Penitency. As to the Manner and Circumſtances of this, moſt Men here believe this did not originally ariſe from your particular ſelves, it muſt be put into you by ſome others: You ſpeak as if you deſired Mercy; where was your Mercy, that would have deſtroy'd King and Country, and maſſacred many Millions of Souls, no Reſpect of any Perſon, but your own Fellows? I ſpeak this, that you may be the more ſenſible of your own Crime, that you may truly, out of the Remorſe of Conſcience, be ſorry for your Sin: You know very well the old Counſel, and it is a good one, *Fear God, and honour the King, and meddle not with them that are given to Change.* Meddling with them that are given to Change, has brought too much Miſchief already to this Nation; and if you will commit the ſame Sin, you muſt receive the ſame Puniſhment: for happy is he, that by other Men's harms take heed. I ſhall not ſpend long time with you, but if you will as much as you can diſcover the Actors herein, you will do God, the King, and your Country good Service. It remains that the Court proceed to Judgment: and therefore, you ſix, the one by his own Confeſſion, and the other five by Conviction of Law, the Judgment of this Court is, 'That you be convey'd back to the place from whence you 'came, and from thence to be drawn upon an Hurdle to the place of 'Execution; and there you ſhall be hanged by the Neck, and being 'alive ſhall be cut down, and your Privy-Members to be cut off, your 'Entrails to be taken out of your Body, and (you living) the ſame to 'be burnt before your Eyes, and your Head to be cut off, your Body 'to be divided into four Quarters, and your Head and Quarters to be 'diſpoſed of at the pleaſure of the King's Majeſty: And God have 'mercy upon your Souls.'

Phillips, *Tonge*, *Gibbs*, and *Stubbs* were ordered for Execution on *Monday*, *December* 22, when they were drawn on two Hurdles, *viz. Phillips* and *Tonge* on one, *Gibbs* and *Stubbs* on the other, to the common Place of Execution at *Tyburn*: Where being come, they were receiv'd into a Cart under the Gallows; and the Executioner deſiring them ſeverally to forgive him, they all declar'd they did freely forgive him and all their Enemies, and did ſeverally ſalute each other with this Phraſe, *Welcome, Brother*; and to one another ſaid, *We are now lanching into the Deep.* They being all ty'd up, *Phillips* gave the Executioner a ſmall Sum of Money, and the reſt directed the Executioner to take out of their Pockets a ſmall Parcel of Money, as their Gift to him; and *Phillips* afterwards bended a Sixpence, and preſented it to a Friend of his, Mr. *Stroud*; and a Shilling likewiſe bended to one Mr. *Clark*. Then the Under-Sheriff of *Middleſex* acquainted them they had all free Liberty to ſpeak, provided they did not reflect upon his Majeſty, or the preſent Government; which they all promiſed not to do, and thanked him for his Civility. And then *Phillips* began in the Manner following:

Friends and Countrymen,

I AM come this Day to pay that great Debt that I owe to Nature; it is a Work that had need be well done, for it is but once to be done. My Hope is now above; and for what I now come to ſuffer, for my own Part, I bleſs God, in whoſe Preſence I now ſpeak, as a dying Man, I had not any murderous Thought againſt the King; but I have pray'd for him, and wiſh'd that he might Live and Reign, and long Reign in Righteouſneſs; and that God would make his Crown a Crown of Righteouſneſs upon his Head, and bleſs him in his Government, ſo that he may not know any of theſe Occaſions more: For my Part, I have ventur'd my Life for his Majeſty, it was far from my Heart to do any thing of that Nature. The Lord receive my Soul. I freely forgive all Men, as I hope to be forgiven of God: I never did act any thing, but only this, which was my Ignorance of the Laws, that I did not diſcover it; and I was juſtly found Guilty, for not diſcovering. I have done, Mr. Sheriff; but hope, after my Brethren have ſpoken, we may have Liberty to call upon the Lord.

Und. Sheriff. It will not be denied you.

Then Mr. *Tonge* began in this Manner:

Friends and Countrymen,

You ſee me here a dying Man: I have ſometimes been in ſome Men's Company, where I have heard them contriving the Buſineſs for which I am to die; and that which led me to join with them was this: I was and had been ſometimes in the Army; and I have looked upon this Cauſe to be good. As for his Majeſty, the Lord bleſs him, and proſper him, and put it into his Heart, that he may be a Nurſing-Father indeed to his Country.

Und. Sher. Have you any more to ſay? You may ſpeak.

Tonge. I have nothing more.

And then *Gibbs* proceeded and ſaid, Countrymen and Friends, and I hope Chriſtians, and the laſt Conſideration is that that makes me the more free to ſpeak to you; we all profeſs to own God and Jeſus Chriſt to be our Saviour, our Redeemer, our Sanctifier, and Giver of, and Beſtower upon us eternal Life; this ſhould excite our Souls to love one another; and upon the Account of God's Love, that God has ſo loved us as to give Jeſus Chriſt, to reconcile us Sinners to God, we ought to love one another, it is his great Command. Truly, as to the Cauſe for which I am brought here, God the great Judge of Heaven and Earth, before whom I ſtand, knows that in the Place where I have liv'd, I behaved myſelf as an obedient Subject; and when there was an Inſurrection by the *Fifth-Monarchy* Men, I went out in my own Perſon, tho' I had Servants as well as others, purely out of Affection to his Majeſty, knowing that in the Peace of his Government I ſhould have Peace, and ſo I went out, hazarded my Life, and continu'd out till all was quiet. I was at a Neighbour's Houſe drinking of a Cup of Beer on *Tueſday* Night in the Kitchen alone, ſave only the Man of the Houſe and the Maid; theſe Men came in, one *Hill* and *Riggs*, that are the Witneſſes againſt me; there were *Riggs* and *Hill*, and this *Stubbs*, and one *Beazley*: and I being alone in the Kitchen, they aſk'd for one *Gibbs*; the People of the Houſe told me there were ſome Gentlemen would ſpeak with me: I wiſhed them to direct them to me, and they came to me; and thro' the Ignorance of the Law, which, it ſeems, runs thus: If any Words treaſonable againſt his Majeſty are ſpoken, it is treaſonable to conceal 'em: So thus I have given you, in part, the Cauſe of my being here.

Hereupon Information was given to the King's Majeſty, that I ſhould ſay there would be a Riſing, and that *All-hallows* Eve was the Time; that there were Arms ſent into the Country, and that *Ludlow* was to be General; and this was charged upon me by the King's Majeſty, when I came before him to be examin'd: And upon *Hill*'s and *Riggs*'s Oath, I was ſent to the *Tower*, and kept a long time a Priſoner, examin'd three or four times over by the Lords of his Majeſty's Council. I have one Word more; as touching my Judgment, I am reputed in the World to be one of thoſe that is called by the Name of *Anabaptiſt*, a Name of Deriſion and Scorn; one is an *Anabaptiſt*, one an *Independent*, one a *Preſbyterian*, one this, and one that, and one the other; who gave theſe Nick-Names to Chriſtians? There is but one God, one Lord Jeſus, one Baptiſm, one Hope of Glory: How comes the Body of Chriſt, or the Members of Chriſt to be called by theſe Nick-Names? But now, as I am one that do profeſs Faith in God through the Lord Jeſus Chriſt, and do ſtand before you all, and before the Lord, I know no other God, but the eternal and living God, that hath made the World, and that rules and reigns, and diſpoſes all his Creatures; I do believe in this God, he has been gracious to me a poor Sinner, and to all poor Sinners, that when we by reaſon of Sin had forfeited all our Mercies, and were under Wrath and everlaſting Deſtruction, and muſt periſh for ever; that God did out of his rich Grace and tender Mercies give his only begotten Son, according to his Promiſe, to be the Bleſſing of God to the poor Gentiles, according as the Scripture did declare; the Scripture foreſeeing that God would juſtify the Heathens through Faith preached before the Goſpel to *Abraham*, ſaying, In thee ſhall all the Nations of the Earth be bleſſed: He ſpeaks not of the natural Seed of *Abraham*, but of Chriſt; ſo that all the Bleſſings that God did convey to the ſinful World, are by the means of Jeſus Chriſt, whom God in the Fulneſs of Time did ſend, his Son, born of a Woman, to redeem poor Sinners under the Law; and herein was the great Grace and Mercy of God towards all Sinners, that he was ſo gracious to ſend his beloved Son out of his own Boſom to take our Natures upon him, who were defiled, and curſed, and condemned, and ſeparated from God. I ſay, Jeſus Chriſt took our Natures upon him, and for this very End, to do the Will of his Heavenly Father: *Lo, it is written in the Volume of the Book, I come to do thy Will, O God*; and it was his Meat and Drink to do his Will; and what was that, but that we might be ſanctified through the offering up of the Body of Jeſus Chriſt for our Sins, to tread the Wine-preſs of his Father's Wrath, and to endure the Croſs, and bear all our Sins in his own Body, that made his Soul heavy unto Death? He was a Surety for us and our Sins, and for our ſakes the Lord laid on him the Iniquity of us all, and he hath borne our Grief and endured our Puniſhment; it made his Soul cry out, My God, my God, why haſt thou forſaken me? or elſe we muſt for ever be baniſhed out of the Preſence of God, and never have any Hopes of Glory, of Faith, or of Salvation, had not the Son of God become our Mediator and Surety; ſo there is one God, and one Mediator, the Man Chriſt Jeſus. He gave himſelf a Ranſom for all our Sins, to free us from the Wrath to come, everlaſting Deſtruction, and from the Worm that never dies. O that we could ever be thankful to God, live to him that hath ſo loved us, as to ſend his Son to die for us, and is by the Almighty Power of God raiſed from the Dead, and now ſits at the Right Hand of God, and ever lives to make Interceſſion!

Truly, Friends, this is not the Love of Man, but the Love of God, and therefore eternal Love. God ſo loved the World; it is God's Love, he loved Sinners, ungodly ones; he did ſo love them as to give his only begotten Son to ſave them, to reconcile them, to uphold them, to redeem them from Wrath to come; it was to ſeek and ſave them that were loſt. This is a faithful Saying, and worthy of all Acceptation, that Jeſus Chriſt came into the World to ſave Sinners. We all, like Sheep, had gone aſtray, and muſt periſh in our Sins, had not the Lord Jeſus been ſent of his Father, out of his Boſom to declare the good Will of God, and did it, by which we are ſanctified through the offering up of the Body of Jeſus Chriſt; and this Lord Jeſus Chriſt, the eternal Son of God, he is the Mediator between God and poor Sinners. Come unto me, all ye that are weary and heavy laden, ſays Chriſt, and I will give you Reſt; now this Grace is from God, we are ſaved by Grace, and that not of ourſelves, it is the Gift of God; through Faith in Chriſt we are ſaved; and all things that do pertain to Life and Godlineſs it is the Gift of God; now all things are of God, who hath reconciled us to himſelf by Jeſus Chriſt, to wit, that God was in Chriſt reconciling the World to himſelf, not imputing their Treſpaſſes unto them. Would you know the Forgiveneſs of your Sins, your Peace with God, and that God is well pleaſed with you? God is reconciled by Jeſus Chriſt unto you, and does not impute your Sins unto you, but looks on the Righteouſneſs of Chriſt as Satisfaction, that thereby you might have the Remiſſion of your Sins through the Blood of Chriſt. Be it known unto all Men, that through this Man's preaching the Forgiveneſs of Sins, *Acts* xiii. 38, 39. and by him all that do believe are juſtified from all things, from which they could not be by the Law of *Moſes*. Now Juſtification from Sin, and Redemption from Iniquity, is thro' the Knowledge of Chriſt's Death for your Sins, and his Reſurrection; and now there is no other Name given under Heaven whereby we can be ſaved, but by the Name of Jeſus, and whoſoever believeth in his Name ſhall not periſh, but have everlaſting Life, *John* v. 24. It is the Doctrine of Jeſus Chriſt, it is his Word, and I hope you will ſearch the Scriptures, and look into thoſe things for your Souls Good, when Chriſt ſays, Verily, verily, I ſay unto you, he that heareth my Words and believeth them, he hath everlaſting Life, and ſhall not come into Condemnatioſt, but is paſſed from Death to Life. The Reaſon

ſon why God does aſſure poor Sinners they ſhall not paſs into everlaſting Condemnation and periſh, is through his rich Grace, through his Promiſe; for he hath promiſed, he will be merciful to our Iniquities, and our Sins will remember no more; and theſe his Promiſes of Grace, which are all Yea and Amen in Chriſt, are ratified by the Blood of Chriſt; the Blood of Chriſt is the Blood of the New Covenant, and it is that by which we have the Forgiveneſs, Remiſſion, and Cleanſing of all our Sins.

Und. Sher. Mr. *Gibbs*, let me interrupt you; this is very good and pertinent, but you have ſaid theſe things over and over; there is another of your Friends to ſpeak, and the Time grows ſhort, pray go on to the Matter, or conclude.

Gibbs. I ſhall ſpeak a Word or two as to the Knowledge of Forgiveneſs of Sins, by and thro' Jeſus Chriſt; and ſo the Knowledge of the Reſurrection of the Dead, it is the Fruit of Jeſus Chriſt; for by the firſt Man came Death, and by the ſecond Man, Chriſt, came Life; and God that has by his exceeding great and mighty Power raiſed up Jeſus Chriſt from the Grave and Power of Sin, he alſo ſhall raiſe us up by the ſame Power, and when he comes the ſecond time, at his appearing and coming we ſhall ſee him, and be made like to him, and he will receive us to himſelf; he is gone to prepare a Place for us, and in his Father's Houſe are many Manſions, and if it were not ſo, he would have told us: And now God that hath given eternal Life, and Forgiveneſs of Sins unto his poor Servants, he will alſo, when Jeſus Chriſt ſhall come to judge the World, receive him into his everlaſting Glory, which is my Faith, Expectation, and Hope, in God, through Jeſus Chriſt. A Man may bear his Infirmities, but a wounded Conſcience who can bear? When God ſmites, who can bear? And therefore I deſire, as I believe, the Forgiveneſs of all my Sins, through the rich Grace of God, through the Bloodſhed of Jeſus Chriſt his Son; every one muſt give account to God, and as their Works are, ſo will their Reward be, either accepted by God, as Workers of Chriſt, or condemned as Workers of Iniquity. Laſt of all, as to the ſeparated Congregations to whom I belong, I have obſerved in thoſe few Days that I have lived, there is a great deal of Animoſity, evil Will, hard Cenſuring, and Abuſing the precious Saints of Jeſus Chriſt. If they are in an Error, you that are in the Truth inſtruct them, and you may recover them out of the Claws of the Devil: Are you Chriſtians, and have the Light of God in your Souls? O then ſtrengthen your Brethren, do not give them Nick-Names, and abuſe them; that's not the way; Chriſt teaches another Leſſon, *That if thine Enemy hunger, you ſhall feed him; and if he be a thirſty, give him Drink:* We ſhould pray to the Lord that he would turn thoſe that be out of his way, into the right way.

Und. Sher. You know we muſt be all ſubject to Government, every Congregation muſt not have a Ruler, their Meetings are prohibited by good Authority, and becauſe they will not be obedient to good Government.

Gibbs. I do not ſay, that every Congregation muſt have a Ruler, and I hope I ſpeak the Words of Sobriety; I hope you will put a charitable Conſtruction upon what I ſay. As to the Magiſtrates, I have a Word or two.

Und. Sher. Speak well of them.

Gibbs. Be not afraid, I will not ſpeak any Evil of them; Magiſtracy is an Ordinance of God, and the End of Magiſtracy is for the Puniſhment of Evil-doers, and the Praiſe of them that do well; and for this purpoſe, I do deſire that the Lord would give to the ſupreme Magiſtrate here on Earth, Wiſdom and Underſtanding, a wiſe Council, a Council fearing God, and hating Covetouſneſs, that they may ſtudy to exalt the Throne of the King in Righteouſneſs and Truth; O that we may all praiſe the Lord for Deliverance out of Condemnation; and I ſay it is the Duty of all the Subjects of the King's Majeſty, in all his Kingdoms and Dominions, to live peaceably, and to pray for the King's Majeſty: Prayers and Interceſſions ought to be made for all Men, eſpecially for Kings and Governors, for this very End and Purpoſe, that thereby we may live in all Quietneſs, Godlineſs, Honeſty and Juſtice; and to this very End the Lord bleſs our Magiſtracy, give them Counſel and Wiſdom, that they may love them that love the Lord, and hate them that hate the Lord.

After *Gibbs* had done ſpeaking, then *Stubbs* began, who went over all the Particulars of his Trial at large, to which for brevity's ſake we refer you. After which he ſaid as follows.

Friends and Countrymen,

It is true, and I muſt confeſs my Sin in the Preſence of God (and did aſk Mercy of the King) that I was in the Company when I did hear wicked and treaſonable Words ſpoken; and I being ignorant, and not knowing the Law, did not diſcover what I did hear.

As to my Judgment, truly I deſire to own that the Scriptures own; I ſhall ſpeak of that Place in the *Hebrews*, which is the Command of Chriſt, I deſire the Churches and the People every one to live the Life of Faith, and love one another; I am confident it would be a Means of abundance of Comfort here in the Nation; there is a kind of Heart-burning and riſing one againſt another, you are ſo and ſo, throw Dirt one againſt the other; it is our and your Duty, ſtill to be ſtudying to live in Love, and bear one with another, not to be angry, deſtroy, and fight one with another: O that we might live that Life of Love that God has commanded, then we may expect the Preſence of God to be with us; ſurely God hath a great Judgment againſt his own People, for not loving one another.

Phillips. Mr. *Sheriff*, I have only one Word to ſpeak before I go to my Prayers; that is, Here I ſee ſome Gentlemen preſent that are in the Capacity that I was in as a Soldier; I ſay, be faithful to your Truſt, and beg of God that you may ſtand faſt, and not diſhonour God, nor be diſobedient to the King; when the Fifth-monarchy Men were up, I was free and willing to lay down my Life for the Intereſt of the Nation, and did venture it as much as any young Man in *London*; therefore good Friends, have a Care: I am now brought to ſuffer; it is true, I was guilty of concealing it; I deſire your Prayers, that now as we are going to the State of Eternity, from whence there is no Redemption, I humbly beſeech you, as Chriſtians and Friends, that you would ſeek earneſtly to God, that now he may receive our Souls into everlaſting Reſt and Happineſs, which he has been pleas'd to beſtow on them that love him and fear him; and the Lord knows my Heart, I ſpeak it in his Preſence, that had the King been pleaſed to ſhew Mercy to me, I ſhould have been a faithful and true Subject to him all my Days; but ſeeing it is the righteous Hand of God, that now I am come to this untimely Death, I deſire you to lift up your Hearts and Souls to God with me, that when my Soul ſhall leave this Body, that the Lord Jeſus Chriſt may with his everlaſting Arms receive me to Glory: There is no Redemption after Death, we ſhall either go to eternal Woe, or eternal Happineſs; therefore good Friends, I deſire you to look up to God, that when my Soul departs, it may be received to Glory.

Then they went to their Prayers; which being ended, their Caps were ſeverally pull'd over their Faces, and after ſome private Ejaculations, the Executioner cauſed the Cart to be drawn away; and after they had hanged a while, they were ſeverally beheaded and quartered according to their Sentence, and their Heads and Quarters conveyed in a Baſket to *Newgate*, to be diſpoſed of at the King's Pleaſure.

Their ſeveral Quarters were buried on *Saturday* Night, *December* 27.

Their Heads were ſet up on ſeveral Poles, two on the one *Tower-Hill*, and two on the other, as near the *Tower* as might be.

LXIII. *The Trial of* Mary Moders, *alias* Stedman, *ſtyled the* German Princeſs, *at the* Old-Baily, *for* Bigamy, *the* 3*d of* June, 1663. 15 Car. II.

THE Court being ſat, a Bill of Indictment was drawn up againſt *Mary Moders*, alias *Stedman*, for having two Huſbands now alive, *viz. Tho. Stedman* and *John Carleton*. The Grand Jury found the Bill, and was to the effect following, *viz.*

'THAT ſhe the ſaid *Mary Moders* late of *London* Spinſter, otherwiſe *Mary Stedman*, the Wife of *Tho. Stedman*, late of the City of *Canterbury* in the County of *Kent* Shoemaker, *May* 12, in the Reign of his now Majeſty the ſixth, at the Pariſh of St. *Mildred*'s in the City of *Canterbury*, in the County aforeſaid, did take to Huſband the aforeſaid *Thomas Stedman*, and him the ſaid *Thomas Stedman* then and there had to Huſband. And that ſhe the ſaid *Mary Moders*, alias *Stedman*, *April* 21, in the fifteenth Year of his ſaid Majeſty's Reign, at *London*, in the Pariſh of *Great St. Bartholomew's*, in the Ward of *Farringdon without*, feloniouſly did take to Huſband one *John Carleton*, and to him was married, the ſaid *Tho. Stedman* her former Huſband being then alive, and in full Life: Againſt the Form of the Statute in that caſe provided, and againſt the Peace of our ſaid Sovereign Lord the King, his Crown and Dignity, *&c.*

Afterwards the ſaid *Mary Moders*, alias *Stedman*, was called to the Bar; and appearing, was commanded to hold up her Hand: Which ſhe accordingly did, and her Indictment was read to her as followeth.

Clerk of the Peace. Mary Moders, alias *Stedman*, thou ſtandeſt indicted in *London* by the Name of *Mary Moders* late of *London* Spinſter, otherwiſe *Mary Stedman*, the Wife of, *&c.* [And here the Indictment was read, as above] How ſayeſt thou, art thou Guilty of the Felony whereof thou ſtandeſt indicted, or Not Guilty?

Mary Moders. Not Guilty, my Lord.

Cl. of the Peace. How wilt thou be try'd?

Priſoner. By God and the Country.

Cl. of the Peace. God ſend thee a good Deliverance.

And afterwards ſhe being ſet to the Bar in order to her Trial, ſhe pray'd time till the Morrow for her Trial: Which was granted, and all Perſons concerned were ordered to attend them at Nine of the Clock in the Forenoon.

[The Reader is deſired to take notice of the following Paſſage:]

After ſhe was arraigned, and going back to the Goal, her Huſband the young Lord told her, He muſt now bid her adieu for ever. To which ſhe replied,

Nay, my Lord, 'tis not amiſs,
Before we part, to have a Kiſs.

And ſo ſaluted him, and ſaid, *What a Quarrel and Noiſe here's of a Cheat! You cheated me, and I you: You told me you were a Lord, and I told you I was a Princeſs; and I think I fitted you.* And ſo ſaluting each other, they parted.

June 4, 1663.

THE Court was ſat; Proclamation was made.

Cl. of the Peace. O Yes! all manner of Perſons that have any thing more to do, *&c.* Set *Mary Moders* to the Bar: Where ſhe accordingly ſtood.

Cl. of the Peace. Mary Moders, alias *Stedman*, hold up thy Hand: [which ſhe did.] Thoſe Men that you ſhall hear called, and perſonally appear, are to paſs between our Sovereign Lord the King and you for your Life: If you will challenge them, or any of them, you muſt do it when they come to the Book to be ſworn, before they are ſworn. And then were called,

William Rutland,	*Simon Driver,*
Arthur Vigers,	*Robert Kirkham,*
Arthur Capel,	*Hugh Maſſon,*
Tho. Smith,	*Tho. Weſtley,*
Fran. Chaplin,	*Richard Clutterbuck,*
Robert Harvey,	*Randolph Tooke.*

And ſhe challenged none; but they were ſeverally ſworn by the Oath following:

Look upon the Priſoner: You ſhall well and truly try, and true Deliverance make, between our Sovereign Lord the King and the Priſoner at the Bar, whom you ſhall have in Charge, according to your Evidence. So help you God.

Cl. of the Peace. Crier, make Proclamation: 'O Yes! If any one can 'inform my Lords the King's Juſtices, the King's Serjeant, or the King's 'Attorney; before this Inqueſt be taken between our Sovereign Lord the 'King, and the Priſoner at the Bar, let them come forth, and they ſhall 'be heard, for now the Priſoner ſtands at the Bar upon her Deliverance: 'And all others that are bound by Recognizance to give Evidence againſt 'the Priſoner at the Bar, come forth and give Evidence, or elſe you'll 'forfeit your Recognizance.'

The Witneſſes being called ſeveral times, and not appearing, young *Carleton* came into the Court in a rich Garb trimmed with ſcarlet Ribbands, and prayed that in reſpect his Father and the reſt of the Witneſſes were not all ready, the Trial might be deferr'd for half an hour; and he going back, and paſſing the Priſoner his Princeſs, who ſtood there in a black Velvet Waſtcoat, dreſſed in her Hair, trimmed alſo with ſcarlet Ribbands, ſhe, (veiling her Face with her Fan) laugh'd at him, to the great Obſervation of the Court: And ſo the young Lord left the Court (by Advice of his Friends) and betook himſelf to an adjoining Houſe, where he ſtood the whole Trial.

After ſome ſtay, the witneſſes came into the Court, and the Priſoner was ſet to the Bar, and Silence being commanded, the Indictment was again read.

Cl. of the Peace. Upon this Indictment ſhe hath pleaded Not Guilty, and for her Trial hath put herſelf upon God and the Country; which Country you are. Your Charge is to enquire whether ſhe be Guilty of the ſaid Felony, or Not Guilty: If you find her Guilty, you ſhall enquire what Goods and Chattels ſhe had at the time of the Felony committed, or at any time ſithence: If you find her Not Guilty, you ſhall enquire whether ſhe did flee for it; if you find that ſhe fled for it, you ſhall enquire of her Goods, *&c.* as if ſhe had been Guilty: If you find ſhe be Not Guilty, nor that ſhe did flee for it, ſay ſo, and no more, and hear your Evidence.

Several Witneſſes were ſworn by the Oath following:

The Evidence that you ſhall ſwear between our Sovereign Lord the King and the Priſoner at the Bar, ſhall be the Truth, the whole Truth and nothing but the Truth. So help you God.

James Knot. My Lord, and Gentlemen of the Jury, I gave this Woman in Marriage to one *Thomas Stedman*, which is now alive in *Dover*, and I ſaw him laſt Week.

Court. Where was ſhe married?

Knot. In *Canterbury*.

Court. Where there?

Knot. In *St. Mildred*'s, by one Parſon *Man*, who is now dead.

Court. How long ſince were they married?

Knot. About Nine Years ago.

Court. Did they live together afterwards?

Knot. Yes, about four Years, and had two Children.

Court. You gave her in Marriage, but did the Miniſter give her to her Huſband then?

Knot. Yes, and they lived together.

Jury. Friend, did you give this very Woman?

Knot. Yes.

Court. What Company was there?

Knot. There was the married Couple, her Siſter, myſelf, the Parſon, and the Sexton.

Court. Where is that Sexton?

Knot. I know not, my Lord.

Court. You are ſure they were married in the Church, and this the Woman?

Knot. Yes, I am ſure of it.

Court. How long ago?

Knot. About Nine Years ago.

Court. Did you know this Woman before the Marriage, and how long?

Knot. Yes, I knew her a long time, I was an Apprentice ſeven Years near her Mother's Houſe in *Canterbury*.

Court. Then ſhe's no foreign Princeſs? Of what Parentage was ſhe?

Knot. I did not know her own Father, [*and in that he might be believed*] but her Father-in-law was a Muſician there.

Court. You ſaw her married: What Words were uſed at her Marriage, and in what Manner?

Knot. They were married according to the Order of the Land, a little before the Act came forth touching Marriages by Juſtices of the Peace.

Court. Was it by the Form of Common Prayer, any thing read of that Form?

Knot. I did not take notice of that, I was but a young Man, and was deſired to go along with them.

William Clerk being ſworn, ſaid, my Lord, I was laſt Week in *Dover*, in company with this *James Knot* and *Thomas Stedman*; and he the ſaid *Stedman* did own that he did marry one *Mary Moders*, a Daughter of one in *Canterbury*, and that *Knot* gave her, and that he had two Children by her, and declared his Willingneſs to come up to give Evidence againſt her, but wanted Money for his Journey: And I have underſtood that a Perſon here in Court was of a Jury at *Canterbury*, at a Trial between *Day* and *Mary Stedman* at the Bar, for having two Huſbands.

Court. Was ſhe cleared?

Clerk. I cannot tell.

Young *Carleton*'s Father ſworn. My Lord, I was at *Dover* the laſt Week, on Wedneſday; I ſaw the Huſband of this Woman, and the Man acknowledge himſelf to be ſo, and did ſay that *James Knot* was the Man that gave her in Marriage to him.

Court. Where is this Man her Huſband? Hearſays muſt condemn no Man: What do you know of your own Knowledge?

Carleton the Elder. I know the Man is alive.

Court. Do you know he was married to her?

Carleton. Not I, my Lord.

Sarah Williams. My Lord, this Woman was bound for *Barbadoes*, to go along with my Huſband, and ſhe deſired to lodge at our Houſe for ſome time, and did ſo; and when the Ship was ready to go, ſhe went into *Kent* to receive her Means, and ſaid ſhe would meet the Ship in the *Downs*; and miſſing the Ship, took Boat and went to the Ship. After ſeveral Days remaining there, there came her Huſband with an Order, and fetch'd her aſhore, and carried her to *Dover-Caſtle*.

Court. What was his Name that had an Order to bring her on Shore again?

Sarah Williams. His Name was *Thomas Stedman*.

Court. Have you any more to prove the firſt Marriage?

Carleton the Elder. No, none but *Knot*; there was none but three, the Miniſter dead, the Sexton not to be found, and this *Knot* who hath given Evidence.

Court. What became of the two Children, *Knot*?

Knot. They both died.

Carleton the Elder. *Stedman* ſaid in my hearing, that they had lived four Years together, had two Children by her, and both dead; five Years ago laſt *Eaſter* ſince ſhe left him.

Court. Mr. *Carleton*, what have you heard this Woman ſay?

Carleton. My Lord, ſhe will confeſs nothing.

Court, Mr. *Carleton*, did you look in the Church-Regiſter for the firſt Marriage?

Carleton. I did look in the Book, and he that is now Clerk, was then Sexton, (*juſt now not to be found*;) he told me, that Marriages being then very numerous, preceeding the Act before-mention'd, the then Clerk had neglected the Regiſtry of this Marriage. If ſhe intended this Trade, ſhe likewiſe knew how to make the Clerk miſtake regiſtring the Marriage.

Young *Carleton*'s Brother ſworn; who ſaid, My Lord, and Gentlemen of the Jury, I was preſent at the Marriage of my Brother with this Gentlewoman, which was on or about *April* 21, 1663. They were married at *Great St. Bartholomew*'s, by one Mr. *Smith*, a Miniſter here in Court, by Licenſe.

Mr. *Smith* the Parſon ſworn: My Lord, all that I can ſay, is this; That Mr. *Carleton* the Younger told me of ſuch a Buſineſs, and deſired me to marry them: They came to Church, and I did marry them by the Book of Common-Prayer.

Court. Mr. *Smith*, are you ſure that is the Woman?

Parſon. Yes, my Lord, it is; I believe ſhe will not deny it.

Priſoner. Yes, my Lord, I confeſs I am the Woman.

Court. Have you any more Witneſſes?

Carleton. We can get no more but *Knot* to prove the firſt Marriage, the laſt is clear.

Judge *Howel.* Where is *Knot?* Remember yourſelf what you ſaid before. You ſay, you know that Woman at the Bar, that you had known her a great while, that ſhe was born near you in *Canterbury*, that you were preſent at her Marriage, that Parſon *Man* married them, that none were preſent but yourſelf, the married Couple, Parſon, Sexton, and her Siſter.

Knot. Some others came into the Church, but none that I knew; I am ſure none went with her, but thoſe I named.

Court. Who gave her in Marriage?

Knot. I did.

Court. How came you to do it?

Knot. I was *Stedman*'s Shop-Mate, and he deſired me to go along with him.

Court. Were her Parents then living, or no?

Knot. Her Mother was.

Jury, How old are you?

Knot. Two or three and thirty Years.

Jury. How long ago was this Marriage?

Knot. About nine Years ſince.

Court. Then he was twenty-three, and might do it: What is your Trade of Life?

Knot. I am a Cordwainer, otherwiſe a Shoe-maker; *Stedman* was ſo too; we wrought both together.

Jury. We deſire to know whether ſhe had a Father and Mother then living?

Knot. She had a Father-in-law.

Court. Did you know her Mother?

Knot. Yes.

Court. How long before that Marriage did her own Father die?

Knot. I did not know him. [*He ſaid ſo before indeed.*]

Court. What Age was ſhe when married?

Knot. I ſuppoſe about nineteen or twenty.

Priſoner. May it pleaſe your Honours, and Gentlemen of the Jury, you have heard the ſeveral Witneſſes, and I think this whole Country cannot but plainly ſee the Malice of my Huſband's Father againſt me; how he cauſleſly hunts after my Life. When his Son my Huſband, came and addreſſed himſelf to me, pretending himſelf a Perſon of Honour, and upon firſt Sight preſſed me to Marriage; I told him, Sir, (ſaid I) I am a Stranger, have no Acquaintance here, and deſire you to deſiſt your Suit. I could not ſpeak my Mind, but he (having borrow'd ſome threadbare Compliments) replied, Madam, your ſeeming Virtues, your amiable Perſon, and noble Deportment, render you ſo excellent, that were I in the leaſt intereſted in you, I cannot doubt of Happineſs: And ſo with many Words to the like purpoſe, courted me. I told him, and indeed could not much wonder, that at ſo ſmall a Glance he could be ſo preſumptuous with a Stranger, to hint this to me: But all I could ſay, would not beat him off. And preſently afterwards he having intercepted my Letter, by which he underſtood how my Affairs ſtood, and how conſiderable my Means were, he ſtill urged me to marry him: And immediately by the Contrivance of his Friends, gaping at my Fortune, I was hurried to Church to be married, which the Parſon at firſt did without Licenſe, to ſecure me to my Huſband, and ſome time after had a Licenſe.

And my Huſband's Father afterwards conſidering I had a conſiderable Fortune, preſſed me, that in reſpect I had no Relations here, and becauſe,

ſays

ſays he, we are Mortal, you would do well to make over your Eſtate to my Son your Huſband; it will be much for your Honour, Satisfaction of the World, and for which you will be chronicled for a rare Woman. And perceiving he had not baited his Hook ſufficient (with ſome fair Pretences,) to catch me then, he and his Son, who were both willing to make up ſome of their former Loſſes in circumventing me of what I had, they robb'd me of my Jewels, and Clothes of great Value; and afterwards pretended they were counterfeit Jewels, and declared that I had formerly been married to one at *Canterbury*, which Place I know not: and this grounded on a Letter (of their own framing) ſent from *Dover*, with a Deſcription of me; that I was a young fat Woman, full-breaſted; that I ſpoke ſeveral Languages, and therefore they imagined me the Perſon; and ſo violently carried me from my Lodging before a Juſtice of Peace, only to affright me, that I might make my Eſtate over to them. The Juſtice having heard their ſeveral Allegations, could not commit me, unleſs they would be bound to proſecute me; which my Huſband being unwilling to, the Juſtice demanded of his Father whether he would proſecute me, ſaying, they muſt not make a Fool of him; and ſo after ſome Whiſperings, the Father and his Son were both bound to proſecute, and thereupon I was committed to Priſon. And ſince that, theſe People have been up and down the Country, and finding none there that could juſtify any thing of this Matter, they get here an unknown Fellow, unleſs in a Priſon, and from thence borrow'd, you cannot but all judge, to ſwear againſt me. My Lord, were there any ſuch Marriage as this Fellow pretends, methinks there might be a Certificate from the Miniſter, or Place; certainly if married, it muſt be regiſtred: But there is no Regiſtry of it, and ſo can be no Certificate, no Miniſter nor Clerk to be found. And if I ſhould own a Marriage, then you ſee that great Witneſs cannot tell you whether I was lawfully married, or how; but it is enough for him (if ſuch a paltry Fellow may be believed) to ſay, I was married. I was never yet married to any but *John Carleton*, the late pretended Lord: But theſe Perſons have ſought all ways to take away my Life, bring Perſons to ſwear againſt me, one hired with Five Pounds, and another old Fellow perſuaded to own me for his Wife; who came to the Priſon, and ſeeing another Woman, owned her, and afterwards myſelf, and indeed any body. If ſuch an old inconſiderable Fellow had heretofore woo'd me, it muſt have been for want of Diſcretion, as *Carleton* did for want of Money; but I know of no ſuch thing. Several Scandals have been laid upon me, but no mortal Fleſh can truly touch the leaſt Hair of my Head for any ſuch like Offence; they have framed this of themſelves. My Lord, I am a Stranger and a Foreigner; and being informed there is Matter of Law in this Trial for my Life, my Innocence ſhall be my Counſellor, and your Lordſhips my Judges, to whom I wholly refer my Cauſe. Since I have been in Priſon, ſeveral from *Canterbury* have been to ſee me, pretending themſelves (if I were the Perſon as was related) to be my School-Mates; and when they came to me, the Keeper can juſtify, they all declared they did not know me.

Court. Knot, you ſaid ſhe lived near you at *Canterbury*; what Woman or Man there, have you to prove ſhe lived there? Have you none in that whole City, neither for love of Juſtice nor Right, will come to ſay ſhe lived there?

Knot. I believe I could fetch one.

Court. Well ſaid! Are they to fetch ſtill?

Priſoner. My Lord, I deſire ſome Witneſſes may be heard in my Behalf.

Elizabeth Collier examined. My Lord, my Huſband being a Priſoner in the *Gate-Houſe*, I came there to ſee my Huſband, and did work there on Days; and there came in an old Man, his Name was *Billing*, he ſaid he had a Wife there: ſays Mr. *Baley*, Go in and find her out; and he ſaid I was his Wife, turned my Hood, and put on his Spectacles, looks upon me, and ſaid I was the ſame Woman his Wife; and afterwards ſaid I was not, and ſo to others: I can ſay no more.

Jane Finch examined. My Lord, there came a Man and Woman one Night, and knock'd at my Door; I came down, they aſked to ſpeak with one *Jane Finch*. I am the Perſon, ſaid I. We underſtand, ſaid they, you know Mrs. *Carleton* now in Priſon. Not I, ſaid I, I only went to ſee her there. Said they, be not ſcrupulous; if you will go and juſtify any thing againſt her, we will give you 5*l.*

Court. Who are thoſe two?

Finch. I do not know them, my Lord.

Mr. *Baley* examined. My Lord, there has been at leaſt five hundred People have view'd her, ſeveral from *Canterbury*, forty at leaſt that ſaid they lived there; and when they went up to her, ſhe hid not her Face at all, but not one of them knew her.

Court. What Country-woman are you?

Priſoner. I was born in *Cologn* in *Germany*.

Court. Mr. *Carleton*, how came you to underſtand ſhe was married formerly?

Carleton Elder. I received a Letter from the Recorder of *Canterbury* to that purpoſe.

Priſoner. They that can offer 5*l.* to ſwear againſt me, can alſo frame a Letter againſt me: They ſay I was Nineteen Years of Age about Nine Years ago, and am now but Twenty-one.

Court. Mr. *Carleton*, you heard what *Knot* ſaid; he ſaid ſhe lived near him four years a Wife, why did not you get ſomebody elſe from thence to teſtify this?

Carleton. Here was one *Davis* that was at her Father's Houſe, and ſpoke with him——

Court. Where is he?

Carleton. I know not; he was here.

Court. You were telling the Court of a former Indictment againſt her, what was that for?

Carleton. She was Indicted for having two Huſbands, *Stedman* of *Canterbury* her firſt Huſband, and *Day* of *Dover*, Chirurgeon, her ſecond Huſband. The Indictment was traverſed the Year before his Majeſty came to *England*, ſhe was found Not guilty.

Court. Who was at that Trial?

Carleton. One here in Court was of the Jury. But that Party ſaid there was ſuch a Trial, but knows not that this is the Woman.

Judge *Howel.* Gentlemen of the Jury, you ſee this Indictment is againſt *Mary Moders*, otherwiſe *Stedman*, and it is for having two Huſbands, both at one time alive; the firſt *Stedman*, afterwards married to *Carleton*, her former Huſband being alive. You have heard the Proof of the firſt Marriage, and the Proof doth depend upon one Witneſs, that is *Knot*; and he indeed doth ſay, he was at the Marriage, gave her, and he names one *Man* the Parſon that married her, that he is dead; none preſent there but the married Couple that muſt needs be there, the Parſon, this Witneſs, her Siſter, and the Sexton; that he knows not what is become of the Sexton. All the Evidence given on that Side, to prove her Guilty of this Indictment, depends upon his ſingle Teſtimony. It is true, he ſays ſhe was married at *Canterbury*, but the Particulars, or Manner of the Marriage, he doth not ſo well remember, whether by the Book of Common Prayer, or otherwiſe; but they lived together for four Years, had two Children. If ſhe were born there, married there, had two Children there, and lived there ſo long, it were eaſy to have brought ſomebody to prove this: that is all that is material for the firſt Marriage.

For the ſecond, there is little Proof neceſſary; ſhe confeſſes herſelf married to *Carleton*, and owns him; the Queſtion is, Whether ſhe was married to *Stedman* or not?

You have heard what Defence ſhe hath made for herſelf, ſome Witneſſes on her behalf: If you believe that *Knot*, the ſingle Witneſs, ſpeaks the Truth ſo far forth to ſatisfy your Conſcience that that was a Marriage, ſhe is Guilty. You ſee what the Circumſtances are, it is penal; if Guilty, ſhe muſt die; a Woman hath no Clergy, ſhe is to die by the Law, if Guilty. You heard ſhe was indicted at *Dover* for having two Huſbands, *Stedman* the firſt, and *Day* the ſecond. There, it ſeems by that which they have ſaid, ſhe was acquitted; none can ſay this was the Woman: That there was a Trial, may be believed; but whether this be the Woman try'd or acquitted, doth not appear. One here, that was of that Jury, ſays there was a Trial, but knows not that this is the Woman. So that upon the whole, it is left to you to conſider of the Evidence you have heard, and ſo to give your Verdict.

[The Jury went forth, and after ſome ſhort Conſultation returned to their Places.]

Their Names were called, and all anſwered.

Cl. of the Peace. Are you all agreed of your Verdict?

Jury. Yes.

Clerk. Who ſhall ſay for you?

Jury. The Foreman.

Clerk. Mary Moders alias *Stedman*, hold up thy Hand: Look upon her, Gentlemen; what ſay you, is ſhe Guilty of the Felony whereof ſhe ſtands indicted, or Not guilty?

Foreman. Not guilty.

[And thereupon a great Number of People being in and about the Court, hiſſed and clapped their Hands.]

Clerk. Did ſhe fly for it?

Foreman. Not that we know.

Afterwards ſhe deſired, that her Jewels and Clothes taken from her, might be reſtored to her. The Court acquainted her, that they were her Huſband's, and that if any detained them from her, he might have his Remedy at Law: She charging old *Mr. Carleton* with them, he declared they were already in the Cuſtody of his Son her Huſband.

LXIV. *The Trial of Col.* James Turner, John Turner, William Turner, Mary Turner, *and* Ely Turner, * *at the* Old-Baily, *for* Felony *and* Burglary, *the* 15*th*, 16*th*, *and* 19*th of* January 1663, 15 Car. II.

JAMES TURNER the Titular Colonel, *William Turner*, *Mary Turner*, and *Ely Turner*, were brought to the Bar.

Clerk of the Peace. James Turner, hold up thy Hand: which he did. *John Turner*, hold up thy Hand.

Col. *Turner.* He is not here, but he is hard by, and I will ſend for him. My Lord, it has been reported he was fled; it was a Miſtake, he is in *Fleet-ſtreet*, where he has been ever ſince this Buſineſs.

[And thereupon he ſent one for him, and then the Court proceeded to ſome other Buſineſs. About half an Hour after, the ſaid *John* came into the Court, and was ſet among the other Priſoners at the Bar.]

Cl. of the Peace. James Turner, hold up thy Hand; *John Turner*, hold up thy Hand; *William Turner*, hold up thy Hand; *Mary Turner*, hold up thy Hand; *Ely Turner*, hold up thy Hand: Which they all did, and then the ſaid Clerk read their Indictment; which was as followeth:

'YOU ſtand indicted in *London* by the Names of *James Turner* late of *London* Gentleman, *John Turner* late of *London* Labourer, *William Turner* late of *London* Labourer, *Mary Turner* late of *London* Spinſter, (otherwiſe *Mary Turner*

* Kelyng. *Rep.* 30.

'*Turner* the Wife of the said *James Turner*) and *Ely Turner* late of *London* 'Labourer; for that you the said *James Turner*, *John Turner*, and *Wil-* 'liam *Turner*, the 7th Day of *January*, in the Fifteenth Year of the Reign 'of our Sovereign Lord *Charles* the Second, by the Grace of God, of 'England, *Scotland*, *France* and *Ireland*, King, Defender of the Faith, 'about Ten of the Clock in the Night-time of the same Day, with Force 'and Arms, &c. at *London*, that is to say, in the Parish of *St. Dyonis* 'Back-church, in the Ward of *Lime-street*, *London*, aforesaid, in the Dwel- 'ling-House of one *Francis Tryon* Merchant, there feloniously and bur- 'glarly you did break and enter; and on him the said *Francis Tryon*, against 'the Peace of God, and of our said Sovereign Lord the King, in his 'Dwelling-House aforesaid, then and there being and resting, feloniously 'and burglarly did make an Assault, and him the said *Francis Tryon* in 'corporal Fear of his Life feloniously and burglarly you did put; and one 'Pendant Pearl set in Gold, and a precious Stone fix'd thereto, of the 'Value of 150 *l.* Two Pendant Pearls with Half-moon, seven Diamonds, 'and eight Rubies fix'd to every of them, of the Value of 80 *l.* One To- 'paz and Pendant Pearl at the bottom thereof, of the Value of 20 *l.* One 'Emerald Jewel, and five Diamonds, of the Value of 150 *l.* One Gold 'Ring, and Diamonds set therein, of the Value of 30 *l.* One other Gold 'Ring, and nine Diamonds fix'd in the same Ring, called an Agar Ring, 'of the Value of 5 *l.* One Jewel, and thirty-seven Diamonds, of the Va- 'lue of 30 *l.* One Gold Chain of the Value of 30 *l.* One Gold Ring and 'nine Diamonds set therein, of the Value of 6 *l.* Another Gold Ring and 'a Jacinth-stone fastened therein, and two Diamonds set in either of them, 'of the Value of 3 *l.* One other Gold Ring of the Value of 20 *s.* One 'Necklace of Pearl, of the Value of 500 *l.* One Knot of Diamonds and 'Pendant Pearls fastened thereto, of the Value of 300 *l.* One Sprig and 'three blue Saphires, nine Pendant Pearls, and fifty-six Diamonds 'fastened thereto, of the Value of 300 *l.* One Gold Ring and thirteen 'Diamonds set therein, of the Value of 50 *l.* One other Gold Ring and 'Diamonds set therein, of the Value of 50 *l.* One Knot and seventy-five 'Diamonds set therein, of the Value of 100 *l.* One Necklace of Pearls, 'containing one hundred seventy-two Pearls, of the Value of 11 *l.* 10 *s.* 'One Necklace of Pearl, containing two hundred seventy-six Pearls, of 'the value of 18 *l.* 10 *s.* One Jewel and forty-six Diamonds set therein, 'of the Value of 300 *l.* One Jewel and fifty-three Diamonds set therein, 'of the Value of 200 *l.* One Gold Ring, and one Diamond set therein, 'of the Value of 50 *l.* One Locket and thirty-six Diamonds set therein, 'of the Value of 70 *l.* Two Lockets and one Ruby, and twenty Diamonds 'set in either of them, of the Value of 60 *l.* One Pendant Pearl set in 'Gold, and four Diamonds set therein, of the Value of 40 *l.* One other 'Gold Ring, and with one Diamond, of the Value of 35 *l.* Six Bracelets 'set with precious Stones, of the Value of 20 *l.* One blue Saphire, 'twenty-four Diamonds, of the Value of 40 *l.* One Locket and nine yel- 'low Diamonds set in Gold, of the Value of 20 *l.* One Locket and eight 'Diamonds set therein, of the Value of 8 *l.* One Jewel and twelve Dia- 'monds set therein, of the Value of 15 *l.* One Gold Ring and Diamond, 'of the Value of 5 *l.* One Jewel and Saphire, Ruby and Emerald adja- 'cent, and four Ophirs set therein, of the Value of 12 *l.* Twelve *Scotch* 'Pearls, of the Value of 3 *l.* Sixty-two Pearls, of the Value of 12 *l.* One 'Oriental Amethist, six Diamonds set therein, of the Value of 20 *l.* Two 'other Gold Rings, nine Diamonds in either of them, of the Value of '15 *l.* One other Gold Ring and thirteen Diamonds set therein, of the 'Value of 8 *l.* One Jewel and ten Diamonds, and seven Emeralds, of 'the Value of 15 *l.* Sixteen Gold Rings, and seven Diamonds in every 'of them, of the Value of 754 *l.* One Bracelet and thirteen great Rubies 'set therein, of the Value of 100 *l.* Six Two and Twenty Shilling Pieces 'of Gold, five other Pieces of Gold, called *Five Shillings Six Pence a piece*; 'three other Pieces of Gold of two Shillings Nine-pence a piece; another 'Piece of Gold of Twenty Shillings; two other Pieces of Gold of Five 'Shillings a piece; four Eleven-Shilling Pieces of Gold; five Pieces of '*French* Gold of sixteen Shillings six-pence a piece, and 1023 *l.* in Money, '(particularly named in the said Indictment) of the Goods and Chattels 'of the said *Francis Tryon*, then and there being found, then and there 'feloniously and burglarly you did steal, take and carry away. And that 'you the said *Mary Turner* and *Ely Turner* knowing the said *John Turner* 'the Felony and Burglary aforesaid to have committed; the said *John* '*Turner* afterwards, that is to say, the 8th Day of *January*, in the Fif- 'teenth Year aforesaid, at *London* aforesaid, that is to say, in the Parish 'of St. *Andrew Undershaft*, in the Ward of *Aldgate*, feloniously did receive, 'comfort and maintain, against the Peace of our said Sovereign Lord the 'King, his Crown and Dignity.'

How sayest thou, *James Turner*, art thou Guilty of the Felony and Burglary whereof thou standest indicted, or Not guilty?

Col. *Turner*. My Lord, and the honourable Bench, I shall no way be refractory, nor do any thing that doth not become a Gentleman; but I humbly beseech your Honours that you will stand my Friend, that I may have Justice, and your Honours Opinion———

* Ld *Hyde*. You are to plead now to your Indictment.

Col. *Turner*. I do not refuse it; my Lord, I beg your Honour to hear me a Word———

Ld *Hyde*. Plead to the Indictment, and then say what you will; 'till that be done, all you can say will signify little: we are to receive your Answer to your Plea first, afterwards say what you will; you must now say Guilty, or Not Guilty.

Turner. I shall not refuse to plead, but I beg my own Goods may be restored to me; my House, my Lord, is locked up, and Children turned out of Doors, and I have nothing to support us.

Ld *Hyde*. Are you Guilty or Not guilty? You shall have Right done you.

Turner. I will take your Honour's word for it; I am Not Guilty.

Clerk. How will you be tried?

Turner. By God and the Country.

Clerk. How sayest thou, *John Turner*, art thou Guilty of the Felony and Burglary whereof thou standest indicted, or Not Guilty? [And so *William Turner*, and likewise *Mary Turner*, and *Ely Turner*, as Accessaries, being demanded the like Questions, severally pleaded Not Guilty, and put themselves on God and the Country to be tried.]

Ld *Hyde*. Now, Mr. *Turner*, let us know who has seized any thing of yours.

Turner. The Sheriff, Sir *Richard Ford* and Sir *Richard Rives*, and they are in possession of my House; I have none but a Child of 7 and 9 at home, and have not a Shirt to command. It's true, the Sheriff, Sir *Richard Ford*, was so civil yesterday as to give me some Linen.

Sir *Richard Ford*. I shall give your Lordship an account of this: I suppose, my Lord, we have done nothing but what was customary; a Seizure we have made now, but after we had heard this Gentleman was committed for Felony and Burglary, and that none but Children were in the House, my Lord, we thought it our Duty, both for his Good, to secure his Estate, if acquitted, and so for the King, if convicted, that so the same might not be imbezel'd; and thereupon caused an Inventory to be taken thereof: But, my Lord, we dispossessed none: it is true, we have left a Servant or two, for whom we are and must be responsible; whatever they would dispose or had occasion for, they had it without Contradiction. We offered him, that if he had any Friend of his own that would undertake them to be forth-coming, in case he were convict, we would leave them in possession of them; we have made no Seizure, what we have done is according to Custom; if we have not done that which your Lordships approve of, we beg your pardon.

Ld *Hyde*. We are to look to that which is according to Law; the Goods of a Man that is accused of Felony (he is but only so yet) he forfeits none of his Goods, till convict; more than that, he is to live upon them during his Trial; but on the other hand, where a Man is accused of Felony, and indicted for it, it is but Prudence, and agreeable to Law, to take care the Goods be not imbezel'd; because, if a Conviction follow, they are forfeited to the King; therefore the Sheriffs have done but what they ought to do: they are not taken from you, what you have occasion for, either for Money (or Goods to turn into Money) for your present Supply, till your Trial be over, God forbid but you should have it, and you shall have it; if you have any Friend that will undertake the Goods shall be forth-coming for the King, in case you be convicted, or for yourself, if acquitted, it shall be done. In the mean time what you have occasion for your self, Wife or Children, God forbid but you should have it: and this is as much as by Justice you ought to claim.

Turner. I submit to your Honour, and I beg of your Honour and the Bench to be of Counsel for me; for though the World looks on me as a Sollicitor, it is a mistake, my Lord, it is not in Law, I am a Stranger to it; it has been only in Dealings for Monies, by Purchases and the like. But, my Lord, I am informed your Lordship may restore me these Goods without Security; if the Law directs Security, I am ready to give it.

† Ld Ch. J. *Bridgman*. For that, that you may not mistake the Law, it is very true, the words of the Statute of *Richard* III. say, A Man's Goods shall not be seized before indicted. You must understand the Difference of the Law, that has made the Mistake; it was then good, but not now; then a Man's Course was to indict them and process against them before committed, but now it is altered; for when it remained indifferent, whether Guilty or Not guilty, he was to be maintained out of his Goods: so ought you and your Family: for the Town being answerable for the Goods of such a Felon, that they might not be amerced, in such Cases sufficient Sureties were given: the Statute of *Philip* and *Mary* gives the Power of Commitment by Justices of Peace, and so now it is quite altered; and though they cannot seize the Goods, yet they being responsible for them, they ought to have good Security.

† *Chief Justice of the* Common-Pleas.

Sir *Richard Ford*. I do assure your Lordships, that from the very first Hour we put our People into the House, none of his Family there then or now have been denied any thing in the House: if I be not misinformed, that very Night that he was committed, there was conveyed out of his House for his Use and his Occasions, some say 200 *l.* they that say least, say 100 *l.* they have had a free Disposal of what was in the House; and then, my Lord, could we do less than what we have done?

Turner. I would have made a short business of this, I tendred Security of 5000 *l.* to their own Content, they accepted of the Persons, but one standing by, said, By no means; and so it is still undone. If you please, I have Security now.

Ld *Hyde*. There need not much ado for Security; if your Trial were not to be presently, then there were Cause for you to insist on this; but now there is but one Night; if you want any thing for this Night, the Sheriffs here offer what you will, to-morrow will determine the Question, whether these Goods are yours, or no.

Turner. I will submit to the Court, I will not be refractory; here is Security, if you please; if not, I am content.

Ld *Hyde*. If you want any thing, either Money or Clothes, or any thing else, you may have them.

Turner. My Lord, the greatest thing will be some Writings and Papers, which will concern me at my Trial to clear me then.

Ld *Hyde*. Do this; nominate one Person, the Sheriff another to go with him, and what Writings you will have brought, they shall take a Note of them, and bring them to you.

Turner. I have divers Writings of Gentlemens Estates, Bonds and Things in my Hands, and the Papers are amongst them; and I do beg I may, with the Keeper, go my self now.

Ld *Hyde*. I cannot, nor the Court, give you leave; you stand indicted for Felony and Burglary.

Turner. Let my Sons go, my Lord.

Ld. *Hyde*. They are indicted too, and are not bailable; if Mr. Sheriff (who is answerable for you) will send any with them, he may.

* *Chief Justice of the* King's-Bench.

Sir

Sir *Rich. Ford.* I ſhall be willing to ſerve you, Gentlemen, ſo far my ſelf, if your Lordſhip will ſpare me from further Service here, to go with ſuch Perſon as he ſhall appoint.

Ld *Hyde*, We leave that to Mr. Sheriff's Civility, we can give no Rule for it.

Turner. I may be cut off of my Life, if I want my Papers.

Ld Ch. Juſt. *Bridgeman*, Doth your Life depend upon this Evidence in Matter of Fact?

Turner. My Lord, I have been ſo ſtrangely handled in this Buſineſs, I know not where it depends.

Sir *Rich. Ford.* If he will ſay in what Trunk or Cheſt they are in, they ſhall be brought to the Court. [Thereupon Mr. *Turner* offered to ſend a Pillowbeer, and the Sheriff ſaid he ſhould have the Writings.]

Ld *Hyde.* Provide your ſelf for to-morrow, Mr. *Turner*, we will then go on.

Turner. I have an humble Requeſt to your Honours and honourable Bench; I would beg an Order to bring in ſome Witneſſes, who are Mr. *Tryon*'s Friends now, though mine lately; divers would come in, but ſend me word they dare not, except they are ſummoned by an Order of your Lordſhips.

Ld Ch. Juſt. We will help what the Law will do, but this cannot be done; thoſe that will come in voluntarily, may; the Law will not admit us to ſummon any Witneſſes: you ſee when any come againſt the King, we cannot put them to their Oaths, much leſs can we precept them to come.

Turner. Pray, my Lord, let ſome of the Sheriff's Officers wiſh them to come, not from the Bench.

Ld Ch. Juſt. We cannot direct any thing in't.

Turner. I deſire the Party himſelf may be here.

Ld Chief Juſt. We cannot compel him.

Turner. Then I have no Witneſs in the World; this is a ſad thing, that the Proſecutor, being able, will not come; I hope you will adviſe him to come.

Ld Ch. Juſt. The Law is open, the ſame to every Man, you ſhall have that that is due to any Man, you cannot have more, and leſs you ſhall not have; if he be bound, we will call him.

Turner. What if he will forfeit his Recognizance?

Ld Ch. Juſt. We cannot help that, but we think you need not fear his not coming, he intends to be here.

And afterwards the Priſoners were conveyed back to the Goal.

16 January, *in the Morning.*

THE Court being ſat, and Proclamation made, the Jury was call'd, *viz.*

William Bookey,	*Thomas Hickſon*,
Thomas Seawell,	*John Andrews*,
William Allen,	*John Jacob*,
John Port,	*David Bolger*,
Francis Coles,	*Henry Hague*,
Robert Maſters,	*Lewis Tayte.*

Who ſeverally anſwered to their Names.

Clerk. Set up *James Turner*, *John Turner*, *William Turner*, *Mary Turner* and *Ely Turner*; [Who (with ſome Felons) were accordingly ſet to the Bar.] You, the Priſoners that were laſt called to the Bar, thoſe Men that you ſhall hear called and perſonally appear, muſt paſs between our Sovereign Lord the King and you for your ſeveral Lives and Deaths. If you or any of you will challenge them or any of them, you muſt challenge them when they come to the Book to be ſworn, before they be ſworn.

Silence commanded twice.

Clerk. William Bookey, look upon the Priſoner: 'You ſhall well and 'truly try, and true Deliverance make between our Sovereign Lord the 'King and the Priſoners at the Bar, whom you ſhall have in Charge ac-'cording to your Evidence. So help you God.'

And ſo all the reſt were ſworn, ſave only *Lewis Tayte*, againſt whom he excepted, there being ſome little Difference at preſent between them; but my Lord Chief Juſtices told him he need not give any Reaſon for it, he was free to except any without Cauſe. Thereupon Capt. *Edward Micoe* was ſworn in his room. Count theſe, Crier.

William Bookey, &c. Twelve good Men and true, ſtand together and hear your Evidence.

Clerk. Crier, make Proclamation, O Yes! If any man can inform my Lords the King's Juſtices, the King's Serjeant, or the King's Attorney, before this Inqueſt be taken between our Sovereign Lord the King and the Priſoners at the Bar, let them come forth, and they ſhall be heard; for now the Priſoners ſtand at the Bar upon their Deliverance: and all others bound by Recognizance to give Evidence againſt any the Priſoners at the Bar, come forth and give Evidence, or elſe you will forfeit your Recognizances.

Clerk. Crier, call *Francis Tryon*, *William Hill*, *Fred. Ixam*, *John Garret*, *Jacob Watcher*, *Eliz. Fry*, *Ann Ball*, *John Guerney*, *Francis Millington*, *John Alſop*, *Peter Culley*, *Ralph Taſker*, *William Daws*, *John Rouſe*, *Richard Roberts*, *Nath. Clarke*, *Robert Cole*, *Edward Cole.* They all came into the Court.

Clerk. *James Turner*, hold up thy Hand. [And ſo the reſt.]

[Here the Indictment was read again.] Upon this Indictment they have been arraigned, and thereunto have ſeverally pleaded Not Guilty, and for their Trials have put themſelves upon God and the Country, which Country you are. Your charge is to enquire whether the ſaid *James*, *John* and *William Turner*, or any of them, be Guilty of this Felony and Burglary in Manner and Form as they ſtand indicted, or Not Guilty: And whether the ſaid *Mary Turner* and *Ely Turner* are guilty of the Felony, as Acceſſaries to the ſaid *John*. If you find them Guilty, you ſhall enquire what Goods and Chattels, Lands and Tenements, they or any of them had at the Time of committing this Felony or Burglary, or at any time ſince: If you find them Not Guilty, you ſhall enquire if they fled for it; if you find that they did fly for it, you ſhall enquire, *&c.* as if you had found them Guilty. If you find them Not Guity, and they did not fly for it, ſay ſo, and no more, and hear your Evidence.

But if you acquit *James*, *John* and *William Turner* of the Felony and Burglary, then you ſhall not enquire after *Mary* and *Ely* as Acceſſaries.

Sir Thomas Aleyn *ſworn.* The Evidence that you ſhall give, *&c.*

Ld Ch. Juſt. *Hyde.* Pray, Sir *Thomas Aleyn*, tell your knowledge to the Jury.

Sir *T. A.* May it pleaſe your Lordſhips, and you Gentlemen of the Jury; upon Friday Morning laſt was ſevennight, I heard of this Robbery at *Guild-Hall*, and the Perſon robbed being my Acquaintance, I went to viſit him in the Afternoon; and coming there, not thinking but the Buſineſs had been already examined, ſeveral Perſons with Mr. *Francis Tryon* put me upon the Buſineſs to examine it. I went and examined the two Servants, the Man and the Maid: upon their Examination I found they had ſupped abroad at a Dancing-School, and had been at Cards, and came home afterwards; but before they came home, they heard that an antient Gentleman, one Mr. *Tryon*, was robbed, and then they haſtened home. I examined them further, whether they uſed to go abroad after their Maſter was in Bed? The Man confeſſed he had been abroad twenty or thirty times at Col. *Turner*'s Houſe at Supper, about a Year ſince. The Maid denied they had been there at all: but it is true the Man's ſaying he ſupped there (though it was falſe) was the firſt Occaſion of Suſpicion of Col. *Turner.* When I had examined theſe two, I went to the Examination of *Turner*, Where he was all that Day, where at Night? he told me, at ſeveral Places and Taverns, and in Bed at Nine of the clock, and was called out of his Bed: but having my ſelf ſome Suſpicion of him, I wiſhed him to withdraw. I told Mr. *Tryon*, that I believed if he was not the Thief, he knew where the things were. The old Gentleman ſaid, He could not miſtruſt him, he had put a great Confidence in him: But I deſired him to give me leave to charge him with it; and thereupon I called him in, but he denied it; but not as a Perſon of his Spirit, which gave me ſome Cauſe of further Suſpicion. I deſired to ſearch his Houſe; nay, told him I would whether he would or no. He deſired to go home; I told him, if he would go with them (ſome Perſons there) he ſhould: but you ſhall not ſpeak with your Sons or Daughters, or Servants, they ſhall be examined by me. They ſearched his Houſe, the Marſhal and Conſtable, they ſaid they could find nothing. The old Gentleman was very unwilling to charge him with Felony; ſome Friends there were as well ſatisfied as I was, that he was guilty of it; and they brought me a Paper that he would charge him: and thereupon I wiſhed him to read that Paper, told him I could do no leſs than ſend him to *Newgate.* Says he, you will not undo a Family, will you? Will you not take Bail? No, I cannot. What Proof have you material againſt me? I will give you as good Bail as any Man; give me leave to ſpeak with Mr. *Tryon.* I did give him leave: He had no ſooner ſpoke with him, but Mr. *Tryon* would not charge him, he promiſing to endeavour to find the Thief. I took Mr. *Turner* on one ſide, and told him, I did as verily believe if he was not the Thief, he could find him out, as I believed I ſhould go home to my Wife and Children; and I ſaid, That if an Angel from Heaven ſhould come, and tell me otherwiſe, I could hardly believe it. This paſſed on this Night: I could not ſleep all the Night, ſtill it was in my Thoughts that this Man was the Man that had done the Robbery. Next Morning, after Nine, there came a Gentleman to me, a Perſon of Quality, a Merchant; if your Lordſhip deſires, I ſhall name him.

Ld Chief Juſtice. Pray name him.

Sir *T. A.* It was Alderman *Love*, my Lord: He told me that he thought I was a Friend to Juſtice: If I would go preſently into the *Minories* my ſelf, I might diſcover the Perſon that robbed Mr. *Tryon*; if I ſtaid, or ſent others, the Birds would be flown: Mr. *Turner* has this Morning removed ſeveral hundred Pounds. I went preſently with a Footboy. When I came to *Biſhopſgate*, meeting with Major *Taſker*, knowing not whether I went without the Liberties, ſaid I to him, Are you in haſte? Pray go along with me: And he went with me.

This Gentleman, Alderman *Love*, told me I ſhould meet with a Maid-Servant of his that knew me, though I knew not her: She will meet you at ſuch a Corner, and go with you. When I came without *Aldgate*, I met with two Maids that were the Perſons to ſhew me the Place: The Maid told me theſe were the Maids. I bid them come behind me. At the further End of all the *Minories* I went into the Shop, and found Colonel *Turner* with his Hands in a Cheſt: I charged him to take nothing out, and not to ſtir himſelf. There was two Wallets, one of 100*l.* and the other 200*l.* I took the Keys from him, laid them upon the Compter: I went with him into the next Room, which was the Kitchen; and in another Cheſt was two Wallets more: and now the Gentleman was ſpeechleſs. I told him it was juſt as I told him the laſt Night, that your Roguery would come out; What (ſaid I) is become of the reſt of the Money? Says he, Your haſte will ſpoil all. I called in the Maid, to examine her: But ſhe was fearful, and ſo trembled there was no examining her before Colonel *Turner.* But in concluſion, ſaid I, Colonel *Turner*, if you will tell me whether this be Mr. *Tryon*'s Money, I will do you all the Favour I can. Says he, I cannot ſay it is his Money. I called for a Conſtable, and made a *Mittimus* to ſend him to *Newgate*, thinking he would diſcover the Truth. Said I, Will you give me your Examination? He did: It is in Court. I aſked him whence this Money came? He told me it was removed by himſelf, his Wife, and Children this Morning.

Turner. My Son and I, I told you.

Sir *T. A.* I aſked him where he had received it? He told me at a Goldſmith's, fourteen Days ſince: He did not remember his Name. I aſked why he ſhould remove his own Money? His Anſwer was, He did remove it for two or three Days, till this Foolery was over.

When I ſaw I could get nothing further from him, I diſcourſed with him touching the Remainder of the Money and the Jewels. Says he, Sir *Thomas*, do not trouble your ſelf, you will loſe the Jewels and the reſt of the Money by this Courſe; and, ſays he, I am now in purſuit of them: If you will give me leave to go to the old Gentleman, I know all will be well. I was not content to let him go: But preſently we

called a Hackney-Coach, and my ſelf, and him, and Major *Taſker* went, and carried that Money to Mr. *Tryon*. When we came there, I told Mr. *Tryon* I thought we had brought 500 *l.* of his Money; and I did not doubt but I had brought a Perſon that could tell of the reſt of his Money and Jewels. Colonel *Turner* deſired to ſpeak with Mr. *Tryon* himſelf in private. I gave him leave. He calls me a little after: Sir, ſays he, Mr. *Tryon* and I am agreed; I muſt have this Money delivered to me again: I have aſſured him he ſhall have all his Money and Jewels again by Three of the clock this Afternoon. I told him I could not agree that he ſhould have the Money back again, preſs'd him that he would ſtay there, and ſend for the reſt of the Money and Jewels. But he would (if I did not) truſt him: Mr. *Tryon* would have the reſt of his Money and all his Jewels again.

Turner. I ſaid, I would endeavour it.

Sir *T. A.* If he had ſaid he would have endeavoured it, I would not have parted with him; but he ſaid he ſhould have the Money and Jewels, *&c.* I told him I would meet him at that Time at Mr. *Tryon*'s. Then I took Mr. *Tryon*, and ſaid, Whatever Promiſe you have made in private, you muſt excuſe my aſſenting to any thing againſt the Law: But do not tell him of it, leſt you loſe the Jewels: I muſt commit him to *Newgate*, and I muſt bind you to proſecute him. He deſired me I would not come ſo ſoon as Three, not till Four or Five of the clock, and all would be brought thither. I ſtaid till about Four. In the interim I heard ſome Particulars, what theſe Maids would teſtify; which Teſtimony had I received before I had parted with him, I would not have parted with him for any Conſideration. But when I came thither in the Afternoon, I heard Colonel *Turner* was arreſted, and was then at the *Hoop*-Tavern with the Officers. I ſent immediately the Marſhal and his Men to bring him to me. The Officers and he came; and then Colonel *Turner* told me, I had brought all theſe Things, but the Officers prevented me; I was a very unfortunate Man: Give me but leave till to-morrow Morning at Nine of the Clock, and you ſhall have all. Said I, I have now heard more; and you muſt produce the Money and Jewels, if you expect any Favour from me, or I know what to do. He preſſed very hard an Hour, or almoſt two, that he might be truſted to go for them; if he did not go, Mr. *Tryon* would loſe the reſt of his Money and Jewels. I told him I had rather they ſhould be all loſt, than I ſhould forfeit my Diſcretion and Reputation. And thus he kept us till Seven or Eight at night. At laſt he would have gone with one Perſon. I told him, no: If there were enough to ſecure you, I might give leave. Saith he, the Party will not ſee more than one; for his Life would be in danger. Whither would you go? I would go, ſaith he, (to my beſt Remembrance) to *Tower-Hill* or *White-Chapel*. I ſhould have met him at Five of the clock; and now I muſt meet him about Nine. I will call in the Officers: They will tell you, your being upon a Judgment, they will not part with you without the Liberties: Nor will I give leave, becauſe the Sheriffs will blame me. The Officers ſaid they could not go without the Liberties, for it would be an Eſcape in Law. Pray give me leave to go near thoſe Places, and I will ſend. Nay, then you may as well ſend from hence. He begged leave to go to the *Hoop*-Tavern, and ſend for his Wife; which I did grant. And there he did ſend for his Wife. They brought me word he had ſent his Wife for the Jewels and the reſt of the Monies. He ſent to me not to think the Time too long, for he had notice his Wife was coming. I directed the Marſhal, when his Wife came, he would ſecure her. About Eleven of the clock they brought his Wife; who told me ſhe had delivered the Jewels: They thought they were in two Bags. Then he came to me, and deſired to ſpeak with Mr. *Tryon* in private, and told me Mr. *Tryon*'s Soul was pawned to him, and his to the Thief, that no Diſcovery ſhould be made. But when I examined his Wife what Money went from her Houſe that Morning, ſhe ſaid ſhe knew of none. Where had you the Jewels? She knew of none: But ſhe had a Couple of Bags that ſhe was ſent for: Near *White-Chapel* or the *Tower* a Perſon ſhould meet her, and aſk what ſhe did there, and ſhe ſhould ſay ſhe walked up and down for ſomething that ſhould be given her by a Perſon; which, if he did, ſhe was to bring it to him that ſent her. He did deliver the two Bags, which ſhe delivered to her Huſband; but what was in them, ſhe knew not. There was Sir *Thomas Chamberlane*, Mr. *Millington*, myſelf, and Colonel *Turner*, with Mr. *Tryon*. The two Bags was laid upon a Dreſſer. He told us they were now come; and having performed his part, he hoped Mr. *Tryon* would perform his. Have you performed your part? Have you brought the Jewels and the Remainder of the Money? He told us the Money was not brought: For the 600 *l.* I ſhall give Mr. *Tryon* my Bond, to pay him at ſix Months. We preſs'd to ſee the Jewels: We run them all over. But I ſhould have told you one Thing: She brought a Cat's-Head-Eye-Ring upon her Finger. This the Gentleman was like to forget: He delivered it to me, to deliver that with the reſt. When we had told out the Jewels, we croſſed them out upon the printed Paper as they were called. She ſaid all that was in the Paper, except one Carcanet of Diamonds and Jewels, valued at 200 *l.* that is fallen behind the Cheſt, or aſide. You have 2000 *l.* Pounds worth of Jewels over what is in the Paper; but that Carcanet ſhall be forth coming. He now preſſed that no proſecution might be, for two Souls were pawned, (as I ſaid before) and deſired an End of the Buſineſs. I told him further, and preſſed him: Said I, I have ſtaid a great while, and would ſtay longer, if he might have the 600 *l.* and the Carcanet. But when I ſaw there was nothing more to be got from him, now (ſaid I) what would you have this poor Gentleman to do for you? What he hath promiſed you, I know not; he is a Stranger to the Law: If there had been but you two had it, and it had not been publiſhed to the world, and the Neighbours publick Examination taken, ſomewhat might have been between your ſelves. But would you have this Gentleman bring himſelf into danger? He will loſe all his Goods again; for he will be indicted himſelf. What will he be the better for Diſcovery, when he muſt loſe his Jewels and Money, and be liable to a Proſecution, as you will be; were he ſo ignorant? Do you think that I underſtand the Law no better, being a Juſtice of Peace, to bring my ſelf into danger? All the Kindneſs I can do for you, is, (to be ſhort) I muſt ſend you and your Wife to *Newgate*.

How ſay you, Maſter Alderman? Then I had better to have kept the Jewels. Thoſe were his Words; to the beſt of my Remembrance he ſaid ſo.

My Lord, I aſked him ſeveral Queſtions: Why he ſhould give a Bond for ſix hundred Pounds, if he was not concerned in this Buſineſs? But he knew not what to anſwer. Saith he, Will you not take Bail! Said I, I can take no Bail: I muſt ſend you to the common Goal, and then I am diſcharged. Pray ſend me to the *Compter*. No, I cannot. Do you think I would make an Eſcape? I cannot tell; but I would not bring my ſelf into danger. He prayed me I would give him leave to go home. I muſt make my Warrant: If the Marſhal and Conſtable will do any thing, I ſhall not direct them.

He deſired his Wife might go and fetch ſome Linen.

Ld Ch. Juſt. *Bridgman*. What Day were the Jewels delivered?

Sir *T. A.* Saturday.

Ld Ch. Juſt. *Bridgman*. Thurſday was the Robbery, Friday he was examined, Saturday the Money was removed, and that Night the Jewels were brought, and he committed.

Sir *T. A.* If I have ſaid any thing that he is not ſatisfied wherein I have not true ſpoken, let him aſk me; I ſhall not do him the leaſt Wrong.

Ld Ch. Juſt. *Hyde*. Do ſo, Mr. *Turner*.

Turner. Do your Honours underſtand of Sir *Thomas* the Time the Robbery was committed? I ſhall aſk him ſome Queſtions.

Sir *T. A.* I have only one Word more to ſay to you: That before he went to the *Hoop*-Tavern, Nay, ſaid I, Colonel *Turner*, be ingenious whether this was not Mr. *Tryon*'s Money that he removed? And he confeſſed it was.

Ld Ch. Juſt. *Hyde*. That Money was removed from his own Houſe?

Sir *T. A.* Yes; but his Wife, Children, and Maid denied it.

Ld Ch. Juſt. *Hyde*. Mr. *Turner*, will you aſk him any Queſtions? What are they?

Turner. I would aſk all this back again: You are upon your Oath, Mr. Alderman.

Ld Ch. Juſt. *Hyde*. You need not tell him that he is ſworn; the Court and Jury underſtand it ſo.

Ld Ch. Juſt. *Bridgman*. Go on, Mr. *Turner*; aſk your Queſtions.

Turner. My Lord, I demand of Sir *Thomas Aleyn* whether I did not tell him at the firſt there was a wicked young Man had belied my Houſe and Family, ſaying, that he ſupped there that Night, when he had not ſupped at my Houſe theſe twelve Months.

Sir *T. A.* I think I have done him that Right already. He deſired me to examine that young Man, who ſaid he ſupped at Colonel *Turner*'s; but I found he had not been, nor was not there.

Turner. Upon Friday Night, when the Alderman preſſed me concerning the Thing, I told him I had ſome Suſpicion of ſome Perſons, who formerly ſhould have robbed Mr. *Tryon* a Year ago, and I employed *Moſely* the Conſtable and Mr. *Tryon*'s Man to go to *Ratcliff*, and I went another Way. Pray aſk Sir *Thomas* whether I did not promiſe to do all I could.

Sir *T. A.* I preſſed him hard; he ſaid he would endeavour it.

Turner. Whether did not I tell him that that Money was carried there on purpoſe to gain the other Fellows that had the Jewels? Said I, If this Money be taken away, he that hath the Jewels will not bring them, and the Remainder of the Money; but that this Money muſt bring him to it, that they might ſhare it.

Sir *T. A.* There was not one Word of this: His Examination was contrary. He told me 400 *l.* was received of a Goldſmith, he knew not his Name, and 200 *l.* was in his own Houſe; and that he removed it for two or three Days, till this Foolery was over. He ſaid it was his own Money. I ſaid, an honeſt Man need not thus remove his own Money.

One thing I have omitted: When I was examining of him in the *Minories*, word was brought me his Son was fled away at the Back-door. I bid them run after him, but they ſaid they ſaw him leap over a great Ditch; he was not heard of till yeſterday, tho' I ſent out my Warrants for him.

Ld Ch. Juſt. *Hyde*. Yourſelf (as Sir *Thomas Aleyn* ſwears) ſaid you knew not of whom you had part of the Money, but the other was your own, and yet afterwards that the Money was *Tryon*'s; why did you ſay ſo?

Turner. I will tell you the Reaſon; I would not have my Buſineſs ſpoiled, and did feign thoſe Anſwers. My Lord, I do demand of him whether Mr. *Tryon* and I had not made a bargain in the Morning, whether or no if he might have his Goods the Perſon ſhould be free, and that he had agreed no Blood ſhould be ſpilt; that he had rather loſe all his Money and Jewels, than to forfeit ſuch an Aſſeveration which the Thief had bound me that I ſhould ſwear to him, That by the Blood of Jeſus Chriſt that was ſhed for him and all Sinners, his Life ſhould be free.

Ld Ch. Juſt. *Hyde*. You are beſide the Buſineſs.

Turner. My Lord, I aſk Alderman *Aleyn* whether I did not tell him this?

Sir *T. A.* I told your Lordſhips two Souls were pawned, as he ſaid before.

Ld Ch. Juſt. *Hyde*. Do not ſpend your time thus; the Queſtion's ſhort, whether you are guilty of robbing, or breaking the Houſe of Mr. *Tryon*, or no?

Turner. I am as free as any Man here.

Ld Ch. Juſt. *Hyde*. They will not believe your own words.

Sir *T. A.* I think I have done him no wrong by this Evidence.

Turner. I hope, my Lord, I ſhall have the benefit to call him again for a Witneſs for me.

Ld Ch. Juſt. *Hyde*. You may aſk him now.

Turner. No, when I come to my Defence.

Ld Ch. Juſt. *Hyde*. Yes, yes.

Turner. Oh your Honour's moſt humble Servant; I am very ſorry I have put him to this trouble.

Mr. Tryon, *his Servant*, and *Mr.* Garnet *ſworn*.

Ld Ch. Juſt. *Hyde*. Mr. *Tryon*, pray, (as you are able) give an account of this Buſineſs.

Tryon. My Lord, about Eleven of the clock, or ſomething paſt, upon Thurſday Night laſt was a Seven-night, two Men came into my Chamber when I was faſt aſleep, one on the one ſide, and another on the other ſide of the Bed: one had a Lanthorn that opened on one ſide, and waked me: when I ſaw him, I was much aſtoniſhed (as I might well) knew them not, ſaid, My Maſters, who are you? I was newly

newly out of my Sleep; being an ancient Man, I apprehended another Man for the Party I ſpoke to, but was not the Man, and named him by his Name, What do you do here at this time of night? What is your buſineſs? Said nothing to me: one took both my Hands, the other with a little Cord bound me very hard, inſomuch here yet is the dents of it; and bound my Feet, gagg'd me, and uſed me barbarouſly, moſt inhumanly: I muſt ſuffer it, becauſe I could not tell how to avoid it. When they had done, then told me this withal, You ſhall not loſe a Hair of your Head. I knew not their Intentions, I fear'd what it was, for when they had done this, they left me; I had no body could come to me in my Houſe, my Servants I knew not upon what grounds they were forth at Supper when I a-bed, which was of ill conſequence. After I had been an Hour in this manner, I rolled myſelf out of my Bed, and fell down; and, ſaving your Lordſhip's Preſence, a Chamber-pot fell, broke, and I fell upon it, and very much hurt myſelf upon the pieces of the Pot: and ſo with much ado, it pleaſed God, I know not how myſelf, I got to the Chamber-Window which lay to the Street; I called out, *Murder!* and *Thieves!* My Neighbours ſaid, I call'd with ſo ſtrong a Voice, they wondered to hear me. Quickly after, many of my Neighbours came in, and one Mr. *Peter Vanden-Anchor*, a *Dutchman*, that ſelleth *Rheniſh* Wine, he came in and unbound me; and ſo after I was unbound, I went down to the Warehouſe as I was, without Clothes about me, only my Waiſtcoat and Shirt, and ſaw that they had been there. I conſidered thoſe that had done the thing, were very privy to my Houſe; they knew where to fetch the Key of my Caſh, in a Drawing-Box, taking the Money there, which was about One Thouſand and odd Pounds: ſome Plate there was, they did not meddle with it.

Ld. Ch. Juſt. *Hyde.* How came they by the Jewels?

Tryon. I forgot ſomething concerning ſome Jewels; theſe Jewels were in a Drawer under my Table in the Compting-houſe, he was privy to that, becauſe he did frequent my Houſe very long, and was very familiar.

Ld Ch. Juſt. *Hyde.* Who was privy to all this?

Tryon. James Turner.

Ld Ch. Juſt. *Hyde.* Mr. *Turner*, would you aſk Mr. *Tryon* any Queſtions?

Turner. By and by, when I come upon my Proof.

William Hill, *Mr.* Tryon's *Man*, *ſworn.*

All that I can ſay, is this: When I went out, I locked the Door double, and thoſe things were there then.

Ld Ch. Juſt. *Hyde.* About what time?

Hill. Seven or Eight of the clock.

Ld Ch. Juſt. *Hyde.* Was he a-bed then?

Hill. Yes, My Lord. When I came home again, I found all theſe things gone; going down into the Compting-houſe, we found ſome Jewels gone, and ſome left, and thoſe were inconſiderable to thoſe that were gone; the beſt were cull'd and gone. On Saturday Col. *Turner* was arreſted with two Serjeants, and ſent the Boy at the *Hoop*-Tavern for me: I took two Friends with me, Mr. *Gurney* and Mr. *Pilkington*; he prayed me to ſpeak to my Maſter that he would give Bond for him, that the Serjeants might diſcharge him, and he haſte about his buſineſs, or elſe it would be ſpoiled. Proceeding into ſome Diſcourſe, I was ſaying to him, it was a great Providence that I and the Maid was not then at home, for if we had, we ſhould have been killed. He anſwered, Saith he, No; they would only have bound you and the Maid. I aſked him, how it was poſſible to get in? He anſwer'd, One went through the Entry in the Day-time, and there lay till Night, went up Stairs, found a Candle, lit it, went up to his Chamber, took the Key, and went down and let in others.

Turner. This Story I was informed, I told him.

Hill. I aſk'd him how he came to know it? He ſaid he examined them.

Ld *Bridgman.* Did he never tamper with you about making Mr *Tryon*'s Will?

Hill. Yes, my Lord; he came to me about a Year ago, I went with him to the *Cock* behind the *Exchange*, it was in a Morning, he took me privately aſide, told me the old Gentleman your Maſter is very ſickly, cannot live long, had a good Eſtate, or to that purpoſe, and it was pity he would never make a Will, and ſuch an Eſtate ſhould go to the building of *Paul's*. Saith he, I have preſs'd him ſeveral times touching making his Will; he ſaid he had done it, when we both knew he had not, and I believe he will not make one. He told of one that could counterfeit a Hand.

Ld *Bridgman.* Was it not *Grainger?*

Hill. Yes, my Lord; that that Man could counterfeit a Will, and I and Mr. *Garret*, and another Good-fellow ſhould be the three Executors, and a third Perſon Overſeer, and that would pleaſe the Old-man. I anſwered, I would not have to do in ſuch an unjuſt thing for all the World.

Ld Ch. Juſt. *Hyde.* Did you go to *Turner*'s to ſupper that Night this Robbery was committed?

Hill. No, my Lord, to Mr *Starkey*'s in *Fan-church-ſtreet*; the Maid went along with me.

Ld *Bridgman.* One Queſtion more: You ſaid you came in and found the Doors open, did you come in before the Neighbours?

Hill. No, my Lord, I had not known of it, but that one Gentleman at Supper went home with a Gentlewoman in *Leadenhall-ſtreet*, and hearing there was ſuch a Robbery in *Lime-ſtreet*, I run with a great fright, came in and found the Doors open, and found the Neighbours within.

Turner. The thing underſtood touching the Will, hath another face: his Uncle was an Acquaintance of Mr *Grainger*, his Uncle that bound him Apprentice, that lived in *Cripplegate*, now in *Cornhill*. This *Grainger* had counterfeited a Will touching my Lord *Gerrard*, and ſomebody elſe, about an Eſtate. Said I to this young Man, You have an Uncle acquainted with a notable Fellow, one *Grainger*, and your Maſter making no Will (ſpeaking merrily) this Fellow is able to make it for him. Aſk him if I did not tell him his Uncle was acquainted with ſuch a Perſon.

Hill. You told me ſo indeed.

Ld *Bridgman. Hill*, by the Oath you have taken, did he not perſuade you to endeavour that you and he and *Grainger* ſhould counterfeit a Will?

Hill. He did, my Lord: he told me, That I, Mr. *Garret*, and another Good-fellow, ſhould be the three Executors, and another Perſon Overſeer, and that this *Grainger* could do it undiſcernibly. I anſwered him, I would not meddle with it for all the World.

Turner. Go, go, go, this is Malice; for it was mere jeſting with him.

Elizabeth Fry *ſworn.*

Fry. Mrs. *Turner* came to my Houſe on *Saturday* Morning laſt, at Six o'clock in the Morning: ſhe knocked me out of my Bed. I aſked, who was there? She ſaid, A Friend. Who are you, ſaid I? Come and ſee, ſays ſhe. I ſaid, Who, Mrs. *Turner?* She ſaid, Yes. I went and dreſſed me, and let her in. She ſaid, There was a Friend of hers, a Merchant, newly broke, he had a Wife, and ſeven or eight Children; they deſired to ſecure the Money till they had taken their Oaths the Money was not in their Houſe. She ſaid, Her Huſband and her Son *Ely* was coming with it. I went and lighted a Candle, there was ſhe and her Son *Ely* with the Money. She aſked me, if I had a ſpare Cheſt? I ſaid, Yes, there was one within. She went in, opened the Cheſt, and ſhe put in the Wallets of Money, I know not how much, my Lord. I aſked her if there was any more to come? She ſaid, Yes, her Huſband was coming with more. She went to the Door and let it in, but I know not who brought that.

Ld *Bridgman.* Did not Mr. *Turner* come in?

Fry. Yes, my Lord, he opened the Bags, and aſked his Wife touching the Seals. She ſaid, the Gentlewoman that owned the Money had deſired me to pull them off. They offered me twenty Shillings for my Kindneſs in it, told me they had power to give it from the Gentlewoman; deſired me if my Siſter or any ſhould aſk about it, bid me conceal it, becauſe the Diſcovery would ruin the poor Gentlewoman and her Children, but rather to ſay that they deſired me to let ſome Linen lie there.

Ld Ch. Juſt. *Hyde.* Were the Bags ſealed?

Fry. I ſaw none ſealed.

Ld *Bridgman.* How many Wallets were in the Shop?

Fry. I ſaw but three, and they put one into a Cheſt in the Shop, and two in the Kitchen.

Ld Ch. Juſt. *Hyde.* At that time when the Money was brought, was there any Diſcourſe of Eleven Hundred Pound?

Fry. To my beſt remembrance it was ſo.

Turner. Not a word of the Sum.

Fry. There was five Wallets brought into my Houſe, three in the Shop, two in the Kitchen.

Ld Ch. Juſt. *Hyde.* Had they Bags at each end?

Fry. Yes, my Lord.

Sir *T. Aleyn.* You hear what the Wench ſays; ſhe ſays, there was five Wallets, three in the Shop, two in the Kitchen: I took two in the Shop, and only one in the Kitchen.

Fry. My Lord, I have two Apprentices, little Girls, when all the People were in the Shop, ſaid out aloud, That they ſaw Mrs. *Turner* go out of the Shop with ſomething in her Apron, covered with a red Cloth, while I was above, my Lord.

Turner. Who ſhould convey it away?

Ld Ch. Juſt. *Hyde.* Your Son was there.

Turner. Pray, my Lord, aſk her which is *Ely.*

Fry. That is, (pointing to *Ely.*)

Turner. It was falſe; this *Ely* carried none, the Boy knew nothing of it; both my Sons are dear to me, and if either more than the other, it muſt be my eldeſt, and yet I muſt ſay, it was *John* my eldeſt Son that carried the Money, this Boy was at home; ſhe hath forſworn herſelf.

Fry. Your Wife told me that *Ely* was to bring ſome.

Mr. Gurnet *ſworn.*

My Lord, I met with Colonel *Turner* on *Saturday* Morning after the Robbery; he told me, ſays he, I have been as good as my Word, I ſent my Son to make ſome diſcovery of this Buſineſs, and I did not doubt but to clear myſelf of it, and make a Diſcovery: this was on the *Exchange.* Says he, I have met with them. With what? With the Jewels and Money. Where are they? I have brought Five Hundred Pound; the reſt, with the Jewels, I ſhall have at Three o'clock this Afternoon: will you be there? Yes, ſaid I, who were they? They were Friends. Friends! what and uſe him ſo barbarouſly! O, ſays he, they were two Strangers, they went beyond their Commiſſion.

Major Ralph Taſker *ſworn.*

On *Saturday* Morning I met Sir *Thomas Aleyn*; paſſing by, he called me; ſays he, there is a buſineſs in hand, pray go along with me. We went along through *Aldgate*, and into the *Minories*, and paſſing along the *Minories*, theſe two Maids we overtook, and aſked them where the Houſe was; they ſhew'd us, we went in, Mr. *Turner* was there, his Hand in the Cheſt, Sir *Tho. Aleyn* ſtaid it: we ſeized the Money; there was two Bags of Buckram, I conceived there was Two Hundred Pound in either of them, and another in the Kitchen, Sir *Tho. Aleyn* deſired me to ſecure them. I ſaw a Fellow play bo-peep in a Back-room, and preſently was a Noiſe, he was fled and gone; his Son they ſaid it was. Sir *Thomas Aleyn* preſſed very hard to Mr. *Turner*, and deſired to know whoſe Money that was. Says *Turner*, By the Eternal God it is my own Money, with many other Proteſtations. A Conſtable was ſent for, and we carried the Money and *Turner* in a Hackney-Coach to Mr. *Tryon*, and there left the Money on a Table with Mr. *Tryon:* they had ſome diſcourſe; *Turner* came forth and ſaid, The old Gentleman and I are agreed, I will truſt the Money no longer with you, but with the old Gentleman himſelf. Said I, let me be diſcharged of it, do what you will with it.

Ld *Bridgman.* Did you ſee the Bags out of the Wallets?

Sir *T. Aleyn.* We ſaw one which was ſealed, I think, with the Biſhop of *Chicheſter*'s Seal.

Ann Ball *ſworn.*

On *Saturday* Morning Mrs. *Turner* came to this Maid's Houſe, and deſired to come in; ſhe ſtept out of Bed, and aſked who was there? ſhe ſaid, a Friend. She went to the Door, and aſked who was there? Mrs. *Turner* ſaid, Open the Door, and you ſhall ſee. Opening of it, ſhe came in: who is it, Mrs. *Turner?* Yes, ſays ſhe. What would you have? I have a little Money I would leave here: This ſhe came and told me. She lighted a Candle, I ſaw Mr. *Turner* and his Wife come

come in, I heard a great Noiſe and a Quarter, I lay ſtill, heard not what they ſaid. When they were gone, the Maid told me what they had brought into the Houſe. Said I, I thought it had been Pewter: ſaid I, if you keep this Money, we ſhall be utterly undone, if you do not tell ſome People of it. She went to her Siſter to make her acquainted with it.

Ld *Bridgman.* You ſaw Mr *Turner* and his Wife come in?

Ball. I did, but knew not what they did there: ſhe did go to her Siſter, and ſo it came to Sir *Thomas Aleyn* by accident.

Ld *Bridgman.* Now for the Seal, who were thoſe that ſaw the Seal?

Frederick Ixam *ſworn.*

My Lord, and Gentlemen of the Jury, being at the Houſe of Mr. *Tryon* on *Saturday* in the Evening, I was deſired, with others there preſent, to ſee the Bags taken out of the ſeveral Wallets; three, I think. I ſaw them taken out, three had no ſeals on, one was very much defaced, and the other had a Seal, which being queſtioned to be the ſeal of the Biſhop of *Chicheſter*, it was compared with the Seal of a Letter which Mr. *Tryon* brought down, and declared to be a Letter received from the Biſhop of *Chicheſter*, and thoſe two Seals agreed: the Bags being here in Court, will be a further Evidence. The Letter was produced by Mr. *Tryon*, and owned by him to be the Biſhop of *Chicheſter*'s, and they agreed.

Mr. Hanſon *the Goldſmith ſworn.*

[The Bag ſealed was ſhewn him.]

Ld *Bridgman.* Have you ſeen the Letter?

Hanſon. Yes.

Ld *Bridgman.* Doth that Seal and the Seal of the Bag agree?

Hanſon. Yes.

Ld *Bridgman.* Mr. *Tryon*, whoſe Letter was that?

Mr. *Tryon.* Dr. *Henry King*'s, Biſhop of *Chicheſter.*

Ld *Bridgman.* Open the Letter, and ſee whether that be the Letter you received from the Biſhop of *Chicheſter.*

Tryon. Shall I read it?

Ld *Bridgman.* No.

Tryon. It is his Hand and Seal.

Ld. *Bridgman.* Shew the Bag and Letter to the Foreman of the Jury: [which was done, and moſt of the Jury view'd it.]

Ld *Bridgman.* You obſerve this Evidence; this was one of the Bags that was taken in the *Minories*, that Colonel *Turner* was then removing: Mr. *Tryon* had Six Hundred Pounds of the Biſhop of *Chicheſter*'s in Bags ſealed; it appears by the Letter to be his Seal, and theſe Gentlemen ſwear this was one of the Bags then pulled out of the Wallet, and Sir *T. Aleyn* has had it in his Cuſtody ſince.

Ld Ch. Juſt. *Hyde.* One thing more obſerve, he aſked his Wife when the Money was brought into this Woman's Houſe, Have you taken off the Seals? His Wife ſaid, The Gentlewoman directed her to take them off.

Ld *Bridgman.* Some were taken off, but it ſeems this was left on.

[*Here* Turner *ſpoke ſomewhat to the Jury.*]

Ld Ch. Juſt. *Hyde.* Pray Mr. *Turner* diſcourſe not with the Jury, your whiſpering will do you little good: tho' I think they are honeſt Men, and will not be guided by you, yet we expect the ſame Carriage from you as from other Priſoners; you ſhall have all the Juſtice that may be.

Cole *the Serjeant ſworn.*

Ld Ch. Juſt. *Hyde.* Speak your Knowledge.

Cole. On *Saturday* in the Afternoon about Three o'clock, my Brother and I arreſted Colonel *Turner* in an Action of Seven Hundred Pounds.

Ld Ch. Juſt. *Hyde.* At whoſe Suit?

Cole. At the Suit of *Thomas Lyon*, who with others was Bail for him.

Turner. It was only hearing of this Foolery that cauſed it.

Cole. My Lord, we went to the *Hoop*-Tavern, he ſent for Mr. *Tryon*'s Man, that he ſhould engage for this Account, that he might have his Liberty to look after Maſter *Tryon*'s Buſineſs. Soon after came the Conſtable, and he charged us to aſſiſt him to go before Sir *Thomas Aleyn.* By and by I was ſaying, Coloner *Turner*, how could this Houſe be robb'd, and none of the Doors broke? O, ſaid he, I took a Man in the *Minories*, who has diſcovered it to me: he told me, that one going into the Cellar in the day-time, lay there till Night, then went up Stairs, found a Candle and lit it, went up to the old Gentleman's Chamber, took the Key from his Bed-ſide, and went down, and let all the reſt of the Thieves in. The Young-man being there, ſaid, It was well the Maid and I was not at home, we ſhould have been killed. No, ſays he, you would not have been killed, only bound.

Turner. As the Fellow told me.

Ld Ch. Juſt. *Hyde.* Did he not ſay nothing touching Mr. *Tryon*'s Tooth?

Cole. He ſaid, that the Fellow putting his Finger in his Mouth to gagg him, the old Gentleman bit him; and he ſtruggling to get out his Finger, pull'd out his Tooth.

Ld Ch. Juſt. *Hyde.* You are very perfect at it, Mr *Turner*, every way.

Turner. Ay, my Lord, I examined him every way.

Cole *the Yeoman ſworn.*

Cole. My Lord, I can ſay only what my Brother ſaid before.

Ld Ch. Juſt. *Hyde.* Tell it.

Cole. I arreſted him, *&c.* [And ſo related in the ſame manner his Brother did.]

Ld *Bridgman.* Mr. *Hill*, What do you know about breaking your own Deſk?

Hill, My Deſk was ſafe locked, and the Key in my Pocket; I loſt out of that Deſk about forty-five Pound of my own.

Ld *Bridgman.* Where did it ſtand?

Hill. Upon a Table in the Ware-houſe; the Jewels were in a Drawer under the Table in the Counting-houſe.

Ld *Bridgman.* How did you leave Mr. *Tryon*'s Door?

Hill. Double lock'd.

Ld *Bridgman.* Who had the Key?

Hill. I had.

Ld *Bridgman.* Was there more than one Key?

Hill. Always two.

Ld *Bridgman.* Who had the other?

Hill. The other Key was in my Maſter's Chamber.

Ld *Bridgman.* Mr. *Tryon*, how was your own Door open'd?

Tryon. I called ſome of my Neighbours, and Mr. *Vanden-Anchor* came up to me: It ſeems they had forced open the Door with a Crow of Iron.

Ld *Bridgman.* The Door of your Chamber, do you mean?

Tryon. No, the Street-Door.

Ld *Bridgman.* How was your Chamber-Door opened?

Tryon. I never lock my Chamber-Door, but pull it too.

Ld. Ch. Juſt. *Hyde.* Mr *Hill*, the Counting-houſe where the Jewels were, was that lock'd?

Hill. Yes, and the Drawer I think was lock'd; ſometimes he does, and ſometimes he does not lock it.

Ld Ch. Juſt. *Hyde.* Was the Houſe-Doors open, or no?

Hill. Before I came, the Neighbours had broke open the Door.

Ld Ch. Juſt. *Hyde.* Mr *Tryon*, were your Counting-houſe and Till, where the Jewels lay, lock'd?

Tryon. Ever, my Lord.

Ld Ch. Juſt. *Hyde.* That Night?

Tryon. Yes, my Lord.

Ld Ch. Juſt. *Hyde.* Was it opened with a Key, or broken open?

Tryon. I know not how it was opened, my Key was among a Bunch of Keys.

Peter Vanden-Anchor *ſworn.*

Ld *Bridgman.* When Mr. *Tryon* cry'd out, you came in, did not you?

Vanden-Anchor. Yes, my Lord.

Ld *Bridgman.* How did you find him?

Vanden-Anchor. I was lately come home, my Daughter heard a great Voice of Murder and Robberies: I went out, and ſome of the Neighbours were breaking open the Door, and I was the firſt that went into the Houſe; and ſo I went preſently up to Maſter *Tryon*'s Chamber, and found him bound with this Rope; and put it into my Pocket, and ſearched about the Houſe, and ſeveral Neighbours came in.

Chaplain *ſworn.*

I was at the Door with Maſter *Vanden-Anchor*, we went into the Ware-houſe and Counting-houſe, and all open, Caſh was taken away without any breaking. Says Maſter *Tryon*, All my Money is gone, a Thouſand and odd Pounds: Several pieces of Plate were there left. We went up with Maſter *Tryon*, and ſent for a Chirurgeon to dreſs his Thigh: By this time his Man came in; I aſked him where he had been? ſays he, I have been at Colonel *Turner*'s at Supper. Where is the Maid? ſays he, She is fallen into a Swoon. Some Maids came home with her; I aſked her where ſhe had been? She ſaid, At one *Chamberlin*'s a Goldſmith's. Said I to her, The Man ſays one thing, and you another. A little after comes in Colonel *Turner*, with his Lanthorn, and his Hair turned up under his Cap, and there he made a great Buſtle. I went to *Chamberlin*'s to enquire touching the Maid; he ſaid, they had been there with a Dancing-Maſter. I went to Maſter *Tryon*'s again: we aſked him, who he thought bound him? he named one *Chriſtmas*, but I knew him not.

Lord Mayor. Did you not find any Door, that you obſerved, to be broken?

Chaplain. No, but all open'd with Keys.

Mr. Chriſtmas *ſworn.*

My Lord, I know little of the Buſineſs. About Two o'clock on Friday Morning there comes a Conſtable and other People, and knock'd at my Ware-houſe Doors: the Man's Servant of the Houſe roſe up, and aſked them who they would ſpeak with? They ſaid, they would ſpeak with one *Chriſtmas.* Hearing my Name, I roſe up, I aſked what was the matter? They ſaid, they muſt have me to Maſter *Tryon*, he was robb'd. If he was, ſaid I, it doth not concern me. They told me, I muſt go to Maſter *Tryon.* I ſaid, he was not a civil Man to ſend for any at that time of Night out of their Beds. Then another Conſtable came, and ſaid he would break open the Doors. Said I, I am not afraid to come to you, I am not the Man you take me to be. Nothing would ſatisfy, but I muſt go; I told them I would: and then they took me into their Charge, and carried me to the *Exchange.*

Ld Ch. Juſt. *Hyde.* Who beſides the Conſtable?

Chriſtmas. Two Young-men that I know, one *Bagnall*'s Man, and *Browning*'s Man: they told the Conſtable, I was a Man of Repute, and an honeſt Man, and my Word would be taken at the *Exchange* for many Hundred Pounds. After that they intended to carry me to Maſter *Tryon*; and the Conſtable of *Broad-ſtreet* carry'd me to the Counter: There I was 'till Ten o'clock, and then the Conſtable and *Turner* came to me. *Turner* aſked me what Juſtice I would go before: I told him it was indifferent to me; Sir *John Frederick*, or the next, Sir *Richard Brown*, or before Sir *Thomas Aleyn*, Sir *John Robinſon*, all one to me whom I go before; but I think it moſt convenient to go before Sir *Thomas Adams*, becauſe he lives in the ſame Pariſh with Mr. *Tryon.* We went there, and no Man charging me, Sir *Thomas* diſcharged me, but deſired I would go over to Mr. *Tryon.*

Ld *Bridgman.* I obſerve this Gentleman was of a pretty Bulk, ſomewhat corpulent, and ſo is Mr. *Turner.*

Turner. My Lord, I humbly beg I may have a Stool to ſit down, I am troubled with the Gout.

Ld *Bridgman.* You may have one.

Mr. Millington *ſworn.*

My Lord, I came to Mr. *Tryon*'s on Saturday in the Afternoon, about the Evening; and being ſent for to come with Mr. *Turner*, he told me of the Arreſt that was made upon him, and ſaid, that he ſhould not comply with his words, in bringing the Jewels and Remainder of the Money. He deſired me I would go and intercede, that he might have his Liberty to go about the Jewels: but I did not think it convenient to make my ſelf concerned in it. He alledged,

ledged, that if he did it not presently, the Thief would be gone. It was hinted, that they that were with him, might go along with him, the Marshal and Serjeants: He said, if so many came, they would fright him away; for he said, he was walking about *Tower-Hill* or *White-Chapel*. But it was deny'd, and could not be granted that they should go, it being out of their Liberties. He desired to go near those Places, keeping within the Liberties, and to send for them. Sir *Thomas Aleyn* told him, he might as well send for them thither. He desired to go to the *Hoop*-Tavern, and then some went with him to his House: His Wife was private with him behind a Partition; then he came out, and spoke publickly to his Wife, says he, There is a Man will be walking all alone, either at *White-Chapel*, or on *Tower-Hill*, do you go there; if he sees you, he will ask you whether you want any thing, and will deliver you what I told you. We went to the *Hoop*-Tavern again, and about two Hours after, the Jewels were brought by his Wife. That being done, we went to Mr. *Tryon*'s, Mr. *Turner* carried the Jewels; being at Mr. *Tryon*'s, the Jewels were there opened: We found by Perusal, that there was only a Carcanet Jewel wanting, of the Value of about Two Hundred Pounds; and Mrs. *Turner* said, the Man told her, that that Carcanet was fallen behind a Chest, but did not doubt to procure it to-morrow. Afterwards Sir *Thomas Aleyn* told him, now he could do no less than commit him to *Newgate*. Mr. *Turner* told him, then he had better have kept the Jewels. The Remainder of the Money being asked for, he said he would be bound for it.

Mr. Mannock *sworn.*

Ld *Bridgman*. What Discourse passed between you and Mr. *Turner* at *Newgate*?

Mannock. My Lord, he told me Mr. *Tryon* was to give him 500*l.* to get the Jewels and Money, and that he had got him 500*l.* and most of the Jewels; and that if Sir *Thomas Aleyn* had not secured him, he did believe that he should have had them all: But *Newgate* was not a Place to find them out.

Ld *Bridgman*. Did he tell you of bringing any Money from his own House? That the 500*l.* he delivered Mr. *Tryon*, was procured from his own House?

Mannock. He did tell me so, my Lord.

Turner. My Lord, I own it, I shall unfold the Riddle by and by.

Sir Thomas Chamberlain *sworn.*

Ld Ch. Just. *Hyde*. What know you, Sir *Thomas*, of this Business? Pray let the Jury hear you.

Sir *Thomas Chamberlain*. My Lord, on *Friday* Morning I was at the *East India* House, keeping Court there for that Company: Afterwards I went to the *Exchange*, and being tired, I called in at the Coffee-House, and there heard that Mr. *Tryon* was robb'd. I went directly home, and dined: About Three o'clock I went to Mr. *Tryon*'s House, an old Friend of mine, my Father's Servant heretofore, I went to visit him, and found a great many People about him; Sir *Thomas Aleyn*, Lady *Garret*, and the Countess of *Carlisle* was there. I told him, Mr. *Tryon*, I understand you have been robb'd. Yes, says he, I have a great Loss. I found him very staggering what he should do. I said, you must now do like a Man, or you will lose all: Said I to Sir *Thomas Aleyn*, If you do not help the poor Man, being ancient, he will quite lose all. With that I went up above in the House, Sir *Thomas Aleyn* was pleased to call me along with him, I was by at all the Examinations; I did mistrust, and told Mr. *Tryon* in *French*, that no doubt but that Gentleman was in the Robbery: The Reason was, that he being a frequent Man in the House, knew every thing; he was there continually, coming for Jewels and Things, and no Man could do it but himself; that was my Judgment. I told Sir *Thomas Aleyn* assuredly he had a Hand in it. My Lord, the while we were examining the Servants, Word was brought in, that he was hearkning at the Door, and in the Yards, which made me more and more mistrust him. We heard that the Maid had been gadding abroad several times; I desired Sir *Thomas Aleyn* to examine the Maid how often she had supp'd at *Turner*'s, she denied any time. The young Man was examined, who said, they had been thirty or forty times feasted at Colonel *Turner*'s. My Lord, Sir *Thomas Aleyn* has given you a just Account, but he omitted one thing: He had a Note sent him, which he had in his Pocket, touching Mr. *Turner*'s going about Removal of the Money into the *Minories*; and before *Turner* came in, he examined Mrs. *Turner* upon that Note: Says he, you were there too, and carried the Money. Says she, She is a Lyar and a Whore for saying so. Col. *Turner* came in and said, Why do you torment and vex my Wife? and falling a Cursing, and Swearing and Banning, said she was with Child, you will make her miscarry, let her alone. Sir *Thomas Aleyn* examined him where he had been that Day, and that Night; he told him of many Taverns, and going to see his Horse, and I know not what, but we found him faltering. When the Jewels were brought, there being two Notes, Sir *Thomas Aleyn* had one, and I another. The old Gentleman was so joyful to see them again, that lying by him, and handling them, he pull'd two or three down with his Sleeve. Says Mr. *Turner*, Come, I know what belongs to them better than any of you, and read them over, and I will shew them you. There wanting one Jewel, says he, That Rogue that has the other Money, hath this Jewel, but I do not doubt but I shall find that out too. We put them all together, and Sir *Thomas Aleyn* sealed them with his Seal. For the Bags of Money, I saw them taken out, and one being sealed with a small Seal, I put on both my Spectacles, I found a Lion Rampant at top in one of the Quarters; said I, This is a Seal of some great Person: And then a Letter was brought down, and being compared, I was satisfied in my Conscience they were alike. Sir *Thomas Aleyn* told me he must make a *Mittimus* for him and his Wife: Said she, Do you send me of your Errands? You shall send somebody else another time: I thought it would come to this. After much ranting and swearing (I thought the Devil would have fetch'd him out of the Room) he said, that he had better have kept the Jewels, than to bring them forth, and to suffer for it himself, for he had pawned his Soul, and would not reveal it; and said, that Mr. *Tryon* had likewise engaged the like to him. For the Six Hundred Pound, he offered his Bond.

Lord Mayor. Pray repeat one Part of your Evidence again; that was, that somebody came to Mr. *Tryon*'s House, from the House in the *Minories*, charging Mrs. *Turner* to have been at that House.

Sir *T. Chamberlain*. I said, that before *Turner* came in with the Jewels, Sir *Tho. Aleyn* had received a little Note, wherein was affirmed, that *Turner* and his Wife had been there; with which she was acquainted, and swore and took on, she was a Whore, for she was not there.

Sir *T. Aleyn*. When I examined Mrs. *Turner*, she would own nothing. Why, said I, will you deny this which is so apparent? That you were there (the Maid told you so now) you deny'd it when I charged you with it.

Mrs. *Turner*. I did not, it's false; what did—

Turner. Prythee be patient, dear *Mal*, come sit thee down.

Sir *Tho. Aleyn*. I asked Mrs. *Turner* whether she knew of any Money carried to the *Minories* that Day; she said, she knew of no Money at all, and said she was a Whore that said it.

Mrs. *Turner*. They put it to me, that I knew who brought the Money to my House, and that a Woman acquainted them so; I said she was a lying Whore that said so.

Ld Ch. Just. *Bridgman*. Mr. *Hill*, what time of Night did you go out that Night?

Hill. It was Seven or Eight o'clock.

Ld Ch. Just. *Bridgman*. Was the Door lock'd?

Hill. Yes.

Ld Ch. Just. *Bridgman*. Did you carry the Key with you?

Hill. Yes.

Ld Ch. Just. *Bridgman*. Was there any more Keys?

Hill. There was another above in the Chamber by my Master's Bed.

Ld Ch. Just. *Bridgman*. Did you find that other Key when you came back?

Hill. Yes.

Ld Ch. Just. *Bridgman*. In the same Place?

Hill. I know not that.

Ld Ch. Just. *Bridgman*. Mr. *Hill*, you have been acquainted with some Transactions between Mr. *Tryon* and *Turner*; was he not employ'd about a Mortgage?

Hill. Two or three.

Ld Ch. Just. *Bridgman*. Was not the Names of some Persons given to you to that purpose?

Hill. We have two or three Mortgages my Master lent him so much Money upon: We heard of one Man, but whether he gave order to Mr. *Turner* to take so much Money upon the Land, we know not.

Ld Ch. Just. *Bridgman*. Mr. *Tryon*, have you inquired after the Persons?

Tryon. No, my Lord; I did believe all was true.

Garret. I have inquired after Sir *Theophilus Gilpin*, but cannot find that he has any Estate in *England*.

Turner. My Lord, *Gilpin* only assigns a Judgment of *Wescott*'s.

Ld Ch. Just. *Bridgman*. Then if *Wescott* be good, it is sufficient; you should enquire after him.

Sir *T. Aleyn*. My Lord, *John Turner*, his Son there, fled away from me, when I came to the House in the *Minories*.

Ld Ch. Just. *Bridgman*. Why did you fly away?

John Turner. I did not, Sir.

Sir *T. Aleyn*. No! You ran away as fast as you could; you got over a Ditch.

John Turner. My Lord, a Woman cry'd out, *Get away and save your Life!* And I not knowing what the Matter was, I went away.

Col. *Turner*. Poor Boy! he thought Thieves had been coming, and affrighted him.

Sir *T. Aleyn*. As to *Ely Turner*, I examined him upon the *Sunday*, the Day after his Father was committed; he would not confess the carrying of any Money, and the Maid swearing it, I committed him also.

Col. *Turner*. What's that of *Ely?* Upon my Soul, the Boy carried none.

John Turner. I carried what was carried.

Col. *Turner*. My Lord, one Son is as dear to me as the other, but if either be more, it must be my eldest; but yet I must say, it was *John* my eldest Son that carried the Money.

Sir *T. Aleyn*. My Lord, *William Turner* was brought before me on *Tuesday* or *Wednesday*: Sir *Richard Brown* sent out his Warrant for him, being a Person of evil Name, and likely to do such a Fact; being taken, he was brought before me. My Lord, when Mr. *Tryon* looked upon him, he suspected him: I examined him when he saw Col. *Turner*; he said, not these three Years, not to speak to him; and yet one at the *Cock* behind the *Exchange* said, this *William Turner* staid for Col. *Turner* at his House two Hours; that Col. *Turner* came in, paid for the Pot of Drink, and for ought he knew they both went together: thereupon I committed him.

In the Afternoon I ordered this Person to send his Servant; one came and made Oath that he came in, and inquired for Col. *Turner*, asked for him, staid two Hours for him; that they went both out of the House together: And this was on the *Wednesday*, the Day before the Robbery.

William Dawes *sworn.*

All that I can say, is this: *William Turner* was at my House on *Wednesday* was sevennight last; comes in, and called for a Flagon of Beer; there comes in a Customer of mine, says he to me, What do you with such a Fellow in your House? Have a care of him, he is a dangerous Fellow. Presently after Col. *Turner* came in, and paid for a Flagon of Beer, and went away.

Col. *Turner*. I drank not with him, did I?

Dawes. Not that I saw.

Ld Ch. Just. *Bridgman*. Sir *Thomas Aleyn*, did not this *William Turner* deny that he had seen Col. *Turner* lately?

Sir *T. Aleyn*. He said positively he had not seen him these three Years, so as to speak to him; said, he was grown too high for him.

John Rouse (Dawes's *Servant*) *sworn.*

Ld Ch. Just. *Bridgman*. Do you remember when *Will. Turner* was at your Master's House? Which is he?

Ruse. That's he (pointing to *William*) he was there upon *Wednesday* the 6th of this Month.

Ld Ch. Juſt. *Hyde.* Did *James* (called Colonel) *Turner* come there then?

Rowſe. William came, and ſaid he ſtaid for the Colonel; and by and by the Colonel came.

Ld Ch. Juſt. *Hyde.* When he came, what did they?

Rowſe. He went to the Bar, and paid the Reckoning.

Ld Ch. Juſt. *Hyde.* What time of the Day?

Rowſe. About Twelve or One o'clock.

Ld Ch. Juſt. *Bridgman.* Did you ever ſee them both there before?

Rowſe. No, I never ſaw them together before, but ſeveral others have enquired for Col. *Turner* at our Houſe.

Ld Ch. Juſt. *Hyde.* By the Oath you have taken, did *William Turner* ſay he ſtaid for Col. *Turner*, and that after Col. *Turner* came, he paid for the Drink, and they both went away together, and this on the *Wedneſday?*

Rowſe. Yes, Sir, it was ſo.

Col. *Turner.* My Lord, I left him there; he follow'd me to the *Exchange* about his Arrears, as twenty poor Gentlemen do.

Mr. Garret, *Mr.* Watcher, *and Mr.* Peter Cully, *ſworn.*

Mr. *Cully.* My Lord, and Gentlemen of the Jury, I was at Mr *Tryon*'s this Day ſevennight; as I came from him, I met Sir *Thomas Aleyn*, Col. *Turner*, and Major *Taſker* coming up Stairs: they aſked who was there with Mr. *Tryon?* I told them nobody. *Turner* deſired earneſtly they would ſtay a little; for (ſays he) before God you will ſpoil all the Buſineſs by and by. After he had been a little time with Mr. *Tryon*, he comes forth again, he takes up the Bags of Money, ſays he, Theſe belong to me, this is not Mr. *Tryon*'s Money: He carries it to the old Gentleman; he comes into the Room, ſays he, Gentlemen, you may be all gone, the old Gentleman is ſatisfied, his Money and Jewels ſhall be forth-coming by Five o'clock this Night; Perſons of Quality are concerned in the Buſineſs, and the old Gentleman will not proſecute. I aſked Col. *Turner*, Why was the Money carried from your Houſe to the *Minories?* He ſaid there was none, and did affirm it with an Oath. When the Bags were taken out of the Wallets, upon comparing of a Seal of one of the Bags with the Seal of a Letter produced, I found them the ſame. That's all I can ſay.

Mr. *Watcher.* My Lord, laſt *Saturday* between Twelve and One of the Clock came Col. *Turner* on the *Exchange*, and ſaid that Mr. *Tryon* ſhould have all his Money and Jewels by Three of the Clock that Afternoon; and if any Man could ſay, that he loſt Sixpence of his Money, or Sixpenny-worth of his Jewels, he had two Fellows in Cuſtody that ſhould ſuffer for it. And aſking him why the Money was that Morning removed from his Houſe to the *Minories*, he ſaid with a great Oath, the Money was never in his Houſe.

Mr. *Garret.* When Col. *Turner* brought home the Money, he took up one of the Wallets, and ſaid, *Jack, take notice, this is my Money.*

Ld Ch. Juſt. *Hyde.* Where was this?

Garret. In my Couſin *Tryon*'s Houſe; and that he only left it with my Couſin *Tryon.* When we looked over this Money in the Evening, we found that Seal that this Gentleman (pointing to Mr. *Cully*) hath ſpoke of; it was a little defaced, but yet apparent enough.

Turner. I did ſay ſo, my Lord; he ſpeaks Truth.

Mr. Pilkington *ſworn.*

I can ſay no more than hath been ſaid already: I ſhall repeat it. Being at the *Hoop*-Tavern with Mr. *Tryon*'s Man, and others, with the Officers, we were diſcourſing of his Robbery; and I was ſaying, That I admired, he being ſo ancient a Gentleman, they would uſe him ſo barbarouſly as hath been related. Said Colonel *Turner*, In that they went beyond their Commiſſion, they had no Order for it. And being aſked how they got into the Houſe, he ſaid one got into the Cellar in the Day-time: [*And ſo related it in the ſame manner as ſeveral Witneſſes before.*] Being aſked how his Tooth came to be beaten out? Says he, It was not with a Blow; but the Man's Finger being in his Mouth, he cloſed his Teeth, and ſtruggling to get out his Finger, his Knuckle thruſt out the Tooth. And then Mr. *Tryon*'s Man ſaying, If he and the Maid had been at home, they ſhould have been killed: No, ſaid *Turner*, you would only have been bound.

Ld Ch. Juſt. *Hyde.* Now, Mr. *Turner*, you have heard your Charge; you will do well to make an Anſwer to it; you ſee what is laid to your Charge.

Turner. Ay, my Lord: I ſhall clear it all, every Syllable of it.

Mr. Martin's *Coachman was called and ſworn.*

Ld Ch. Juſt. *Bridgman.* Tell the Jury what you know: Did you ſee any People about Mr. *Tryon*'s Houſe upon *Thurſday* Night?

Coachman. I did, my Lord: I was come by from the Play-houſe with my Coach; I ſaw four Men, two on one Side of the Door, and two on the other Side; every one had a Handkerchief tied about his Neck, and every one of them had a good Cudgel in his Hand.

Ld Ch. Juſt. *Bridgman.* What Time a-night was that?

Coachman. About Eight or Nine o'clock at Night.

Lord-Mayor. Was their Faces turned towards Mr. *Tryon*'s Door, as if they were to go in, or to knock?

Coachman. No, Sir, two ſtood towards *Fenchurch-Street*, and two ſtood towards *Leadenhall-Street.* I did ſuſpect ſuch a Buſineſs; for they pulled down their Hats over their Faces.

Ld Ch. Juſt. *Hyde.* What kind of Cudgels had they?

Coachman. Sticks ſomewhat bigger than Walking-Staves.

Mr. *Tryon* looking upon *William Turner* at the Bar, ſaid, This Man, whoſe Name is (as I underſtand) *William Turner*, I do ſuppoſe to be one of the two that was in my Chamber at the Bed's-ſide, and that indeed did ſtrike out my Tooth. I aſked him, Why do you uſe me ſo inhumanly, like a Beaſt, and not like a Man? I am quiet; what would you have? Says he, Be ſtill, you ſhall not loſe a Hair of your Head.

Ld Ch. Juſt. *Hyde.* You believe that to be the Man?

Tryon. I would be loth to charge him; but he is as like him as any I ever ſaw.

Ld Ch. Juſt. *Hyde.* Had they either Vizors or Maſks on?

Tryon. Nothing, my Lord; bare-faced. One ſaid to the other, It's but paſt Eleven of the Clock; elſe I had not known it: I was aſleep, with Surprize amazed, being an ancient weak Man.

Ld Ch. Juſt. *Hyde.* As near as you can conjecture, is that the Man?

Tryon. Yes, both of Face and Pitch.

Lord Mayor. Mr. *Tryon*, did you obſerve thoſe Perſons that were at your Bed-ſide, whether they had Handkerchiefs or Cravats about their Necks?

Tryon. My Lord, I did not take notice of that; I do not remember it.

Ld Ch. Juſt. *Hyde.* You hear your Indictment: That you, and *William* and *John*, are indicted for the Felony and Burglary, for breaking and entring into the Houſe of Mr. *Francis Tryon*, and ſtealing the particular Goods and Money, as you have heard: I would propoſe this to you, to make your Defence touching your Charge: Which is, firſt, that you and *William* met the Day before; he came in firſt, and ſaid he ſtaid there 'till you came; you came, and paid the reckoning, and went away: You two were together the Day before: What your Buſineſs was, you can better tell than I. The Night he was robbed, his Servant being gone, the Door was double locked. You knew all the private Places, where the Keys lay, all the Rooms wherein Caſh, Jewels, where every thing was: And it was not poſſible this Burglary could be committed but by one that knew thoſe Things.

Turner. There are about twenty People that knew as much as I; his Servants, and ſuch as had been his Servants.

Ld Ch. Juſt. *Hyde.* It falls out that the ſelf-ſame Night after this Houſe was robbed, in the Morning early, you, your Wife, and Son, go to remove ſtore of Money out of your Houſe.

Turner. It was two Nights after the Robbery: Pardon me, my dear Lord.

Ld Ch. Juſt. *Hyde.* When you carry this, you go with a falſe Story, That a Merchant was broke, and you muſt needs have ſome of the Money for his Wife and eight Children; and this Money was to be ſet aſide for them.———

Turner. It was ſo, my good Lord.———

Ld Ch. Juſt. *Hyde.* You would do well to hold your Peace a while: Your Wife and you diſowned you removed any Money; yet afterwards when the Money was brought there, and taken upon Suſpicion, (you taken in the very Place removing the Money) you owned it to be your own: That then it appeared that one of thoſe Bags was ſealed with the Biſhop of *Chicheſter*'s Seal; and at the Time of the Burglary, there was 600*l.* in Bags left with Mr. *Tryon*, ſealed with the ſaid Seal; and one of thoſe Bags you brought back was taken with you, and owned to be your own, and had the ſame Seals. That's proved by four or five Witneſſes, compared with the Seal of a Letter of the Biſhop. Your Son, on their coming thither, he takes footing and leaps over the Ditch to eſcape, which is a good juſt Ground of Suſpicion that he is guilty of ſomewhat that he would not abide to anſwer. Yourſelf and Wife take upon you to know every Thing: You knew how the Uſage was; that there was a purpoſe they ſhould not be killed; that he was gagged; that they exceeded their Commiſſion; if the Man and Maid had been at home, they ſhould have been but bound. All Particulars you take upon you to know, and to confeſs the whole and the manner of it; nay, tell the Story how they came in.———

Turner. As I was informed.———

Ld Ch. Juſt. *Hyde.* Lay all this together, unleſs you anſwer it, all the World muſt conclude that you are one that did this Robbery.

Turner. I ſhall anſwer it; I hope to give all the World Satisfaction. Pray call

Mr. *Vandeputt*,
Mr. *Covell*,
Mr. *Eſnew*,
Mr. *Cook.*
My Maid,
And the Lord Marquiſs of *Dorcheſter*'s Servant.

Ld Ch. Juſt. *Hyde.* Tell us to what purpoſe.

Turner. To clear every Particular.

Ld Ch. Juſt. *Hyde.* Open it.

Turner. I ſhall firſt prove that upon *Thurſday* Night, the Time of this ſuppoſed Burglary, that myſelf, my Wife, and all my Family, were in Bed, faſt aſleep, and innocent, not knowing any thing of this Buſineſs. This I ſhall prove; if not, let me hang and all my Family.

Ld Ch. Juſt. *Bridgman.* All this may be true, and yet this not to the purpoſe.

Turner. Then I cannot be guilty of the Burglary.

Ld Ch. Juſt. *Bridgman.* If you will lay and plot ſuch a Robbery, though you are not there, yet you are Guilty of it; for it is ordinary that the main Setter will not be preſent at ſuch Times, but will be then in Bed, that People may take notice thereof. But ſatisfy the Court by what Means you came by this Money and Jewels, and then call your Witneſſes.

Tryon. I ſhall go on by degrees, and ſatisfy you as to the whole.

Ld Ch. Juſt. *Hyde.* My Lord *Bridgman* hath put you upon the right Buſineſs: Do that in the firſt place; make it appear how you came to know ſo exactly the whole Carriage of this Buſineſs, and how you came by the Money and Jewels.

Turner. I ſhall do it, my Lord. The Conſtable coming for me, by Direction of Mr. *Tryon*, to aſſiſt him, I came to him; ſaith he, Some Villains have been here, and have robbed me this Night; which made me weep. Said I, Theſe are wicked People: I gave you notice how you ſhould have been robbed about a Year ſince; but that was prevented. And ſaith Mr. *Tryon*, For God's ſake aſſiſt me in this, and I ſhall be thankful to you. Sir, ſaid I, did you ſee the Faces of them? Said he, It run in my Mind very ſtrongly that one of them is *Chriſtmas.* Said I, Who is he? Saith he, 'Twas *Hanſon* the Grocer's Man. I know *Hanſon*, ſaid I. *Moſely*, go and knock up *Hanſon*, and know where *Chriſtmas* is, and bring him to Mr. *Tryon.* *Moſely* took two or three Men, and went to *Thomas Hanſon*, in *Mark-Lane*, and there found at a Bricklayer's Houſe where *Chriſtmas* lay: He was a little refractory to riſe. Another Conſtable coming, he came down; and then they ſent *Chriſtmas*

mas to the *Compter*. *Moſely* came and told us he was in the *Compter*. I ſat with Mr. *Tryon* that Night. But, my Lord, pray obſerve how my Name came into queſtion: The young Man and Maid being out, came home late, the Conſtable was there then: Friends, ſaith he, where have you been? Saith he, I have been at Colonel *Turner's* at Supper; which was a notorious Lye, and brought me here in queſtion; God forgive him for it. Away comes the Conſtable, by Direction of Mr. *Tryon*, and *Hill's* Lye together. He came to my Houſe; we were all aſleep. I roſe, and aſked, Who is there? It is I, ſaid Mr. *Moſely*; Mr. *Tryon* is robbed; pray come down. I came down, and opened my Door. Saith he, Was Mr. *Tryon's* Man and Maid here at Supper? When? ſaid I. To-night, ſaid he. I have had no Suppers theſe nine Months, ſaid I: This *William* is a very Rogue. Whereupon the Conſtable replied, Are your Sons within? Yes, in Bed theſe two Hours. Do you ſuſpect any thing by my Sons? He went and looked, and ſaw my Wife, he finds my Sons faſt aſleep; the one indeed was awake. Pray, ſaid I, ſee that you know them again. Upon my Honour, my Lord, this Boy (pointing to *Ely*) was aſleep.

Ld Ch. Juſt. *Hyde*. Upon your Honour, Sir! pray ſpeak by your Honeſty.

Turner. *Lapſus Linguæ*, my Lord: It is my uſual Phraſe. I hope I ſhall appear to be a good Man. This Child was awake: He ſaw the Maid, my Daughters: ſearched every Room, ſearched every Place that was to be imagined to be ſearched. Saith the Conſtable, I am very glad that your Servants, your Children, and you are in this Condition: I will acquaint Mr. *Tryon*, what a Rogue this *Hill* is, how he hath belied you. Nay, ſaid I, pray take me with you; and ſo I went with my Hair put under my Cap. When I came to Mr. *Tryon's*, I aſked him who had been there? Pardon me, my dear Lord, if I were guilty, I ſhould not ſpeak any thing to excuſe it. When I had underſtood this, I gave the Conſtable five Shillings, and deſired him to ſearch about this Buſineſs. I went to Mr. *George Day* the Goldſmith, and gave him a Note of thoſe Things, to be printed, that they ſaid they had loſt. *Friday* came; and at Night Sir *Thomas Aleyn* was pleaſed to argue it with me: I told him and the Gentleman theſe muſt be ſome Rogues that know the Houſe; which put me in mind of a former Crew that was to rob him a Year ſince.

Ld Ch. Juſt. *Bridgman*. We would be glad you would ſpeak to the purpoſe.

Turner. I did charge the Conſtable and Mr. *Pilkington* that they would get up before Day; and that they would go to ſuch and ſuch Places where the Conſtable and I had privately ſpoken of, to *Ratcliff*, or *Ratcliff-Croſs*. The Conſtable and Mr. *Tryon's* Man had been there; but the Man and his Wife was gone into *London*: But afterwards, by Inquiry, the Boy ſaid they were gone into *Hertfordſhire* a Week before. This Boy is in two Tales: Here is ſome, pray God theſe People be honeſt.

Ld Ch. Juſt. *Bridgman*. Go on.

Turner. Your Honour's Servant, my Lord. Afterwards I went beyond the little Poſtern between the two *Tower-Hills*, near the *Tower-Ditch*: There is one *John Wild*, who had been formerly here in *Newgate*; he ſhould have been tranſported. This Fellow coming into my Mind, I having before been to take him in *Eaſt-Smithfield*, I had News he uſed *White-Chapel*, *Eaſt-Smithfield*, and *Tower-Hill*, and had Lodgings by the *Blue-Boar* by the little Poſtern, and at *Noah's-Ark*, and at the *Lion in the Wood*, the Corner-houſe at *Tower-Ditch*. This Houſe about *Tower-Ditch* and the *Nag's-Head* at *White-Chapel* were the two Places where I found thoſe Perſons about a Twelvemonth ſince, that ſhould have robbed him. Going now from Houſe to Houſe, I paſſed a Fellow in Black, in a large Coat, ſuch another Man as this, (pointing at one that ſtood by:) He was in a black Looſe Coat, and he was trimmed with Ribband at the Knees. This Perſon I paſſed him, and he paſſed me; and then I out-went him: And meeting him on the other Side, I was confirmed it muſt be one of theſe Fellows I looked for, one *Wild* or *White*. Paſſing the ſecond time, I ran to him, thruſting to him. What mean you, Sir? ſaid he. Said I, I mean to lay flat Felony to your Charge: Do not you know me? No, ſaid he, with a great Oath. Then I know you. Who is it, Colonel *Turner*? ſaid he. I ſaid, Ay. Saith he, What do you mean? Said I, Mr. *Tryon's* Houſe was robbed, and you are the Perſon that I will lay flat Felony to; you ſhould have been one of them that were to rob him a Year ſince, when Colonel *Aſhton* betrayed you all. He began with ſome hard Oaths: Be quiet, ſaid I, I will call out; you are an undone Man: I will lay this Felony to you.

Ld Ch. Juſt. *Bridgman*. What Night was this?

Turner. The *Friday* Night following, about Twelve o'clock at Night. I ſhifted my Hold from his Collar to the Waiſtband of his Breeches; I thought I had him ſecure. Said I, *Wild*, do not deceive your ſelf, play not the Fool; if you will ſave your Life, let me ſee where thoſe Goods and Moneys are, elſe you will go to pot. Saith he, Pray ſpeak lower; we ſhall be heard. Well, I will ſpeak lower. We walked to the Hill. I had faſt hold of his Breeches all this while; and yet I was afraid he might have ſome Dagger, and ſtab me: Said I, Be brief, you are alone; either reſolve me, or I will call out. Then I will tell you, ſaid he: Colonel *Turner*, I underſtand you are a Perſon of Honour, and a Gentleman that will keep your Word: and if you will upon a ſerious Vow and Promiſe ſave my Life, I will unfold the Buſineſs: But if you will not, with a great Oath, ſaith he, you ſhall hang me, and loſe all the Jewels. Said I, What will you have of me? Saith he, You ſhall ſwear to me, *That by the Blood of that Jeſus Chriſt that died for you, and I, and all Sinners, that I ſhall have my Life free, in caſe I diſcover the Thing to you*; and then I will tell you more: If you will not, I will tell you nothing, do with me what you will. Saith I, *Wild*, I ſhall ſtand with you ſo long, that I ſhall have my Throat cut. Upon my Salvation, ſaith he, ſtooping down upon his Knees, ſaith he, Let me never riſe up, if I am not juſt to you; and not a Hair of your Head ſhall be touched. Said I, Come, ſtand up: I do declare to you that I will endeavour with old Mr. *Tryon*: Tell me where the Things are. They are not far off. Where are they? They are at two Places: But do you ſwear to me. He did, in ſhort, make me ſay the ſame Words that I have repeated, and that I would get Mr. *Tryon* to engage himſelf too by the ſame Oath. I did ſwear to him, thinking my Life in danger, and thinking my Friend's Goods likely to be loſt; and did and do intend by the Help of God to make good my Oath. Saith he, Walk with me. He whiſtled once, the ſecond time, and at a pretty diſtance a third time; and within a little while came another Fellow to him, at the further End, by the *Horſe-Shoe*-Tavern. He comes. Saith he, Art thou come, *Tom*? I think he called him *White*. Ay, ſaith he. What ſhall we do? We are all undone; my Face is known. But I have lit in the Hands of a Gentleman who will ſave my Life; but for you, he knows you not. Saith he, the Money muſt be returned; go and fetch that Money. Said I, Shall not I go with them? No, ſaid he. And truly, my Lord, I was very glad to take him at his Word: If I had gone, I might have had my Throat cut. There was this 500 *l.* brought at twice, three and two. They went again, and brought, as I take it, two and one; ſo there was three and two, and two and one.

Ld Ch. Juſt. *Bridgman*. Who brought it?

Turner. *White*. All this while I had the Fellow by the Breeches, and would not part with him. It was from a little paſt Twelve till Four bringing, and was left on the Cauſey, and went away and fetched the other. This Fellow and I, all alone together, had this Diſcourſe: Said I, What deſperate Villains were you to go and uſe the old Gentleman in this manner, fourſcore Years of Age! You beat and abuſed him; you are ſtrange mad Fellows: Why could you not let him ſleep in his Bed? he was aſleep when you came in: You were the maddeſt Fellows that ever was. Saith he, Some of you have ſtabb'd him. I think you deſerve ten thouſand Deaths for laying your Hands on him, tho' you did not take Six-penny worth of his Goods. Saith he, There was no Intention of hurting him: Upon my Soul, there was no Order or Commiſſion. Saith I, How got you in? Saith he, The Door ſtands open half a Day together, almoſt: One got into the Cellar, and ſtood till all was a-bed: He went into the Kitchen, found a Candle ſtanding lighted, and went up into the old Gentleman's Chamber, and there he found the Key of the Door, came down, opened the Door, and let the reſt in. How many was there of them? Saith he, Three or four. Said I, What did you do; and what would you have done? We would only have bound them. How got you the Treaſure? By a Key out of the old Gentleman's Pocket: I think there is no hurt to the old Gentleman; I would not for all the World there ſhould. You ſhall have the Things again: And pray keep your Word with me. About Four o'clock in the Morning they brought the Money. Now, ſaid I, what ſhall we do with it? I can do nothing with it: You muſt carry it home to my Houſe. Theſe two Fellows carried one three, and the other two Bags.

We went through *Aldgate* with the Money, and ſo to my Houſe: My Wife, nor Sons, nor no Soul, God is my Witneſs, knew any thing of this Buſineſs but my ſelf. I knocked at the Door: This young Man (pointing to *John*) came down, and he unbolted, unlocked, and unlatched the Door. My Parlour and Kitchen is all of one Floor: They followed me in, and threw down the Money. He bringing the Candle to me; No, ſaid I, do not bring it. Said I, *Wild*, what ſhall I do for the Jewels and the reſt of the Money? You ſhall have them brought you where you will appoint to-day. I will have them brought hither. Saith he, That cannot be. I have forgot my ſelf: This Money muſt not lie here; you muſt remove it from hence: For the other Youths that have the reſt of the Money and Jewels, will never be brought into the City. If you will remove it into the *Minories*, my Life for it, you will have it all. I will pretend there we will ſhare it. You muſt not let it lie at all, but carry it preſently thither. I will tell what I will do: Have you any Acquaintance about *Tower-Hill*, where you will leave it? No, ſaid he. Nor I neither, ſaid I. I went up Stairs to my Wife; *Mall*, ſaid I, have you any Acquaintance about the further *Tower-Hill*? I durſt not truſt my Wife nor Sons: for I thought their Tongues might be too long, and left them in perfect Ignorance: Truly, I muſt clear them. *Mall*, ſaid I, there is a Gentlewoman, whoſe Huſband is failed, (this was a feigned Story, my Lord) it muſt be ſecured about *Tower-Hill*: She was pretty well awake. Saith ſhe, There is the Commiſſary-General of the King, his Daughter *Betty Fry* keeps a Shop of Linen at the lower End of the *Minories*. Do you think ſhe will be private, and let it lie for four or five Hours? Undoubtedly ſhe will, ſaith ſhe. Pr'ythee get up, and put on thy Clothes, and go thither. *Wild*, where ſhall I find you about Eight or Nine o'clock? I will lodge this at the Seamſtreſs's Shop, upon the Right-hand at the farther End of the *Minories*: Tell me where I ſhall meet you, and we will have this Money carried there; my Son and I, we will have it lodged. Saith he, You ſhall have me walking within three Doors of the *Blue-Pig*; ſo he called it, Saith I, What mean you? Saith he, It is a little Sign, no bigger than a Pig, but it is called the *Blue-Bear*: There you ſhall have me walking in the under or upper Cauſey. My Lord, I took this Boy, (pointing to *John*) who knew nothing: I told him it was a Friend's Money. I raiſed my Wife: *Mall*, ſaid I, come away. My Wife went before; the Boy and I took the Money: I carried two, and he three. My Wife went and knock'd up the Maid, the Door was open when we came; God forgive this Maid that ſwears it was this Son, ſhe is miſtaken; upon my Salvation, this Boy was abed and aſleep. When the Money was there, I ſtaid by my Wife; ſaid I, what have you done with this Money? I did not tell my Wife any thing. I came home, coming home, there was my Son and Wife. I drank a Cup of Cider (for I kept a Hogſhead of Cider in my Houſe); as ſoon as I drank it, I went out of Doors immediately: Said I, to this youngeſt Son, Stay at home, I ſhall have occaſion to uſe you by and by. I went to Mr. *Tryon's*; coming there, I found Mr. *Gurney* the Merchant: Said I, Mr. *Gurney*, I have good News, I have ſome hopes of ſtrong Preſumptions, that Mr. *Tryon* will not loſe one Penny-worth of his Goods. Marry, ſaid he, I am glad of that. We went up to Mr. *Tryon's*, we found him ſitting by a little Charcoal Fire, as much as you may cover with your Hands: He told us he had been up ever ſince three of the clock. We aſked him, what he would have to comfort him:

him: he told us, he had ſomething. Mr. *Gurney* after ſome diſcourſe took his leave of him, ſo I ſat down (*Jeſus! what a noiſe is here in the Court. My Lord! I can hear but with one Ear*). I ſay, I ſat down at the Bed-ſide of Mr. *Tryon*, he on the Stool: Mr. *Tryon*, ſaid I, I have Good News for you. Saith he, Haſt thou? I am glad of it with all my Soul. Sir, ſaid I, I am informed you will not loſe any of your Goods or Money, there is but thirty-eight Shillings ſpent of all your Money, the Rogues took but forty Shillings out, and *Wild* told me there was two Shillings ſaved: I dare boldly ſay, by Three of the clock in the Afternoon you will be Maſter of them again. I would be glad of that, and will give you five hundred Pounds. But, Sir, ſaid I, there is a Tale hangs by this: You know you ſhould have been robbed about a Year ſince; and I have apprehended *Wild*, who was one of the intended Thieves: then, he hath made me ſwear, *By the Blood of Jeſus Chriſt*, &c. that he ſhall have his Life, if you have your Goods: He hath engaged me that you ſhall likewiſe ſwear by the like Oath, or elſe you ſhall hang him, and ſo loſe your Goods. Said I, I have a great part of your Money, but the Jewels and the reſt of your Money is wanting. The old Gentleman was almoſt overjoy'd: This is not true, ſaid he. Said I, I do declare this is true in the preſence of God, make no words of it; if the buſineſs be diſcovered, we ſhall loſe the Jewels. Well, ſaid he, I will be ruled by you, Colonel; and the Lord God make me thankful I have ſuch a Friend in the world that hath done this for me, I ſhall never make you amends: and thereupon he entered into the ſame Oath, *That by the Blood*, &c. the Blood of the Man ſhould not be ſpilt tho' he loſt both Money and Jewels. I diſcourſed with him, I told him over and over again, left him ſatisfied that I would be with him again, and bring him more tidings, but by Three o'clock I doubted not but he ſhould have all. Then it was almoſt Eight at Night; away went I to *Tower-Hill* to look my Merchant *John Wild*, he was here in *Newgate* formerly: there found I him walking by the *Blue-Boar*, careleſly walking there, with his Coat under his Arms. Said I, How now, what News? I think I have now pleaſed you, ſaith he. What have you done? ſaid I. I have lodged the Money hard by, and all is right. What have you done? Is all right on the other ſide? All ſhall be well: But where have you lodg'd it? Here at a Seamſtreſs's, at the corner of the *Minories*: ſaid he, The Money muſt be removed, there are Saleſmen thereabouts, and the Fellow that hath the Jewels he is known, he will not come thither; remove it towards the Water-ſide, any where, and the things ſhall come, my Life for it. They had a Cat's-Eye Ring, they were ſuch wiſe Lapidaries, they called this a Hundred-Pound Ring, when it was not worth Five Pound. He gave order that the Money might be again removed to the other end by the *Horſe-ſhoe*-Tavern. I run home, fetch'd my Son; ſaid I, Wife, we muſt have away the Money. My Lord, he told me he would have away the Money to the *Half-Moon* Tavern in *St. Catherine*'s, or the corner Tavern at the *Iron-gate*; ſaid I, Are not you reſolved? Well, ſaid he, it ſhall be carry'd to *St. Catharine*'s, he would meet my Son at the *Noah*'s-*Ark* at *Tower-Ditch*: let my Son but hand the Money over that Path, and he would hand it to the other. We did carry it, carry'd it again. At this ſecond carrying, comes Sir *Thomas Aleyn*, he had heard ſome Cry of Money left, he comes with a great Company of People after him, and the fooliſh Wench ſaid to my Son, *Mr.* John, *fly for your Life*. *John* being ſurprized and affrighted, he went out of the Back-door, went over the Ditch, and went to my Houſe. Sir *Thomas Aleyn* had alſo ſent to ſecure my Houſe. When the Lad came home into the Street, my Doors were ſhut up: (Gentlemen of the Jury, do you underſtand?) The Boy ſeeing ſuch a Rout at the Door, ſaith the People, *Mr.* John, *your Father's Houſe is ſhut up about Mr.* Tryon's *Money*. He walked by the ſtreet, and went into *Biſhopſgate-ſtreet*, and *Cheapſide*, into *Paternoſter-Row*, and ſo into *Fleet-ſtreet*: I did not hear of him till *Saturday*, in the Afternoon.

When Sir *Thomas Aleyn* came, ſaith he, Mr. *Turner*, here we have catch'd you and the Money. Said I, if you be haſty and paſſionate, as you were laſt night, you will ſpoil all the whole Buſineſs. Tell me, ſaith he, whoſe Money it is? Said I, it is my Money. The truth is, the old Gentleman hath promiſed me 500*l.* it is the naked truth; I would not have Sir *Thomas Aleyn* have the honour of gaining it, but I would have the honour of gaining it my way.

Sir *Thomas* would know whether it was my Money, I told him I had received part of it at a Goldſmith's; ſo I put Sir *Thomas* off. Come, come, ſaid he, we will carry this Money to Mr. *Tryon*. Said I to Mr. *Tryon*, Here is part of your Money, you know what I told you even now. Ay, ſaith he, God be thanked, before Sir *Thomas Aleyn*. I aſked him, what his Promiſe was, and told him how the Paſſage was in ſhort; and the old Man did acknowledge that ſuch a Promiſe was made, and would have down upon his knees. I paſſed my word to him, that by Three o'clock I doubted not but he would have his Jewels, and the reſt of the Money. Saith Sir *Thomas Aleyn*, Go, (whether he ſaid live and proſper, I know not) Go, God bleſs you; and upon my honour (I think that was his word) the old Man ſhall make good his Word. Ay, but Sir *Thomas*, what will become of me and you, by this Buſineſs, for I underſtand the Law? How will this Buſineſs be daubed up? You will be fined, Sir *Thomas*; I muſt break my Word, he muſt be apprehended, or I muſt ſuffer. Saith Sir *Thomas*, Do not trouble me with that, get but the Goods, and the old Man's Word ſhall be made good, leave that to me. More than that, he ſaid, He would make up the Buſineſs, or he would ſmother it. My Lord, you have a great deal of Patience, I am humbly bound to you, here is nothing but the naked Truth, ſtep by ſtep, as I trod it. Afterwards *Wild* came and ſaid, All will be well. Said I, What have you done? Are you ſure, ſaith he, the Jewels nor nothing ſhall be ſtirred? Said I, You ſee all is ſpoiled; Sir *Thomas Aleyn* is come where we had lodged the Money, the thing is known, do not they hear of it? Yes, they hear as well as you, and know what is done, and ſome have Eyes upon you. Said I, They will run away with the Jewels. No, you ſhall meet about Three o'clock; no body knows me but you, your Wife, and your Son, who ſaw me this Morning at Three o'clock, either by the *Blue-Pig* at *Tower-Hill*, or *Nag's-Head* over-againſt *White-Chapel* Church.

It is agreed, for God's ſake look to it, your Life and mine is concerned; if the Jewels be loſt, I will perſecute you to the Death, look they are preſerved, and not purloin'd. Saith he, The Bags were never opened. I parted with him, he was to look for me at Three of the clock: coming home about Change-time, who ſhould I meet with but Mr. *Stubbs*, who told me that it was all the News upon the *Exchange*, that you have been in the Robbery. Said I, Do not trouble your Head, I have diſcovered the buſineſs. Then ſaid *Stubbs*, You know I and *Thomas Lyon* are Bail for you. At that time I ſatisfied him. Afterwards that day I met with Mr. *Cole* the Officer; ſaid he, Colonel, I arreſt you. For what? for more Fooleries yet? *Thomas Lyon* will not be ſatisfied. By Six of the clock this buſineſs will be all over: nothing will ſerve your turn but Violence, Violence, no Force, no Law. I was forced to go to the *Hoop*-Tavern. I got them to ſend for Mr. *Stubbs* and *Lyon*; they came: ſaid I, What will you have? I am in proſecution of a Buſineſs for Mr. *Tryon*, you will undo it with this ſixpenny Buſineſs: ſay what Security you will have, and you ſhall have it: ſaid I, Mr. *Tryon* and Sir *Thomas Aleyn* ſhall give you their Security, to ſave you harmleſs for being my Bail. Said they, Hold Mr. *Tryon*, we'll do it; we are content; they went away, and told me they would get a Bond, and come preſently: but what was this preſently? I will warrant you they ſtaid two hours; it was Seven o'clock at night before I parted with them. I was fain to ſend the little Boy for Mr. *Hill*, Mr. *Pilkington*, Mr. *Millington*; this was either a Curſe from God ſent upon me, or a Plot of Roguery that the Money ſhould be loſt. They came not back till Seven of the clock, and then without a Bond; and I fell a little violent: But I was telling them how theſe Rogues told me the whole Carriage of this Robbery: when it came that Mr. *Tryon* and Sir *Thomas Aleyn* heard that I was in cuſtody, he ſent a Conſtable with a Warrant to bring us all before him. When we came there, I deſired Sir *Thomas*, to let a Gentleman go with me; I will break my Oath with the Fellow, and we will apprehend him, and make him bring the Jewels. Sir *Thomas Aleyn* told them, if they would all go together, they might; but to go out of the Liberties, he could not let them go: I have you, and I will keep you, and do find him if you will. How now, Sir *Thomas*, ſaid I, are you come to that? Have you fooled me all this while? I'faith, I thank you, for you have trepanned me very fairly; if any thing miſcarry in my Honour and Reputation, or Blood, you are in the fault: Here I do declare, ſaid I, if you will let me go, I will take him. Then Sir *Thomas* did incline to let me: what ſay you, Officers, will you go out of your Liberties with this Gentleman? Sir *Thomas*, ſaid I, there is no Liberty or Privilege for Felons; I will ſeize a Felon my ſelf in any ground in *England* without Warrant. I do remember this *Wild* did condition, that in caſe I could not come, I ſhould truſt no Man living but myſelf, becauſe he had had my Soul pawn'd to him. I aſked him whom he would truſt: He ſaid, if I could ſend my Wife, deſcribing her to him, that ſhe was a full ſhort Woman about forty or fifty Years old, ſhe had a long black Scarf on; then let him alone if I cannot come, I will ſend ſuch a Woman, and ſend the things by her, and preſerve your Life. I told Sir *Thomas* this Story. My Wife came to me publickly, I did not whiſper with her——

Mrs. *Turner*. Nay, look you, Huſband——

Col. *Turner*. Pr'ythee, *Mall*, ſit down: you ſee, my Lord, my Wife will interrupt me with Nonſenſe. Pr'ythee ſit thee down quickly, and do not put me out: I cannot hold Women's Tongues, nor your Lordſhip neither.

Ld. *Bridgman*. This is not a May-game.

Col. *Turner*, My Lord, it is a ſerious Buſineſs, and I hope God will bleſs it——Pray, ſaid I, *Mall*, go; as you love and honour my Life and Credit, or any thing that concerns me, I beg you to go. Then I will go, ſaith ſhe; whither muſt I go? You muſt go to the further *Tower-Hill*, ſix doors beyond the little Poſtern: now it is ſo much of the clock, from five to ſeven he will walk there. A fellow will come to you in black, that Man that in the Morning took the Money from *Jack*, he will know you, and once in a quarter or half an hour he will come to you. If you do not find him in half an hour, ſtay no longer, but pack away to *White-Chapel*, aſk for the *Nag's-Head* in *White-Chapel*, and once in a quarter of an hour you will have a Man come to you, and take notice of you, and aſk you who you are; and you muſt ſay, that you walk for one to give you ſomewhat: he will deliver you ſomewhat, and whatever he delivers you, bring it hither. Said I to them, You may ſend if you will, and dodge my Wife, and catch him that way; they would not. I ſent my poor Wife away, and, ſaving your Lordſhip's preſence, ſhe did all bedirt herſelf, a thing ſhe did not uſe to do, poor Soul: She found this *Nag's-Head*, ſhe ſat down, being ſomewhat fat and weary, poor Heart! I have had twenty-ſeven Children by her, fifteen Sons, and twelve Daughters. Seven or eight times this Fellow did round her——

Mrs. *Turner*. Let me give that Relation.

Col. *Turner*. You cannot, it is as well: pr'ythee ſit down, dear *Mall*, ſit thee down, good Child, all will be well. When ſhe came back, ſhe came with ſomething in her Apron: What are you ſped, ſaith he? I know not what: a Man came to me, and aſked me who I look'd for; I told him, I look'd for any Man that would give me any thing. Are you Colonel *Turner*'s Wife? And upon her Anſwer he gave her theſe Bags into her Apron, and was gone a matter of a yard from her: Steps back again, that is not all, here is a Diamond Ring worth a Hundred Pound, give that to your Huſband. And this Diamond Ring proves a Cat's-Eye Ring, and worth but Four Pound.

Mrs. *Turner*. Well, and did not I bring theſe——

Col. *Turner*. Look you, my Lord, this Woman will put me out. My Lord, ſhe did deliver all theſe things, and went home. I did take out theſe Goods: Now, ſaid I, Mr. *Tryon*, you ſee all is come, (Sir *Thomas Chamberlain* was there) I have perform'd all my part, look to the reſt, that you perform yours. Some People report, that there is other Jewels of my own; my Lord, they

they are all his own, and he will not disown it, and I do not expect my Five Hundred Pounds for what I have done, according to his Promise, *That as Jesus died, &c.* and the Man should not be prosecuted, nor lose a Hair of his Head, if he lose his whole Estate: and I do expect my Money, not such a Reward as this. After which I was committed by Sir *Thomas Aleyn*, and so was my Wife. Now pray let me call my Witnesses, and if I cannot make it good, that I am clear, let me be hanged. My Lord, I shall humbly intreat that Mr. *Vandeput* may be called, Mr. *Cowel*, and the others.

Ld *Bridgman.* What do you prove by them?

Turner. To prove part of this Business, That I did assure Mr. *Tryon* of his Goods; and to my Reputation. I forgot one chief thing, I am not a Man in Debt, take notice of that, no Man in the World hath my Bill for 5*l.* There is only this Contest between Mr. *Vanburgh* and myself, which is left to Arbitrators, and the Lord-Mayor is Umpire: It is known I have an Estate, and there is one thing remarkable, Gentlemen of the Jury, I could have had all these Jewels at any time in Trust; I could have broke as well as others, and paid 5*s.* in the Pound: I lately made Payment of 2600*l.* for Goods, and I can have 20000*l.* Credit any Day upon the *Exchange:* Why I that had this Credit, that might break for so much Money, why should I put my Neck in a Halter? These are very strong Arguments for me, that I am not such a Person.

Ld *Bridgman.* I will tell you what you have done: You have made a very long Story, and have taken up the time of the Court these two Hours in a Narrative; and when all is done, answer me, Have you any Witness to prove all this Discourse between you and *Wild?*

Turner. I have by, Witnesses to prove I said this, that there was such Discourses between us.

Ld *Bridgman.* No doubt of it; and so will many a Man at *Newgate* frame such a Story as this.

Ld Ch. Just. *Hyde.* You have told a long Story about *Wild*, that you took him by the Throat, and that you were alone; what Weapons had you?

Turner. None, my Lord.

Ld *Bridgman.* Had you a Lanthorn with you?

Turner. No, my Lord.

Ld *Bridgman.* What time of the Night was it?

Turner. Twelve o'Clock, my Lord.

Ld *Bridgman.* You staid till Four, so they were four Hours a bringing of the Money.

Turner. Yes, my Lord.

Ld Ch. Just. *Hyde.* You took a Man in the dark by the Throat, that Man that was guilty of such a thing, as when that you did let him go to call his Companions, to bring the Money, bring Fellows to you single; I would be glad to know, whether in this case they would not have knock'd you on the Head, and killed you?

Turner. My Lord, *Wild* had engaged his Soul, and I my Soul to him, that if I would not discover him, I should go away free.

Ld *Bridgman.* Great Security indeed!

Col. *Turner* called several Witnesses, *viz.* Mr. *Vandeput*, Mr. *Cowel*, Mr. *Legoose*, Mr. *Snow*, and Mr. *Mosely* the Constable. I desire my Maid may be called: pray ask Sir *Thomas Aleyn* what he hath done with my Maid, he took her up with Sir *Richard Brown* and two Marshal's Men: (pray, Gentlemen, make not a laughing Business of this) Sir *Thomas*, pray where is my Maid?

Sir *Tho. Aleyn.* I had this Maid upon Examination, I found cause of further Examination, and thereupon directed an Officer to take her, and she is now in the Garden.

Mr. Mosely *the Constable examined.*

When I came first to Mr. *Tryon*, at Mr. *Tryon*'s House he was bound; then he asked where his Man and Maid was? he said he could not tell. By and by the Man came in, and being asked where he was, he answered he was at Col. *Turner*'s at Supper. Presently after we went to Col. *Turner*'s, he came to the Window, his Wife and two Sons were in Bed.

Ld *Bridgman.* Did Mr. *Tryon* give you order to come to him?

Mosely. Yes, my Lord, he did.

Ld Ch. Just *Hyde.* *Mosely*, you were Constable, were you not? What Discourse had you with Mr. *Turner* about a dangerous Place that you did suspect, where some People may be to do such a Feat?

Mosely. I never heard of any such thing spoken.

Ld *Bridgman.* You say Mr. *Tryon* he wished you to call *Turner* to him; did he give you any Order or Direction to search his House? Who wished you to go up to the House to see whether his Sons and Daughters were in Bed?

Mosely. Mr. *Turner* did, my Lord.

Turner. He doth not say true, my Lord: Pray ask him, when he came to my Door, and I opened it, if he did not ask whether Mr. *Tryon*'s Servant was there at Supper that Night? I said, No. Is your Sons within, said he? I said, Ay. Pray let me see them.

Mosely. I came to Mr. *Turner*'s House, and knock'd at the Door with some others with me; at last the Colonel came out of his Bed. I suppose he came out of his Bed, being partly naked; he came down to the Door; I asked him, where are your Sons? They are in Bed, says he. Said I, Mr. *Tryon* is robb'd, he would have you come to him.

Ld *Bridgman.* Did he desire you to go up?

Mosely. No, my Lord; but I asking him whether his Sons were in Bed, he said, I pr'ythee go up and see.

Turner. My Lord, I would prove where my Sons were on *Thursday* Night at Ten o'Clock.

Lord Marquiss of Dorchester's *Servant examined.*

My Lord, till Nine o'Clock they were with me at my Lord Marquiss's House.

Ld *Bridgman.* What time came they thither?

Marq. Servant. Between Seven and Eight at Night.

Col. Turner's *Maid examin'd.*

Turner. Come, Maiden, pray tell my Lord and the Court when my Sons came home this Night.

Maid. Between Nine and Ten o'Clock.

Ld *Bridgman.* Were your Master and his Sons in Bed all *Friday* Night, or no?

Maid. Yes, my Lord, they were.

Ld Ch. Just. *Hyde.* Did your Master go forth on *Friday* Night?

Maid. No, he was at home and in Bed all that Night till Eight o'Clock in the Morning, and *Thursday* Night before.

Turner. A silly Soul, she knows not what she says.

Ld Ch. Just. *Hyde.* I will ask you again, was your Master at home on *Friday* Night?

Maid. No, I think he was not.

Ld Ch. Just. *Hyde.* Why did you say so before?

Maid. I cannot remember, Sir.

Ld *Bridgman.* She knows her Master's Mind.

Turner. No, upon my Soul, my Lord.

Ld *Bridgman.* My Masters of the Jury, this is the Use that is made of this Maid's Testimony; she will say any thing, she is no fit Witness, no Trust to be given to her either one way or other.

Turner. Pray call Mr. *Cowel*, Mr. *Legoose*, Mr. *Cook* the Goldsmith.

Ld *Bridgman.* What do you call these for?

Turner. To prove my Condition, my Credit and Reputation.

Ld *Bridgman.* The Jury knows that already.

Mr. *Cook.* Thus much I can say, that I have known him some twenty Years, I have had Dealing with him to the Value of several hundred Pounds, I have trusted him, and have found him very faithful; I have seen in his Possession Jewels to the Value of eight or ten thousand Pounds: by which I suppose, if he had been such a Person, he might have done himself a Kindness by breaking.

Mr. *Legoose.* All I can say, is, I have an Acquaintance with this Person, he was a Sollicitor, dealt honestly and faithfully in a Business wherein I was concerned; he hath lived very well.

Sir *Richard Brown.* Where you have heard one Man say he is an honest Man, have you not heard a hundred say otherwise?

Mr. *Legoose.* There hath been an ill Report, that he hath been a Person that lived high.

Turner. Sir *Richard Brown*, no Man in *England* can say black is my Eye.

Sir *Richard Brown.* Mr. *Turner*, you say you were upon *Tower-Hill* all *Friday* Night; whither went you in the Morning?

Turner. I came home between Four and Five in the Morning.

Sir *Rich. Brown.* Your Maid offered to depose even now, that you did not rise all that Morning before Eight of the Clock.

Turner. *Lapsus Linguæ*, if the Girl be mistaken.

Ld *Bridgman.* Do not trouble your self with that, her Evidence is of no force.

Mr. *Jefferies.* Col. *Turner*, I cannot say any thing that will be advantageous to you; my Lord, and Gentlemen of the Jury, I have heard Mr. *Tryon* hath trusted him with Jewels to a good Value, and that Mr. *Tryon* had a very good Repute of him.

Sir *Rich. Brown.* Pray what Report hath he upon the *Exchange?*

Turner. I owe nothing there, Sir *Richard*, nor none there can lay any thing to my Charge, except it be that I am a Cavalier.

Ld Ch. Just. *Hyde.* Mr. *Turner*, have you any more?

Turner. My Lord, I do want these Goldsmiths, they do not appear, they promised me they would.

Ld Ch. Just. *Hyde.* How can we help it?

Turner. I do humbly beg your Honour and this Honourable Bench, that the old Gentleman, my old Friend, may declare what passed between us on *Saturday* Morning.

Ld *Bridgman.* Consider what you do, for here would you have Mr. *Tryon* swear against himself: hear what you would put him to, take it as you put it, tho' I do not believe a Word of it. As you put the Case, here is *Wild* commits a Robbery, you come and truck with *Wild*, and agree with him that Mr. *Tryon* shall let him go, shall not meddle with him, there shall be no Prosecution, so the Jewels and Money may be brought; Would not you get Mr. *Tryon* to conceal a Felony and Felon, and he confess against himself he made this Agreement with you? that Mr. *Tryon* did consent to it, that he promised you five hundred Pound to shuffle up this Business?

Turner. Hear me, pray; you put me out: I had not let this Man go, I begged that they would go with me, Sir *Thomas Aleyn* would not let us go, we would have taken him, I was sensible of the Danger; it may be we might have had the Felon and the Goods too.

Ld Ch. Just. *Hyde.* No doubt, upon your own Story, all this while you had no Possibility of having the Goods, unless the Life of this Fellow may be given you; so you were fain to agree, and plight your Word to him, pawn your Soul that he should be free, untouch'd, so he would discover the Goods and Money. Sir *Thomas Aleyn*, speak to that Particular again.

Sir *Tho. Aleyn.* My Lord, and Gentlemen of the Jury, he tells a long Story, that he was kept abroad till Seven o'Clock at Night; I do verily believe he was brought to Mr. *Tryon*'s at Five o'Clock, and there he kept us 'till Seven, and all he would do, was, he desired to go himself, or with one Person at the most, or else we shall lose all the Jewels, saith he, for two Souls are pawned: he did not in the least argue the taking of the Thief. I must say this, when I came to him on *Monday*, he said if I had sent a good Guard, we might have taken the Thief. Said I, a Lyar had need have a good Memory. Then you must only go yourself, or with one Person; he hath told you, that I said there should be no Prosecution. I said only this, whatever Mr. *Tryon* had promised you, I knew not; but if you expect Favour, let the old Gentleman have his Jewels again.

Sir *Tho. Chamberlain.* I heard no such thing.

Ld *Bridgman.* What did he tell you?

Sir *Tho. Chamberlain.* He would have gone with one with him, and pretended he could find out the Jewels only.

Mr. *Millington.* There were some Propositions made, he desired first I should go with him singly; I told him there would be no Security, but if he would get a sufficient Guard, I would go with him: but he went home to his Wife, and never made mention of any Party's Name, but that there was a Party he expected the Jewels of.

Ld *Bridgman.* Did he propose any thing touching the taking that Man?

Millington. Nothing but that he had pawned his Soul there ſhould be no Diſcovery of it.

Ld *Bridgman.* Did he deſire that you ſhould go and take the Man?

Millington. No, but that we might go and ſecure the Jewels.

Serj. *Cole.* My Lord, there was a great deal of Danger; we are Bail for eight hundred Pounds; if he had been taken away, we are all undone: he only propounded of having the Jewels, and nothing of the Man.

Mr. *Gurney.* I underſtood you, Col. *Turner*, only for the Jewels, and not for the Man.

Mr. *John Marſhal.* My Lord, he did move Sir *Thomas Aleyn* that I might go with him to *White-Chapel* and about *Tower-Hill.* I told Sir *Thomas*, it was very unſafe for me to go, being late, and out of the Liberties; tho' I was a Conſtable. I could not command Aſſiſtance there; and intreated Sir *Thomas* to excuſe me: I thought it not ſafe for him. He did then repeat the Engagement of his Soul to the Thief, and of *Tryon*'s to him.

Ld *Bridgman.* Did you ever hear him ſay, deſire or propoſe, that you ſhould go and take the Thief?

Marſhal. No, my Lord, it was to get the reſt of the Jewels.

Alderman *Smith.* Do not you know that I ſpake to you again and again, and adviſed you by all means to let us know where this Man is; that I would go myſelf, or any of theſe Perſons preſent? You utterly refuſed it, and ſaid there was two Souls pawned, and you would not diſcover it.

Turner. That was at firſt, afterwards I mention'd them all.

Ld *Bridgman.* For what?

Turner. To take the Thief.

Ld *Bridgman.* You ſee not any Man teſtify any ſuch thing.

Yeoman *Cole.* Sir *Thomas Aleyn* called my Brother and I both into the Room to him, and the Marſhal and his Man; and ſaid, Col. *Turner* would have us go without the Liberties for theſe Jewels: I think, ſaith Sir *Thomas Aleyn*, it is not ſafe to go out of the Liberties. Mr. *Marſhal* ſaid the ſame. He deſired us to go with him, but Sir *Thomas* refuſed it.

Ld *Bridgman.* This is a notable Piece of Cunning; when he was moved by Alderman *Smith* and others, all this while he names no Man; but now he was under an Action, he would have them go with himſelf out of the Liberties, and yet never ſaith a Word to take the Man: He knew very well it was out of the Liberties. Truly I think, if Sir *Thomas Aleyn* had done it, I ſhould not have taken him to be Sir *Thomas Aleyn.* Did you deſire any of them to go with your Wife?

Marſhal. He deny'd us to go with his Wife; his Token was this, the Thief would meet no Man.

Turner. My Lord, to the Buſineſs now. I am here indicted for Burglary: It appears to your Honours and the Bench, that it was Ten of the Clock when my Sons came from my Lord the Marquiſs of *Dorcheſter*'s Houſe; ſaid I, You Knaves you, what do you out ſo late? Said they, It was paſt Nine before we had done, and my Lord's Gentlemen made us ſtay Supper. They were all in their Beds at a little paſt Ten of the Clock. You hear what *Moſely* the Conſtable ſaith, he finds us ſleeping in the Houſe; how ſhould this Burglary be laid on me? I am indicted here for Burglary, and that I cannot be, for that I was at Home.

Ld Ch. Juſt. *Hyde.* Have you done?

Turner. Ay, my Lord.

Ld Ch. Juſt. *Hyde. William Turner*, what ſay you? You ſee what is laid to your Charge; firſt, you are a Perſon of looſe Life: there were two at his Bed-ſide, he believes you to be the Perſon that gagg'd him, and help'd to bind him.

William Turner. I was never in his Houſe in my Life, till with Sir *Thomas Aleyn.*

Ld Ch. Juſt. *Hyde.* Where were you?

Will. Turner. At Home.

Ld Ch. Juſt. *Hyde.* Make that appear.

Will. Turner. I have none here.

Ld Ch. Juſt. *Hyde.* He ſaith it was a Man as like you as can be.

Will. Turner. And I am as innocent as may be.

Ld Ch. Juſt. *Hyde. John Turner*, that which is againſt you is this: You on *Saturday* Morning very early was buſy with your Father and Mother in the removing the Money; and then when you had Notice that you would be apprehended, you got away.

John Turner. Sir, I did not know who it was that was come, whether to apprehend, or upon any other ſcore; but the Woman ſpeaking to me, *Flee for your Life*, or ſuch Expreſſions, made me go away I know not how.

Ld Ch. Juſt. *Hyde.* Did not you bring ſome Money?

John Turner. I did, my Lord.

Ld Ch. Juſt. *Hyde.* How much was brought at that time?

John Turner. I carried away two Bags to *Wild.*

Ld Ch. Juſt. *Hyde.* Did you know him?

John Turner. Yes, my Lord.

Ld Ch. Juſt. *Hyde.* Did you carry theſe to *Wild* on *Saturday*-morning? Did not you carry them to *Fry*'s Houſe?

John Turner. We took them afterwards from the Houſe where *Wild* appointed us to meet.

Ld *Bridgman.* At what time of the Day did you carry them back to *Wild?*

John Turner. Before Sir *Thomas Aleyn* came that Day, I was coming for more.

Ld *Bridgman.* To what Place?

John Turner. At *Tower-Ditch.*

Ld *Bridgman.* At what Houſe?

John Turner. No Houſe, but I delivered them at *Tower-Ditch.*

Ld *Bridgman.* At what time of the Day?

John Turner. It was before Sir *Thomas Aleyn* came, about Eight or Nine of the Clock in the Forenoon.

Ld *Bridgman.* Was there no People there? Who was there?

John Turner. I cannot tell; I ſaw ſeveral other Perſons.

Ld *Bridgman.* Did *Wild* ſtand in the Street?

John Turner. Yes.

Ld *Bridgman.* How came you to know him?

John Turner. By my Father's Direction; and I had ſeen the Man at our Houſe that Morning when he brought in the Money.

Ld *Bridgman.* Whereabouts? Was it near the Queſt-houſe? that is, the great Houſe that ſtands in the middle of the way?

John Turner. It was hard by the Sign of *Noah's-Ark.*

Ld *Bridgman.* This is a likely Story to be believed, that you ſhould in the Day-time, between Eight and Nine in the Morning, meet in the *Tower-Ditch* that Man that was a noted Thief, that had been in *Newgate*; that you ſhould tarry for this Man to receive two Bags of Money: ſee how it hangs together!

Ld Ch. Juſt. *Hyde.* How often did you go?

John Turner. Twice.

Ld. Ch. Juſt. *Hyde.* How much at a time?

John Turner. A ſingle Bag.

Ld Ch. Juſt. *Hyde.* Had you a Coat or Cloke?

John Turner. Juſt as I am now.

Ld Ch. Juſt. *Hyde.* Had *Wild* a great black Coat? And what did he do with the Money?

John Turner. I know not: but I delivered one in the Street, and then went and fetch'd another, and he ſtaid ready for it.

Ld Ch. Juſt. *Bridgman.* Was this all the Money that was brought in the Morning, ſave that that Sir *Thomas Aleyn* brought away?

John Turner. It was all, to my Knowledge.

Sir *Tho. Aleyn.* Colonel *Turner* confeſſed to me on *Thurſday* Morning that more came unto his Houſe, but that Rogue *Wild* took it away.

Ld Ch. Juſt. *Bridgman.* How much?

Sir *Tho. Aleyn.* About 200*l.*

Ld Mayor. How many Turns did you make when the Money was carried from your Father's Houſe to the *Minories?*

John Turner. Twice.

Ld Mayor. Who went firſt?

John Turner. We went both together.

Ld Mayor. How much was carried between you both?

John Turner. The firſt time I carried 200*l.* as I can judge.

Ld Mayor. Who carried any more?

John Turner. My Father.

Ld Ch. Juſt. *Bridgman.* What did you bring the ſecond time?

John Turner. Three Hundred Pound.

Ld Ch. Juſt. *Bridgman. William*, one thing more: What was the Occaſion of meeting you and *James Turner* at the Alehouſe?

William Turner. I did not meet him, my Lord.

Ld Ch. Juſt. *Bridgman.* You came thither, and called for a Pot of Ale, and ſaid you ſtaid for Colonel *Turner.*

William Turner. It is not right: I only aſked if Colonel *Turner* uſed the Houſe. By and by he came and paid for the Pot.

Ld Ch. Juſt. *Bridgman.* You two went together: What was the Occaſion of your meeting together?

Col. *Turner.* Finding him there, I ſaid I could not drink with him; and ſo we parted.

W. Turner. I called for a Pot of Drink: and having no Money to pay for it, Col. *Turner* coming by, I called him in, and deſired him to pay for it, which he did.

Ld Ch. Juſt. *Bridgman.* The Boy ſwore you ſaid you ſtaid for Colonel *Turner:* Can you juſtify you were at home, or in any other Place? It is a great Suſpicion. The old Gentleman charged you to be very like the Man; and you can give no Account where you were; and *Turner* and you met together the Day before.

W. Turner. I was at Home.

Ld Mayor. William Turner, when did you ſhave your Beard laſt?

W. Turner. Before *Chriſtmas.*

Ld Mayor. Who ſhaved it for you?

W. Turner. A Barber in *Golden-Lane.*

Ld Mayor. When his Hair is ſhaved off his Chin, the other Man, whoſe Name is *Chriſtmas*, being a ſmooth-chinn'd Man, it's very poſſible that might beget the Miſtake in Mr. *Tryon.*

Ld Ch. Juſt. *Hyde.* You of the Jury, it is high time to let you go together to conſider your Verdict: We will trouble you no more in this Buſineſs to-day. Here is an Indictment againſt *James Turner*, *John Turner*, and *William Turner*, for a Burglary in breaking the Houſe of Mr. *Francis Tryon*, in the Night-time, and taking away a great deal of Money and Jewels; you have heard it particularly named. It is likewiſe charged, That *Mary* and *Ely* knowing of *John* to have committed this Felony and Burglary, did comfort and abet him afterwards. I ſhall ſpeak to them two firſt: *Mary* the Wife of *James Turner*, though it appears all along that ſhe had a Hand in this Buſineſs, yet nothing appears at all but doing only that which her Huſband had directed; then by Law ſhe cannot be Acceſſary for committing of Felony. For *Ely*, the other Acceſſary, I did not obſerve in the whole courſe of the Evidence, any thing at all againſt him, that he was privy to any thing at all; for that of the carrying of the Money, it appears to be *John:* For them two, *Mary* and *Ely*, nothing is faſten'd upon them. Then the Matter is to *James*, *John*, and *William Turner:* I hope, and I am ſure you are nearer, and you take Notes of what hath been delivered: I have not your Memories; you are young, and no Perſons better; you are Men of underſtanding, I need not repeat Particulars to you. Thus much I muſt ſay in general, That it is not always neceſſary: But for that I ſhall deſire my Lord *Bridgman* to declare it to you. A man may be guilty of a Burglary, tho' he be not in the Place, in the Room where it was committed: Or thus, If three or four Men come together with Purpoſe to rob a Houſe; two go in and do the Feat, and the reſt ſtay without, to ſee no body comes to prevent, or to receive, one or other coming to that purpoſe; thoſe that are without the Houſe are as guilty of the Burglary, as the other that went in. No Man will deny the Law to be ſo. Then weigh your Evidence: It appears by the Coachman that he ſaw four Men, that had Handkerchiefs about their Necks; two upon one ſide, the other two upon the other ſide of the Door. Though there were but two appeared to Mr. *Tryon*, yet there being four in Company, and Mr. *Turner* himſelf tells ye, that by the Story from his Intelligence there were three or four. Whom they were, or whether there was any or no, God knows; but rather ſuppoſe it to be a Story of his own framing: He walked up and down on *Tower-Hill*, took the Thief by the Throat, and there kept him about two Hours, and paſt Four o'clock before they brought the ſecond Bag. Then weigh that particular Knowledge that Mr. *Turner* had of all theſe Things: That upon *Wedneſday* before he met with this *William Turner*, a Perſon you ſee, of what Quality I ſhall not repeat, he cannot give account of himſelf what he is; and that Night, when this Robbery was committed, he

ſays he was at home; they are his own Words: He might have had Witneſs to have proved this as well as Mr. *Turner*. But for *James Turner*, it's true it appears, and no doubt he was that Night at home: The Conſtable went to his Houſe upon the occaſion of *Tryon*'s Man's ſaying he ſupp'd there, went to find whether he ſupp'd there; that was indeed falſe: But the Conſtable and thoſe that went there, found them a-bed. But then take the time when this Robbery was done: It was between Eight and Nine, and he was found in bed at paſt Ten, tho' indeed the Thieves ſaid it was Eleven, as you might underſtand by Mr. *Tryon:* It muſt be left to you upon the Proof. You ſee when he comes the next Day, he undertakes to find out the Thieves, and that only upon a Suſpicion; that there being a Purpoſe to rob Mr. *Tryon* a Year before, he goes to the ſame Place now, he found *Wild* out then: He had very good Luck; that becauſe he lodged there a Year before, he muſt have the ſame Lodging now: It's a likely matter that Thieves, as *Wild* is, ſhould keep their Lodgings thus conſtantly. There he finds him, takes him by the Throat, and there they were playing a while: There one comes, goes, and brings ſome part of the Money. After all this, the next Day he muſt take his Word to come again, and to bring the Jewels. Obſerve but this: After which time as the Money was received, yet by a Token, though he never ſaw the Woman before, deſcribing her a ſhort fat Woman, with a long black Scarf, he muſt meet her, aſked her what ſhe wanted, and muſt give her Jewels of that Value: 'Tis one of the fineſt fram'd Stories that I have heard, that this Man ſhould come to be thus privy after himſelf ſtood charged, and the Jewels brought for all this; and yet he muſt know nothing of it. You obſerve the Evidences, and their Circumſtances themſelves: The Witneſſes he called in point of Reputation, that I muſt leave to you. I have been here many a fair Time: Few Men that come to be queſtioned, but ſhall have ſome come and ſay, He is a very honeſt Man; I never knew any Hurt by him: But is this any thing againſt the Evidence of the Fact? But you have here the whole; I ſhall leave it to you.

Ld Ch. Juſt. *Bridgman.* Gentlemen of the Jury, my Lord hath repeated to you the Evidence: I ſhall repeat nothing of that; only one or two Things I ſhall obſerve to you. Firſt, In point of Law: And I muſt agree in Opinion with what my Lord ſays. But in this Caſe there will be ſomething more conſidered; that is, Whether or no (for this is the Law) if a Man have a falſe Key, (we are now upon the point of Law) and we ought to be of Counſel with him and you, to direct that which is right, if he appear plainly to be an Acceſſary, you muſt find him guilty of this Indictment: For that you muſt conſider Circumſtances, whether he broke open the Houſe or no. Then you muſt obſerve Mr. *Tryon*'s Door was ſhut; it was not broke open by a Crow: Therefore you may conclude that it is very probable they had a Picklock: But that I muſt leave to you. Either they muſt come in by one being in the Houſe, or by a Picklock. But to ſay by one in that Houſe, you have no Reaſon to preſume on that: If by a Picklock, whoſoever they were, they muſt be known, not Strangers to the Houſe: Not *William Turner* alone, but he that knew the Houſe, and all the Paſſages and Doors; knew where the Keys and Jewels were. Then who probably ſhould be in the Houſe? It was not for a Stranger to be in the Houſe, only one that muſt know all. If that *James Turner* ſhall appear to you to have a Hand in it, if you think he was Acceſſary, you muſt find him guilty as Principal.

Col. *Turner.* God forbid.

Ld Ch. Juſt. *Bridgman.* If he were amongſt them, if the Door be opened by a Picklock, it is a direct Burglary, as if broke open by an Iron Bar: But that muſt be left to you. In the next place, to prove the Burglary, you ſee what a Story he tells you, with all the Circumſtances, as if he had been there: He tells you from this *Wild* (if there be any ſuch, you muſt take it upon his Word) how the Man's Tooth came out, what he meant to do with the other Perſons, and all other Things about that Affair. Obſerve another Thing of Sir *Thomas Chamberlain:* Says he, We ſuſpected him from the firſt: We could not examine any, but he would be thruſting in, and liſtening. I ſay, admit that you ſhould be by the Evidence perſuaded he had a hand in the Buſineſs, you muſt find him a Principal: For nothing in the World more ordinary, if a Man intend to commit ſuch a Felony or Burglary, he will be ſure to have Witneſs to prove he was here, or in ſuch a Place, at the Time when this Robbery was committed. By all that I can gueſs, and I believe that I gueſs right, this Robbery was between Eight and Nine o'clock at Night. When the Conſtable came to Mr. *Turner*, no doubt, as it was his wiſeſt Way, he was then in bed; but can prove nothing at all elſe. The Truth is, upon all that he hath ſaid himſelf, if it be true as he hath ſaid, he hath made himſelf a direct Acceſſary to a Felony: For firſt of all, being examined before a Juſtice of Peace, Sir *Thomas Aleyn*, he ſaid himſelf that the Money he carried, was the Money he had of a Goldſmith: Truly his whole Story is a direct Romance. This Man muſt go upon the *Friday* Night, about Eleven or Twelve o'clock: And there is a Proverb of *a Blind Man's catching a Hare*; if it can be applicable to any thing, it muſt be to this: He muſt go between Eleven and Twelve o'clock at Night without a Lanthorn, a good way above his own Houſe, and there he muſt walk and think ſome *Mephiſtophilus* ſhould come and tell him who is the Man: That he ſhould take him by the Throat, though he could call two more with one Whiſtle, and there get him to deliver the Money: Truly he was a very noble and ingenious Thief. But all this you muſt take upon his own Word. Now he knows the Money was diſcovered, then it was a Merchant's that had failed, and muſt be ſecured for the Uſe of his Wife and Children. If you do believe all this that he hath ſaid, he was neither Principal nor Acceſſary to this Felony, but Acceſſary enough to *Wild*; but that's not the preſent Buſineſs. It is whether upon all theſe Circumſtances, the Money having been found with them, he being the Man that brought the Money, and his Wife the Jewels, whether you do believe the reſt of the Story he hath made for himſelf? If you believe he had a hand in the Buſineſs, you muſt find him as Principal. I ſhall deſire a little further Direction: Suppoſe it were as he ſays, That one was within, and he opens the Door, and lets in others; if himſelf was one that did come in, I take it to be Burglary in them all; it was an unlawful coming in. So that upon all theſe Circumſtances, firſt, whether you do believe that he had a hand in it, or no, or this fine Story that is made; next, whether you do believe this was one that was there; you muſt believe him guilty as Principal. But I leave it to you.

Ld Ch. Juſt. *Hyde.* To the laſt I ſay, if one comes in by Day, with a purpoſe before-hand to rob the Houſe by Night, if he opens the Door, which is almoſt impoſſible here, becauſe the Man ſwears it was double-lock'd, it muſt be opened with a Key; if he opened the Door, and the reſt come in and rob him, that is Burglary in them all.

Thereupon the Jury withdrew; and after near an Hour's Conſultation, they returned to the Court, and took their Places: Their Names being called, they ſeverally anſwered.

Cl. of the Peace. Are ye all agreed of your Verdict?

Jury. Yes.

Clerk. Who ſhall ſpeak for you?

Jury. Foreman.

Clerk. Set *James Turner* to the Bar. Look upon him: How ſay you? Is he guilty of the Felony and Burglary whereof he ſtands indicted, or Not Guilty?

Foreman. Guilty.

John Turner, *William Turner*, *Mary Turner*, and *Ely Turner*, were by the ſaid Jury ſeverally acquitted.

January the 19th.

In the Morning the ſaid *William Turner* was again arraigned and indicted for the felonious ſtealing of 45*l.* of the Moneys of *William Hill*, Servant to the ſaid Mr. *Tryon*, and ſtolen in the ſaid Robbery of Mr. *Tryon*; but the Trial thereof was deferred till the next Seſſions.

Afterwards, ſome of the Juſtices of the Bench having received Intimation that Lodgings were lately taken in *Duke's-Place* by the ſaid Col. *Turner*, *William Turner*, and others, for the carrying on of the aforeſaid Robbery; the ſaid Col. *Turner* and *William Turner* were ſeverally examined by that worthy Gentleman Sir *Thomas Aleyn*, who with great prudence had managed this Affair, who preſſed ſeveral Queſtions to the ſaid Priſoners; who finding their ſaid Deſign fully diſcovered, declared as followeth:

The Examination and Confeſſion of Colonel James Turner *and* William Turner, *two of the Perſons in the Robbery of Mr.* Tryon, *taken by Sir* Thomas Aleyn, *Knight and Baronet, in the Preſence of the Right Honourable Sir* Anthony Bateman *Knight, Lord Mayor of the City of* London, *Sir* Richard Brown *Knight and Baronet, Sir* John Robinſon *Knight and Baronet, Sir* Rich. Ford *and Sir* Rich. Rives, *Knights, Sheriffs of the City of* London, *the* 19*th of* Jan. 1663.

THAT the contriving and ſetting of this Robbery was wholly acted by Col. *James Turner*; and that it was in agitation about *Chriſtmas* laſt, and ſhould have been put in execution a Week ſooner, but that the other Friend, whom Col. *Turner* brought, was drunk, and one *White*, who was one of the Actors, would not venture his Life with him: That there were four Perſons that robbed him: Col. *James Turner*, *William Turner*, *White* a Sollicitor, and *White*'s Friend, whoſe Name they knew not: That upon *Thurſday* the 7th Day of *January* inſtant, Col. *James Turner*, *William Turner*, *White*, and the other Perſon, whoſe Name they knew not, met at the *Red-Lion* in *Biſhopſgate-Street*, near to *St. Helen*'s, about Three of the Clock in the Afternoon, where they dined: Col. *Turner* fetched a Neck of Veal from the Cook's for their Dinner; and then they agreed to rob Mr. *Francis Tryon* (who lives in *Little-Street*) that Night, and went to meet again at the ſame Houſe by Six of the Clock that Evening: But the Room where they were to meet being taken up, they went over to the *Four Swans*, or the *Green Dragon*, and there they all ſtaid till Eight of the Clock. Col. *Turner* did then aſſure them that the Doors ſhould be opened; for that by his own Confeſſion he had got the Impreſſion of the Key of the Door in Wax, and had another Key made by it; but knew not the Smith that made the Key. From that Place Col. *Turner* carried them to the new Market in *Leadenhall*, where they ſat upon the Stalls for the ſpace of half an Hour; and then he came unto them, and told them the Man and Maid were now gone out, and that now was their Time. Thereupon Col. *Turner* opened the Door with his Key, and let them in. Then they went up the Stairs, Col. *Turner* leading the way. He lit a Candle in the Kitchen, and went up into Mr. *Tryon*'s Chamber all four of them. Col. *Turner* went near the Bed's-feet, the Curtains being drawn cloſe. *White* and the other Perſons put a Cloth into Mr. *Tryon*'s Mouth, ſtopp'd it, and bound his Feet and his Hands. Col. *Turner* brought down the Key of the Ware-Houſe and the Counting-Houſe out of his Pocket, opened the Ware-Houſe Door and the Counting-Houſe, and took the Keys of the Iron Cheſt, and took out the Money and the Jewels. *William Turner* carried two Wallets with four Bags of Money, as he conceives: And Col. *Turner* ſaid that the ſaid *William Turner* carried four hundred Pounds, and *White* carried two Wallets more, ſuppoſed to be four Bags of ſome hundred Pounds. Col. *Turner* and the other Perſon carried the reſt of the Money, only Col. *Turner* carried away the Jewels in his two Bags. That *William Turner* did not ſee any Money, but as they ſaid it was Money. They did not ſtay in Mr. *Tryon*'s Houſe above an Hour. That they carried all the aforeſaid Money and Jewels into a Lodging in one *Nicholas Hickenſon*'s Houſe in *Louſy-Lane* in *Duke's-Place*, which they hired ſome Days before, pretending it for the Uſe of a Maſter of a Ship, his Mate, Purſer, and Boatſwain. They carried the Money in about Ten o'clock at Night: When the Maid let them in, they blew out the Candle, carry'd up the Money and Jewels, *William Turner* going under the Name of Purſer. Colonel *Turner* and *William Turner* came away that Night, and left the Money and the Jewels there. The next Morning Col. *Turner* fetch'd away the Money and Jewels at five Turns to his own Houſe

House. And saith, That *William Turner* was to have a hundred Pounds of the Money for his Pains, *White* and his Friend twenty Pounds a piece for their Pains, and Colonel *Turner* was to have the rest. That *William Turner* knew not of any of the Jewels, nor *White*, none but Col. *Turner*. That after that Night *William Turner* never saw Col. *Turner*, nor the other Persons in the Robbery, till himself with Col. *Turner* and others were arraigned for the Fact at *Newgate*. Neither did the said *William Turner* see any Money or Jewels opened; neither did he receive one Penny of the Money: neither was he in the Counting-House of Mr. *Tryon*. That neither Col. *Turner*'s Wife nor Sons knew of this Robbery; only that they helped him to remove the Money away on *Saturday* Morning. That the Money was in the House on *Friday* at Night, when the Constable and Marshal searched his House; but they had hid them. That Col. *Turner* being asked where the Jewels were on *Saturday* Morning, said, He did deliver them at Six of the Clock to *White* in both the Bags. That the Carcanet of Rubies were not in those Bags. That Col. *Turner*, in the conclusion, confessed, That he had not done that he did, but that he did lately understand that another Person was made Executor, and that he was resolved to have somewhat.

After Colonel *Turner*'s Examination, Sir *Thomas Aleyn* told Colonel *Turner*, that the first part of Repentance was Confession, the second Restitution; and he being a convict Person, and in all probability not likely to continue long in this World, it were much better for him to restore what was another's Man's, than to think to enrich his Wife and Children, by leaving them that which he knew was none of his; and that one Penny of his own Estate left them, would continue longer with them than a Pound of another Body's: and thereupon he was pressed to restore Mr. *Tryon* the rest of his Money, and the Carcanet of Rubies and Diamonds yet in his Custody. This had such a present Influence upon Mr. *Turner*, that he said he would immediately go and fetch the Carcanet; which he accordingly did, and delivered the same into the hands of Sir *Richard Rives*, one of the Sheriffs.

January 19, *in the Evening*.

Clerk. Set *James Turner* to the Bar. *James Turner*, hold up thy Hand: Thou standest here convicted of Felony and Burglary, for the felonious stealing of the Goods and Money of *Francis Tryon*; what canst thou say, why the Court should not give thee Judgment to die according to Law?

Col. *Turner*. My Lord, I humbly desire your Honour, and the Honourable Bench, you would be pleased to grant me a Reprieve.

J. *Howel*. That we cannot do; the Court must give Judgment upon you: If you can by any means prevail with his Majesty to do it, you may use your Interest; but the Court cannot do it.

Col. *Turner*. I desire your Honours I may be transported.

J. *Howel*. That likewise is in the power of his Majesty: That he may do, if he please. It is not in the power of the Court: We have nothing to do but to give Judgment.

Col. *Turner*. You do it with others.

J. *Howel*. No, not in this Case of Burglary; but leave that to his Majesty's mere Mercy and Grace.

Col. *Turner*. My Lord, I shall humbly desire that my Wife and the two Youths may be discharged.

J. *Howel*. She is found Not Guilty; and therefore she shall have her Acquittal upon the Discharge of the Goal. Those that are acquitted, they must be discharged, if the Court do not see Cause for their further Detention.

Col. *Turner*. I pray the young Man and my Wife may be discharged.

J. *Howel*. Whosoever are found not Guilty, must have their Discharge according to Law.

Col. *Turner*. My Lord, I hope the Bench is satisfied about the young Man.

J. *Howel*. Say no more.

Col. *Turner*. Your Honour's humble Servent.

Clerk. Set *James Turner* to the Bar.

J. *Howel*. I must pronounce the Judgment of the Court, which is, *That you go to the Place from whence you came, and so to that Place of Execution which shall be appointed to you by Authority, there to be hanged by the Neck till you be dead; and the Lord have Mercy on your Soul.*

Accordingly the said Col. *James Turner* was drawn in a Cart from *Newgate* to *Lime-Street*-End in *Leadenhall-Street*, the 21st of *January*, and was there executed on a Gibbet erected for that purpose.

See his Speech, and Deportment, in State Trials, Vol. VIII. p. 375—379.

LXV. *The Trials of* John Twyn * *Printer, for* High-Treason; *of* Thomas Brewster *Bookseller*, Simon Dover † *Printer*, Nathan Brooks *Bookbinder, for* Misdemeanours; *at the* Old-Baily, the 20*th and* 22*d of* February 166¾. 16 Car. II.

FIVE several Indictments being drawn up, *viz.* one of High-Treason, against *John Twyn* Printer; and the other four for Sedition, *viz.* two against *Thomas Brewster* Bookseller, one against *Simon Dover* Printer, and one against *Nathan Brooks* Bookbinder; were presented to the Grand Inquest in *London*, at the Sessions of Goal-Delivery of *Newgate*, holden at *Justice-Hall* in the *Old-Baily*, the 19th Day of *February* 1663. Except that against *Brooks*, which was found the Day following, by the same Inquest. And after divers Witnesses were sworn and examin'd before the said Grand Inquest, the said Bills of Indictment were severally returned *Billa Vera*.

The Names of the said Grand Inquest being as followeth, *viz.*

Arthur Jourdan,	*Roger Hart,*
Arthur Browne,	*John Watson,*
Simon Rogers,	*Christopher Pits,*
James Whetham,	*Thomas Gerrard,*
Ralph Blore,	*John Cropper,*
Isaac Barton,	*Thomas Partington,*
Roger Locke,	*Ralph Coppinger,*
Thomas Cooper,	*Matthew Pelazer.*
Samuel Taylor,	

At Justice-Hall *in the* Old-Baily, *Feb.* 20, *in the Morning*.

THE Court being set, Proclamation was made: 'O Yes! All 'manner of Persons that have any thing more to do at this Sessions of the Peace, and Sessions of Oyer and Terminer, held for the 'City of *London*, and Sessions of Goal-Delivery holden for the City 'of *London* and County of *Middlesex*; draw near and give your Attendance, for now the Court will proceed to the Pleas of the Crown of the 'said City and County.'

God save the King.

Silence commanded.

Clerk of the Peace. Set *John Twyn* to the Bar: [*who was set there accordingly.*] *John Twyn*, hold up thy Hand.

Twyn. I desire to understand the meaning of it. [*But being told he must hold up his Hand in order to his Trial, he held it up.*]

Clerk, &c. 'Thou standest indicted in *London* by the Name of *John* 'Twyn, late of *London*, Stationer, for that thou as a false Traitor against 'the most Illustrious *Charles* the Second, by the Grace of God, of *England*, 'Scotland, *France*, and *Ireland*, King, Defender of the Faith, &c. thy 'supreme and natural Lord and Sovereign——not having the Fear of 'God in thine Heart, nor weighing the Duty of thy Allegiance, but 'being moved and seduced by the Instigation of the Devil; and the cordial Love, true Duty, and natural Obedience, which true and faithful Subjects towards our Sovereign Lord the King bear, and of right 'ought to bear, altogether withdrawing; minding and with all thy force 'intending the Peace and common Tranquillity of this Kingdom to disturb; and Sedition and Rebellion within these his Majesty's Kingdoms to move, stir up, and procure; and Discord between our said 'Sovereign and his Subjects to make and move; the 27th Day of *October*, 'in the Year of the Reign of our said Sovereign Lord *Charles* the Second, 'by the Grace of God, &c. the 15th, at the Parish of St. *Bartholomew's*, 'in the Ward of *Farringdon without*, *London*, aforesaid, traitorously didst 'compose, imagine, and intend the Death and final Destruction of our 'said Sovereign Lord the King, and the Antient and Regal Government 'of *England* to change and subvert; and our said Sovereign Lord the 'King of his Crown and Regal Government to depose and deprive. And 'these thy most wicked Treasons and traitorous Imaginations to fulfil, 'thou the said *John Twyn*, the said 27th Day of *October*, in the Year 'aforesaid, in the Parish and Ward aforesaid, advisedly, devilishly, 'and maliciously didst declare, by imprinting a certain Seditious, Poisonous, and Scandalous Book, Entitled, *A Treatise of the Execution 'of Justice*, &c.——In which said Book, amongst other things, thou 'the said *John Twyn*, the 27th Day of *October*, in the Year aforesaid, 'in the Parish and Ward aforesaid, falsly, maliciously, and traitorously 'didst imprint, &c.——against the Duty of thy Allegiance, and

* Kelyng's Reports. 22.

† Ibid. 23.

'the

‹ the Statute in that caſe made and provided; and againſt the Peace of ‹ our ſaid Sovereign Lord the King, his Crown and Dignity.'

What ſay'ſt thou, *John Twyn*; art thou Guilty of this High-Treaſon whereof thou ſtandeſt indicted, or Not Guilty?

Twyn. I deſire leave to ſpeak a few Words: My Lord, I am a very poor Man; I have been in Priſon ſeveral Months—

Clerk. Are you Guilty, or not Guilty?

Twyn. With all due Submiſſion to your Honours, I deſire to ſpeak a few Words.

Ld Ch. Juſt. *Hyde.* You muſt firſt plead to your Indictment, and then you may ſay what you will; that's the Rule of the Law. We receive no Expoſtulations till you have pleaded to the Indictment, Guilty or Not Guilty.

Twyn. I do not intend to anſwer to the Indictment, by what I ſhall now ſay; I am a poor Man, have a Family and three ſmall Children, I am ignorant of the Law, and have been kept Priſoner divers Months—

Ld Ch. Juſt. *Hyde.* Pray plead to the Indictment, you ſhall be heard, ſay what you will afterwards.

Twyn. I humbly thank you, my Lord.

Clerk. Are you Guilty, or Not Guilty?

Twyn. I beſeech you to allow me Counſel, and ſome Conſideration; I deſire it with all Submiſſion.

Ld Ch. Juſt. *Hyde.* You muſt plead firſt; then aſk what you will.

Clerk. Are you Guilty, or Not Guilty?

Twyn. Not Guilty of thoſe Crimes.

Ld Ch. Juſt. *Hyde.* God forbid you ſhould.

Clerk. How wilt thou be try'd?

Twyn. I deſire to be try'd in the preſence of that God that is the Searcher of all Hearts, and the Diſpoſer of all Things.

Ld Ch. Juſt. *Hyde.* God Almighty is preſent here; there is no other Trial by the Law of *England*, but by God and the Peers, that is the Country, honeſt Men. You ſhall have all your Challenges, and all that's due to you, by the Help of God; we are bound to be your Counſel, to ſee you have no wrong: therefore put yourſelf upon your Trial; ſay how you will be try'd.

Twyn. I deſire to be try'd in the Preſence of God.

Ld Ch. Juſt. *Hyde.* So you ſhall: God Almighty is preſent here, looks down, and beholds what we do here; and we ſhall anſwer ſeverely, if we do you any wrong. We are as careful of our Souls, as you can be of yours. You muſt anſwer in the Words of the Law.

Twyn. By God and the Country.

Clerk. God ſend thee a good Deliverance.

Ld Ch. Juſt. *Hyde.* Now ſay what you will.

Twyn. I am a very poor Man.

Ld Ch. Juſt. *Hyde.* Nay, let me interrupt you thus far: Whatever you ſpeak in your Defence, to acquit yourſelf of this Crime, that you may reſerve till by and by. This is but an Arraignment; afterwards the Evidence for the King is to be heard, then make your Defence. If you have any Witneſſes on your part, let's know their Names, we'll take care they ſhall come in. If I did not miſtake, you deſired to have Counſel; was that your Requeſt?

Twyn. Yes.

Ld Chief Juſtice *Hyde.* Then I will tell you, we are bound to be of Counſel with you, in point of Law; that is, the Court, my Brethren and myſelf, are to ſee that you ſuffer nothing for your want of Knowledge in Matter of Law; I ſay, we are to be of Counſel with you. But for this horrid Crime, (I will hope in Charity you are not guilty of it, but if you are) it is the moſt abominable and barbarous Treaſon that ever I heard of, or any Man elſe: The very Title of the Book (if there were no more) is as perfectly Treaſon as poſſibly can be. The whole Book through, all that is read in the Indictment, not one Sentence, but is as abſolute High-Treaſon as ever I yet heard of. A Company of Mad-brains, under Pretence of the Worſhip and Service of God, to bring in all Villanies and Atheiſm (as is ſeen in that Book). What a horrid Thing is this! But you ſhall have free Liberty of defending your ſelf. To the Matter of Fact, whether it be ſo or no: In this Caſe the Law does not allow you Counſel to plead for you; but in Matter of Law, we are of Counſel for you, and it ſhall be our Care to ſee that you have no Wrong done you.

Clerk. Set *Simon Dover* to the Bar: [*Who being ſet, his Indictment was read to the Purpoſe following.*]

Thou ſtandeſt indicted in London, *by the Name of* Simon Dover, *late of* London, *Stationer*, *for that thou*, &c. *the* 15*th Day of* Febr. *in the* 13*th Year of the Reign*, &c. *at the Pariſh of St.* Leonard's Foſter-lane, *in the Ward of* Alderſgate, London, *falſly*, *maliciouſly and wickedly*, *didſt imprint a certain falſe*, *malicious*, *ſcandalous and ſeditious Book*, *intitled*, The Speeches and Prayers of ſome of the late King's Judges, *&c. and the ſame didſt ſell and utter*, *againſt the Duty of thy Allegiance*, &c. How ſayeſt thou, *Simon Dover*, art thou Guilty of this Sedition and Offence, whereof thou ſtandeſt indicted, or Not Guilty?

Dover. My Lord, and the honourable Bench, I deſire I may be heard a few Words—

Ld Ch. Juſt. *Hyde.* When you have pleaded, you ſhall.

Dover. I ſhall be willing to plead—

Ld Ch. Juſt. *Hyde.* You muſt either confeſs it, or plead Not Guilty. I hope you are Not Guilty of this foul Crime.

Dover. I am not, by the Laws of *England*, Guilty.

Ld Ch. Juſt. *Hyde.* You ſhall be tried by the Laws of *England*, whether you are Guilty or no.

Dover. I am willing to be ſo, and I am glad I am come before you to that purpoſe, having been long a Priſoner: I am Not Guilty of any thing in this Indictment, neither as to Matter, Time nor Place.

Ld Ch. Juſt. *Hyde.* What do you mean by Time and Place?

Dover. I am not guilty in *Manner* or *Form*. And now, my Lord, I being altogether ignorant of the Law, I humbly beg Counſel, and a Copy of my Indictment: I hope I ſhall not be deſtroyed, becauſe I am ignorant of the Law: I have been eighteen Weeks cloſe Priſoner.

Ld Ch. Juſt. *Hyde.* What would you have?

Dover. I deſire Time, and Counſel aſſigned me, and a Copy of my Indictment.

Ld Ch. Juſt. *Hyde.* For a Copy of your Indictment, though it be for a foul Offence, yet (in favour to you, it being not made ſo Capital as the other) we cannot deny it you: For Counſel you may have what you will, we need not aſſign it. [Make him a Copy,] but I will tell you, we ſhall try it now.

Dover. I do proteſt I knew not what I came for; I never imagined what my Indictment was; I know not what there's in't—

Ld Ch. Juſt. *Hyde.* You ſhall have a Copy made preſently. If you have Counſel or Witneſſes, ſend for them; we muſt try you to-day; but you will have ſome time, for we will begin with the other.

Dover. I beg I may have a Copy of the Indictment in *Engliſh*; I cannot underſtand *Latin*.

Ld Ch. Juſt. *Hyde.* That that is againſt you, is in *Engliſh*; the *Latin* ſignifies no more, but that you did ſeditiouſly and maliciouſly print all that which is in *Engliſh*.

Dover. I hope I have done nothing, but I ſhall acquit myſelf of.

Ld Ch. Juſt. *Hyde.* I hope you may; but we can give you nothing but a Copy of the Record: ſend for your own Clerk to underſtand it.

Clerk. Set *Thomas Brewſter* to the Bar: [*Who was ſet; and then his Indictment was read, which was:*]

That he the ſaid Thomas Brewſter, *late of* London, *Stationer*, *not having*, &c. (in the Form aforeſaid] *the* 15*th Day of* February, *&c. at the Pariſh of* Little St. Bartholomew's, *in the Ward of* Faringdon without, London, *maliciouſly*, &c. *did cauſe to be imprinted the aforeſaid Book of* Speeches and Prayers, *&c. and the ſame did ſell and utter*, *againſt the Duty*, &c.

Who being demanded, Whether he was guilty of that Sedition and Offence? anſwered, Not Guilty.

Clerk. How will you be tried?

Brewſter. By God and the Country.

Clerk. God ſend thee a good Deliverance.

Ld Ch. Juſt. *Hyde.* Say what you will now.

Brewſter. May it pleaſe your Lordſhip, I am wholly ignorant of the Proceedings of the Law; I have been a cloſe Priſoner theſe eighteen Weeks, no body to adviſe with me, ſcarce my Wife ſuffered to come to me; I deſire ſome Time to take Advice.

Ld Ch. Juſt. *Hyde.* I doubt we ſhall not be able, if you mean till next Seſſions—

Brewſter. No, my Lord, I have had too long Impriſonment already, would I had been here the firſt Seſſions after I was a Priſoner.

Ld Ch. Juſt. *Hyde.* If you deſire a Copy of the Indictment and Counſel, you ſhall have it.

Brewſter. I humbly thank you; but I muſt have Time to conſult them, or they will do me little good.

Ld Ch. Juſt. *Hyde.* If you have any Friends or Witneſſes, you may ſend for them.

Brewſter. I thank you, my Lord.

Clerk. Thomas Brewſter, *thou ſtandeſt again indicted in* London *by the Name of*, &c. *for that thou not having*, &c. *the* 10*th Day of* July, *in the* 13*th Year*, &c. *at the Pariſh of* Little St. Bartholomew's, *in the Ward of* Faringdon without, London, &c. *falſly*, *maliciouſly*, *ſcandalouſly*, *and ſeditiouſly*, *didſt cauſe to be imprinted a Book*, *intitled*, The Phœnix, or the Solemn League and Covenant, *&c.---and the ſaid Book didſt ſell and utter*, *againſt the Duty*, &c. How ſayeſt thou? Art thou guilty of this Sedition and Offence whereof thou ſtandeſt indicted, or Not Guilty?

Brewſter. Not Guilty, my Lord.

Clerk. How will you be tried?

Brewſter. By God and the Country.

Clerk. Set *Nathan Brooks* to the Bar.

Thou ſtandeſt indicted in London, *by the Name of* Nathan Brooks, *late of* London, *Stationer*; *not having*, &c. [The ſame as to Make, Time, and Place, with that of *Dover*'s] *and knowing the ſaid Book to be ſcandalous and ſeditious*, *didſt ſell*, *utter*, *and publiſh the ſame againſt the Duty*, &c. How ſayeſt thou, *Nathan Brooks*; art thou guilty of this Sedition and Offence whereof thou ſtandeſt indicted, or Not Guilty?

Brooks. Not Guilty.

Clerk. How will you be tried?

Brooks. By God and the Country.

Clerk. God ſend thee a good Deliverance.

Ld Ch. Juſt. *Hyde.* If you deſire to have a Copy of your Indictment and Counſel, you may have it.

Brooks. I am a poor Man, I have not Money to get Counſel; I hope I ſhall not want that that belongs to me by Law, for want of Money.

Ld Ch. Juſt. *Hyde.* You ſhall not, by the Grace of God.

Clerk. Set *John Twyn*, *Simon Dover*, *Thomas Brewſter*, and *Nathan Brooks*, to the Bar.

Clerk. *John Twyn*; thoſe Men that you ſhall hear called, and perſonally appear, muſt paſs between our Sovereign Lord the King and you, upon Trial of your Life and Death; if you will challenge them or any of them, you muſt do it when they come to the Book to be ſworn, before they be ſworn. And you that are for Seditions and Offences, look to your Challenges.

Dover. We deſire we may have a Jury of Bookſellers and Printers, they being the Men that only underſtand our Buſineſs.

Ld Ch. Juſt. *Hyde.* There are thoſe already that underſtand it as well as Bookſellers or Printers; beſides, half the Jury are ſuch, and they are able to make the reſt underſtand it: but you may challenge whom you will.

The Jury were,

William Samborne,	*Robert Beverſham*,	*James Fleſher*,
William Rutland,	*Richard Royſton*,	*Simon Waterſon*,
Thomas Honylove,	*William Hall*,	*Samuel Thomſon*,
Robert Lucas,	*John Williams*,	*Thomas Roycroft.*

Who were ſeverally ſworn by the Oath following:

You ſhall well and truly try, and true Deliverance make, between our Sovereign Lord the King, and the Priſoners at the Bar, whom you ſhall have in charge, according to your Evidence. So help you God.

All Four. We are all ſatisfied with the Jury.

Clerk. Crier, make Proclamation. O Yes! If any one can inform my Lords the King's Juſtices, the King's Serjeant, or the King's Attorney, before this Inqueſt be taken between our Sovereign Lord the King and the Priſoners at the Bar, let them come forth, and they ſhall be heard; for now the Priſoners ſtand at the Bar upon their Deliverance; and all others that are bound by Recognizance to give Evidence againſt any of the Priſoners at the Bar, come forth and give Evidence, or elſe you will forfeit your Recognizance.

Clerk. *John Twyn*, hold up thy Hand. You of the Jury, look upon the Priſoner, and hearken to his Cauſe; you ſhall underſtand that he ſtands indicted in *London* by the Name of *John Twyn*, late of *London*, Stationer: [*Here the Indictment is read over again.*] Upon this Indictment he hath been arraigned, and thereunto hath pleaded Not Guilty; and for his Trial, hath put himſelf upon *God and the Country*, which Country you are; Your Charge is to enquire whether he be guilty of the High-Treaſon, in Manner and Form as he ſtands indicted, or not guilty: If you find him guilty, you ſhall inquire what Goods and Chattels, Lands and Tenements he had at the Time of committing the ſaid Treaſon, or at any Time ſithence. If you find him not guilty, you ſhall enquire whether he fled for it; if you find that he fled for it, you ſhall enquire of his Goods and Chattels, Lands and Tenements, as if you had found him guilty: If you find him not guilty, nor that he did fly for it, ſay ſo, and no more, and hear your Evidence.

Mr. *North*, Barriſter of the Law. *John Twyn* ſtands here indicted, for that he as a falſe Traitor to the moſt Illuſtrious *Charles* the Second, *&c.* not having the Fear of God before his Eyes, nor weighing the Duty of his Allegiance, *&c.* [*Here was opened the Form of the Indictment.*] To which he hath pleaded *Not Guilty*; if there ſhall be ſufficient Evidence given you of the Charge in the Indictment, you muſt do the King and the Nation that Juſtice, as to find him guilty, that Sentence of Law may paſs on him.

Mr. Serjeant *Morton*. May it pleaſe your Lordſhips, and you Gentlemen that are ſworn of this Jury, I am of Counſel with the King againſt *John Twyn*, the Priſoner here at Bar, who ſtands indicted of a moſt horrid and damnable Treaſon: It is, *the compaſſing and imagining the Death of the King, to deprive him of his Crown and Royal Government, and to alter and change the antient Legal and Fundamental Government of this Kingdom*; which he has endeavoured to do, and did intend to do, by printing a traitorous and ſeditious Book, which in itſelf contains as many and as great Treaſons, as it was poſſible either for the Malice of the Devil, or the corrupt and treaſonable Thoughts of blood-thirſty Men to invent: It contains Treaſons againſt the King in his own Royal Perſon; againſt his Government, both Eccleſiaſtical and Civil; full of Treaſons (as my Lord Chief Juſtice was pleaſed to obſerve to you), Treaſons againſt the Queen, Scandals againſt all Manner of Profeſſions both in Church and Kingdom, of Magiſtracy and Miniſtry. My Lord, there are in this Indictment thirteen Paragraphs of that treaſonable Book recited; and each of them contains as many Treaſons as there be Lines in it. Nay, my Lord, this treaſonable Book was intended to ſet a Flame in this Nation, to raiſe and ſtir up Rebellion in this Kingdom againſt the King and his Government. I ſhall obſerve to your Lordſhip the Time when it was to be printed; it was in the Beginning of *October*, your Lordſhip knows, and I do not doubt but the Jury have heard, that there was a great and dangerous Deſign in this Nation, ſet on foot by Men of dangerous Principles, to embroil this Nation in a new War, for the Deſtruction of the King and his Government. It was executed in Part, as far as Time and other Circumſtances would give Way and Leave to the Undertakers (the 12th of *October* laſt); and, my Lord, it was proved upon the Execution of a Commiſſion of *Oyer* and *Terminer* at *York*, that there was a Council here in *London*, that ſat to prepare Matter for an Univerſal Rebellion all *England* over. They ſent their Agitators into the *North*, *Weſt*, and all Parts, to give Notice to their Party to be ready to riſe at a certain Time: Several Days were appointed, but it ſeems they could not be ready till that 12th of *October*; for the ſeditious Books that were to lead on that Deſign, and the Libels and Declarations could not be printed before that Day: And truly that had been printed and publiſhed too, if there had not been great Diligence uſed by the King's Agents and Miniſters, to take them juſt as they were preparing it. This Book, Gentlemen, doth contain a great deal of Scandal upon the King's Government, diſperſing falſe and baſe Rumours, to the Prejudice of it. It is a Rule in my Lord *Coke*, That *the diſperſing of falſe and evil Rumours againſt the King and Government, and Libels upon Juſtices of the Kingdom, they are the Forerunners of Rebellion.*

We ſhall now go to the Proof: We ſhall prove that this Priſoner at the Bar, to print this Book, had two Preſſes in one Room: That he himſelf did work at one of thoſe Preſſes, his Servants at the other by his Command, and in his Preſence: That he did compoſe Part of it, print the Sheets, correct the Proofs, and reviſe them all in his own Houſe, which were corrected and brought back into the Work-houſe by himſelf, in ſo ſhort a Time, that they could not be carried abroad to correct, ſo that he muſt needs correct them himſelf: That this Work was done in the Night-time (and it was proper, as it was a Deed of great Darkneſs, and not fit indeed to ſee the Light; and it was well it was ſtrangled in the Birth, or elſe, for ought I know, we might by this time have been wallowing in our Blood). We ſhall make it appear that this Man, when Mr. *L'Eſtrange* came to ſearch his Houſe, brake the Forms, conveyed away as many of the Sheets as he could from the Preſs to other Places; yet notwithſtanding, God's Providence was ſo great in the Thing, that he left there three or four Sheets, which Mr. *L'Eſtrange* then ſeized on, and many more within a little time after: And ſomewhat of the ſame Matter remained upon Part of a Form of Letter, which his Haſte would not give him Leave to break. When he was charged with it by Mr. *L'Eſtrange*, he confeſſed that he had printed ſome Sheets of this ſeditious Book; and being demanded by Mr. *L'Eſtrange*, What he thought of it? He told him, He thought *it was mettleſome Stuff*: He had great Joy in it; he confeſſed he had received Money for printing of this; and much other Matter, taken upon Examination before Mr. Secretary. We ſhall call our Witneſſes; I ſhould have obſerved to you, That this Man would have done it with all the Privacy that could be, and to be done forthwith; there was great haſte of it, about the Beginning of *October*, and the Deſign in the *North* was upon the 12th; ſo that it was clearly intended for that Deſign.

Several Witneſſes were ſworn.

Joſeph Walker. My Lord, whereas my Maſter is indicted for printing this Book——

Ld *Hyde.* Your Maſter! who is your Maſter?

Walker. He at the Bar.

Ld *Hyde.* What ſay you of it?

Walker. I deſire to ſee the Book; [*it was ſhewed him.*] About the four firſt Pages of this Treatiſe I compoſed.

Ld *Hyde.* Who delivered it to you to compoſe?

Walker. My Maſter delivered the Copy to me.

Ld *Hyde.* What do you mean by compoſing?

Walker. Setting the Letters.

Ld *Hyde.* Well, and you ſet the Letters to print according to the Copy; and you had it of your Maſter, had you?

Walker. Yes, my Lord; but all this Copy we did not print.

[*Part of the Copy in Manuſcript being ſhewed him, he ſaid, he compoſed by that Copy.*]

Serjeant *Morton.* How much did you print?

Walker. About three Sheets.

Serj. *Morton.* How many of thoſe did your Maſter compoſe?

Walker. Truly, Sir, I cannot tell.

Ld *Hyde.* Did he compoſe one?

Walker. As to a whole one, I cannot ſay.

* *Mr. Serjeant* Wilde. *Mr. Recorder.* * Did he compoſe the Title?

Walker. Here is no Title.

Mr. Recorder. No? Read the Top.

Walker. A Treatiſe of the Execution, *&c.* [*He reads the Title.*]

Mr. Recorder. Did your Maſter compoſe that?

Walker. No, I did.

Ld *Hyde.* Did your Maſter give you that to compoſe?

Walker. Yes.

Serj. *Morton.* Who compoſed the ſecond, third and fourth Sheets?

Walker. I compoſed ſome of them, but to particularize, I cannot.

Ld *Hyde.* Who gave you what you did?

Walker. My Maſter.

Ld *Hyde.* Can you turn to any Part of that you did compoſe?

Walker. I cannot tell that.

Ld *Hyde.* You compoſed, you ſay, four Pages; There are eight in a Sheet: Who compoſed the other of the ſame Sheet?

Walker. I think my Maſter did.

Ld *Hyde.* At the ſame Time, and in the ſame Room with you?

Walker. He wrought not in the ſame Room.

Ld *Hyde.* After you had ſtamped the Sheet, who did peruſe and overread it, to ſee if it were right?

Walker. I carried them into the Kitchen, and laid them down upon the Dreſſer by my Maſter.

Ld *Hyde.* Who compared them?

Walker. I know not.

Ld *Hyde.* Who brought them back to you?

Walker. My Maſter brought them into the Work-houſe, and laid them down.

Ld *Hyde.* Was there any Body in the Houſe that might correct it?

Walker. Not that I ſaw.

Ld *Hyde.* When you had carried a Sheet down, how long was it ere it was brought back again?

Walker. About an Hour, or an Hour and a Half.

Ld *Hyde.* Was there any Body in the Houſe beſides you and your Maſter?

Walker. There was my Fellow-Apprentice, and the Woman that keeps the Houſe.

Ld *Hyde.* Were there no Strangers there?

Walker. No, my Lord.

Mr. Recorder. Were they printed in your Maſter's Houſe?

Walker. Yes.

Serj. *Morton.* What Room?

Walker. In the Preſs-Room.

Serj. *Morton.* Did your Maſter work at the Preſs about this Work any Part of the Time?

Walker. Yes, I ſaw him beat ſome Sheets.

Ld *Hyde.* When you had printed one Sheet, were there not ſome Miſtakes of the Letters to be mended?

Walker. Yes, there were Literals.

Ld *Hyde.* Who made the Amendments?

Walker. Upon my Oath I cannot tell.

Ld *Hyde.* Do you believe it to be your Maſter's?

Walker. I cannot tell that.

Ld *Hyde.* Have you ſeen your Maſter write heretofore?

Walker. I have ſeen him write, but becauſe I have heard of them that could counterfeit Mens Hands, I dare not ſwear it was his Writing.

Ld *Hyde.* Were the Amendments that were brought back like his Hand?

Walker. The Letters were ſomething like them, but I cannot ſwear poſitively that they were his.

Ld *Hyde.* No, that you cannot, unleſs you ſaw him write them; but was it like his Hand?

Walker. It was not much unlike his Hand.

Mr. Recorder. Did not your Maſter uſe to correct other Works before this?

Walker. Yes.

Mr. Recorder. Then by the Oath that you have taken, were not the Corrections of this Book like thoſe of other Corrections of his own Hand?

Walker. I know not that.

Mr. Recorder. Did any Body correct Books in your Houſe but your Maſter?

Walker. No, Sir.

Serj. *Morton.* Did you ſee your Maſter with Copy?

Walker. Yes, he had Copy before him.

Serj. *Morton.* What time was this printed? by Night or by Day?

Walker. In the Night-time.

Serj. *Morton.* What Directions did your Maſter give you about printing it? Did he direct any Privacy?

Walker. He was not much deſirous of that.

Mr. Recorder. At what time did you work about it?

Walker. In the Morning, from two till four or five.

Serj.

Serj. *Morton.* Pray, Sir, thus; were you in the Houſe when Mr. *L'Eſtrange* came up?

Walker. Yes.

Serj. *Morton.* Were you at Work then or before?

Walker. Not when he was above, but immediately before I was.

Mr. Recorder. You are not bound to conceal Treaſon, though you are bound to keep your Maſter's Secrets.

Serj. *Morton.* What were you then at work upon?

Walker. Upon the Signature D, the Sheet D of this Treatiſe.

Serj. *Morton.* What did your Maſter ſay, when you told him Mr. *L'Eſtrange* was below?

Walker. Very few words; I cannot be poſitive in them.

Serj. *Morton.* To what purpoſe were they?

Walker. Hearing ſome body knock at the Door, I went down into the Compoſing-Room, and looked through the Window, and ſaw People; I imagined Mr. *L'Eſtrange* was there, and I told my Maſter: Whereupon he ſaid, *He was undone*, or to that Effect.

Mr. Recorder. Did he not wiſh you to make haſte in compoſing it?

Walker. No, he did not.

Mr. Recorder. How long had you been at work upon it? how many Days?

Walker. I cannot tell juſtly.

Mr. Recorder. You can gueſs.

Walker. About three or four Days.

Mr. Recorder. Did not your Maſter work in that time?

Walker. He was in the Work-houſe, and did ſet Letters.

Mr. Recorder. Did he not likewiſe print?

Walker. Yes, he did.

Serj. *Morton.* Did not you, by his Direction, break the Form when Mr. *L'Eſtrange* came to ſearch?

Walker. I brake one indeed.

Serj. *Morton.* What became of the other?

Walker. My Fellow-Apprentice brake it?

Serj. *Morton.* By whoſe Direction?

Walker. I had no order for it; I brought it down, and went to ſet againſt a Poſt, and it fell in pieces.

Serj. *Morton.* Did you aſk your Maſter who delivered him this Copy to print?

Walker. I did aſk him two ſeveral times; but he made no Anſwer.

Ld *Hyde.* Did he not ſay, *He would not tell you*; or that *it was no matter to you*; nor nothing?

Walker. Yes, he did afterwards ſay, *It was no matter to me.*

Mr. Recorder. Did not your Maſter nor Fellow-Apprentice tell you who brought the Copy?

Walker. No.

Mr. Recorder. And did not you know?

Walker. No.

Serj. *Morton.* Was he not uſed to tell you the Authors of Books that you printed?

Walker. The Authors he did not; but for whom they were printed he uſed to tell me. My Lord, I humbly beg pardon for what I did, I was his Apprentice.

Ld *Hyde.* How many Sheets did you Print?

Walker. Two Reams on a Sheet, which makes a Thouſand.

Ld *Hyde.* The firſt Page being the Title of it, your Maſter brought to you to compoſe; at the ſame time when you were compoſing one part, your Maſter was compoſing another part of the ſame Sheet in the next Room; and part of it your Maſter did print as well as compoſe: I think you ſaid this?

Walker. Yes.

Ld *Hyde.* Likewiſe that the Proofs were carried to him to overlook, and he brought them back within an Hour, or an Hour and half after, and laid them down in the Work-houſe; and that you ſaw the Hand of the Amendments, but you cannot ſwear it was his, only you ſay that it was not unlike it; and that he had corrected former Sheets that you had printed, and that the Hand with which he corrected others, and this, was alike: and that there was no Stranger in the Houſe to correct it?

Walker. Not that I ſaw.

Ld *Hyde.* This is the Subſtance of what you ſaid?

Walker. Yes.

Mr. Recorder. Did your other Man, or you ever correct?

Walker. No.

Mr. Recorder. Did he uſe other Correctors at any time?

Walker. Yes, about ſome Books.

Mr. Recorder. What Books?

Walker. *Hooker's Eccleſiaſtical Polity.*

Ld *Hyde.* You did riſe to work at Two of the clock in the Morning about it; and your Maſter ſaid when you told him Mr. *L'Eſtrange* was below, that he was undone?

Walker. It was ſo, my Lord.

Mr. *North.* Mr. *L'Eſtrange*, pray tell my Lord and the Jury of your taking this.

Mr. *L'Eſtrange.* My Lord, I do remember that three or four Days, or thereabouts, before the 12th of *October* laſt, I had notice of a Preſs that had been at work for ſeveral Nights in *Cloth-Fair*, and employed a Perſon to watch the Houſe; who told me that they ſtill gave over early in the Morning, at Day-light, or ſoon after. At length Intelligence was brought me in theſe very Words, That *now they were at it as hard as they could drive* (which was about Four in the Morning). I aroſe, went to one of the King's Meſſengers, and deſired him to take a Printer by the way; who did ſo: And I called up a Conſtable, and ſo went to *Twyn's* Houſe, where we heard them at Work. I knocked a matter of a quarter of an Hour, and they would not open the Door; ſo that I was fain to ſend for a Smith to force it; but they perceiving that, opened the Door, and let us in. There was a Light when we came; but before the Door was opened, it was put out. When I was got up Stairs, and a Candle lighted, I found a Form broken (that is, the Letters diſperſed), only one Corner of it ſtanding entire; which was compared by a Printer that was there, with a Corner of a Page newly printed, and appear'd to be the ſame. This Form was brought down out of the Preſs-Room into the Compoſing-Room. As yet we could not find the whole Impreſſion; but at laſt they were found thrown down a Pair of Back-Stairs. I remember they told me the Impreſſion was a Thouſand. I aſked him where he had the Copy? He told me, *He knew not; it was brought to him by an unknown Hand.* I told him he muſt give an account of it. He told me at the laſt, *He had it from* Calvert's *Maid.* I aſked him where the Copy was? He told me, *He could not tell.* (When I ſpeak of the Copy, I mean the Manuſcript.) We ſearched near two Hours, and could not find it: And at length went thence to the Conſtable's Houſe in *Smithfield*, and ſtaid there a while with the Priſoner. I aſked him, Mr. *Twyn*, ſaid I, who corrected this Sheet? *Alas*, ſaid he, *I have no Skill in ſuch things.* Who reviſed it then? Who fitted it for the Preſs? *Truly I had no body but myſelf; I read it over.* What thought you upon reading it? *Methought it was mettleſome Stuff: The Man was a hot fiery Man that wrote it.* But he knew no Hurt in it.

Serjeant *Morton.* When you had taken theſe Sheets, were they wet, or not?

Mr. *L'Eſtrange.* They were not only wet, but half of them were imperfect, printed only on one ſide. Miſſing the Copy, I told him after he was carried to *Whitehall*; Mr. *Twyn* (ſaid I) it may poſſibly do you ſome good yet, to bring forth the Copy: If you will be ſo ingenuous to produce the Copy and diſcover the Author, you may find Mercy for yourſelf; pray therefore get this Copy: Perchance I may make ſome uſe of it. After that, his Servant *Bazilla Windſor* brought out this part of the Copy: [*Producing a Sheet of Manuſcript in Court.*]

Ld *Hyde.* *Joſeph Walker*, was the whole Copy of this Book in the Houſe at that time, when you compoſed that which you did?

Walker. I cannot tell: I ſaw it but Sheet by Sheet.

Mr. Recorder. Did not you ſee the whole entire Copy in your Maſter's Hand?

Walker. No: But [*taking ſome part of the Manuſcript in his Hand, ſaid*] this is the Hand that I compoſed by.

Mr. Recorder. Mr. *L'Eſtrange*, where had you the entire Copy?

Mr. *L'Eſtrange.* It was only the Copy of the laſt Sheet, that I took in the Preſs.

Mr. Recorder. Who helped you to that?

Mr. *L'Eſtrange.* *Bazilla Windſor*, by Direction of the Priſoner, as I conceive: For I told him, If you can help me to the Copy, it may do you ſome good; and ſoon after part of it was brought me by her. I aſked Mr. *Twyn* further, How did you diſpoſe of thoſe Sheets which you had printed, thoſe ſeveral Heaps, whither are they gone? He told me, He had delivered thoſe Sheets to Miſtreſs *Calvert's* Maid at the *Roſe* in *Smithfield.*

Mr. Recorder. You ſay he told you Miſtreſs *Calvert's* Maid received them of him; did you ſince ſpeak with that Maid?

Mr. *L'Eſtrange.* I was long in ſearching *Twyn's* Houſe, and one of his Apprentices made his Eſcape, and probably gave notice of it: For the Night I went to Miſtreſs *Calvert's* Houſe, ſhe and the Maid too were fled. I have ſince taken the Miſtreſs, and ſhe is now in Cuſtody. I have heard nothing of the Maid ſince.

Juſtice *Keeling.* *Twyn* owned to you that he had corrected ſome of the Sheets; that he had read them, and ſaid, It was mettleſome Stuff.

Mr. *L'Eſtrange.* I did aſk him in the Houſe of the Conſtable, Who corrected this? The Corrector muſt certainly know what it was. Said he, *I have no Skill in correcting.* But when I ſpeak of *correcting*, I mean who *reviſed* it, *over-looked* it for the Preſs? *I read it over*, ſays he.

Twyn. I never ſaid ſuch a Word.

Mr. *L'Eſtrange.* He ſpake this in the Preſence of two or three here preſent. Could you read over this Book, ſaid I, and not know that it was not fit to be printed? *I thought it was a hot fiery Fellow; it was Mettle, or mettleſome Stuff*: Somewhat to that effect.

Serjeant *Morton.* What did you hear him confeſs before Sir *Henry Bennet?*

Mr. *L'Eſtrange.* He owned the Thing; that is, he acknowledged he had printed the Sheet I ſhewed there, and two other Sheets of the ſame Treatiſe.

Serjeant *Morton.* Did he acknowledge he corrected them?

Mr. *L'Eſtrange.* I know not whether before Sir *Henry Bennet* he did, or no.

Serjeant *Morton.* What know you about Money received by him?

Mr. *L'Eſtrange.* He ſaid *Calvert's* Maid paid him 40 *s.* in part for that Work.

Twyn. I ſaid I had received Money of *Calvert's* Maid for Work I had done; but named not that.

Mr. Dickenſon *ſworn.*

About the 7th Day of *October*, it being *Wedneſday*, as I remember, about Five o'clock, we attended Mr. *L'Eſtrange*, myſelf and others: We came to the Houſe of the Priſoner in *Cloth-Fair*, and upon the Back-ſide of his Houſe we ſtood liſtening a good while, and heard Preſſes a working. Upon that I came to the Fore-part, by Mr. *L'Eſtrange's* Order, and knocked; but none would anſwer: I took the Conſtable's Staff, and knocked again; and none would anſwer yet. After that Mr. *L'Eſtrange* knocked near half an Hour; and no body coming, he at laſt ſent for a Smith's Hammer to force it open. Afterwards they came down and opened the Door. Then Mr. *L'Eſtrange* and the Printer (Mr. *Mabb*) went up Stairs: I continued below with the Conſtable and the King's Meſſenger, to obſerve whether any went in or out. After which, ſome Sheets fell down on the other ſide of the Houſe. Meeting with one of them, and perceiving they had diſcovered the Sheets they enquired after, I read ſome part of it; and finding what it was, I went up, and found the Sheets thrown behind the Door. Mr. *Twyn* (ſaid I) I wonder you would print ſuch a Thing as this: You could not chuſe but know that it was very dangerous to do any ſuch Thing. He anſwered, That *he did not conſider what it was.* Queſtionleſs, ſaid I, you could not but know it was very dangerous; for when you reviſed it, you muſt needs know the Senſe of it. I think it was a dangerous Buſineſs; what did you think of it? Says he, *I thought he was a good ſmart angry Fellow; it was mettleſome Stuff*; or to that purpoſe. This was the Subſtance of our Diſcourſe. I did ſee ſome of the Sheets printed on one ſide, and ſome on both ſides: The Form lay diſordered; yet not ſo but there was one Corner of it yet remaining, and I having the Sheet in my Hand did compare them together, and to the beſt of my Remembrance, I do remember theſe very Words, *Execution of Judgment*, and *Lord have.*

Ld

Ld *Hyde*. Who did he say reviſed the Preſs?

Dickenſon. He ſeemed to confeſs that he had corrected it himſelf: For when I urged it to him, That he could not chuſe but know the Matter of it by reading it; Truly, ſays he, *I thought he was an angry ſmart Fellow: It was good mettleſome Stuff, indeed.*

Judge *Keeling*. The Queſtion aſked by my Lord is, Whether he did confeſs he reviſed it, or whether you did collect it from his Reply?

Dickenſon. Truly, by that Anſwer I gueſſed he corrected it.

Recorder. Did he confeſs that he read it?

Dickenſon. I put that Queſtion to him; and, to the beſt of my Remembrance, he did not deny it.

Ld *Hyde*. To Mr. *L'Eſtrange* he confeſſed he read it over.

Thomas Mabb *ſworn*.

My Lord, I was with Mr. *L'Eſtrange* in this Man's Houſe; and being there, going up, we found the Preſs had been lately at work. There was at each Preſs a Sheet laid; I took them off the *Tinpin* [*ſome of the Jury underſtand that Term:*] They were juſt laid upon the *Points*, printed on one Side. I gave Mr. *L'Eſtrange* theſe two Sheets, the ſame with theſe [*ſhewing two Sheets*], ſome were perfect, others imperfect. I could not find the Form a great while. I gave him the Sheet to peruſe; and in the mean while I went down, and below I found the two Forms, but broken: Somewhat indeed was ſtanding; whereof I took Part in my Hand, and read in the Letters. Mr. *Dickenſon* having the Sheets, he heard what I read, and looking on the Sheets, found them agree.

Twyn. What were the Words that you read?

Mr. *Mabb*. The Words were *Execution and Judgment, and Lord have*— There was a Back Pair of Stairs out of his Preſs-Room, partly between his Houſe and his Neighbours; and in the Hurry they had thrown the Sheets down there; Part fell behind the Door, and Part at the Bottom. When I queſtioned him how many was done, he ſaid five hundred; but I adjudged thoſe I ſaw to be about ſeven hundred and fifty. Looking again over the Door, I eſpied the Remainder of the Sheets, about two hundred and fifty more, and I brought them together; and then he owned there was one thouſand.

Ld *Hyde*. What elſe do you know?

Mr. *Mabb*. At the Conſtable's Houſe I heard him uſe the Words, That *it was mettleſome Stuff*, and that *no Body corrected it but himſelf*. Said I, I wonder you would offer to do it; you could not compoſe it, but you muſt underſtand it. Said he, *It was my bad Fortune to meddle with it.* Said I, You loſt a Preſs but a little while ſince, I wonder you would do this. He ſeemed to be ſorrowful.

Serj. *Morton*. He did confeſs he corrected it?

Mr. *Mabb*. Yes, my Lord.

Twyn. No, my Lord, I did not.

John Wickham *ſworn*.

Upon the 7th of *October*, as I take it, about Four o'Clock in the Morning, Mr. *L'Eſtrange* came to my Houſe, being one of the King's Meſſengers, and told me I muſt go immediately with him to *Cloth-Fair*, and ſent me to call one Mr. *Mabb* by the Way. I met Mr. *L'Eſtrange* near Mr. *Twyn*'s Houſe between Five and Six o'Clock: We had a Conſtable, and went and knocked at the Door: They knocked at leaſt half an Hour before they got in. I heard ſome Papers tumbling down, and heard a rattling above, before they went up. But I ſtood at the Back-Door, to ſecure any from running out that Way; and at laſt, when they ſaid there were ſome Sheets thrown into the next Houſe, I went and looked, and there were two or three hundred, and they were wet, newly come off the Preſs. That's all I can ſay.

Serjeant *Morton*. Did you hear this Man ſay that he had corrected it?

Wickham. No: But I having him in Cuſtody at my Houſe, I aſked him about it; he ſaid, *It was a very bitter Thing, that it was his unhappy Fortune to meet with it.*

Jury. Did he confeſs he printed it?

Wickham. Not to me.

Serjeant *Morton*. He ſaid, *It was a bitter Thing*; and *that it was his unhappy Fortune to meet with it:* Make the beſt of that; compare that with the reſt of the Evidence.

William Story *Sworn*.

Gentlemen of the Jury, upon the 7th of *October* laſt, early in the Morning, I was ſent for to Mr. *L'Eſtrange* into *Cloth-Fair:* We went to the Houſe of this *Twyn*. After ſome time knocking, they went up Stairs, and brought down ſeveral Papers: I know not what they were. I went into the next Houſe with Mr. *Wickham*, and there we found two or three hundred Sheets, and brought them to Mr. *L'Eſtrange*. I aſked the Priſoner at my Houſe, whether he could not write or read? He ſaid, *Yes*. Did not you uſe to read what you printed? He ſaid, *Yes*. Did not you know Treaſon when you read it? *It was a fiery Thing; I did not mind it much: But I ſhould have got Money by it.*

Mr. *Mabb*. He owned he had but a very ſmall Price for the doing of it.

Mr. Joſeph Williamſon *ſworn*.

That which I can ſay is, That I know this [*looking upon a Paper*] to be my own Hand-writing, and to be the Examination taken of this *Twyn*. I took it; and he owned it after it was written.

Serjeant *Morton*. What was the Subſtance of it?

Ld *Hyde*. What did he confeſs before Mr. Secretary, when he was examined?

Mr. *Williamſon*. He ſaid, That the Copy of the Book was brought to him by one *Evans*, Maid to Mrs. *Calvert*. That for the Author, being aſked if he knew him, he ſaid he did not; and that he had ſeen the Copy of three Sheets of the Book; that he had printed only two of thoſe Sheets, a thouſand Exemplaries of each.

Judge *Keeling*. Did he confeſs that?

Mr. *Williamſon*. Yes. And further, That he had delivered them to this *Evans* at the Sign of the *Roſe* in *Smithfield*; that he himſelf had corrected thoſe Sheets he had printed, and that he had read them after they were printed; that for his Pains and Printing of them, he had received forty Shillings in Part from this Maid at the Delivery of them at the *Roſe*; that the Maid carried away thoſe Exemplaries from the *Roſe*; and that he parted with her at the Door.

Serjeant *Morton*. I hope you obſerve, Gentlemen. We have now done: We deſire the Priſoner may give his Anſwer to it; and then we ſhall make our Reply.

Ld *Hyde*. What ſay you? You have heard the Witneſſes, and what is laid to your Charge.

Twyn. I did never read a Line of it in my Life.

Ld *Hyde*. That's impoſſible. I'll tell you: Firſt, your own Man, who ſet Part, ſwears you did both ſet and print Part of this Book yourſelf: You gave him the Title to ſet. You compoſed one Part of the Book, whilſt he was compoſing another Part. Is it poſſible you could compoſe, and not read a Line of it? He tells you further, when the firſt Sheet was printed, he brought it into the Kitchen, and laid it down, knew not of any one in the Houſe but your ſelf; about an Hour, or an Hour and Half after, you brought it back again corrected, laid it down; and the Hand that corrected it was not unlike your Hand upon other Corrections of Books. Pray, Brother *Morton*, let the Jury have Books, and Mr. *Lee* read the Indictment, that they may ſee they agree.

Serjeant *Morton*. I obſerved to you there were thirteen Treaſonable Paragraphs; you ſhall find them marked out in the Margent.

Ld *Hyde*. You ſhall ſee there are Treaſons with a witneſs: See the very Title.

Mr. *Lee*. [*Reads the Title of the Indictment.*] 'A Treatiſe of the Execution of Juſtice: Wherein is clearly proved, that the Execution of 'Judgment and Juſtice is as well the Peoples as the Magiſtrates Duty; 'and if the Magiſtrates pervert Judgment, the People are bound by the 'Law of God to execute Judgment without them and upon them.'

Ld *Hyde*. That you gave to your Man to ſet.

Mr. *Lee* reads, 'It is one of the Scarlet Sins of this Nation, that the 'People ſuffered their Rulers, *&c.*'——The particular Paſſages are too impious to be publiſhed, and indeed too foul to be repeated, but in Subſtance. Thoſe mentioned in the Indictment are as follows:

Firſt, The Supreme Magiſtrate is made accountable to the People.

Secondly, The People are rebelliouſly incited to take the Menage of the Government into their own Hands.

Thirdly, They are animated to take up Arms, not only againſt the Perſon of his Sacred Majeſty, but likewiſe againſt the Royal Family.

Fourthly, They are ſtirred up to a *Revolt* (in that very Term) as an Action honourable and conſcientious; making Publication in the next Clauſe of Encouragement to any Town, City, or Country in the three Nations to begin the Work.

Fifthly, The People are laboured not only to caſt off their Allegiance to the King, but in direct Terms to put his Sacred Majeſty to Death. And to the Purpoſes before-mentioned tends the whole Scope of the Treatiſe.

Serjeant *Morton*. You may judge of the reſt by this: We will not put you to any more Expence of Time; there hath been ſufficient Treaſon in that which you have read.

Ld *Hyde*. Now ſay what you will. But I muſt tell you, in thoſe Particulars that have been compared, there is as much Villainy and Slander, as is poſſible for the Devil or Man to invent: It is to deſtroy the King in his Perſon, to rob him of the Love and Affections of his People; to deſtroy the whole Family, and all Government, Eccleſiaſtical and Civil. And this you read by yourſelf, owned, and cauſed to be printed.

Twyn. Except it was that Sheet which Mr. *L'Eſtrange* read to me when I was taken, I never heard it before, nor read it.

Ld *Hyde*. Your Man ſwears that you did ſet and print Part of it: It's impoſſible to compoſe and ſet, but you muſt read it. Nay, you did examine and correct the Sheets; brought them up again. Mr. *L'Eſtrange* ſwears you confeſſed you read it over; it was *mettleſome Stuff*. Mr. *Dickenſon* ſays, you did not ſay you reard it over; but he ſaying to you it was impoſſible you ſhould ſet it, and not read it, you told him alſo *it was mettleſome Stuff:* You could not judge it to be *mettleſome Stuff*, but you muſt read it. There is Mr. *Williamſon* ſays, that you confeſſed before Mr. Secretary *Bennet* that you had ſeen three Sheets, printed off two Sheets, corrected thoſe two Sheets; and after printed, and delivered them; and that you had forty Shillings in Part of Payment. Beſides this, when Mr. *L'Eſtrange* came firſt, you were up (nay, at Two o'Clock in the Morning.) When they came and knocked at the Door, they heard Preſſes going, you would make no Anſwer till they called a Smith, with Intent to force it open. When they came in, they found a Form brought out of the Printing-Room, and broken, all but one Corner; that taken up by a Printer, and compared with the Lines of the printed Sheets, and found to agree. Some of the Sheets were printed on one Side only, the reſt perfected, you threw them down Stairs, Part into your Neighbour's; Houſe ſaid, *you were undone*, when you underſtood Mr. *L'Eſtrange* was there. What needed all this, but that you knew what you were doing, and did it purpoſely to do miſchief?

Twyn. I did never read or hear a Line of it, but when Mr. *L'Eſtrange* read it when I was taken.

Judge *Keeling*. Was it printed at your Houſe, or no?

Twyn. I know not but that it might: Not that I did it with my own Hand.

Judge *Keeling*. The Papers were found wet with you: Who was in your Houſe?

Twyn. My two Servants.

Judge *Keeling*. Did any ſet them at Work but yourſelf? Did they work of their own Heads?

Twyn. I did uſe to ſet them at work; but I did not ſet them on that particular Work.

Ld *Hyde*. Have you any thing elſe to ſay? God forbid but you ſhould be heard; but the Jury will not eaſily believe ſuch Denials againſt ſo much Evidence.

Judge *Keeling*. Tell us to whom you carried this Copy to be corrected?

Twyn. I know not who corrected it.

Ld *Hyde*. If you have any thing to ſay, ſpeak it; God forbid but you ſhould have a full Hearing: Say what you will.

Twyn. I ſay I did not read it, nor heard it, till Mr. *L'Eſtrange* read it.

Ld

Ld *Hyde.* Have you any thing else?

Twyn. It's possible I may, upon Consideration.

Ld *Hyde.* We cannot spend all the Day: I must let the Jury know they are not to take your Testimony.

Serj. *Morton.* I am of Counsel for the King: I shall reply, if he will say no more.

Judge *Keeling.* You have heard your Charge; this is your Time to make your Answer: If you do not speak now, you must not speak after. Therefore if you have any thing to speak in your Justification, or Witnesses to call, now is your Time.

Ld *Hyde.* Let me give you this Caution: We cannot spend Time in vain; we have other Business before us, and it grows late. The best Counsel I can give you, is this: You said at first, That you desired to be tried in the Presence of God. You are here in the Presence of Almighty God, and I would to God you would have so much Care of your self, and do so much Right to your self, to declare the Truth, that there may be means of Mercy to you. The best you can now do towards Amends for this Wickedness you have done, is by discovering the Author of this villainous Book: If not, you must not expect, and indeed God forbid that there should be any Mercy towards you.

Twyn. I never knew the Author of it, nor who it was, nor whence it came, but as I told you.

Ld *Hyde.* Then we must not trouble our selves. Did you never see the Hand before, with which this Copy was written?

Twyn. No.

Ld *Hyde.* I am very confident you would not then have been so mad, as to have taken such a Copy: A Copy fraught with such abominable Treason and Lies; abusing, in the first place, the late King that is dead, who was, I'll be bound to say it, as virtuous, religious, pious, merciful, and just a Prince as ever reigned, and was as villainously and barbarously used by his rebellious Subjects. Nay, you have not rested here, but have fallen upon this King, who has been gentle and merciful beyond all Precedent. Since he came to the Crown, he has spared those that had forfeited their Lives, and all they had: And he has endeavoured to oblige all the rest of his People by Mildness and Clemency. And after all this, for you to publish so horrid a Book, you can never make amends: God forgive you for it.

Twyn. I never knew what was in it.

Ld *Hyde.* You of the Jury, I will say only this: That in Point of Law, in the first place, there is no doubt in the World, by the Law of the Land, the publishing such a Book as this is as high a Treason as can be committed: By this he has endeavoured to take away the Life of the King, and destroy the whole Family, and so consequently to deliver us up into the hands of Foreigners and Strangers. It is a great Blessing that we have the Royal Line amongst us. But, I say, there is no question (and my Brothers will declare the same, if you doubt it) that this Book is as fully Treason by the old Statute, as much the compassing and endeavouring the Death of the King, as possible: And he rests not there, but incites the People to Rebellion, to dethrone him, to raise War. And the publishing of this Book is all one and the same, as if he had raised an Army to do this. The Proof is, That he set part, printed part, and corrected it; by his own Confession, read it over, It was *mettlesome Stuff*; confessed how many Sheets he printed; the Reward and Recompence, you took notice of it. And I presume no Man among you can doubt but the Witnesses have spoken true: And for his Answer, you have nothing but his bare Denial. And so we shall leave it to you.

Set Simon Dover *to the Bar.*

Dover. My Lord, I pray Time, till *Monday* Morning: I have sent away the Copy of my Indictment.

Ld *Hyde.* The Sessions will be done to-night: Mr. Recorder and the rest are to go away on *Monday*; and therefore we must end to-night.

Dover. I beseech your Lordship I may have Time till Night.

Ld *Hyde.* Men clamour, and say they are hardly used, their Trials being put off: Are you content to lie in Goal till the next Sessions?

Dover. No, my Lord, I have had enough of that: We are willing now to have it tried.

Ld *Hyde.* You have had a Kindness done to you, that it is not laid Treason; and therefore go on to your Trial. But because you shall not say you are surprized, if you will not go on now, you must lie in the Goal till the next Sessions: We cannot bail you.

Dover. My Lord, the Indictment is full of Law, and I understand not the Formalities of it: I desire but till Four o'clock.

Ld *Hyde.* We must do it before we go to Dinner, or not at all; for there is Judgment to be given to the Goal, and all of us Judges are commanded by the King to attend him to-night.

Dover. I am not able to plead to it.

Ld *Hyde.* Then because you shall not say you had not all the Right imaginable, we will dispatch the rest of the Goal to-night, and adjourn the Sessions till *Monday* Morning, and you shall then have a fair Trial, by the Help of God. You and your Company, *Nathan Brooks* and *Thomas Brewster*, are you all desirous to be tried on *Monday* Morning?

All three. Yes.

Ld *Hyde.* Because you shall not want Advice; or any thing else, you shall have all the Liberty you will desire, to send for Persons; but you must be Prisoners till then.

All three. We humbly thank you.

Then the Jury went out; and after about half an Hour's Consultation, they returned to the Court, and took their Places.

Clerk. Are you all agreed of your Verdict?

Jury. Yes.

Clerk. Who shall say for you?

Jury. The Foreman.

Clerk. Set *John Twyn* to the Bar: Look upon him, my Masters, how say you, is he Guilty of the High-Treason whereof he stands indicted, or Not Guilty?

Foreman. Guilty.

Cl. of *Newgate.* Look to him, Keeper.

Clerk. Hearken to your Verdict, as the Court hath recorded it: You say that *John Twyn* is Guilty of the High-Treason whereof he stood indicted, and that at the time of committing the said Treason, or any time since, he had no Goods, Chattels, Lands nor Tenements, to your knowledge; and so you say all?

Jury. Yes.

Clerk. *John Twyn*, thou hast been arraigned for High-Treason, and thereunto hast pleaded Not Guilty, and for thy Trial hast put thyself upon God and the Country, and the Country hath found thee Guilty; what canst thou now say for thyself, why the Court should not proceed to Judgment, and thereupon award Execution of Death against thee, according to the Law?

Twyn. I humbly beg Mercy; I am a poor Man, and have three small Children, I never read a word of it.

Ld *Hyde.* I'll tell you what you shall do: Ask Mercy of them that can give it; that is of God and the King.

Twyn. I humbly beseech you to intercede with his Majesty for Mercy.

Cl. of *Newgate.* Tie him up, Executioner.

Crier. O Yes! My Lords the King's Justices command all manner of Persons to keep silence while Judgment is in giving, upon pain of Imprisonment.

Ld *Hyde.* *John Twyn*, and *John Dunsmore*, *(one convicted for clipping of Money)* I am heartily sorry that your Carriage and grievous Offences should draw me to give that Judgment upon you that I must. It is the Law pronounces it, God knows it is full sore against my Inclination to do it; I will not trouble myself or you with repeating what you have done; but only this in the general, *John Twyn*, for you: Yours is the most grievous and highest Treason, and the most complicated of all Wickedness that ever I knew; for you have, as much as possibly lay in you, so reproached and reviled the King, the dead King, and his Posterity, on purpose to endeavour to root them out from off the face of the Earth. I speak it from my Soul, I think we have the greatest Happiness of the World, in enjoying what we do under so gracious and good a King; yet you in the Rancour of your Heart thus to abuse him! I will be so charitable to think you are misled. There's nothing that pretends to Religion, that will avow or justify the killing of Kings, but the Jesuit on the one side, and the Sectary on the other; indeed it is a desperate and dangerous Doctrine, fomented by divers of your Temper, and it's high time some be made Examples for it. I shall not spend my time in discourse to you, to prepare you for Death; I see a grave Person whose Office it is, and I leave it to him. Do not think of any Time here, make your Peace with God, which must be done by Confession, and by the Discovery of those that are Guilty of the same Crime with you. God have mercy upon you; and if you so do, he will have mercy upon you. But forasmuch as you *John Twyn* have been indicted of High-Treason, you have put yourself upon God and the Country to try you, and the Country have found you Guilty: therefore the Judgment of the Court is, and the Court doth award, 'That you be led back to the Place from whence you 'came, and from thence to be drawn upon an Hurdle to the Place of 'Execution; and there you shall be hanged by the Neck, and being alive, 'shall be cut down, and your Privy-Members shall be cut off, your 'Entrails shall be taken out of your Body, and you living, the same to 'be burnt before your Eyes; your Head to be cut off, your Body to be 'divided into four Quarters, and your Head and Quarters to be disposed 'of at the Pleasure of the King's Majesty. And the Lord have mercy 'upon your Soul.'

Twyn. I most humbly beseech your Lordship to remember my Condition, and intercede for me.

Ld *Hyde.* I would not intercede for my own Father in this Case, if he were alive. *

Monday, Febr. 22, 166¾.

Kelyng, 23.

THE Court proclaimed,

Clerk. Set *Simon Dover*, *Thomas Brewster*, and *Nathan Brooks* to the Bar: Look to your Challenges.

The same Jury sworn anew.

Clerk. Set *Tho. Brewster* to the Bar, and the rest set by. You of the Jury, look upon the Prisoner; you shall understand that he stands indicted in *London* by the Name of *Thomas Brewster*, &c. [*and here he reads the Indictment*] for causing to be printed, and selling a Book called, *The Speeches, &c.* Upon this Indictment he hath been arraigned, and thereunto hath pleaded Not Guilty, and for his, *&c.* Your Charge is to inquire whether he be Guilty of this Sedition and Offence, or Not Guilty. If you find him, *&c.*

Mr. *North.* May it please your Lordship, and you Gentlemen of the Jury, *Tho. Brewster* stands here indicted of a foul Misdemeanour; it is for causing to be printed, publishing and uttering a seditious, scandalous, and malicious Book. The Indictment sets forth, That he not having, *&c.* [Here Mr. *North* opens the Indictment] and to this Indictment he hath pleaded Not Guilty. If there be sufficient Proof of the Charge, you are to find him guilty of the Matter contained in it.

Thomas Creek, George Thresher, Thomas Lost, *and* Peter Bodvel *sworn.*

Mr. *North. Tho. Creek*, tell my Lord and the Jury what you know concerning *Brewster*, and your printing of a Book called *The Speeches*, &c. and his uttering and publishing of it.

Creek. I shall, Sir. There is a Mistake in the Time, for it was before *Christmas* that Mr. *Brewster*, Mr. *Calvert*, and Mr. *Chapman* did come to me at the *Cock* in *Little-Britain*; and there they had some Copy of the Beginning of the Speeches of the Men that suffered, that were the King's Judges, and they spake to me to print it: and I did print part of the Book, I cannot tell you how much, without I had the Book, and then I can tell you how much I did print, [*The Book being shewed him*] if this be my printing; I suppose it was done afterwards, another Impression, and I must not own it in that. [*He was shewed one of another Impression*] My Lord, thus far I own; the Printers that are of the Jury will judge [*pointing to the Page*] this is my Letter, and here I ended.

* *See* Twyn's *Speech and Behaviour in* State-Trials, *Vol.* 8. *p.* 380, 381.

Ld *Hyde.* What Folio is that you ended at?
Creek. You ſhall ſee, it is 36.
Mr. *North.* By whoſe Order did you print that?
Creek. They all gave me Order together.
Ld *Hyde.* They all! Name them.
Creek. Mr. *Calvert*, *Brewſter*, and *Chapman.*
Mr. *North.* Did they charge you to do it privately?
Creek. With as much Privacy and Expedition as I could.
Mr. *North.* When you had printed them, what did you do with them?
Creek. I diſpoſed of them by their Order.
Mr. *North.* Did you print but one Impreſſion, or more?
Creek. Yes, my Lord, I did print part of a ſecond Impreſſion.
Mr. *North.* That we uſe as Evidence, that he had uttered the firſt, becauſe he went upon a ſecond: How many did you print at firſt?
Creek. To my beſt remembrance, the firſt Impreſſion was 3000.
Ld. *Hyde.* Theſe three employed you to print this Book, and you printed to the 36th Folio?
Creek. Yes.
Ld *Hyde.* And who printed the other part?
Creek. I cannot ſay poſitively.
Ld *Hyde.* Did theſe three afterwards direct you to give out the Sheets to ſuch and ſuch Perſons, Bookbinders, to ſtitch up, and diſpoſe of?
Creek. Yes.
Ld *Hyde.* The firſt was three thouſand, you ſay: what number did they take?
Creek. They had all; they ſent for them of me as faſt as I did them.
J. *Keeling.* Who did you ſend the Proofs to?
Creek. They were ſent for to my Houſe.
J. *Keeling.* Sometimes by *Calvert*, ſometimes his Man, ſometimes his Maid, ſometimes by *Brewſter.*
Ld *Hyde.* Do not you know who began where you left off?
Creek. I am not able poſitively to ſay. I do believe, and I have heard, and ſpoken with them that ſaid Mr. *Dover* did; but I cannot poſitively ſay it.
Ld *Hyde.* You were not by, to ſee it done?
Creek. No.
Ld *Hyde.* What grounds have you to believe that *Dover* printed the reſt?
Creek. Grounds! Truly it is ſo long ago, to ſwear poſitively I cannot.
Ld *Hyde.* It is but three Years ago.
Creek. To the beſt of my remembrance, Mr. *Dover* in the time of printing it, did meet me, and converſe with me about it; but to expreſs Time or Place, I cannot.
Ld *Hyde.* Did you and he agree that he ſhould print the other part?
Creek. No, my Lord; I had nothing to do to agree it with him.
Ld *Hyde.* Did he declare to you that he printed the other?
Creek. To the beſt of my memory, he told me he printed ſome Sheets.
Mr. *North.* Who changed Sheets with you?
Creek. Some Sheets were changed at Mr. *Dover's.*
J. *Keeling.* Who paid for the Printing?
Creek. Mr. *Brewſter* paid me ſome, and ſome Mr. *Calvert* paid me.
Ld *Hyde.* If you deſire to aſk him any Queſtions, you may.
Brewſter. By and by I ſhall, my Lord.
Dover. I deſire he may tarry till I come to my Trial.
Serjeant *Morton.* Don't doubt it.
Mr. *North.* *George Threſher*, ſpeak your Knowledge to my Lord and the Jury, whether *Brewſter* did not bring you the Book called *The Speeches*, &c. to be ſtitch'd, and what you did with them, tell the manner of it.
Threſher. May it pleaſe you, my Lord, and the Honourable Bench, it is thus: This Book it ſeems was printed, Mr. *Brewſter* came to my Houſe to know whether I could fold them, and ſtitch them in blue Paper. That night I went to ſeveral Printers, Mr. *Dover* was one of them; we had ſeveral Sheets from thence, (I did not ſee them printed) I carried them home; and went about the working them that night.
J. *Keeling.* How many Books were delivered to you?
Threſher. Firſt and laſt, about 500.
J. *Keeling.* Who delivered them to you?
Threſher. Some were brought to my Houſe.
J. *Keeling.* By whoſe Direction?
Threſher. Mr. *Brewſter's.*
J. *Keeling.* Did you deliver them to any body?
Threſher. Yes, to *Nathan Brooks*, ready ſtitch'd.
J. *Keeling.* Who paid you for them?
Threſher. Mr. *Brewſter* for them he had, and *Brooks* for them he had.
Mr. *North.* *Thomas Loft*, tell your Knowledge in this buſineſs.
Thomas Loft. May it pleaſe you, all that I can ſay is this: There was to the number of about or near upon a thouſand, as I take it, folded and ſtitch'd in my Maſter's Houſe, one Mr. *Perry*, I was then his Apprentice; they were ſent in, as I judge, by Mr. *Brewſter's* Order, but I cannot poſitively ſay it; my Maſter appointed us to do them; I ſaw Mr. *Brewſter* there ſometimes, but I cannot poſitively ſay that Mr. *Brewſter* paid for the doing of them.
Mr. *North.* Did not your Maſter preſs the Diſpatch?
Loft. My Maſter did ſo; but I know not whether they converſed to that purpoſe.
Mr. *North.* Who fetch'd them away?
Loft. His then Apprentice did fetch ſome of them from our Houſe.
Mr. *North.* *Peter Bodvel*, tell my Lord and and the Jury what you know.
Bodvel. I did carry ſome three Years ago ſome Bundles of Books from Mr. *Creek's* Houſe, and I think they were the Bundles of the Speeches of the King's Judges.
Ld *Hyde.* From whence had you them?
Bodvel. From Mr. *Creek's.*
Mr. *North.* What did you do with them? Were they ſold?
Bodvel. I did ſee ſome of them ſold in the Shop.
Mr. *North.* Who ſold them?
Bodvel. Myſelf, and my Miſtreſs ſometimes.
Ld *Hyde.* Were they brought to the Shop to ſell, by his privity?
Bodvel. I do believe he knew of them.
Ld *Hyde.* By the Oath you have taken, did he ſend you for them to the Printers?
Bodvel. He or my Miſtreſs did.
Ld *Hyde.* Has he been in the Shop when they have been ſold?
Bodvel. I cannot truly tell; it's three Years go.
J. *Tyrrel.* To whom did you pay the Money that you received for them?
Bodvel. We put it in the Box.
J. *Keeling.* Do not Bookſellers keep account what Books they ſell, and ſet down the Money?
Bodvel. Not for Pamphlets.
Mr. *North.* Did he not ſend you to the Bookbinder's for them, when they were ſtitch'd?
Bodvel. It was by his or my Miſtreſs's Order.
J. *Keeling.* What was your Bookbinder's Name?
Bodvel. *Perry.*
J. *Keeling.* Where was this Book kept? Publickly, as other Books, or in other Rooms?
Bodvel. In the Shop, my Lord.
J. *Keeling.* Were they publickly to view, as other Books?
Bodvel. Not ſo publick as other Books, but publick enough, Mr. *L' Eſtrange* knows.
Ld *Hyde.* I know you uſe to let your Titles of a new Book lie open upon your Stalls; did you lay theſe open?
Bodvel. No, my Lord, they did not do ſo.
Ld *Hyde.* Who was the cauſe they did not? Did your Maſter direct the Privacy?
Bodvel. I think he did, we had ſome direction to that end.
Ld *Hyde.* Not to lay them open upon the Stall?
Bodvel. No.
Ld *Hyde.* Give the Jury ſome Books, and read the Indictment; let them be compared.
Clerk reads the Indictment: firſt the Title; 'The Speeches and Prayers 'of ſome of the late King's Judges, *viz.*' Major-General *Harriſon*, 'Octob. 13. Mr *John Carew*, Octob. 15. Mr. Juſtice *Cook*, Mr. *Hugh* 'Peters, Octob. 16. Mr. *Thomas Scot*, Mr. *Gregory Clement*, Col. *Adrian* 'Scroope, Col. *John Jones*, Octob. 17. Col. *Daniel Axtell*, and Col. 'Francis Hacker, Octob. 19. 1660. The Times of their Deaths, together 'with ſeveral Occaſional Speeches, and Paſſages in their Impriſonment, 'till they came to the place of Execution. Faithfully and impartially 'collected for further Satisfaction.'
Mr. *Cook's* Letter to a Friend, *fol.* 40. 'And ſo I deſcend to the Cauſe, 'for which I am in Bonds; which is as good as ever it was: And I be-'lieve there is not a Saint that hath engaged with us, but will wiſh at the 'laſt Day that he had ſealed to the Truth of it with his Blood, if there-'upon called; for I am ſatisfied, that it is the moſt Noble and Glorious 'Cauſe that has been agitated for God and Chriſt ſince the Apoſtolical 'Times; being for Truth, Holineſs, and Righteouſneſs, for our Liber-'ties as Men, and as Chriſtians for removing all Yokes and Oppreſſions.' And *fol.* 41. 'It is ſuch a Cauſe, that the Martyrs would again come 'from Heaven to ſuffer for it, if they might: I look upon it as the moſt 'high Act of Juſtice that our Story can parallel, *&c.*'
[Not to trouble the Reader with all the Particulars mentioned in the Indictment; ſince the reſt are but more of the ſame kind in other words.]
Ld *Hyde.* What ſay you to this Book?
Brewſter. I deſire to aſk Mr. *Creek* a few Queſtions: Mr. *Creek*, how much of that in the Indictment did you print?
Creek. The Jury may ſee if they pleaſe.
Ld *Hyde.* Truly if he ſays true, he ſays he printed no part of that with which you are charged, but the Title-Page; he left off at Folio 36. your Charge is the Title, and beginning at Fol. 40.
Brewſter. So that you ſee he printed nothing for me that is in the Indictment.
J. *Keeling.* Did you print the Title?
Creek. Yes, my Lord.
Ld *Hyde.* And you printed the reſt, by his, *Calvert's* and *Chapman's* Directions?
Creek. They delivered me the Copy together to print.
Ld *Hyde.* If you have any thing to ſay, ſpeak to the Court, the Jury will hear you.
Mr. *North.* Pray, my Lord, give me leave to aſk *Creek* one Queſtion: There were two Impreſſions printed, did not you print more in one, than in the other?
Creek. I am upon my Oath; to the beſt of my remembrance I printed the ſame that I did before, for I had ſome of it ſtanding, and ſo I had the ſame Sheets again.
Mr. *North.* Had you no more?
Creek. No, I had rather leſs.
Brewſter. That's uſual, he that prints the firſt, doth print the ſame of the ſecond.
Ld *Hyde.* He ſays he did ſo; what have you to ſay to the Charge?
Brewſter. I conceive that part that I ordered the printing of, is not included in the Indictment.
Ld *Hyde.* Yes, every part; he ſays in both Impreſſions he printed to the 36th Folio; and all the reſt was printed by your direction.
Creek. No, my Lord, I printed to the 36th Folio by his Direction, the reſt was printed elſewhere.
J. *Keeling.* Your Indictment was this, *For cauſing to be printed this Book, called* The Prayers, *&c. and for ſelling and uttering of it.* For the Evidence that you cauſed it to be printed, he ſwears you directed ſome, and it is not likely you would print half, and let the other half alone; we leave that to the Jury: For your uttering, that anon.
Ld *Hyde.* There are theſe two particular Charges in the Indictment, that you muſt anſwer: The firſt is, your cauſing it to be printed; and it is not eſſential, or of neceſſity, that every particular that is in the Indictment be proved to be done by you: you cauſed this Book to be printed, with ſuch a Title; that he ſwears he did for you: then let the Jury, or any Man living, judge whether you did direct the Book to be wholly perfected, or by halves. The ſecond Charge is, that you uttered them: You delivered five hundred of theſe to be ſtitch'd up, and diſpoſed of them, ſo that you are in effect both Printer and Publiſher of the whole Book.
Brewſter. He ſpeaks of one part that I ordered, there is no more Proof, and that was but to the 36th Page: he ſpeaks alſo of ſomebody elſe that was preſent with me; and where they had the reſt of the Copy printed, he tells you he knows not.

Ld

Ld *Hyde*. Have you any more to ſay?

Brewſter. Yes, my Lord: Tho' he ſays I cauſed that Part to be printed, yet he doth not ſay I did it maliciouſly, or with any deſign againſt the Government.

Ld *Hyde*. The thing ſpeaks itſelf.

Brewſter. Bookſellers do not uſe to read what they ſell.

Ld *Hyde*. You have forgot what he ſwore; you brought the Proof.

Brewſter. He did not ſwear that; he ſays Mr. *Calvert*'s Man, and ſometimes others.

Ld *Hyde*. Aſk him again.

Creek. I did declare, that the Proofs were ſent for, and carried away and read, ſometimes by Mr. *Calvert*'s Man and others, and ſometimes by his Servants, not by himſelf; they were wrapt up and ſent.

Ld *Hyde*. For a Man to pretend he did not know, when, he being Maſter, ſends for his Proofs by his Servant; for any Man to ſuppoſe this is not the Maſter's Act, (nay, and directing it to be done privately) you ſhall never find a Man guilty: they were ſold in his Shop.

Brewſter. The grand part of the Indictment lies, That it was done maliciouſly and ſeditiouſly, and then it ſays knowingly; though it be granted I did do it, and ſell it, yet it does not follow that I did it maliciouſly and ſeditiouſly; I did it in my Trade: we do not uſe to read what we put to print or ſell. I ſay, my Lord, ſelling of Books is our Trade, and for the bare exerciſing of it, knowing nothing of evil in it; it came out in a time too, when there were no Licenſers, or appointed Rules; ſo that whatever was done we are not accountable for, for we read very ſeldom more than the Title, that ſome of the Jury knows; ſo that I hope I cannot be ſaid to do it maliciouſly or knowingly. I can give Teſtimony I am no Perſon given to Sedition, but have been ready to appear upon all Occaſions againſt it.

Ld *Hyde*. Have you any more? If you have, ſay it.

Brewſter. My Lord, they are the Sayings of dying Men, commonly printed without Oppoſition.

Ld *Hyde*. Never.

Brewſter. I can inſtance in many; the Bookſeller only minds the getting of a Penny: that declares to the World, that as they lived ſuch deſperate Lives, ſo they died; ſo that it might ſhew to the World the Juſtice of their Puniſhment; and ſo I think it a Benefit, far from Sedition. It was done ſo long ago too, it was not done in private, it went commonly up and down the Streets, almoſt as common as a *Diurnal:* it's three Years and a quarter ago, or thereabouts.

Juſtice *Tyrrel*. You ſpeak of your Behaviour, have you any Teſtimony here?

Brewſter. I do expect ſome Neighbours; Major-General *Brown* knows me, Capt. *Sheldon*, Capt. *Colcheſter*, and others: I can give a very good account as to my Behaviour ever ſince.

Ld *Hyde*. Say what you will, and call your Witneſſes, and make as much ſpeed as you can.

Juſtice *Keeling*. There is another Indictment againſt you, and while that is trying, your Neighbours may come.

Brewſter. My Lord, I ſhall deſiſt for the preſent.

Serj. *Morton*. May it pleaſe your Lordſhip, and you Gentlemen of the Jury; I am of Counſel for the King againſt *Thomas Brewſter*, Bookſeller, that ſtands here indicted, for that he, contrary to the Duty of his Allegiance which he owes to our Sovereign Lord the King, did cauſe maliciouſly a ſeditious and ſcandalous Book to be printed, wherein there are divers ſcandalous Clauſes contained, that are in Diſparagement of the King's Royal Prerogative, and againſt his Government, Crown and Dignity; and likewiſe that he hath ſold and uttered the ſame Books in Contempt of his Majeſty's Laws. This is the Effect of the Indictment: It has been proved to you by four Witneſſes, that for which he ſtands indicted; Firſt, That he did cauſe part of the Book to be printed; that's clearly proved by *Creek:* likewiſe that he has ſold and uttered thoſe Books in his Shop: nay, he confeſſes that he did, and ſays they were ſold openly as a *Diurnal*; and therefore he thinks it was lawful for him to do it. He has gone about to make a Defence of this his ſeditious Behaviour; he tells you he did not print all the Book; it is not ſaid, that he printed ſuch and ſuch a Letter of the Book, but that he cauſed ſuch a Book to be printed: and it is to be preſumed, if he cauſed one part, he would cauſe the other, or otherwiſe it would be a Book of maimed Senſe and imperfect. Gentlemen, for the uttering and ſelling of them, that himſelf confeſſes: you have heard the Excuſes he hath made, whether you will not find him guilty of this Crime, that I muſt leave to you, and to the Direction of the Court.

Ld *Hyde*. You of the Jury, you ſee the Indictment is for cauſing a libellous and ſeditious Book to be printed, under ſuch a Title, that is, *The Speeches and Prayers*, &c. it is for cauſing this, ſeditiouſly, factiouſly and wickedly to be printed; and for ſelling and publiſhing it abroad to the King's People. For the Matter of Evidence, you have heard it: I will not repeat the Particulars to you, only ſomething to what he has ſaid, that you may not be miſ-led. Firſt, He ſays, it does not appear, that he did it maliciouſly or knowingly; there are ſome things that you that are of the Jury are not to expect Evidence for, which it is impoſſible to know but by the Act it ſelf. Malice is conceived in the Heart, no Man knows it unleſs he declares it: As in Murder, I have Malice to a Man, no Man knows it; I meet this Man and kill him; the Law calls this *Malice*. If a Man ſpeaks ſcandalous words againſt a Man in his Calling or Trade, he lays his Action, *Malice*, though he cannot prove it but by the words themſelves. If I ſay a Printer or Stationer is an ignorant Perſon, has no Skill in his Trade, I would not have any Man to deal with him, he underſtands not how to ſet Letters, or the like; here is nothing of Malice at all appears, yet if you bring your Action, you muſt lay it, *maliciouſly*; it is the deſtroying your Trade, and you will have Damages. I inſtance in this Particular, that you may ſee there is *Malice* ſuppoſed to a particular private Perſon in that Slander, much more to the *King* and the *State*. The thing itſelf, in cauſing a Book to be printed that is ſo full of Scandals and Lies, to inveigle, miſguide, and deceive the People, this is, in Conſtruction of the Law, *Malice*; and though no Malice appear further. The next is this; *factiouſly, ſeditiouſly, knowingly:* this carries *Sedition* as well as *Malice*. Such a barbarous tranſcendent Wretch that murdered his Prince, without the leaſt Colour of Juſtice, to declare that *he rejoiced in his Bonds*; and that *the Martyrs would willingly come from Heaven to ſuffer for it*. Horrid Blaſphemy! *All the Saints that engaged in it, to wiſh that they had ſealed it with their Blood!* What can you have more to encourage and incite the People to the killing of Kings; and murdering their lawful Prince! This they publiſh, and ſay it was ſpoken publickly; let it be upon his own Soul that did it: for in caſe he did it, no Man knew it but thoſe that heard it. But to publiſh it all over *England*, (3000 of the firſt Impreſſion, and a ſecond;) this is to fill all the King's Subjects with the Juſtification of that Horrid Murder: I will be bold to ſay, *not ſo horrid a Villany has been done upon the Face of the Earth, ſince the crucifying of our Saviour*. To print and publiſh this, is *Sedition*. The next thing is your Trade. I have a Calling to uſe, and I may juſtify the uſing of it, ſo long as I uſe it lawfully; but that muſt not juſtify me in all manner of Wickedneſs againſt the King and State. As if a Lawyer (I will put it in my own Coat) plead a Man's Cauſe, and againſt the King; this is juſtifiable, he ought to plead for his Client, but he muſt plead as becomes him. If a Lawyer in defence of his Client will ſpeak Sedition, do you think he is free from being puniſhed? So of a Printer; if a Printer prints ſeditious and factious Books, he muſt look to himſelf; that's no part of his Calling to poiſon the King's People: ſo tho' printing of a Book be lawful, he muſt uſe it as the Law appoints him, and not to incite the People to Faction. Writing of Letters you know it is common and lawful; but if I write treaſonable Letters, give notice to riſe, do ſuch and ſuch unlawful Acts, I am to be puniſhed for theſe Letters. A Printer he is a publick Agent, he is to do what he is able to anſwer, or elſe he muſt take what follows. He ſays, There was no Act againſt him: it is true, you ſee he is not indicted upon the Statute, but at the Common Law, for an Offence in the nature of a Libel. If I were a Printer, and would compile a Pamphlet againſt a Man, though not in Authority, and diſparage him, this is the publiſhing of a Libel, and an Offence for which I ought to be indicted, and puniſhed by the Common Law; and he that prints that Libel againſt me, as a publick Perſon, or againſt me as Sir *Robert Hyde*; that Printer, and he that ſets him at work, muſt anſwer it, much more when againſt the King and the State. Another thing is this; he talks to you of *dying Men's Words:* if Men will be ſo vile to be as wicked at their Deaths, as they had been in their Lives; put the Caſe of that Man on *Saturday* convicted for printing a horrible villainous thing, if he will be ſo unchriſtian to himſelf, as to juſtify this at his Death, or to ſpeak as bad as he had cauſed to be printed, is that a Juſtification to publiſh them, becauſe they are the Words of a dying Man? God forbid. A Robber declares upon the Gallows, it is for a noble Cauſe, for taking a Purſe upon the High-way, that it is an unjuſt Law to condemn to death for ſuch Crimes. Shall any Man publiſh this in print, and not be liable to be puniſhed for it? If any that were tried here upon *Saturday*, ſhall vilify the Lord Mayor, or any of the Bench, traduce them for doing of Juſtice, ſhall this go unpuniſhed, if a Man take it up and print it? This I ſpeak to let you ſee this is without colour of Law: He pretended he did it not knowingly; I will not repeat the Evidence; *He ſent for them, had them ſtitched, cauſed them to be kept privately* (not upon the Stall). And obſerve, he tells you it was done *long ago:* it is but three Years ago that they were as publickly ſold as *Diurnals*, he ſays. I ſhall repeat no more, I know you are Men of underſtanding, and of Obedience to your King; it is high time to take notice of this diſperſing of Pamphlets: if therefore you do believe that he did cauſe it to be printed, or publiſhed it, or both, he is guilty of the Miſdemeanour laid in the Indictment; (and *he hath a great Kindneſs in that it is not made Capital:*) If you do believe that he did either cauſe it to be printed or publiſhed, that's enough to find him guilty of this Indictment.

Clerk. Hearken to the other Indictment: He ſtands indicted in *London*, &c. and this is for cauſing to be printed a certain Book called *The Phœnix*, &c. publiſhing the ſame [*the Indictment was wholly read*]. To this Indictment he hath pleaded Not Guilty; ſo your Iſſue is to enquire whether he be guilty of this Offence, or not guilty.

Mr. *North opened the Indictment in manner as before*. To this he hath pleaded Not Guilty; if the Charge of the Indictment be ſufficiently proved, you are to find him guilty.

Serj. *Morton*. May it pleaſe your Lordſhip, and you Gentlemen of the Jury, here is another Bill of Indictment preferred againſt *Thomas Brewſter*; it is, that contrary to the Duty of his Allegiance to his Sovereign Lord the King, and purpoſely to incite the People to Sedition, and to withdraw them from their natural Allegiance to the King, he hath cauſed to be imprinted, maliciouſly, falſly and ſcandalouſly, a certain ſcandalous Book, entitled, *The Phœnix*, &c. And this he hath done to diſturb the Peace of the Kingdom, and to withdraw the People from their Allegiance; and to the Scandal of his Majeſty's Government, he hath cauſed this Book to be printed, uttered and ſold: and this we take to be a great Offence againſt the King, and his Crown and Dignity. Gentlemen, the diſperſing of ſeditious Books is of great danger to the Kingdom; falſe Rumours, they are the main incentives that ſtir up the People to Sedition and Rebellion, that raiſe Diſcontentments among the People, and then preſently they are up in Arms. Diſperſing ſeditious Books is very near a-kin to raiſing of Tumults; they are as like as Brother and Siſter: Raiſing of Tumults is the more maſculine; and printing and diſperſing ſeditious Books, is the Feminine Part of every Rebellion. But we ſhall produce our Witneſſes, we ſhall prove that this *Thomas Brewſter* cauſed this Book to be printed; That when it was printed he did receive three hundred; That theſe he cauſed to be ſtitch'd up; That he uttered and ſold them, part in his own Shop, and part elſewhere. It being an Offence of that great and dangerous Conſequence, which tends to the Diſturbance of the Peace of the Kingdom; I hope you will take it into your ſerious Conſideration, and if the matter ſtand proved againſt him, you will give him his due Demerit.

Creek, *Threſher*, *Loft* and *Bodvel* ſworn again.

Mr. *North*. *Creek*, tell my Lord and the Jury what you know of the printing of the Book called *The Phœnix*.

Creek. My Lord, it was in *May* that Mr. *Calvert*, *Brewſter*, and *Chapman* brought that Book to me to print.

Ld Ch. Juſt. *Hyde*. What Book? Name it.

Creek.

Creek. The *Phœnix*, &c. it was printed for them three. All that I can ſay is, That Mr. *Brewſter*'s Part was delivered to me my his Direction.

Ld Ch. Juſt. *Hyde.* Who paid you for printing of it?

Creek. Mr. *Brewſter* paid for his Part.

Juſtice *Keeling.* How many was his Part?.

Creek. His Part of 2000, that was 600 and odd.

Ld Ch. Juſt. *Hyde.* Theſe three Men joined to bear each Man his Share.

Creek. Yes, every Man was to have his Share.

Juſt. *Keeling.* Did he wiſh you to do it with Privacy?

Creek. Yes, with Expedition and Privacy.

Brewſter. Was the Copy written or printed?

Creek. It was all printed formerly, ſome in *Quarto*, ſome in *Octavo*, and might have been bought ſingle in any Place almoſt.

Ld Ch. Juſt. *Hyde.* What do you mean by *all printed formerly?* r.

Creek. My Lord, they were in ſeveral Parcels printed; there was M *Calamy*'s Sermon, and Mr. *Douglas*'s Sermon, and the reſt.

Juſt. *Keeling.* How long ago was it ſince they were brought to you to print?

Creek. It was in *May*, three Years.

Brewſter. Did I order you how you ſhould print them, or Mr. *Calvert?* Did not you hear him ſay, that they had ſtaid two Hours for me at an Alehouſe to be his Partner?

Creek. I did hear him ſay ſo.

Juſt. *Keeling.* What made you ſo loth to be their Partner? Were they two Hours perſuading of you?

Creek. No, they waited two Hours for him to be their Partner.

Serj. *Morton.* *Threſher*, did *Brewſter* deliver any of thoſe Books to you to ſtitch up?

Threſher. Yes, and pleaſe you, my Lord, and I had them by Mr. *Brewſter*'s Order to fold.

Serj. *Morton.* How many?

Threſher. To the Number of 2 or 300.

Mr. *North.* Did he not enjoin you Privacy?

Threſher. Yes, I think he did.

Juſt. *Keeling.* When they were bound, had you a Note to deliver thoſe Books ſafely to any?

Threſher. Yes, from his own Hand; he deſired me to go and give them to ſuch and ſuch Perſons, Booksellers. Said I, I ſhall hardly remember them: he thereupon gave me a Note of their Names to whom I ſhould deliver them; I judge they were to be truſted more than others.

Serj. *Morton.* Did you deliver them accordingly?

Threſher. Yes, I did.

Ld Ch. Juſt. *Hyde.* How many did you deliver in that manner?

Threſher. Two Dozen and more.

Juſt. *Keeling.* If you will aſk him any Queſtions, do.

Brewſter. Did I give you any Order to deliver them to any particular Bookſellers?

Threſher. Yes, you did; I believe Mr. *L'Eſtrange* and Mr. *Williams* (one of the Jury) can remember I ſhewed them the Paper you wrote to that purpoſe.

Mr. *Williams.* I did ſee the Note.

Brewſter. I do not remember I gave you any Order, they were all common things before.

Juſt. *Keeling.* You may aſk him what Queſtions you will.

Brewſter. I ſhall aſk him no more.

Mr. *North.* *Peter Bodvel*, ſpeak what you know concerning the Selling or Uttering the Book called *The Phœnix*, &c.

Bodvel. I never knew of the printing of them, I never knew my Maſter ſell any of them, nor heard him give Order for ſelling of them.

Juſt. *Keeling.* Did you ſell any of them for him?

Bodvel. I think I did ſell ſome.

Serj. *Morton.* Were they in the Shop to be ſold?

Bodvel. Yes, they were.

Ld Ch. Juſt. *Hyde.* Were they in the Shop publickly, with the Title-page lying open upon the Stall, as other Books do, when they are newly out?

Bodvel. We ſeldom did ſo with Bound Books.

Juſt. *Keeling.* Where were the Books found when they were ſeized?

Bodvel. I think they were in ſome of the upper Rooms.

Juſt. *Keeling.* Where were they found, by the Oath you have taken?

Bodvel. That Mr. *L'Eſtrange* can tell better than I, I did not ſee him find any of them.

Ld Ch. Juſt. *Hyde.* By the Oath you have taken, where was the Place whence you were to fetch them, when you were to ſell them?

Bodvell. In the Hall, the Room over the Shop.

Ld Ch. Juſt. *Hyde.* Were they put up privately?

Bodvel. They were ſo.

Juſt. *Keeling.* What private Place was that?

Bodvel. It was a Hole in the Wall.

Juſt. *Tyrrel.* By whoſe Direction were they laid there?

Bodvel. I know not whether by his, or my Miſtreſs's.

Juſt. *Keeling.* Were not ſome found under the Bed?

Bodvel. I heard that Mr. *L'Eſtrange* found ſome of the Titles under the Bed.

Serj. *Morton.* I think it is enough; what ſay you to it, Friend?

Ld Ch. Juſt. *Hyde.* Obſerve this, and anſwer it: It appears that you and two more (*Calvert* and *Chapman*) did agree with *Creek* for printing this Book, (ſeveral Parcels drawn into one Volume) and you were to bear each of you a third Part, and to have a third Part of the Books; he ſwears you did both pay your Part, and had your Part of the Books: Theſe Books were printed before, and ſo they were common enough, and therefore you muſt needs know what was in them. The third full Part was brought to you, and delivered by your Appointment; you gave a Note how they ſhould be diſpoſed of, and you owned them not in publick: (*your own Soul told you they were not to be juſtified*) two Dozen were delivered privately to particular Perſons, by your Direction. Lay theſe things together, and now anſwer them: For the Indictment is, That *you cauſed ſuch a Book to be printed and publiſhed.*

Brewſter. In the firſt Place, the Evidence does ſay, That Mr. *Calvert* did acknowledge when he gave him the Copy to print, that he ſtaid ſo long for me, in order to be their Partner, he that was the Collector of it together. They were all printed before, and printed by Licence; for the Books, I never read them: we ſeldom read the Books we ſell, being they were before printed, and with Licence ſold ſingle, (as the Gentlemen of the Jury know) I thought there was no Crime to print them all together. It was done in an Interval when there were no Licenſers, we knew not where to go: what has been printed formerly, we took it for granted it might be reprinted, till this late Act for Printing; and this was done before this Act.

Juſt. *Keeling.* Have you any more to ſay?

Brewſter. No, my Lord, I ſhall leave it to the Jury. But, my Lord, here are now ſome Neighbours to teſtify that I am no ſuch Perſon as the Indictment ſets forth, that I did *maliciouſly* and *ſeditiouſly* do ſuch and ſuch things.

Ld Ch. Juſt. *Hyde.* We will hear them, though I'll tell you it will not much matter; the Law ſays it is *Malice.*

Capt. *Sheldon* ſworn. My Lord, all that I can ſay is, he was ready at Beat of Drum upon all Occaſions; what he has been guilty of by printing or otherwiſe, I am a Stranger to that; I know he was of civil Behaviour and Deportment amongſt his Neighbours.

Juſt. *Keeling.* It is very ill that the King hath ſuch Trained-Soldiers in the Band.

Capt. *Hanſon* and others offered to like purpoſe.

Ld Ch. Juſt. *Hyde.* If you have a thouſand to this purpoſe only, what ſignifies it?

Juſt. *Keeling.* Are you his Captain?

Capt. *Sheldon.* No, my Lord, Captain *Bradſhaw.*

Ld Ch. Juſt. *Hyde.* He ſhould be caſhier'd the Band; not but that he ſhould be charged with Arms. I'll tell you, do not miſtake your ſelf, the Teſtimony of your civil Behaviour, going to Church, appearing in the Train'd-Bands, going to *Paul*'s, being there at Common-Service, this is well: but you are not charged for this; a Man may do all this, and yet be a naughty Man in printing abuſive Books, to the miſ-leading of the King's Subjects. If you have any thing to ſay as to that, I ſhall be glad to find you innocent.

Brewſter. I have no more to ſay.

Ld *Hyde.* Then, you of the Jury, there are ſome things in this Indictment (as in the other) neceſſary to be ſtated to you; my Brothers and I have conſulted here about it: The Indictment is for cauſing a factious and ſeditious Book, called *The Phœnix*, &c. with divers other things therein, to be printed. But, pray let them ſee the Book, and compare it with the Indictment.

Clerk. [Reads the Indictment, and firſt the Title.] *The Phœnix, or the Solemn League and Covenant.* [*Edinburg*, Printed in the Year of *Covenant-Breaking.*] *A King abuſing his Power, to the Overthrow of Religion, Laws, and Liberties, which are the very Fundamentals of this Contract and Covenant, may be controuled and oppoſed. And if he ſet himſelf to overthrow all theſe by Arms, then they who have Power, as the Eſtates of a Land, may and ought to reſiſt by Arms; becauſe he doth by that Oppoſition break the very Bonds, and overthrow the Eſſentials of this Contract and Covenant. This may ſerve to juſtify the Proceedings of this Kingdom againſt the late King, who in an hoſtile way ſet himſelf to overthrow Religion, Parliaments, Laws, and Liberties.* [The reſt is much at the ſame Rate, only now and then a Spice of Blaſphemy, for the Credit of the Holy League: *A greater Sin* (is the Breach of that *Scotch* Covenant, according to our Author, *pag.* 158.) *than a Sin againſt a Commandment, or againſt an Ordinance*, &c.

Ld Ch. Juſt. *Hyde.* You of the Jury, you ſee the Indictment agrees with the Book. There's a great deal of Mercy that this Man hath not been indicted of Treaſon; for thoſe very Particulars you have heard are as high Treaſon as can be. Firſt, he doth declare, *That the King abuſing his Power, the People may reſiſt, and take up Arms againſt him:* That's expreſs Treaſon, without any more ado. Then he tells you what a horrid thing it is to break that *Solemn League and Covenant*; juſtifies the raiſing of Arms and Rebellion againſt the late King, unthroning and murdering of him. I tell you that *Solemn League* and *Covenant* was a moſt wicked and ungodly Thing, againſt the Law of God, and the Law of the Land. To have ſuch villainous Stuff to be publiſhed, it is a great Mercy of the King it had not been drawn higher. You ſee the Man is ſo far from acknowledging any Guilt, that he juſtifies the Fact.

Brewſter. No, my Lord, I do not juſtify myſelf.

Ld Ch. Juſt. *Hyde.* Yes, you do. The Printer ſwears he was to go Share and Share alike: He had his Part; he publiſhes them to ſome particular Friends: I ſay he juſtifies this. He tells you in his Defence, That it was commonly printed; that it was done by printed Copy, and that done formerly by Licence; and when Things are printed by Licence, they do not expect or need any new or ſecond Licence: They were commonly ſold aſunder; here they are only printed together. That he ſays is nothing. What is this but juſtifying the printing of it? Obſerve, weigh, and ſee what kind of Defence here is. The Title, what is it? *The Phœnix, or Solemn League and Covenant.* You all know it, and rue it. When was it printed? It was when the wicked Rebels here could not ſeduce ſufficient Numbers of the King's Subjects to ſupport their Rebellion; and then they invite their Dear Brethren (as they called them) the *Scots*, to unite with them. The *Scots* were cunning; they would not do it till they had entred into a Covenant, in a League; and then they conſent to unite with the Rebels here. This League and Covenant was indeed in Defence of the King; but how long? So long as he defended them (the Presbytery and *Scotch* Diſcipline). When they had got this good King into their Hands, they put what Terms upon him they pleaſed; and then were theſe ſeditious Sermons printed. *Douglas*'s was printed in *Scotland*; was it licenſed here? No, it was done there, and brought hither. Then for the other Sermon, by what Licence was that printed? Obſerve the Time when it was printed; *was it not to ſet forward Rebellion, to ſet up the* Scotch *Presbytery*; and this in Forty-five, when they were in Arms againſt the King, after the King put himſelf upon his Defence, and was at *Oxford?* Do you tell me of the Licence of Rebels then for your Juſtification? Now, when the King is ſo happily return'd, now to publiſh theſe things afreſh to the People, that they might do the ſame again! And I tell you once again, it is Mercy in the King

King that he was not indicted for Treaſon. I ſhall leave it to you, you have had it fully proved.

Clerk. Set *Simon Dover* to the Bar. [And here the Indictment is read.]

Mr. *North* opens this Indictment, as the reſt.

Serjeant *Morton.* We have but two Witneſſes, and they will prove the Matter clearly. There were two Impreſſions of this Book; we will prove he had a Share in both of them.

Creek *ſworn again.*

Creek. I delivered before what I can ſay.

Judge *Keeling.* Look you, you muſt deliver all that Evidence over again, becauſe it concerns another Perſon.

Creek. I did ſay, and ſay ſtill, That, to the beſt of my Memory, Mr. *Dover* did print part of that Book, and that he and I did converſe about it in the Time it was doing; but I cannot ſwear it poſitively, becauſe I cannot remember the Time when, or the Place where.

Judge *Keeling.* Did you change Sheets with him?

Creek. With him, I cannot ſay; but ſome Sheets were changed by our Men.

Serjeant *Morton.* You ſay you think you had ſome Diſcourſe with him: Did not you ſpeak about the Danger of printing it?

Creek. We talked of making an end of it.

Serjeant *Morton.* Can you remember to what Letter you printed?

Creek. I have ſhewed the Gentlemen of the Jury.

Judge *Keeling.* Had you no Diſcourſe of the Danger of it?

Creek. I thought it could not come to any thing: I did tell Sir *R. Brown*, (then Lord-Mayor) That if they hanged twenty more, I thought I ſhould print their Speeches.

Judge *Keeling.* You knew the Contents of the Book?

Creek. Yes, I did.

Judge *Keeling.* Such Men as you, the King and the Government hath a great Intereſt in your Trade: That you ſhall think it lawful to print what a Man ſays when he dies, and to ſcatter it abroad, though never ſo bad, it's a great Offence: I would not have it paſs for ſo clear a thing.

Ld Ch. Juſt. *Hyde.* If you are of ſuch Principles, to print what you liſt, you are not fit to live in a civil Place; for a Printer or Bookſeller to print any thing one againſt the other, is actionable. Do you think the Preſs is open to print what you liſt?

Creek. I did ſo then.

Ld Ch. Juſt. *Hyde.* I'll deal plainly with you: For this Book, if you had had your Due, you ought both to have been drawn, hang'd and quarter'd. When did you give Mr. *L'Eſtrange* Information of this Matter?

Creek. Lately, when I was a Priſoner in *Ludgate.*

Mr. *Royſton.* [One of the Jury] I deſire to aſk him one Queſtion; Whether Mr. *Creek* ſaw this Book a printing at Mr. *Dover*'s Houſe, or no?

Creek. No, I did not.

Serjeant *Morton.* They changed Sheets.

Threſher *ſworn.*

Threſher. This is all that I have to ſay, That the firſt Night that Mr. *Brewſter* ſent for me to ſtitch theſe Books, it was very late before we could get them: I went that Night to Mr. *Dover*'s, and had ſome of the Sheets, the reſt at Mr. *Creek*'s. I did not ſee him print any of them.

Serjeant *Morton.* What Quantity was there of them?

Threſher. I ſuppoſe there was two or three hundred Sheets.

Mr. *North.* Were they not of this Book?

Threſher. Yes, of the *Speeches.*

Mr. *North.* Where were they delivered?

Threſher. In the lower Room: I ſuppoſe ſome of them were hanging upon Lines before I had them.

Ld Ch. Juſt. *Hyde.* What ſay you to it?

Dover. I deſire to aſk him ſome Queſtions. I do ſay I never ſaw the Man before: I would aſk whether ever he ſaw me before in his Life?

Threſher. Not before that: I was never in his Houſe but that Night. By this Token I ſaw you, and you me: When I came for the Sheets, you aſked Mr. *Brewſter* whether he and Mr. *Calvert* were agreed, or elſe you would not deliver the Sheets.

Dover. I deſire to know what Time and Place: I am charged in the Indictment on a Day and Place.

Ld Ch. Juſt. *Hyde.* That's not very material.

Dover. He fixes nothing on me.

Ld Ch. Juſt. *Hyde.* That the Jury can beſt tell: Have you any more Queſtions?

Dover. No, my Lord.

[The Indictment and Books were compared.]

Dover. My Lord, there is no Perſon ſwears that I printed it, or part of it: Nothing fixed upon me.

Ld Ch. Juſt. *Hyde.* The firſt Man ſwears that you ſet it to printing.

Creek. I do not ſwear it poſitively; I never ſaw him print a Sheet: It was the Report of the Town that he did it.

Ld Ch. Juſt. *Hyde.* You printed it: For whom?

Creek. For *Brewſter*, *Calvert*, and *Chapman.*

Ld Ch. Juſt. *Hyde.* But you ſay that you and he did converſe about it when it was printing.

Creek. I did ſay, To the beſt of my Memory we did.

Ld Ch. Juſt. *Hyde.* By the Oath you have taken, who did you change Sheets with?

Creek. I cannot ſay I did change any with him: I ſay that ſome Sheets were changed by my Men, and they told me they had them of his Men.

Dover. Where are thoſe Men that changed the Sheets? Which of my Men are they?

Juſtice *Keeling.* Look you, *Dover*, you are indicted for cauſing to be printed this wicked Book, and for publiſhing and vending of it. You are a Printer by your Trade, as well as this Man that comes againſt you: He ſays he did not ſee you print it; but he took it, and believed that you printed it. I tell you how far that weighs: You are a Printer by Trade; and comes the other and deſires the Sheets; you would not deliver them unleſs Mr. *Brewſter* and Mr. *Calvert* were agreed. How come the Sheets to your Houſe, being a Printer, and yet you not print it? Anſwer that.

Dover. I ſhall, my Lord: It is no Conſequence at all. Admit I had theſe Sheets, it is no Conſequence at all that I printed them; for Printers and Bookſellers uſually have Books they did not print themſelves.

Ld Ch. Juſt. *Hyde. Threſher*, by the Oath that you have taken, did you ſee thoſe Sheets hang upon the Line in his Houſe?

Threſher. My Lord, I judged theſe had lately hung up: And I ſaw other Sheets hanging there; and I knew nothing to the contrary but thoſe that hung upon the Line were the ſame with theſe.

Ld Ch. Juſt. *Hyde.* Here are Sheets upon the Lines; you delivered him to fold part of thoſe on the Lines: What would you have more plain? You would not deliver them, if they were not agreed: Then they were agreed, and you delivered them.

Dover. I ſay this; I look upon the Witneſs to be altogether invalid: He is a Perſon of no good Repute.

Ld Ch. Juſtice *Hyde.* A better Man than you, for aught appears: You are indicted for a foul Offence, ſo is not he.

Dover. I am not the Man you take me to be.

Ld Ch. Juſt. *Hyde.* You ſhall have Evidence, if you will, that you are at work at this time upon as bad as this.

Dover. If it be a Crime, I am ſorry for it.

Mr. L'Eſtrange *ſworn.*

Mr. *L'Eſtrange.* Shall I ſpeak to the whole Matter, or only to the Particular you laſt mentioned?

Ld Ch. Juſt. *Hyde.* Say your Knowledge.

Mr. *L'Eſtrange.* When I came to his Houſe, which was about the Middle of *October*, to ſearch, I found at that preſent a little unlicenſed Quaking Book; and in his Pocket the Libel that was thrown up and down the Town, called, *Murder will out*, ready printed.

Ld Ch. Juſt. *Hyde.* Which was a villainous Thing, and ſcattered at *York.*

Mr. *L'Eſtrange.* Since that, I was at his Houſe, to compare a Flower which I found in the *Panther*, (a dangerous Pamphlet); that Flower, that is, the very ſame Border, I found in his Houſe; the ſame Mixture of Letter, great and ſmall, in the ſame Caſe; and I took a Copy off the Preſs. I found over and above this Letter, [*producing the Letter*] dated the 7th of *February*, 1663, and directed, *For my Dear and Loving Wife*, J. Dover. Is it your Lordſhip's Pleaſure I ſhall read it all?

Ld Ch. Juſt. *Hyde.* If it be touching the Printing of Things you found, do.

Mr. *L'Eſtrange* reads it. *I would fain ſee my Siſter* Mary; *therefore ſince Siſter* Hobbs *will not come, take her* Order, *and inſtead of* her *Name, put in Siſter* Mary's: *It will never be queſtioned here. However, do it as wiſely and handſomely as you can*, &c. [And then in a Poſtſcript] *You muſt either get* Tom Porter, *or ſome very truſty Friend, (poſſibly* C. D. *may help you) to get for you a ſafe and convenient Room to dry Books in, as ſoon as poſſibly you can.* [And again:] *Let me know what you intend to do with the two Sheets and Half. I will have it publiſhed, when I am certain I ſhall be tried.*

Ld Ch. Juſt. *Hyde.* Let the Jury ſee now, whether you are the Man you would be thought.

Dover. I deſire to know whether my Name be to that Letter?

Mr. *L'Eſtrange.* No, it is not.

Ld Ch. Juſt. *Hyde.* Where did you receive or find this Letter?

Mr. *L'Eſtrange.* My Lord, I found it about his Wife.

Ld Ch. Juſt. *Hyde.* Let the Jury judge if this come from you or no.

Judge *Keeling.* You of the Jury, you muſt underſtand this, That what is ſaid now is only upon his Reputation, not to the Point in Queſtion at all: That Matter reſts upon its own Bottom.

Ld Ch. Juſt. *Hyde.* I'll deal plainly with you: Had he not ſtood upon ſuch Terms, I ſhould not have ſpoke of this: But when a Man will be thus bold and confident, I thought it proper to let you ſee how he continues now in the Goal.

Dover. I do not vindicate my ſelf in it; but I ſpeak againſt the Witneſs: I do conceive that the Witneſs does not fix any thing upon me.

Ld Ch. Juſt. *Hyde.* Have you any thing elſe to ſay to the Indictment?

Dover. I am indicted as a malicious and factious Man: The Witneſſes ſay no ſuch thing.

Ld Ch. Juſt. *Hyde.* You are not indicted ſo, but that you have maliciouſly and factiouſly cauſed to be printed ſuch a ſeditious Book; not your Perſon, but the Action.

Dover. There is nothing of that proved: Admit I was guilty of it, it was done when there was no Act or Law in being touching Printing. The Witneſſes do not ſwear poſitively that I did do it: One ſays he did not ſee me; the other, that he only believed it; that he did ſee ſome Sheets upon the Line, and they were the ſame for aught he knew; does not remember the Time or Place of our Diſcourſe: I do not know that ever I had half an Hour's Diſcourſe with him in my Life: I never had any Meeting with him about any ſuch Matter, nor had any Converſe with him. The Title of the Book ſays, *Faithfully and Impartially collected for further Satisfaction*; ſo that it cannot be interpreted maliciouſly. It's a Maxim in Law, That *the beſt Interpretations are to be put upon the Words of the Indictment, in favour of the Priſoner at the Bar:* And I hope this honourable Bench and the Jury will mind that. I am a Printer by Trade; what I did was for my Livelihood: The Scripture ſays, *He is worſe than an Infidel that takes not care for his Family.* I ſpeak not this to juſtify any thing againſt his Majeſty or his Government. Through my Ignorance I may poſſibly tranſgreſs: If I have done any ſuch Thing, I am ſorry for it; I hope I ſhall be more careful for the future. The other Part of the Indictment is for ſelling of them: No Man ſwears that I ſold one Book of them. Mr. *Creek* ſays, That ſome of his Men told him that they had ſome of thoſe Sheets from ſome of my Folks; but of whom he does not ſay. That I did med-

dle with them, knowing them to be ſcandalous, I hope there is nothing proved of that Nature: There being then *no Law*, I humbly hope there was *no Tranſgreſſion*.

Ld Ch. Juſt. *Hyde*. Have you done?

Dover. I humbly deſire your Honours, and this Jury, to take Notice of what I have ſaid.

Ld Ch. Juſt. *Hyde*. You of the Jury, I will not ſpend Time (it is too late) in repeating the Evidence: You have heard the Evidence particularly, and his Anſwer. He doth in Part make the ſame Anſwer with his Fellows, which was, That it is his Trade. It's true, no doubt but he ought to maintain his Wife and Children by his lawful Calling; but if a Thief ſhould tell you that he maintained his Wife by ſtealing, is that lawful? Printing Books lawfully, no Man will call him to Account for it; but if he prints that which is abuſive to the King and his Government, that's no Part of his Trade, and his Trade will not bear him out in it: He is charged for printing and publiſhing of theſe ſcandalous Books, That he did it *knowingly*, *maliciouſly*, *falſely*, *factiouſly*, and *ſeditiouſly*. I told you, That although all theſe Things be not proved, yet if he did it, the Law calls it *Malice*, *Faction*, and *Sedition*. Conſider the Circumſtances: You ſee it is done in the Dark; the Sheets delivered at his Houſe, and Diſcourſe about Delivery of them; he would not deliver them unleſs *Brewſter* and *Calvert* were agreed. I leave the Evidence to you in this Caſe: Pregnant, ſtrong, undeniable Circumſtances are good Evidence. Though a Man doth not come and tell you he declared to him he knew what was contained in this Book, yet if there be ſufficient Evidence to ſatisfy you in your Conſciences, that he knew what was in it, and was privy to the printing and publiſhing of it; there is enough for you to find the Indictment. You are to weigh Circumſtances as well as pregnant full Proof, in Caſes of this Nature.

Clerk. Set *Nathan Brooks* to the Bar. You of the Jury, you ſhall underſtand that he ſtands indicted, &c. [*Reads the Indictment.*]

Mr. *North* afterwards opened the Indictment.

Serjeant *Morton*. This Man, we ſhall only prove him guilty of ſtitching and diſperſing the ſaid Books.

Threſher *ſworn*.

Threſher. This Man I have not ſeen theſe three Years.

Serjeant *Morton*. Did he ſet you to work in ſtitching thoſe Books?

Threſher. He brought none to me, that I can remember: But by Mr. *Brewſter*'s Order I delivered about two hundred, or thereabouts, and carried them to his Houſe in *St. Martin*'s, and he took them at the Stair-foot, and paid me for ſtitching of them in Blue Paper.

Serjeant *Morton*. Who furniſhed you with Blue Paper?

Threſher. I went by Mr. *Brewſter*'s Order to a Stationer in *Bread-ſtreet*, and received ſome.

Brooks. I deſire to know whether in thoſe Books he ſaid he delivered me, there were thoſe Paſſages in the Indictment?

Threſher. I know not: They were the *Speeches and Prayers* that I delivered you.

Brooks. How did you deliver them to me?

Threſher. They were ſtitched; and I tied them up with a Piece of Packthread, and carried them to him: He received them himſelf, and came afterwards to an Alehouſe, and gave me a Flagon of Beer. He knew what they were; for ſome being imperfect, he ſaid Mr. *Brewſter* muſt make them good: And Mr. *Brewſter* gave Order, if he came for them, they ſhould be delivered him.

Brooks. Did you know there were thoſe Paſſages in them?

Threſher. No, not I.

Brooks. I knew only the Title of it.

Ld Ch. Juſt. *Hyde*. Let there be what there will in it, if you knew the Title, look you to it. Have you any thing elſe to aſk?

Brooks. No, my Lord.

Henry Mortlock *ſworn*.

Serjeant *Morton*. Mr. *Mortlock*, how many of thoſe Books did you receive of this *Nathan Brooks?*

Mortlock. About Forty or Fifty.

Serjeant *Morton*. What Talk had you about receiving them?

Mortlock. I do not remember any Diſcourſe.

Serjeant *Morton*. Where did you receive them?

Mortlock. I am not certain whether in my Shop or no.

Ld Ch. Juſt. *Hyde*. Were they open?

Mortlock. They were tied up.

Ld Ch. Juſt. *Hyde*. Did you ſpeak for them?

Mortlock. I cannot tell; he brought them to me.

Ld Ch. Juſt. *Hyde*. How came he to bring them to you?

Mortlock. May be I might ſpeak for them; I paid him for them.

Ld Ch. Juſt. *Hyde*. You and he knew what Book it was?

Mortlock. I think we did.

Ld Ch. Juſt. *Hyde*. Did you not open them? They might have been *The Devil of Edmonton*, for ought you knew. Did you open them afterward? And did they appear to be this Book?

Mortlock. Yes.

Mr. L'Eſtrange *ſworn*.

Mr. *L'Eſtrange*. I came to the Houſe of *Nathan Brooks* about *October* laſt, and knocking at the Door, they made a Difficulty to let me in: At laſt, ſeeing not how to avoid it, *Brooks* opened the Door. I aſked him what he was? He told me he was the Maſter of the Houſe. By and by comes one that lodged in the Houſe, and throws down this Book [*ſhewing the Book*] in the Kitchen, with this Expreſſion, *I'll not be hang'd* (ſays he) *for ne'er a Rogue of you all: Do you hide your Books in my Chamber?* This Book had the *Speeches* in it, with other Schiſmatical Treatiſes. After this I ſearched the next Houſe; and there I found more Difficulty to get in. But after a long Stay, I ſaw the ſecond Floor in a Blaze; and then with a Smith's Sledge I endeavoured to force the Door. At length the Fire was put out, and one comes down and opens the Door. I went in, and up Stairs, where I found about two hundred of the *Prelatick Preachers*, and certain Notes of *Nathan Brooks*, wherein he mentions the Delivery of ſeveral of theſe *Speeches*, and other ſeditious Pamphlets. There is one Particular wherein he records, That *Thomas Brewſter* did in the Preſence of Captain *Hanſon* undertake to bear his Charges of Impriſonment; this *Nathan Brooks* having been formerly impriſoned for a Crime, wherein *Brewſter* was to bear him out.

Ld Ch. Juſt. *Hyde*. What was it that burnt above?

Mr. *L'Eſtrange*. My Lord, they had burnt, I ſuppoſe, ſome of the *Prelatick Preachers* (a deſperate Book): I found one Bundle untied, and I ſuppoſe (as the Man told me after) that it was a Part of that which was burnt.

Ld Ch. Juſt. *Hyde*. You ſay this was in the next Houſe to *Brooks*: What had *Brooks* to do there? Had he conveyed theſe Books thither?

Mr. *L'Eſtrange*. The Owner of the Houſe ſaid he knew nothing of them: But a Man and his Wife, lodging in the Chamber where the Fire was, ſaid, That *Nathan Brooks* had delivered with his own Hands to them thoſe Parcel of Books that were there found.

Ld Ch. Juſt. *Hyde*. You hear what he ſays, That one of your Gueſts came down, ſaid, *he would not be hanged for ne'er a Rogue of you all*; throws down the Book———

Brooks. What's that to me, if a Man have a Book in his Houſe, and throws it down, and ſay ſo, doth that concern me? He did not bring it out of my Chamber.

One Mercer *ſworn*.

Mercer. My Lord [*having the Book in his Hand*] this is the Book that I did find in a Room, brought up by *Nathan Brooks*; and I brought it down: I had it in a Room where two Boys and my Siſter lay. He came firſt and knocked at our Chamber-Door: Said I, Who is there? Says he, *A Friend*. Who are you? Brooks, *your Landlord*, ſays he: *Pray open the Door, and lay up this Book for me*. No, ſaid I, if you were my Father or Brother, I will not receive it; I will not meddle or make with you. After I had denied the Book, he flings it into the next Room.

Ld Ch. Juſt. *Hyde*. How came you by the Book?

Mercer. After Mr. *L'Eſtrange* had enquired there for Books, I knew nothing; but my Wife called to my Siſter, and aſked her if ſhe heard Mr. *Brooks* in the Room? She ſaid, *Yes, and he had left a Book with her*. Having Notice, I went up Stairs, took the Book, and brought it down preſently.

Brooks. Is that the Book, the very individual Book, that I brought up there?

Ld Ch. Juſt. *Hyde*. He ſwears this, That you knocked, and prayed him to take in a Book; he refuſed it: You went up to the next Chamber, and there you left it. And his Wife aſking afterwards if you had been there, his Siſter ſaid, *Yes, you had left a Book*. He brought it down; and this appears to be the very individual Book, nothing can be more clear.

Mercer's *Wife ſworn*.

That Morning they knocked at *Brooks*'s Door, we were a-Bed; I heard a Noiſe of Thieves. Upon that, I being awake, and my Huſband aſleep, I awaked him, and deſired him to go to the Window. He aſked who was there? One ſaid to him, Riſe, and open the Door. Said my Huſband, I am but a Lodger; let my Landlord open it, if he will. Who is your Landlord? Mr. *Brooks*. That's the Man I look for, ſays the other. So with that, after ſome time, Mr. *Brooks* went down, and opened the Door. Mr. *L'Eſtrange* coming up to my Huſband, ſays he, *Are you ſure there is nothing in your Rooms?* There is nothing, ſaid he. When my Huſband went down, I called to my Siſter: Said I, do you hear Mr. *Brooks* there? *Yes*, ſaid ſhe, *he has left a Book here*. Said I, do you know what's in it? It may bring us all into Trouble. And my Huſband having confidently denied any ſuch thing, fearing he might be troubled, I called him up, and told him of it. Said my Huſband, *I'll call up the Gentleman, and give it him*. No, ſaid I, go take the Book, and carry it him.

Mercer's *Siſter ſworn*.

Thomazin Mercer. It is very true that that is the very Book I received from Mr. *Brooks*.

Ld Ch. Juſt. *Hyde*. Now the individual Book is brought to Light.

Brooks. What was the Title of it?

T. Mercer. I know not; but there was the *Speeches of the ten Men that were executed*.

Brooks. Did you ſee the Book, that very Book?

T. Mercer. Yes.

One Mr. Merridale *ſworn*.

Mr. *Merridale*. My Lord, this very Book did *Mercer* bring down, told us, *He would be hang'd for never a Rogue of them all: Did he think to lay his Books at my Door?* I know this is the very Book: I took Notice of the Picture of Sir *Henry Vane* in it; and he there owned it.

Mercer. I can tell that he owned it, and ſaid that it was brought to him to be bound.

Ld Ch. Juſt. *Hyde*. Here are two hundred of theſe Books delivered to you to ſell: Fifty you delivered to another. When Mr. *L'Eſtrange* comes to ſearch, you open not your Doors: When you ſee you could not ſtay longer, you run up to deliver it to *Mercer*, your Gueſt: He would not receive it; you delivered it to his Siſter: She keeps it in her Hands. When her Huſband had denied Books to be there, and his Wife underſtanding afterwards you had left it, ſhe was afraid of her Huſband for denying it, calls him, and gives him the Book; and then he ſaid, *He would be hanged for never a Rogue of you all:* throws down the Book: And that was the very Book ſhe received from you: and yourſelf did own it, and confeſs it.

Brooks. As for Mr. *L'Eſtrange*, it is not ſo; he ſays, when firſt he knocked at the Door, I did not hear him: Afterwards I called out, Who's there? ſaid one, Which is Mr. *Brooks?* ſaid I here. I told them, if they would be civil, I would open the Door, give me but Leave to put

on

on my Breeches. I went and opened it. He doth not ſwear poſitively they are my Books. My Lord, this *Mercer* was a Lodger in my Houſe; I have often deſired him to pay his Rent, and ſince I have been taken, I have ſent ſeveral Meſſengers: I told him I would ſeize his Goods, and thereupon he ſpeaks againſt me maliciouſly. I deſire you to conſider, I being only a Workman, how can I be guilty of Sedition and Scandalous Things? I never printed any thing, I am only a Bookbinder, that's my Trade; I hope you will conſider, that I am only a bare Workman. My Lord, I deſire when they go out, that ſomebody may ſtand at the door, that no body may go in to the Jury.

Ld Ch. Juſt. *Hyde.* We will take care of that: Have you any more to ſay?

Brooks. No, my Lord.

Ld Ch. Juſt. *Hyde.* You of the Jury, you have heard ſo much of the other Indictments of the ſame nature, I need not ſay much to this. That which he ſpeaks touching his Trade, I muſt repeat the ſame as before; he is not queſtioned for uſing, but abuſing of his Trade; for publiſhing and diſperſing ſeditious and ſcandalous Books, printing and publiſhing, but the Evidence is only for publiſhing. If you be ſatisfied that he publiſhed it, that's the Crime; printing alone is not enough, for if a Man print a Book to make a fire on, that's no Offence, it is the publiſhing of it which is the Crime. You have heard the Evidence, how far forth it is proved, two hundred delivered to him, fifty by him delivered to another: This Book you ſee his own Conſcience tells him what it was; when Mr. *L'Eſtrange* came he would have ſlipt it into his Gueſt's Chamber; he refuſed it: Then he carries it to another. Lay your Evidence together; if you find him guilty of the publiſhing, it is enough.

Jury. We deſire to know upon what Statute Law this Indictment is grounded?

Ld Ch. Juſt. *Hyde.* Upon none; but it is an Offence at Common Law, I told you ſo at firſt.

[The Jury went forth, and after near an Hour's Conſultation, returned to the Court and took their places.]

Clerk. Are you agreed of your Verdict?

Jury. Yes.

Clerk. Who ſhall ſay for you?

Jury. The Foreman.

Clerk. Set up the Priſoners to the Bar: How ſay you, is *Tho. Brewſter* guilty of the Offence whereof he ſtands indicted, for printing the ſeditious Book called *The Speeches*, &c. or not guilty?

Foreman. Guilty of ſelling and uttering the ſaid Books.

Clerk. What ſay you, is he guilty of the Offence of printing and publiſhing the Book called *The Phœnix*, &c. or not guilty?

Foreman. Guilty of publiſhing it.

Clerk. How ſay you, is *Simon Dover* guilty of the Offence for printing and publiſhing *The Speeches*, &c. or not guilty?

Foreman. Guilty.

Clerk. How ſay you, is *Nathan Brooks* guilty of the Offence for printing and ſelling the ſaid Book?

Foreman. Guilty of ſelling it.

Clerk. Hearken to your Verdicts as the Court hath recorded them: You ſay, that &c. and ſo you ſay all?

Jury. Yes.

Mr. *North.* My Lord, we humbly pray Sentence againſt the Priſoners.

Ld Ch. Juſt. *Hyde.* You three, *Thomas Brewſter*, *Simon Dover* and *Nathan Brooks*; you have been ſeverally indicted for a heinous and great Offence: *Brewſter*, you have been indicted for two ſeveral Books, as full of Villany, and Slander, and Reproach to the King and Government, as poſſibly can be: And I will tell you all three, *it is the King's great Mercy you have not been indicted capitally*; for every one of thoſe Books are filled with Treaſon, and you for publiſhing of them, by ſtrictneſs of Law, have forfeited your Lives and All to the King: It is his Clemency towards you. You may ſee the King's Purpoſes; he deſires to reform, not to ruin his Subjects. The Preſs is grown ſo common, and Men take the Boldneſs to print whatever is brought to them, let it concern whom it will; it is high time Examples be made. I muſt let you and all Men know, by the Courſe of the Common Law, before this new Act was made, for a Printer, or any other, under pretence of Printing, to publiſh that which is a Reproach to the King, to the State, to his Government, to the Church, nay to a particular Perſon, it is puniſhable as a Miſdemeanour. He muſt not ſay, *He knew not what was in it*; that is no Anſwer in Law. I ſpeak this, becauſe I would have Men avoid this for time to come, and not think to ſhelter themſelves under ſuch a Pretence. I will not ſpend time in diſcourſing of the Nature of the Offence, it hath been declared already; it is ſo high, that truly the higheſt Puniſhment that by Law may be juſtly inflicted, is due to you. But, *Thomas Brewſter*, your Offence is double: Therefore the Judgment of the Court is,

'That you ſhall pay to the King, for theſe Offences committed, an 'hundred Marks: And for you (the other two), *Simon* '*Dover* and *Nathan Brooks*, you ſhall pay either of you a 'Fine of forty Marks to the King. Kelyn. 24.

'You ſhall each of you ſeverally ſtand upon the Pillory from Eleven 'to One of the Clock in one Place at the *Exchange*, and another Day '(the ſame ſpace of time) in *Smithfield*; and you ſhall have a Paper ſet 'over your Hats, declaring your Offence, *For printing and publiſhing* '*Scandalous, Treaſonable, and Factious Books againſt the King and State.*

'You ſhall be committed till the next Goal-delivery without Bail; 'and then you ſhall make an open Confeſſion and Acknowledgement of 'your Offences in ſuch Words as ſhall be directed you.

'And afterwards you ſhall remain Priſoners during the King's Plea'ſure: And when you are diſcharged, you ſhall put in good Security by 'Recognizance, your ſelves 400*l.* a-piece, and two Securities each of 'you of 200*l.* a-piece, not to print or publiſh any Books, but ſuch as 'ſhall be allow'd of. And this is the Judgment of the Court.'

LXVI. *The Trial of Mr.* Benjamin Keach, *at the Aſſizes at* Ailſbury *in* Buckinghamſhire, *for a* Libel, October 8 *and* 9. 1664. 16 Car. II.

Benjamin *Keach* of *Winſlow*, in the County of *Bucks*, having wrote a little Book, entitled, *The Child's Inſtructor*; *or, A New and Eaſy Primmer:* In which were contained ſeveral Things contrary to the Doctrine and Ceremonies of the Church of *England*; as, *That Infants ought not to be baptized*; *That Laymen may preach the Goſpel*; *That Chriſt ſhall reign perſonally upon the Earth in the latter Day*, &c. He had no ſooner got it printed, and ſome of them ſent down to him, but one Mr. *Strafford*, a Juſtice of the Peace for that County, received Information of it. Whereupon, taking a Conſtable with him, he went in queſt of the ſaid Books; and coming to the Houſe of Mr. *Keach*, found and ſeized ſeveral of them, bound Mr. *Keach* over to anſwer for it at the next Aſſizes in a Recognizance of an hundred Pounds, and two Sureties with him in fifty Pounds each.

The next Aſſize holden for the ſaid County was at *Ailſbury* on the 8th and 9th Days of *October* 1664, Lord Chief Juſtice *Hyde* being Judge. On the firſt of which Days, in the Forenoon, Mr. *Keach* was called upon; who anſwering to his Name, was brought to the Bar, and examined as follows:

Judge. Did you write this Book? [*Holding out one of the* Primmers *in his Hand.*]

Keach. I writ moſt of it.

Judge. What have you to do to take other Mens Trades out of their hands? I believe you can preach as well as write Books. Thus it is to let you, and ſuch as you are, have the Scripture to wreſt to your own Deſtruction. You have made in your Book a new Creed: I have ſeen three Creeds before; but I never ſaw a fourth till you made one.

Keach. I have not made a Creed, but a Confeſſion of the Chriſtian Faith.

Judge. Well, that is a Creed then.

Keach. Your Lordſhip ſaid you had never ſeen but three Creeds; but Thouſands of Chriſtians have made a Confeſſion of their Faith.

After this the Judge obſerved to the Court ſeveral Things which were written in the ſaid Book, concerning Baptiſm and the Miniſters of the Goſpel, which were contrary to the Liturgy of the Church of *England*, and ſo a Breach of the Act of Uniformity.

Keach. My Lord, as to thoſe Things——

Judge. You ſhall not preach here, nor give the Reaſons of your Damnable Doctrine, to ſeduce and infect his Majeſty's Subjects. Theſe are not Things for ſuch as you are to meddle with, and to pretend to write Books of Divinity: But I will try you for it, before I ſleep.

After this he gave Directions to the Clerk to draw up the Indictment; and the Witneſſes were ſworn, and ordered to ſtand by the Clerk till the Indictment was finiſhed, and then to go with it to the Grand Inqueſt.

Judge. Gentlemen of the Grand Jury, I ſhall ſend you preſently a Bill againſt one that hath taken upon him to write a new *Primmer* for the Inſtruction of your Children: He is a baſe and dangerous Fellow; and if this be ſuffered, Children by learning of it will become ſuch as he is, and therefore I hope you will do your Duty.

The Indictment being long, took ſo much time to draw it up, that the Trial did not come on till the next Day.

The next Day, the Court being ſet, the Grand Jury found the Bill, and brought it in indorſed *Billa vera.*

Clerk. Benjamin Keach, come to the Bar.

Mr. *Keach* comes to the Bar.

Clerk. Hear your Charge. 'Thou art here indicted by the Name of '*Benjamin Keach*, of the Pariſh of *Winſlow*, in the County of *Bucks*: 'For that thou being a Seditious, Heretical, and Schiſmatical Perſon, 'evilly and maliciouſly diſpoſed, and diſaffected to his Majeſty's Govern'ment, and the Government of the Church of *England*, didſt maliciouſly 'and wickedly, on the 1ſt Day of *May*, in the 16th Year of the Reign of 'our Sovereign Lord the King, write, print, and publiſh, or cauſe to 'be written, printed, and publiſhed, one Seditious and Venomous Book, 'entitled, *The Child's Inſtructor*; *or, A New and Eaſy Primmer*; wherein 'are contained by way of Queſtion and Anſwer, theſe Damnable Poſi'tions, contrary to the Book of Common Prayer, and the Liturgy of 'the Church of *England*: That is to ſay, in one Place you have thus 'written; Q. *Who are the right Subjects of Baptiſm?* A. *Believers, or* '*godly Men and Women only, who can make Confeſſion of their Faith and* '*Repentance.* And in another Place you have maliciouſly and wickedly 'written theſe Words; Q. *How ſhall it then go with the Saints?* A. *O,* '*very well. It is the day they have longed for: Then they ſhall hear that* '*Sentence*, Come, ye Bleſſed of my Father, in herit the Kingdom prepared 'for you; *and ſo ſhall they reign with Chriſt on the Earth a thouſand* '*Years, even on Mount* Sion, *in New* Jeruſalem; *for there will Chriſt's* '*Throne be, on which they muſt ſit down with him.* Then follows this Queſtion,

'Queſtion with the Anſwer thereto, in theſe plain *Engliſh* Words: 'Q. *When ſhall the Wicked and the fallen Angels, which be the Devils, be judged?* A. *When the thouſand Years ſhall be expired, then ſhall the reſt of the Devils be raiſed, and then ſhall be the general and laſt Judgment, then ſhall all the reſt of the Dead and Devils be judged by Chriſt and his glorified Saints; and they being arraigned and judged, the Wicked ſhall be condemned, and caſt by the Angels into the Lake of Fire, there to be burned for ever and ever.*

'In another place thou haſt wickedly and maliciouſly written theſe plain *Engliſh* Words: Q. *Why may not Infants be received into the Church now, as they were under the Law?* A. *Becauſe the fleſhly Seed is caſt out: Tho' God under that Diſpenſation did receive Infants in a lineal way by Generation, yet he that hath the Key of* David, *that openeth and no Man ſhutteth, that ſhutteth and no Man openeth, hath ſhut up that Way into the Church; and hath opened the Door of Regeneration, receiving in none now but Believers.* Q. *What then is the State of Infants?* A. *Infants that die are Members of the Kingdom of Glory, tho' they be not Members of the Viſible Church.* Q. *Do they then that bring in Infants in a fleſhly and lineal way, err from the way of Truth?* A. *Yea, they do; for they make not God's Holy Word their Rule, but do preſume to open a Door that Chriſt hath ſhut, and none ought to open.* And alſo in another place thou haſt wickedly and maliciouſly compoſed *A ſhort Confeſſion of the Chriſtian Faith*; wherein thou haſt affirm'd this concerning the ſecond Perſon in the Bleſſed Trinity, in theſe plain *Engliſh* Words: *I alſo believe that he roſe again the third Day from the Dead, and aſcended into Heaven above, and there now ſitteth at the right Hand of God the Father; and from thence he ſhall come again at the appointed time of the Father to reign perſonally upon the Earth, and to be Judge of the Quick and Dead.* And in another place thou haſt wickedly and maliciouſly affirmed theſe things concerning true Goſpel-Miniſters in theſe plain *Engliſh* Words following: *Chriſt hath not choſen the wiſe and prudent Men after the Fleſh, not great Doctors* and *Rabbies*; Not many Mighty and Noble, *ſaith* Paul, are called: *but rather the Poor and Deſpiſed, even Tradeſmen, and ſuch-like, as was* Matthew, Peter, Andrew, Paul, *and others. And Chriſt's true Miniſters have not their Learning and Wiſdom from Men, or from Univerſities, or human Schools for human Learning. Arts and Sciences are not eſſential to making of a true Miniſter, but the Gifts of God, which cannot be bought with Silver and Gold; and alſo as they have freely received the Gift, ſo they do freely adminiſter: They do not preach for Hire, for Gain and filthy Lucre: They are not like the falſe Teachers, who look for Gain from their Quarter; who eat the Fat, and clothe themſelves with the Wool, and kill them that are fed; thoſe that put not into their mouths, they prepare War againſt: Alſo they are not Lords over God's Heritage, they rule them not by Force and Cruelty, neither have they Power to force and compel Men to believe and obey their Doctrines, but are only to perſuade and intreat; for this is the Way of the Goſpel, as Chriſt taught them—*

'And many other things haſt thou ſeditiouſly, wickedly, and maliciouſly written in the ſaid Book, to the great Diſpleaſure of Almighty God, the Scandal of the Liturgy of the Church of *England*, the Diſaffection of the King's People to his Majeſty's Government, the Danger of the Peace of this Kingdom, to the evil Example of others, and contrary to the Statute in that caſe made and provided.' How ſay you, *Benjamin Keach*; are you Guilty, or Not Guilty?

Keach. The Indictment is ſo very long, that I cannot remember half of it, nor have I been accuſtomed to plead to Indictments: therefore I deſire a Copy of it, and liberty to confer with Counſel about it, in order to put in my Exceptions, and then I ſhall plead to it.

Judge. 'Tis your Intention, I perceive, to delay your Trial to the next Aſſize.

Keach. No, my Lord, I have no deſign by this to delay my Trial.

Judge. I will not deny you what is your Right, but you muſt firſt plead to your Indictment, and afterwards you ſhall have a Copy of it.

Keach. I deſire I may have a Copy of it before I plead, in order to put in my Exceptions againſt it.

Judge. You ſhall not have it, before you plead Guilty or Not Guilty.

Keach. 'Tis what has been granted to others.

Judge. You ſhall not have it firſt; and if you refuſe to plead Guilty or Not Guilty, I ſhall take it *pro confeſſo*, and give Judgment againſt you accordingly.

Keach. Not Guilty, my Lord.

Judge. Now you may have a Copy of your Indictment, and I will give you an Hour's time to conſider of it.

Keach. If I may have no longer time, I don't deſire any.

Judge. I have ſomething elſe to do than wait upon you; you are not a Perſon fit to go abroad till next Aſſize, and you will think it hard if I ſhould commit you to Goal till then: but becauſe you ſhall not ſay but that you were offered fair, if you will find ſufficient Sureties for your Appearance at the next Aſſize, and for your good Behaviour till then, you ſhall not be tried till then.

Keach. My Lord, I am content to be try'd now.

Judge. Go on then, a God's Name.

Clerk. Gentlemen of the Jury, anſwer to your Names, *&c.*

Then the Jury were ſworn, well and truly to try the Traverſe between the King's Majeſty and the Priſoner at the Bar.

Judge. Clerk, read the Indictment. [*He reads it.*]

Gentlemen of the Jury, the Priſoner at the Bar has pleaded Not Guilty, and your Charge is to inquire whether he be Guilty or not.

Then the Witneſſes were ſworn, who were *Neal* and *Whitehall*.

Neal depoſed, That Juſtice *Strafford* ſent for him to his Houſe; when he came there, the Juſtice ſent him back again for his Staff of Authority: which being done, he went with the Juſtice to one *Moody*'s Stall, and aſked for ſome Primmers which he had: he anſwered, that he had none. That from thence they went to Mr. *Keach*'s Houſe, where firſt they ſaw his Wife, who told them he was in an inward Room. They aſked her, if there were not ſome Primmers in the Houſe? She ſaid, there was; and about thirty were brought forth and delivered to them.

Then Juſtice *Strafford* himſelf was alſo examined: he ſaid, That he found the Primmers now before the Court in *Benj. Keach*'s Houſe, and ſeized them; and that the Priſoner at the Bar had confeſſed before him, that he writ and compoſed the ſaid Book.

Then a Copy of the Priſoner's Examination before the ſaid Juſtice, ſigned with his own Hand, was produced and read; wherein was contained, That the Priſoner being aſked whether he was the Author or Writer of the ſaid Book? anſwered, Yes, he was. And further declared, That he delivered a part of the Copy to one *Oviat* a Printer at *London*, ſince dead; and that the reſt of the Copy he ſent up by another Hand, but that he knew not who printed it: That about forty of them were ſent down to him, of which he had diſperſed about twelve, and that the Price was Five-pence each Book.

After this the Judge called for a Common-Prayer-Book, and laid it before him; and ordered one of the Primmers to be given to the Gentlemen of the Jury, and bid them look on thoſe Parts where the Leaves were turn'd down.

Judge. Clerk, read thoſe Sentences in the Indictment, which are taken out of the Book, that the Jury may turn to them, and ſee that the ſaid Poſitions are contained in the Book.

Clerk. Q. *Who are the right Subjects of Baptiſm?* A. Believers or Godly Men and Women only, who can make Confeſſion of their Faith and Repentance.

Judge. This is contrary to the Book of Common-Prayer, for that appoints Infants to be baptized, as well as Men and Women. [*Here he read ſeveral places in the Liturgy, wherein the baptizing of Infants is enjoined and directed.*]

Clerk reads. Q. *How ſhall it then go with the Saints?* A. Oh, very well! it is the Day that they have long'd for: then they ſhall hear that Sentence, *Come, ye bleſſed of my Father, inherit the Kingdom prepared for you:* And ſo ſhall they reign with Chriſt on Earth a thouſand Years, *&c.*

Judge. This is contrary to the Creed in the Book of Common-Prayer, and is an old Hereſy, which was caſt out of the Church a thouſand Years ago, and was likewiſe condemned by the Council of *Conſtance* about five hundred Years ago, and hath lain dead ever ſince, till now this Raſcal hath revived it.

Clerk reads. Q. *Why may not Infants be received into the Church now, as they were under the Law?* A. Becauſe the fleſhly Seed is caſt out, *&c.* Q. *What then is the State of Infants?* A. Infants that die, are Members of the Kingdom of Glory, tho' they be not Members of the Viſible Church. Q. *Do they then that bring in Infants by a fleſhly lineal Way, err from the Truth?* A. Yea, they do; for they make not God's Holy Word their Rule, but do preſume to open a Door that Chriſt hath ſhut, and none ought to open.

Judge. This alſo is contrary to the Book of Common-Prayer, which appoints Infants to be received into the Church, and directs the Prieſt to ſay, when he hath ſprinkled the Child, *We receive this Child into the Congregation of Chriſt's Flock.* And whereas he ſays that Infants that die are Members of the Kingdom of Glory, tho' not of the Viſible Church, he ſpeaks this of Infants in general, and ſo the Child of a Turk or Heathen is made equal with the Child of a Chriſtian: But the Church hath otherwiſe determined; that is, if an Infant die after Baptiſm, and before it hath actually ſinned, it is ſaved, becauſe Original Sin is waſh'd away in Baptiſm. Read on.

Clerk. Alſo in another place thou haſt wickedly and maliciouſly compoſed *A ſhort Confeſſion of Faith*, in which thou haſt affirmed thus, concerning the ſecond Perſon in the Bleſſed Trinity, in theſe plain *Engliſh* Words; *I alſo believe that he roſe again the third Day from the Dead, and aſcended into Heaven, and there now ſitteth at the right hand of God the Father; and from thence he ſhall come again at the appointed time of the Father, to reign perſonally upon the Earth, and to be the Judge of the Quick and the Dead.*

Judge. This is contrary to our Creed: for whereas he ſaith, *From thence he ſhall come again at the appointed time of the Father, to reign perſonally upon the Earth, and to be Judge both of the Quick and the Dead*; our Creed only ſaith, *From thence he ſhall come to judge both the Quick and the Dead.*

Clerk. And in another place thou haſt wickedly and maliciouſly affirmed theſe things concerning true Goſpel-Miniſters, in theſe plain *Engliſh* Words following: *Chriſt hath not choſen the wiſe and prudent Men after the Fleſh, not great Doctors and Rabbies*; Not many Mighty and Noble, *ſaith* Paul, are called, *&c.* as above.

Judge. This alſo is contrary to the Book of Common-Prayer: for whereas the Poſition in the Indictment ſaith, Chriſt hath not choſen great Rabbies and Doctors, but rather the Poor, and Deſpiſed, and Tradeſmen; the Book of Common-Prayer doth admit of ſuch. [*Here he read ſome Paſſages concerning the Qualification of Miniſters, and their Manner of Conſecration.*] Becauſe Chriſt, when he was upon the Earth, made choice of Tradeſmen to be his Diſciples; therefore this Fellow would have Miniſters to be ſuch now; Taylors, and Pedlars, and Tinkers, and ſuch Fellows as he is: But it is otherwiſe now, as appears from the Manner in which the Church has appointed them to be choſen, ordained, and conſecrated.

The Judge having thus gone through the Indictment, the Priſoner began to ſpeak in his Defence.

Keach. As to the Doctrines——

Judge. You ſhall not ſpeak here, except to the Matter of Fact; that is to ſay, whether you writ this Book or not.

Keach. I deſire liberty to ſpeak to the Particulars in my Indictment, and thoſe things that have----

Judge. You ſhall not be ſuffered to give the Reaſons for your damnable Doctrine here, to ſeduce the King's Subjects.

Keach. Is my Religion ſo bad, that I may not be allow'd to ſpeak?

Judge. I know your Religion, you are a Fifth-Monarchy-Man; and you can preach, as well as write Books; and you will preach here, if I would let you: but I ſhall take ſuch order as you ſhall do no more miſchief.

Keach. I did not write all the Book, for there is an Epiſtle to it written by another Hand; neither can it be proved that I writ all that is put into the Indictment.

Judge.

Judge. It is all one whether you writ it yourſelf, or dictated to another to write it: but it appears by your Examination under your own Hand, that you wrote it all.

Keach. Becauſe I writ the major part of it, I was contented to let it go with the word *all* in my Examination before Juſtice *Strafford*; but I cannot in Conſcience ſay I wrote it all: nor is it proved that I publiſhed it.

Judge. Yes, you did; for *Moody* had ſix Books of you.

Keach. I did neither ſell them, nor deliver them to him.

Judge. He had them at your Houſe, and it is not likely he ſhould take them without your Conſent.

Keach. I do not ſay he had them without my Conſent.

Judge. It is all one, then, as if you delivered them.

Here the Judge ſumm'd up the Evidence, and gave his Charge to the Jury; but this the Amanuenſis has omitted.

The Jury being withdrawn, ſtaid for ſome Hours: at length one of the Officers who attended them came in.

Officer. My Lord, the Jury about the Primmers cannot agree.

Judge. But they muſt agree.

Officer. They deſire to know whether one of them may not come and ſpeak with your Lordſhip, about ſomething whereof they are in doubt.

Judge. Yes, privately: [*And then ordered one to come to him on the Bench.*]

Then the Officer called one, and he was ſet upon the Clerk's Table, and the Judge and he whiſpered together a great while; and it was obſerved, that the Judge having his Hands upon his Shoulders, would frequently ſhake him as he ſpake to him. Upon this Perſon's returning, the whole Jury quickly came in, and being according to Cuſtom called over by their Names, the Clerk proceeded.

Clerk. Are you agreed in your Verdict?

Jury. Yes, yes.

Clerk. Who ſhall ſpeak for you?

Jury. Our Foreman.

Clerk. How ſay you, is *Benjamin Keach* Guilty of the Matters contained in the Indictment againſt him, or Not Guilty?

Foreman. Guilty in Part.

Clerk. Of what Part?

Foreman. There is ſomething contained in the Indictment, which is not in the Book.

Clerk. What is that?

Foreman. In the Indictment he is charged with theſe words, *When the thouſand Years ſhall be expired, then ſhall all the reſt of the Devils be raiſed*; but in the Book it is, *Then ſhall the reſt of the Dead be raiſed.*

Clerk. Is he Guilty of all the reſt of the Indictment, that Sentence excepted?

One of the Jury. I cannot in Conſcience find him Guilty, becauſe the Words in the Indictment and the Book do not agree.

Judge. That is only through a Miſtake of the Clerk's, and in that Sentence only; and you may find him Guilty of all, that Sentence excepted: but why did you come in before you were agreed?

Foreman. We thought we had been agreed.

Judge. You muſt go out again, and agree: and as for you, that ſay you cannot in Conſcience find him Guilty, if you ſay ſo again, without giving Reaſons for it, I ſhall take an Order with you.

Then the Jury withdrew, and in a little time returned again.

Clerk. Are you agreed in your Verdict?

Jury. Yes.

Clerk. How ſay you, is *Benjamin Keach* Guilty of the Matters charged in the Indictment againſt him, or Not Guilty?

Foreman. Guilty of the Indictment; that Sentence, wherein *Devils* is inſerted inſtead of *Dead*, only excepted.

Upon this, *Benjamin Keach* was called to the Bar, and the Judge proceeded to paſs Sentence upon him as follows.

Judge. *Benjamin Keach*, you are here convicted of writing and publiſhing a ſeditious and ſcandalous Book, for which the Court's Judgment is this, and the Court doth award, That you ſhall go to Goal for a Fortnight, without Bail or Mainpriſe; and the next *Saturday* to ſtand upon the Pillory at *Ailſbury* for the ſpace of two Hours, from Eleven of the clock to One, with a Paper upon your Head with this Inſcription, *For writing, printing, and publiſhing a ſchiſmatical Book, intitled,* The Child's Inſtructor, or a New and Eaſy Primmer. And the next *Thurſday* to ſtand in the ſame Manner, and for the ſame time, in the Market of *Winſlow*; and there your Book ſhall be openly burnt before your Face by the common Hangman, in diſgrace of you and your Doctrine. And you ſhall forfeit to the King's Majeſty the Sum of 20 *l.* and ſhall remain in Goal until you find Sureties for your good Behaviour and Appearance at the next Aſſizes, there to renounce your Doctrine, and make ſuch publick Submiſſion as ſhall be injoined you. Take him away, Keeper.

Keach. I hope I ſhall never renounce thoſe Truths which I have written in that Book.

Clerk. My Lord, he ſays he hopes he ſhall never repent.

But the Judge taking no notice, the Goaler took him away.

According to the Sentence paſſed upon him, he was kept cloſe Priſoner till the *Saturday* following, and then about Eleven o'clock was carried to the Pillory at *Ailſbury*; where he ſtood full two Hours to a minute, was deny'd the liberty of ſpeaking to the Spectators, and had his Hands as well as his Head carefully kept in the Pillory the whole time.

On the *Thurſday* following he ſtood in the ſame manner and for the ſame time at *Winſlow*, the Town where he lived, and had his Book burnt before him.

After this, upon paying his Fine, and giving ſufficient Security for his good Behaviour, he was ſet at liberty; but was never brought to make a Recantation.

LXVII. *Proceedings in Parliament againſt* Edward *Earl of* Clarendon, * *Lord High Chancellor of* England, *for* High-Treaſon, *and other* High Crimes *and* Miſdemeanours, July 10, 1663. 15 Car. II. *and* October, &c. 1667. 19 Car. II.

THE Earl of *Briſtol* having been oppos'd by the Earl of *Clarendon* in the Deſigns which he had form'd in favour of the *Papiſts*, reſolved to take all Methods to ruin him; not contented therefore with endeavouring to deprive him of the King's Favour, he forms Articles of *High-Treaſon* and other *Miſdemeanours* againſt him, which he ſhew'd to the King; and tho' the King would have diſſuaded him from it, yet the next Day he carried the Charge to the Houſe of Lords, which was as follows.

Articles of High-Treaſon, and other Heinous Miſdemeanours, Exhibited againſt *Edward* Earl of *Clarendon*, Lord High-Chancellor of *England*, in the Houſe of Lords; on the 10th of *July*, 1663. By the Earl of *Briſtol* †.

THAT being in Place of higheſt Truſt and Confidence with His Majeſty, and having arrogated a Supreme Direction in all His Majeſty's Affairs, both at Home and Abroad, hath Wickedly and Maliciouſly, and with a Traiterous Intent to draw Scandal and Contempt upon His Majeſty's Perſon, and to alienate from him the Affections of his Subjects, abuſed the ſaid Truſt in Manner following, viz.

That he hath Traiterouſly and Maliciouſly endeavoured to Alienate the Hearts of his Majeſty's Subjects from him, by Words of his own, and by artificial Inſinuations of his Creatures and Dependences, that His Majeſty was inclined to Popery, *and had a Deſign to alter the Religion Eſtabliſhed in this Kingdom.*

That in purſuance of that Traiterous Intent, he hath to ſeveral Perſons of His Majeſty's Privy-Council *held Diſcourſes to this Effect,* viz.

That His Majeſty was dangerouſly corrupted in his Religion, and inclined to Popery.

That Perſons of that Religion had ſuch Acceſs, and ſuch Credit with him, that unleſs there were a careful Eye had unto it, the Proteſtant Religion *would be overthrown in this Kingdom; and in purſuance of the ſaid Wicked and Traiterous Intent, upon His Majeſty's admitting Sir* Henry Bennet *to be Principal* Secretary of State, *in the Place of Mr. Secretary* Nicolas, *he hath ſaid theſe words, or words to this effect:*

That his Majeſty had given 10000 *l. to remove a zealous* Proteſtant, *that he might bring into that Place of High Truſt a concealed* Papiſt; *notwithſtanding that the ſaid Sir* Henry Bennet *is known to have ever been, both in his Profeſſion and Practice, conſtant to the* Proteſtant Religion.

That in purſuance of the ſame Traiterous Deſign, ſeveral near Friends and known Dependences of his have ſaid aloud, that were it not for my Lord Chancellor's *ſtanding in the Gap,* Popery *would be introduced in this Kingdom, or words to that effect.*

That in purſuance of the aforeſaid Traiterous Deſign, he hath not only adviſed and perſuaded the King to do ſuch things contrary to his own Reaſons and Reſolutions as might confirm and increaſe the Scandal, which he had endeavoured to raiſe upon His Majeſty as aforeſaid, of his favour to Popery, *but more particularly to allow his Name to be uſed to the Pope and ſeveral Cardinals in the ſollicitation of a Cardinal's Cap for the Lord* Aubigny, *one of his own Subjects, and Great* Almoner *at preſent to his Royal Conſort the Queen.*

That in purſuance of the ſame Wicked and Traiterous Deſign, he had recommended to be employed to the Pope one of his own Domeſticks, Mr. Rich. Bealing, *a Perſon (tho' an avow'd* Papiſt) *known to be truſted and employed by him in Diſpatches and Negotiations concerning Affairs of greateſt Concernment to the Nation.*

That in purſuance of the ſaid Traiterous Deſign, he being chief Miniſter of State, did himſelf write by the ſaid Mr. Rich. Bealing, *Letters to ſeveral Cardinals, preſſing them in the King's Name to induce the Pope to Confer a Cardinal's Cap on the ſaid Lord* Aubigny, *promiſing, in caſe it ſhould be attained, exemption to the* Roman Catholicks *of* England *from the* Penal Laws *in force againſt them; by which Addreſs unto the Pope for that Eccleſiaſtical Dignity for one of his Majeſty's Subjects and Domeſticks, he hath, as far as from one Action can be inferred, traiterouſly acknowledged the Pope's Eccleſiaſtical Sovereignty, contrary to the known Laws of this Kingdom.*

That in purſuance of the ſame traiterous Deſign, he has called unto him ſeveral Prieſts and Jeſuits, whom he knew to be Superiors of Orders here in England, *and deſired them to write to their Generals at* Rome, *to give their help for the obtaining from the Pope the Cardinal's Cap for the Lord* Aubigny, *as aforeſaid, promiſing great Favour to* Papiſts *here, in caſe it ſhould be effected for him.*

* *Biſhop* Burnet's *Hiſt. of his Own Times,* Vol. I. p. 254, &c.

† Burnet's *Hiſt. of his Own Times,* Vol. I. p. 196.

That he hath promiſed to ſeveral Papiſts *he would do his endeavour, and ſaid he hoped, to compaſs the taking away all* Penal Laws *againſt them, which he did in purſuance of the traiterous Deſign aforeſaid; to the end they might preſume and grow vain upon his Patronage, and by their publiſhing their hopes of a Toleration, increaſe the Scandal endeavoured by him, and by his Emiſſaries, to be raiſed upon His Majeſty throughout the Kingdom.*

That in purſuance of the ſame traiterous Deſign, being intruſted with the Treaty betwixt His Majeſty and His Royal Conſort the Queen, he concluded it upon Articles ſcandalous and dangerous to the Proteſtant Religion.

That in purſuance of the ſame traiterous Deſign, he concluded the ſame Marriage, and brought the King and Queen together, without any ſettled Agreement in what manner the Rites of Marriage ſhould be performed, whereby the Queen refuſing to be married by a Proteſtant Prieſt, in caſe of her being with Child, either the Succeſſion ſhould be made uncertain for want of the due Rights of Matrimony, or elſe His Majeſty to be expoſed to a ſuſpicion of having been married in his own Dominions by a Romiſh Prieſt, *whereby all the former Scandals endeavoured to be raiſed upon His Majeſty by the ſaid Earl, as to point of* Popery, *might be confirmed and heightned.*

That having thus traiterouſly endeavoured to Alienate the Affections of His Majeſty's Subjects from him upon the ſcore of Religion, *he hath endeavoured to make uſe of all the malicious Scandals and Jealouſies, which he and his Emiſſaries had raiſed in His Majeſty's Subjects, to raiſe from them unto himſelf the popular Applauſe of being the zealous Upholder of the* Proteſtant Religion, *and a Promoter of new Severities againſt* Papiſts.

That he hath traiterouſly endeavoured to Alienate the Affections of His Majeſty's Subjects from him, by venting in his own Diſcourſe, and by the Speeches of his neareſt Relations and Emiſſaries, opprobrious Scandals againſt His Majeſty's Perſon and courſe of Life, ſuch as are not fit to be mentioned, unleſs neceſſity in the way of Proof ſhall require it.

That he hath traiterouſly endeavoured to Alienate the Affections of his Highneſs the Duke of York *from His Majeſty, by ſuggeſting unto him Jealouſies as far as in him lay, and publiſhing abroad by his Emiſſaries, that His Majeſty intended to Legitimate the Duke of* Monmouth.

That he hath Wickedly and Maliciouſly, contrary to the Duty of a Privy-Counſellor of England, *and contrary to the perpetual and moſt important Intereſt of this Nation, perſuaded His Majeſty, againſt the Advice of the Lord* General, *to withdraw the* Engliſh *Garriſons out of* Scotland, *and to demoliſh all the Forts built there, at ſo vaſt a Charge to this Kingdom.*

That His Majeſty having been graciouſly pleaſed to communicate the Deſires of the Parliament of Scotland *for the remove of the ſaid Garriſons to the Parliament of* England, *and to aſk their Advice therein, the ſaid Earl of* Clarendon, *not only perſuaded His Majeſty actually to remove thoſe Garriſons, without expecting the Advice of his Parliament of* England *concerning it, but did, by Menaces of his Majeſty's diſpleaſure, deter ſeveral Members of Parliament from moving the Houſe, as they intended, to enter upon conſideration of that Matter.*

That he had Traiterouſly and Maliciouſly endeavoured to Alienate His Majeſty's Affections and Eſteem from this his Parliament, by telling His Majeſty that there was never ſo weak and inconſiderable a Houſe of Lords, nor never ſo weak and ſo heady a Houſe of Commons, or words to that effect, and particularly, that it was better to ſell Dunkirk, *than to be at their Mercy for want of Money, or words to that effect.*

That he hath wickedly and maliciouſly, contrary to his Duty of Counſellor, and to a known Law made laſt Seſſions, by which Money was given, and particularly applied for the maintaining of Dunkirk, *adviſed and effected the Sale of the ſame to the* French *King.*

That he hath, contrary to Law, enriched himſelf and his Treaſures by the Sale of Offices.

That contrary to his Duty he hath wickedly and corruptly converted to his own uſe, great and vaſt Sums of publick Money raiſed in Ireland *by way of Subſidy, private and publick Benevolences, and otherwiſe, given and intended to defray the Charge of Government in that Kingdom. By which means a ſupernumerary and diſaffected Army hath been kept up there, for want of Money to pay them off, occaſion'd it ſeems to be becauſe of the late and preſent Diſtempers of that Kingdom.*

That having arrogated to himſelf a ſupreme Direction of all His Majeſty's Affairs, he hath, with a malicious and corrupt Intention, prevailed to have His Majeſty's Cuſtoms Farmed at a far lower Rate than others do offer, and that by Perſons, with ſome of whom he goes a ſhare, in that and other Parts of Money reſulting from His Majeſty's Revenue.

July 10th, 1663. BRISTOL.

The Earl of Briſtol *having Exhibited againſt the Lord* Chancellor, *Articles of High-Treaſon, and other Miſdemeanours, This Order was made by the* Houſe *of* Peers.

Die Veneris, 10 July, 1663.

ORDERED, by the Lords Spiritual and Temporal in Parliament aſſembled, That a Copy of the Articles or Charge of *High-Treaſon* Exhibited this Day by the Earl of *Briſtol*, againſt the Lord Chancellor, be delivered to the Lord Chief Juſtice; who with all the reſt of the Judges, are to conſider whether the ſaid Charge hath been brought in regularly and legally, and whether it may be proceeded in, and how, whether there be any Treaſon in it or no, and make Report thereof to this Houſe on *Monday* next if they can, or elſe as ſoon after as poſſibly they may.

Whereupon all the Judges met at *Serjeants-Inn* in *Fleet-ſtreet*, and my Lord of *Briſtol* repaired to us thither, deſiring to ſee the Order; which being read, he told us he came out of Reſpect to know of us whether we were informed how it came into the *Houſe of Peers*, whether as a Charge or not; but one of the Judges, who had been preſent when it was delivered in, ſaying, *We were tied up by our Order*, his Lordſhip took ſome Exception at the manner of his Expreſſion, as if his Lordſhip's Addreſs was unneceſſary at that time, and taking it as a Rebuke unto him, went away; but according to our Order, which ſuppoſed it to be a Charge of *High-Treaſon*, and not mentioning *Miſdemeanour*, we did upon Conſideration unanimouſly agree upon this enſuing *Anſwer*, which on *Monday* the 13th of *July*, the Lord Chief Juſtice *Forſter* did deliver in, *viz.*

We conceive that a Charge of High-Treaſon *cannot by the Laws and Statutes of this Realm be originally Exhibited by one Peer againſt another unto the* Houſe of Peers, *and that therefore a Charge of* High-Treaſon *by the Earl of* Briſtol *againſt the Lord Chancellor, mentioned in the Order of Reference to us of the 10th of this Inſtant* July, *hath not been regularly and legally brought in, and if the Matters alledged in the ſaid Charge were admitted to be true, altho' alledged to be traiterouſly done, yet there is no* Treaſon *in it.*

Which *Anſwer* being given in, the Earl of *Briſtol* took ſome Exceptions at it, and ſome of the Lords inferred thence, that if it were Irregularly and Illegally brought in, it was a Libel; but we ſatisfied them that it was not under Conſideration of us, whether it came in as an Information or Charge; our Order required us to give *Anſwer* to it as a Charge.

Secondly, We did not meddle with any thing concerning accuſing him of *Miſdemeanour*, for our Order reached only to *Treaſon*.

Thirdly, It did not follow that if this Charge were Irregular, or Illegal, that therefore it was Criminal: There might be Precedents to give Colour to ſuch kind of Proceedings, for which, till it be declared or known, that they are Illegal, they are Titular, and ought not to be puniſhed.

But it was much inſiſted on, That we ſhould deliver the Reaſon of our Opinions, the Lord of *Briſtol* and his Friends ſeeming unſatisfied.

We *Replied*, That it was never known, that when the Juſtices to whom *Queſtions* were referred from Parliament had unanimouſly agreed in their Opinions, that Reaſons were required from them. Yet notwithſtanding, it being the deſire of the Lords, after ſome things premiſed, and a deſire that this ſhould not be drawn into an Example, (which the Lords aſſented unto, as I took it, for no Order was entred concerning it, there being no Order, as I think, for delivering our Reaſons entred, and it was agreed amongſt us, that no Note ſhould be reduced, leſt we might be required to deliver our Reaſons in Writing; nor had I time to digeſt it in Writing, having only *Monday* Night after Conference with my Brethren to think upon it,) I did on the next *Tueſday*, being the 14th of *July*, deliver the Reaſons of all the Judges, of their Opinions, by their Conſents. To the firſt Point, *That a Charge of* High-Treaſon *cannot originally be Exhibited by one Peer againſt another unto the Houſe of Peers*, the Emphaſis of the Word *Originally* was ſhewed.

For *Firſt*, an Indictment of *Treaſon* againſt a Peer may be removed up to the Lords Houſe to be tried, as it was in the 31 *H.* VI. in the Earl of *Devonſhire*'s Caſe, but a Steward was then to be made.

Secondly, If an Impeachment came from the *Houſe of Commons* unto the *Lords Houſe*, we did not take upon us the Conſideration, whether this could be proceeded in or not, for it was not the Caſe to which we were required to give *Anſwer*.

We *Replied*, Upon the Statute 1 *H.* IV. *cap.* 14. which recites the many great Inconveniencies and Miſchiefs by Appeals, and provides that all Appeals of Things within the Realm, ſhall be Tried and Determined by the good Laws of the Realm made and uſed in the time of the King's noble Progenitors, and Appeals of Things out of the Realm before the Conſtable and Marſhal: But we relied upon the Clauſe enſuing, and thereupon it is accorded and aſſented, That no Appeals be from thenceforth made, or in any wiſe purſued in Parliament, in time to come. I ſhewed Appeals in this Statute, and Accuſations by ſingle Perſons, were one and the ſame Thing, and that this Statute reached to all Appeals, Charges, Accuſations or Impeachments delivered in, in Parliament, whereupon the Perſon accuſed was to be put to his *Anſwer*, and that they were but ſeveral names of the ſame Thing, I ſhewed firſt Hiſtorically, that the Appeals the 11 *R.* II. * and 21 *R.* II. were but Accuſations by thoſe Lords of Felony againſt the other, and differed from the Caſe of the Dukes of *Hereford* and *Norfolk*, which was to be tried as 21 *R.* II. *Pl. Cor.* in *Parl. No.* 19. is by the Courſe of the Civil Law, and thereupon Battle was waged. That tho' it concerned *H.* IV. in Intereſt to confirm the 11 *R.* II. and repeal the 21 *R.* II. he being Appellant in the former, yet he ſaw the Miſchief ſo great, that he himſelf made Proviſion againſt them for the time to come, and indeed, the Miſchief was ſo great, that it ceaſed not after the Deſtruction of many Lords and Families (there being *Lex talionis* in that 21 *R.* II. uſed towards moſt of thoſe Appellants in the 11 *R* II.) till it tumbled King *R.* II. firſt out of his Throne, and then into his Grave.

That there were but two ſorts of Proceedings in *Capitalibus*, the Suit of the Party, which was called an Appeal, or the Suit of the King, who ought to proceed by Indictment, and ſo to Trial by virtue of *Magna Charta*. *Nec ſuper eum ibimus*, &c. and that, in an Appeal, being the Suit of the Party, there was no Prerogative of Appearance, if it were an Appeal at the Common-Law, 10 *Ed.* IV. Lord *Gray*'s Caſe. That an Appeal was taken in our Law-Books frquently for an Accuſation by the Party, I cited *Weſtm.* the *1ſt*, *Cap.* 14. where the word Appeal reaches to Indictment; and 9 *Coke*, 119. Lord *Zanchar*'s Caſe, that an Appeal hath two Significations, one general and frequent in our Books for an Accuſation, and *Stamford*, 142. in Caſe of an Approver, the Felon after Confeſſion may Appeal, that is *(ſaith he)* accuſe others, Coadjutors with him to do the Felony. *C. P. C.* 129. Appellant cometh from the *French* Word *Appeller*, which ſignifies to *accuſe*, or *appeach*, and 1 *Co. Inſt.* §. 189. Appel ſignifieth an *Accuſation*; and therefore to Appeal a Man is as much as to accuſe, and in ancient Books he that doth Appeal a Man is called *accuſator*, *vide* 9 Ed. II. *Articuli Cleri*, *cap.* 16. That I knew no Reaſon why in thoſe tumbling Times of *R.* II. (which cauſed this Statute, for the Statute-Roll is *coment ad auterment eſte eus en temps la darrein Roy*, R. II.) they

* *See the Trial of Sir* Robert Treſilian, *&c.* Trial I.

ſhould

ſhould proceed by way of Appeal, but becauſe they were then allowed at the Suit of the Party, to accuſe any other of *Treaſon*, but at the King's Suit there ought to be an Indictment, and an Indictment could not be found but by Jury.

That in all other Caſes, an Appeal was to be brought by the Party concerned, the Wife or Heir, or Party robbed, *&c.* But in Caſe of *Treaſon*, any Man may Appeal another, and therefore in all Reaſon it muſt be underſtood of an Accuſation, and any Man might accuſe another of *Treaſon*; and if it can be proved by Witneſſes, it muſt not be Tried by Battle, as other Appeals may. I concluded that the 8 *H.* 6. *No.* 38. this Statute, the 1 *H.* IV. *cap.* 14. is recited, and deſired it ſhould be duly kept and put in Execution; that *Stamford* 78 & *Coke Pl. Cor.* 31. 132. agree that Appeals of *High-Treaſons* were commonly uſed to be ſued in Parliament, till the 1 *H.* IV. *cap.* 14. Since which time this manner of Appeal hath gone out of uſe; and I ſaid, I had ſearched many Precedents, and tho' of late there may be a Precedent (as it was of the Earl of *Briſtol*'s Father againſt the Duke of *Buckingham*, of ſome kind of Impeachment) yet I did confidently believe there was not ſince that Statute 1 *H.* IV. *cap.* 14. any one Precedent of ſuch an Impeachment at the Party-Suit whereupon there was any Indictment: In truth, in the Earl of *Briſtol*'s Caſe, the *Commons Houſe* did Impeach the Duke of *Treaſon*, and ſo the Earl of *Briſtol's* Impeachment proceeded not.

For the *Second* Point, *That there was no* Treaſon *in the Charge, tho' the Matters in it are alledged to be Traiterouſly done.* I ſaid we had peruſed each Article *ſeriatim*, and we had found no *Treaſon* in them; the great Charge, which is endeavoured to be proved by many Particulars, was, *That he did Traiterouſly, and Maliciouſly, to bring the King into Contempt, and with an Intent to Alien the Peoples Affections from him*, ſay, *&c.* ſuch and ſuch *Words*, &c.

And ſo it runs on, That in purſuance of the *Traiterous Intent*, &c. he did, *&c.* and that in farther purſuance of the ſaid *Traiterous Deſign*, &c. And in like manner was moſt of the Articles upon which the Characters of *Treaſon* ſeemed to be fixed. I ſaid that it is a tranſcendent Miſpriſion or Offence to endeavour to bring the King into Contempt, or to endeavour to alienate the Peoples Affections from him, but yet it was not *Treaſon.* This Statute, 13 *Car.* 2 *cap.* 1. makes *Treaſon* during the King's Life: But if a Man calls the King *Heretick*, or *Papiſt*, or that he endeavours to introduce *Popery*, (which is more in expreſs Terms than the Article of that kind inſinuates) or by Words, Preaching, Prayer, to ſtir up the People to Hatred or Diſlike of the Perſon of his Majeſty, or the Eſtabliſhed Government; the Penalty is only Diſability to enjoy any Place Eccleſiaſtical, Civil, or Military, and ſubject to ſuch Penalties as by the Common-Law or Statute of this Realm may be inflicted in ſuch Caſe, (which is Fine and Ranſom, with Impriſonment) and it limits a time and manner of Proſecution.

There was an *Objection* made yeſterday upon the 25 *E.* III. That this being in Parliament, the King and Parliament had Power to declare *Treaſon*, and then we ought to have delivered our Opinions with a Qualification, unleſs it be declared *Treaſon* by Parliament where this Charge is depending; to this I *Anſwer'd.*

Firſt, 'Tis not *Treaſon* in *præſenti*, and if ſuch a Declaration ſhould be, *non conſtat*, whether it would relate to the time paſt.

Secondly, That I conceived that the Statute as touching that *Declaratory Power*, extended but to ſuch Caſes as were clearly *Felony*, as ſingle Acts, if not *Treaſon*, (the Words being) *Whether it be Treaſon or other Felony*; but in reſpect of the Doubts of *Eſcheats*, which, if *Treaſon*, belonged to the King; if *Felony*, to the Lords of the *Fee*, it was left to the Parliament. I did not ſay we Reſolved the Point.

Thirdly, That admitting the *Declaratory Power* did extend to other Caſes than ſuch as were before the Judges, and was not taken away by 1 *Mar. Cap.* 1. or any other Statute, yet I read my Lord *Coke*'s Opinion at large, *Pl. Cor. Fol.* 22. That this Declaration muſt be by the King, Lords and Commons, not by any two of them alone; and we were now in a judicial Way before the *Houſe of Peers* only; and I did affirm as clear Law, that by this judicial Way no *Treaſons* could be declared nor adjudged, but as were expreſly within the Letter of the 25 *E.* III. and ſaid, That Statute 25 *E.* III. was a ſecond *Magna Charta*, and that their Anceſtors thought it their greateſt Security to narrow, and not to enlarge *Treaſon*, and cited 1 *H.* IV. *cap.* 10. to which in the Parliament-Roll *Rot. No.* 17. is added (it coming of the King's Free Grace) That the Lords did much rejoice and humbly thank the King: And I read the Statute 1 *M. cap.* 1.

That the now Earl of *Briſtol* in my Lord of *Strafford*'s Caſe, was the great Aſſerter of the Law againſt Conſtructive and Accumulative *Treaſon*, which, if admitted, their Lordſhips could better ſuggeſt unto themſelves, than I expreſs, how great a Door they would ſet open to other Inconveniencies and Miſchiefs to the Peerage. I concluded with reading the Act, 14 *Car.* 2. for Reverſing the Attainder of the Earl of *Strafford*; the firſt Part whereof I read to them, wherein is expreſſed, That they, who Condemned him, did purpoſely make an Act of Parliament to Condemn him upon an Accumulative *Treaſon*, none of the pretended Crimes being *Treaſon* apart, and ſo could not be in the whole, if they had been proved.

After I had ſpoken to this Effect, the Earl of *Briſtol* ſeemed to acquieſce, inſomuch as concerned our Opinions as the Caſe was delivered to us: but it being to be put to the *Queſtion*, whether the Lords did concur with the Judges Opinions, and himſelf being concerned in the Illative, that therefore the Charge was Illegal and Irregular; yet not being intended by him, as he ſaid, as a Charge, but an Information, he deſired (tho' as the Caſe was put to us, it was a good Inference) that the Voting of that might be ſpared till it was *Reſolved* by the Lords whether he delivered it in as a Charge, or only as an Information for the Matter of the Charge, if it ſhould be thought fit for their Lordſhips to proceed in it: After ſome Debate upon the Queſtion, the Lords *Reſolved* the ſame Day, according to our Opinions,

Firſt, That a Charge of *High-Treaſon* cannot by the Laws and Statutes of this Realm be originally Exhibited by one Peer againſt another, unto the *Houſe of Peers.*

Secondly, That in theſe Articles, if the Matters alledged in them were admitted to be true, there is no *Treaſon* in them. And becauſe the Lords unanimouſly Concurred in them, (my Lord of *Briſtol* freely as any other) it was by Order entred, that theſe Votes were *Nemine Contradicente.*

Note, That in Judge *Hutton*'s Reports *, the Reſolution of the Judges is expreſſed to be, That a Peer cannot be Impeached but by Indictment, and Mr. *Ruſhworth* in his Collections, *Fol.* 272, expreſſes ſuch an Opinion to be deliver'd by the Judges, in 1 or 2 *Car.* but upon Search it was found to be entred in the Journal of Parliament of that Time, but it was cautious, referring to the Common-Law only. But that for Proceedings in Parliament it did not belong to them to determine, or to that Effect; but no mention of 1 *H.* IV. *cap.* 14. It hath been credibly reported that ſome of the Judges in my Lord of *Strafford*'s Caſe, being aſked ſome Queſtions, did with the like Caution deliver their Opinions, and did ſpeak with Reſervations, (as the Caſe is put) tho' they upon Hearing did know the Caſe miſ-put; which, after, troubled the Conſcience of one of them, *(ut audivi)* being a grave Learned Man; for *Suppreſſion of the Truth is the Oppreſſion of the Innocent. Vide Peacock*'s Caſe, *Co.* 9. *Rep. Fol.* 71. But we having the Caſe referred to us in Parliament upon Articles exhibited in Parliament, did *Reſolve* to deliver our Opinions without any ſuch Reſervation; the Act of 1 *H.* IV. being expreſs againſt Appeals in Parliament. (and of Acts of Parliaments after they are once made, none under the King, and without him, are Interpreters but the Judges. *See King's Anſwer printed in the Old Print of* 3 Car. 1. *at the end of the Petition.)* And therefore did deliver theſe Opinions which I conceive of great Benefit to the Lords themſelves, and a juſt Ground for farther Enquiry to be made, whether ſuch Impeachments may be in the *Houſe of Peers* for other *Miſdemeanours*, without the King's Leave, or being exhibited by his Attorney.

And ſecondly, to take into Conſideration the Validity of Impeachments of *Treaſon* by the *Houſe of Commons*, notwithſtanding the late Precedents, which yet ended in a Bill, and ſo in the Legiſlative, not Judiciary Way.

Thus ended this Attempt againſt the Earl of *Clarendon*; but thus far it had its Effect, in diminiſhing the King's Favour towards him, and leſſening his Intereſt with the Lords, and with the People, whereby he became expos'd to a Second Attempt, four Years after.

Aug. 30, 1667, the King removed him from his Place of Lord Chancellor; and the Houſe of Commons Impeach'd him of *High-Treaſon*, and of *High Crimes and Miſdemeanours.*

Proceedings againſt the Earl of Clarendon, *upon an Impeachment of* High-Treaſon *and* High Miſdemeanours.

October 26, 1667.

MR. *Edward Seymour* Charged him *viva Voce* with many great Crimes, whereupon a Debate aroſe what Proceeding ought to be had upon in it, ſome moving to Impeach him in the Name of the *Commons* till Articles ſhould be prepared; others urg'd, that Witneſſes ſhould be firſt examined to ſee how the Charge could be made good, leſt failing, it ſhould reflect on the Honour of the *Houſe.* After long Debate, a Committee was appointed to ſearch Records for Parliamentary Proceedings in the like Caſes, and to make Report.

30*th*, The Report being made by Sir *Thomas Littleton*, that various Proceedings were found in ſeveral Parliaments, it occaſioned a long Debate, ſeveral Members ſpeaking to the Effect following:

Sir *Tho. Little.* In Caſes Criminal, we find Proceedings to have been, ſometimes by Articles, ſometimes by Word of Mouth; but in Capital Crimes no Proceedings appear till the Earl of *Strafford*'s * Caſe, againſt whom the Houſe carried up a general Impeachment, the Reaſon whereof ſeems to be this: Some Votes were made in the *Houſe*, at which the King takes Offence, as if they would proceed upon common Fame; whereupon they vindicate their Proceedings as done in a Parliamentary Way, and appoint a Committee to withdraw for about half an Hour to conſider the Matter for a Conference with the Lords about the Charge, and upon their Report a general Charge is carried up to the Lords Bar; the principal Charge then was for adviſing to bring over the *Iriſh* Army, and the ſingle Proof was Sir *Henry Vane*, ſo the Impeachment went up for *High-Treaſon*, tho' no Member would poſitively ſay he would make the Charge good.

* *Trial* XXXIX.

So for the Biſhop of *Canterbury* there was no Impeachment, but a Charge in general.

And if you take not the ſame Courſe now, but inſiſt upon examining Witneſſes firſt, the Difficulties will be unanſwerable; for is it like that Men before they ſhall ſee you in earneſt will have their Names produced againſt the Earl of *Clarendon?* If this be your Proceeding, we muſt never expect to Impeach a Great Man more. If you think there is nothing in the Charge, leave it; but if you think 'tis worth your while, take heed of making ſuch a dangerous Precedent as by neglecting it to wound your Liberties; but proceed in the uſual way with a General Impeachment.

Serj *Maynard.* I ſtand not up to give Advice, but to ſpeak to matter of Fact in the Buſineſs of *Strafford* and *Canterbury*; I attended that Buſineſs from the beginning. Sir *John Clotworthy* informed ſomething againſt *Strafford* to be direct Treaſon, that he had aſſumed an Arbitrary Power in

* Lord *Digby*'s Caſe, *Hutton*'s Reports, 131.

Ire-

Ireland, and diſpoſſeſſed one *Savage* by Force of Arms, and undertook to prove it. Sir *Henry Vane* alſo told them, that he had a Note taken out of his Father's Cabinet, containing the Advice which *Strafford* gave the King in that Caſe; namely, the King wanting Money, and the Queſtion being how he ſhould ſupply it, he replied, *That if the Parliament was refractory and would not, you ſtand looſed and abſolved from Rules of Government; you have an Army in* Ireland *which you may employ to reduce them.*

Then there was a Debate whether they ſhould accuſe him of Treaſon. And Sir *Edward Herbert* (the Attorney) ſaid, If you are perſuaded the Truth is, as is pretended, you may. And ſo it was; but when the Cloſe Committee had examined the Buſineſs, they moved the Houſe, that ſome Lawyers might be added to them; and had they gone, when they ſaid they were ready, they had not touched one Hair of *Strafford*'s Head. Then it was conſidered what was fit to be done: To accuſe him of Treaſon would be a dangerous Precedent, as if out of many other Crimes a Treaſon could be drawn; thereupon it was reſolved, not to demand Judgment from the Lords, becauſe ſome Articles were not Treaſon. Then it was propounded not to ſtate what his Offences were, leſt it ſhould give Advantage to inferior Courts ſo to proceed; but ſaid, he deſerved to be accuſed of Treaſon; and in concluſion a Proviſo was added, not to make that Caſe a Precedent.

For the Biſhop of *Canterbury*, the four Articles were general, and he was long in Priſon without any Proceeding againſt him; but after long time he demurr'd, then new Articles were framed, on which he died.

Mr. *John Vaughan.* You have heard a Charge opened of a ſtrange Nature, and I know not what Part of it can be proved, but the Reputation of this Houſe is at ſtake, and of the King too: For, where a Charge is brought in by ſome of your Members, whereof one Article is, That he ſhould ſay ſuch Words of the King, as by a Statute made by you is a *Premunire*, and to give Counſel to levy War upon the Kingdom; is it agreeable to your Duty to the King and Kingdom to let it die?

For the Perſon concerned, I know not which way his Honour can be whole without his giving an Anſwer to this Charge; for mark the Conſequence, if the King ſhould take him to Favour again before clear'd, will not the World ſay a Perſon is received to Favour again, who gave the King Counſel againſt the Kingdom, and traduc'd the King, and how can he be whole in his Honour this way?

Obj. But it will be ſaid, we muſt have Ground to put him to Anſwer.

Anſw. Whether you have Ground enough to prove I know not, but you have Ground enough to make him Anſwer to clear himſelf. Suppoſe thoſe two Articles had been Charged on a Member of this Houſe, what would it have become that Member to do? Should he ſit ſtill and ſay, I will make no Anſwer, but ſee whether the Houſe will make more Proof? If he ſhould do ſo, the not making an Anſwer is Reaſon enough to Charge him.

I can give you Inſtances of Perſons Charged in Parliament, who, tho' not nominated, yet being (as it were) pointed at, Petitioned that they might Anſwer, and ſo would any Man; but when this is bruited up and down, will not the World ſay, You never aſk the Party whether he is Guilty?

The Duke of *Suffolk* was Charged upon Common Fame, and if that were a Ground for a Charge then (which I do not ſay it was), ſo it is in this Caſe; but he moved that he might be heard: and tho' it was deſired he might be Committed, yet it was juſtly rejected till he had Anſwered. Then for the Nature of the Charge, if it be true, it is very High, but whether it be Treaſon is another Matter; it is brought to you under no Name, when you make the Charge, it becomes you to ſay what it is; therefore chooſe a Committee to reduce the Accuſation into Heads, and bring them to you, without which you cannot right your ſelves, nor him, if Innocent.

For the way of it, it cannot be thought fit to publiſh your Witneſſes and the Matter before hand; if in private Cauſes the Defendant and Plaintiff ſhould have a Publication before-hand, no Cauſe would be rightly Judged, much leſs when you have Publication of all which concerns the One, but nothing of the Other. Again, if a Witneſs be examined concerning Matters in his own Knowledge, if he gives Evidence, where he is not brought judicially to give it, if he hath teſtified any thing which brings him within the Statute of Falſe News, how can he avoid the Penalty? For it's not enough for him to ſay he knows it, but he muſt have others to juſtify it.

As for the Perſons who bring the Charge, they are your own Members, which the Writs return for honeſt and diſcreet Men; and if you are ſatisfied of that, how can you reject their Complaint, tho' grounded upon *Common Fame*, as all Accuſations are, ſeeing they tell you, they can bring Proof of what they ſay?

Then for *Common Fame*, if a Man ſpends largely, and hath no viſible way to get an Eſtate, no Man accuſeth him to have gotten it unlawfully; yet he may be put to clear himſelf from what *Common Fame* charged him with. Upon Suſpicion of Felony, I may bring a Man before a Magiſtrate to clear himſelf; ſo in the Courſe of Indictments and Preſentments, a Charge is given of what Things are to be Preſented; then a Proclamation is made, That if any one can give Evidence, he may be ſworn, but if no Evidence appear, yet they may Indict.

Then it will be ſaid, the Oath is a Material Thing, but we are proceeding without an Oath.

To this I anſwer, What this Houſe ſhall Charge is of more Authority than the Oaths of ordinary Witneſſes; Peers, tho' not upon Oath, are ſuppoſed to do Right; ſo are we upon the Reputation of our Honeſty and Diſcretion.

Mr. *L. H.* I am ſenſible the Houſe may think me Partial, but I ſhall endeavour to ſhew my ſelf not ſo much a *Son* of the Earl of *Clarendon* as a *Member of this Houſe*; and I aſſure you, that if he ſhall be found Guilty, no Man ſhall appear more againſt him than I; if not, I hope every one will be for him as much as I; let every Man upon his *Conſcience* think what of this Charge is true, for I believe that if one Article be proved, he will own himſelf Guilty of all.

Sir *Hen. Finch.* An Impeachment there muſt be, if there be Cauſe; ſuch Accuſations are not to be paſſed over in Silence.

I believe not one Truth in the Law more than this Propoſition, That there is no ſuch thing as Treaſon by Common Law, or by Equity, and we hold our Lives by that Law: Before the 25th of *Ed.* III. a Man could ſcarce ſpeak any thing but it was Treaſon, in Parliament or out; but no Man ought to die as a Traitor, who hath not literally offended that Law, or ſome other made ſince: There is indeed in that Law a Proviſo about the Parliament's declaring what is Treaſon; but note the Danger of taking Declaratory Powers, which I fear hath brought us into a Reckoning of Blood, which we have not yet paid for.

The Power of Parliaments is double, *Legiſlative*, which hath no Bounds; *Declaratory*, by pronouncing Judgments.

And tho' I know not what the *Legiſlative* Power of a Parliament cannot do, yet it is not in the Power of the Parliament, King, Lords nor Commons, to declare any thing to be Treaſon, which is not in the Common-Law Felony before. The Proviſo in *Strafford*'s Caſe was (it's true) made for Inferiour Courts; but I hope we ſhall not ſo proceed as muſt needs draw after it a *Ne trahatur in Exemplum*; and your own Act this Parliament ſhews, That all done by *Strafford*, *apart*, or *together*, was not *Treaſon*: And it behoves us to take heed we thwart not our own Argument.

For the Manner, then, Conſider how you ſhould proceed if it were out of Parliament, and how the bringing of it into this *Houſe* alters it.

If it were out of Parliament, without doubt the Accuſation ſhould be proved before-hand, and thoſe who diſcover it are guilty of Felony. This provides for the Subject, that the Witneſſes muſt be Two, and for the King, that none ſhall diſcover the Evidence.

But ſuppoſe the Charge be for Miſdemeanours, the Trial then is not to be by the Lords, but by the Commons; for the Lords are his Peers only in Caſes Capital.

How then doth the bringing it into Parliament alter the Caſe? If the Parliament ſet aſide Laws in this Caſe, we ſhould be happy to ſee Law declaring what is the Power of Parliaments.

There is no Precedent produced which is ſingly of Weight to guide you, therefore if you proceed, let it be as near as poſſible by the good Old Laws: Namely, That there be an Accuſation founded upon an Oath, and the Evidence kept ſecret. I propoſe that way for the very reaſon that others oppoſe it, (*viz.*) The Accuſation goes over the Kingdom, and it will bring Diſhonour to the *Houſe*, the *King* and the *Earl*: For the Honour of the *Houſe* it will be hard to ſay, the Charge was brought in upon Miſinformation. A Perſon accuſed for adviſing to bring in Arbitrary Government, *&c.* And for ſaying the King is not fit to Govern; If this be true, tho' it be not Treaſon in the Formality of the Law, it deſerves no leſs Puniſhment than if it were; but if not found Guilty, Conſider the Caſe. If one ſay, *A* killed a Man, and it is not ſo, muſt not he give Reparation? We have an Accuſation upon Hearſay, but if it be not made good, the blackeſt Scandal which Hell can invent, lies at our Door.

Then Sir *Tho. Meers* moving to refer it to the Committee of Grievances:

Mr. *Vaugh.* You ſhould have put the firſt Queſtion before another had been moved, the Earl of *Middleſex*'s * (*Cranfield*'s) Caſe, will not hold parallel; He was accuſed of Bribery, which might be proved by their own Books, but this is for Scandalizing the King, *&c.* And where ſhall the Committee of Grievances enquire about it? You ſay let them hear the Perſons.

But ſuppoſe they be of the Lords *Houſe*, Can you ſend for them? Or if you do, will they come and ſay it? The Matter of this Accuſation is ſuch, that if it lies in the Knowledge of a ſingle Perſon, if he delivers it extrajudicially (which he doth, if not upon Oath) he may be undone by it, and hazard his Perſon too: At the Committee of Grievances the Perſons muſt be known, and what they can ſay, and then we may conclude what will follow: Beſides, their Quality may be ſuch as they cannot be brought, or their Diſcretion ſuch as they will not anſwer.

Sir *Rich. Temp.* Tell but the Lords that a Man in Public Place hath miſbehaved himſelf, and they will ſentence him, if he purge not himſelf; Never yet were Witneſſes examined before the Trial in caſe of Treaſon or Felony, for then if there be two Witneſſes, a way may be found by *Poiſon, or ſome other Way, to take away one.*

Serj. *Mayn.* No Man can do what is juſt, but he muſt have what is true before him; where Life is concern'd, you ought to have a moral Certainty of the thing, and every one be able to ſay, *Upon this Proof, in my Conſcience, this Man is Guilty.* Common Fame is no Ground to accuſe a Man, where Matter of Fact is not clear: To ſay an Evil is done, therefore this Man hath done it, is ſtrange in *Morality*, more in *Logick*.

Upon the whole Debate it was Voted,

That the Committee do reduce the Accuſation to Heads, and preſent them to this *Houſe*.

November 6th, 1667.

Sir *Tho. Lit.* Reports that the Accuſation was reduced to Heads, which he read in his Place, and afterwards delivered the ſame in at the Clerk's Table, which are as followeth, *viz.*

'I. THAT the Earl of *Clarendon* hath deſigned a Standing
'Army to be raiſed, and to govern the Kingdom thereby,
'and adviſed the King to Diſſolve this preſent Parliament, to lay aſide all

* 22 Jac. I. 1624. Clar. *Vol.* I. *p.* 20. Ken. Comp. Hiſt. *Vol.* II. *p.* 727, 787. 3 Co. Inſt. 148.

Thoughts

'Thoughts of Parliaments for the future, to govern by a Military Power, 'and to maintain the ſame by Free Quarter and Contribution.

II. 'That he hath, in the Hearing of the King's Subjects, falſly and 'ſeditiouſly ſaid, That the King was in his Heart a Papiſt, or Popiſhly 'affected, or Words to that Effect.

III. 'That he hath received great Sums of Money for the procuring 'of the *Canary* Patent, and other illegal Patents; and granted illegal In-'junctions to ſtop Proceedings at Law againſt them, and other illegal 'Patents formerly granted.

IV. 'That he hath Adviſed and Procured divers of his Majeſty's Sub-'jects to be Impriſoned againſt Law, in remote Iſlands, Garriſons, and 'other Places, thereby to prevent them from the Benefit of the Law, and 'to produce Precedents for the Impriſoning any other of his Majeſty's 'Subjects in like Manner.

V. 'That he procured his Majeſty's Cuſtoms to be Farmed at under 'Rates, knowing the ſame, and great pretended Debts to be paid by his 'Majeſty; to the Payment of which, his Majeſty was not in Strictneſs 'bound: And afterwards received great Sums of Money for procuring 'the ſame.

VI. 'That he received great Sums of Money from the Company of 'Vintners, or ſome of them, or their Agents, for Enhauncing the Prices of 'Wines, and for freeing them from the Payment of legal Penalties which 'they had incurred.

VII. 'That he hath in a ſhort time gained to himſelf a greater Eſtate 'than can be imagined to be gained lawfully in ſo ſhort a time; and con-'trary to his Oath, he hath procured ſeveral Grants under the Seal from 'his Majeſty to himſelf and Relations, of ſeveral of his Majeſty's Lands, 'Hereditaments, and Leaſes, to the Diſprofit of his Majeſty.

VIII. 'That he hath Introduced an Arbitrary Government in his 'Majeſty's Foreign Plantations, and hath cauſed ſuch as complained 'thereof before his Majeſty and Council, to be long Impriſoned for ſo 'doing.

IX. 'That he did reject and fruſtrate a Propoſal and Undertaking, 'approved by His Majeſty, for the Preſervation of *Nevis* and St. *Chriſ-'tophers*, and reducing the *French* Plantations to his Majeſty's Obedience, 'after the Commiſſions were drawn for that Purpoſe, which was the Oc-'caſion of our great Loſſes and Damage in thoſe Parts.

X. 'That he held Correſpondence with *Cromwell* and his Complices, 'when he was in Parts beyond the Seas attending his Majeſty, and there-'by adhered to the King's Enemies.

XI. 'That he adviſed and effected the Sale of *Dunkirk* to the *French* 'King, being Part of his Majeſty's Dominions; together with the Am-'munitions, Artillery, and all Sorts of Stores there, and for no greater 'Value, than the ſaid Ammunitions, Artillery, and Stores were worth.

XII. 'That the ſaid Earl did unduly Cauſe his Majeſty's Letters Pa-'tent under the Great Seal of *England*, to one Dr. *Crowther*, to be alter-'ed, and the Enrolment thereof to be unduly raſed.

XIII. 'That he hath in an Arbitrary Way examined and drawn into 'Queſtion divers of his Majeſty's Subjects, concerning their Lands, Te-'nements, Goods, Chattels, and Properties, determined thereof at the 'Council-Table, and ſtopped Proceedings at Law by Order of the Coun-'cil-Table, and threatned ſome that pleaded the Statute of 17 *Car.* I.

XIV. 'That he hath cauſed *Quo Warranto's* to be iſſued out againſt 'moſt of the Corporations of *England*, immediately after their Charters 'were confirmed by Act of Parliament: To the Intent he might require 'great Sums of Money of them for Renewing their Charters, which 'when they complied withal, he cauſed the ſaid *Quo Warranto's* to be 'Diſcharged, and Proſecution therein to ceaſe.

XV. 'That he procured the Bills of Settlement for *Ireland*, and re-'ceived great Sums of Money for the ſame, in moſt corrupt and unlawful 'manner.

XVI. 'That he hath Deluded and Betrayed his Majeſty and the Na-'tion in all Foreign Treaties and Negotiations relating to the late War, 'and Betrayed and Diſcovered his Majeſty's Secret Counſels to his 'Enemies.

XVII. 'That he was a Principal Author of that fatal Counſel of di-'viding the Fleet, about *June*, 1666.'

The Clerk having read them a ſecond time, it was moved, That in regard the Articles were many, they might be referred to the Committee to ſee how far they were true; becauſe Fame is too ſlender a Ground to bring a Man upon the Stage.

Sir *Fran. Goodr.* Seconds it, becauſe new Matter was now added to what was formerly charged *Viva Voce* in the *Houſe*.

Sir *Rob. Howard.* Suppoſe the Earl of *Clarendon* Innocent, and yet Charged and Impriſoned (which is the worſt of the Caſe), he
D. *Buck.* afterwards appears Innocent, and is diſcharged, receiving no more Hurt than other Subjects have done; namely *, one great Man lately.

Object. But why ſhould we commit him?

Anſw. For Proof, whether the Articles be true or not. Suppoſe Men for Self-preſervation will not venture to come, not knowing how they may truſt themſelves, and ſo you have no Proof, He very guilty, and You not able to proceed; Is the Inconveniency greater for an Innocent Perſon (if he prove ſo) to ſuffer a few Days, than for you to loſe your Reputation for ever? If this Man be not brought to his Trial, it may force him to fly to that which he Counſelled, *that is*, that we may never have Parliament more.

Sir *Fr. Goodr.* I am not againſt proceeding, but unſatisfied to do it without Witneſs, it being like Swearing in *Verba Magiſtri*.

Sir *John Holl.* That the Committee undertake to make good the Charge, otherwiſe examine Witneſſes.

Mr. *Vaughan.* You admit the Accuſation to be Matter for a Charge, if the Committee find Proof; if you intend to make this a diſtinct Caſe, I leave it to you; but if this be to ſettle the Courſe of the Proceedings of the Houſe, I am againſt it; for this is ordering a Way of Proceeding in

the Earl of *Clarendon*'s Caſe, which ſhall not be a general Rule. Though I cannot ſay one of the Articles to be true, yet I know them to be a full Charge if made good, and you are preſcribing a Courſe neither proper, nor ever practiſed. A Witneſs who ſpeaks without Oath, is ſubject to Damage; not ſo upon Oath, becauſe the Law compels him: And whereas it hath been ſaid, If Witneſſes atteſt before the *Houſe of Commons*, what Judges dare meddle in it? I anſwer, Such Judges as meddled in the Caſe of Sir *John Elliot*, &c. and the *Ship-Money*.

Sir *R. Temple.* A Grand-Jury is capable to preſent upon their own Knowledge, and are ſworn to keep the King's Counſel and their own, and I believe there is not one Article of the Accuſation but will be made good.

Sir *Reb. Howard.* As I am ſenſible of the Danger of publiſhing Witneſſes beforehand, ſo I would have every one ſatisfied; therefore take the Articles one by one, and according as you ſhall find what your Members may ſay for the Truth, you may be induced to proceed or not.

Sir *Tho. Oſb.* The *Houſe* ought to have ſomething to induce their Belief, which they have had from ſeveral Members; and I know how ſome will be made good.

Sir *Tho. Littl.* What Article Members of the *Houſe* do not offer you Matter to induce you to believe, you may lay it aſide; therefore hear what ſhall be ſaid, and proceed accordingly.

Mr. *John Tr.* You cannot expect Witneſſes will appear before you, Lords will not, nor can you expect Commoners ſhould; for when you are up and gone, nothing can protect a Commoner, if this Information be not Judicial.

At laſt the Queſtion was put whether to refer it to a Committee.

Yeas, 128.
Noes, 194.

322.

Then the firſt Article was read, to ſee what would be ſaid to induce the *Houſe* to Impeach.

The Firſt Article read.

Sir *Rob. How.* } Heard from Perſons of Quality,
Lord *Vaugh.* } That it would be proved.

The Second Article was read.

Lord *St. Joh.* Perſons of great Quality have aſſured him to make it good, and if they perform not, he will acquaint the *Houſe* who they are.

The Third Article read.

Mr. *Ed. Seym.* Sufficient Perſons will make it good, with this Addition, When he received the Money, he ſaid, *So long as the King is King, and I Lord Chancellor, the Patent will ſtand.*

The Fourth and Fifth Articles read.

Sir *R. Temp.* Divers have undertaken to make them good, if they do not I will name them.

About his receiving Money of Vintners.

Sir *Reb. Carr.* That he knows who will prove it.

About his getting a great Eſtate ſo ſuddenly.

Mr. *Ed. Seym.* I ſuppoſe you need no Proof the Sun ſhines at Noon-day.

Sir *Tho. Littl.* The Matter of Fact in the Article is eaſily made out, for his Place as Chancellor could not be worth above 4 or 5000*l. per An.*

About introducing an Arbitrary Government in the Plantations.

Sir *Tho. Littl.* } One *Farmer* and others came from the *Barbadoes* to
Sir *Tho. Oſb.* } complain of it, and lodg'd their Petition in this *Houſe*, but were impriſon'd that they might not be heard.

About fruſtrating Propoſals for preſerving Nevis, *&c.*

Sir *Charles Wheel.* My Lord Chancellor only oppoſed it.

About holding Correſpondence with Cromwell.

Mr. *Swinf.* That is pardon'd by the Act of Indemnity.

Mr. *Vaugh.* The Committee were aware of that, but the Defendant may plead it, and prove that he is not Out-law'd.

Sir *Charles Wheel.* I want not clearly to prove it.

Sir *Rob. How.* For ſuch ſecret things as theſe he ought to plead, notwithſtanding the Act of Oblivion, that the World may know who are undiſcern'd Enemies.

Mr. *Hampd.* It is not only an Act of Parliament, but Oblivion; and no Man ought to be ſo much as Accuſed for what was done before.

Mr. *Vaugh.* If the Pardon be general, the Judges and you are to Note it; but if it hath Qualifications (as that Act hath) they are not to Note it; for you muſt ſay there is no Indictment or Outlawry againſt him (for ſuch the Act excepts) or the Article is to ſtand.

Then the Act was read.

Mr. *Swinf.* The Clauſe for Pardon is Abſolute, and any Man accuſed pleading it ſhall not be ſued, nor his Fault mentioned, and this is to all Offences and Offenders: And for thoſe who betrayed the King beyond Sea (who are excepted) they muſt be proſecuted within two Years.

Obj. You will ſay, he may plead that Act.

Anſw. By the ſame Rule, any Man who committed a Fault, during the Troubles, may be put to Plead it for Pardon.

Serj. *Mayn.* We profeſs that there ſhall be Candour in our Proceedings, do we therefore believe this Great Man is Outlaw'd? If not, how ſhall we accuſe him of what we believe not true?

Mr. *Vaugh.* When I am ſatisfied of a thing I am not aſhamed to own it; I find now, having peruſed the Act, that he is within the Clauſe. The Indemnity is general, and he is within it if not excepted; the Exception reaches thoſe who have held Intelligence with the King's Enemies, ſo as they be proſecuted within two Years: this he is not, therefore is clear.

So upon the Debate, the Article was expunged the Paper without a Vote.

About the Sale of Dunkirk.

Sir *Tho. Oſb.* A great Lord told me that the Earl of *Clarendon* had made a Bargain for *Dunkirk* three quarters of a Year before it was known.

About Sealing Dr. Crowther's *Patent.*

Mr. *Street.* The King gives the Living to *Crowther*, in the Grant is a miſtake of a County, *Crowther* finds the miſtake, and petitions the King to amend it; the King calls for the Chancellor and Seal, and in the King's Preſence it was amended and Sealed.

Sir *Tho. Litt.* The Crime ſeems as great as a Chancellor could commit; the King was to Preſent by ſuch a Day, or not at all; the Error was found after the Day, ſo that the King (by Act of Parliament) had loſt his Right. The Chancellor did alter the Patent, and the Record was fetch'd away by one of the Chancellor's Servants, and brought back, raſed and altered, which might be done (and in other Caſes is done) where a Word only hath been miſtaken; but that is in Caſe of ſomething perfectly in the King's Power, and to ſave new Sealing; but here could be no new Sealing, the time being elapſed: It was to throw another Man out of his Freehold, and is a great Crime.

About drawing Mens Lands into Queſtion.

Mr. *Thom.* I ſhall be able to make it out.

About Quo Warranto's *to Corporations.*

Sir *Tho. Litt.* This is ſo Publick a Thing, that it need not be proved.

About the Settlement of Ireland.

Sir *R. How.* I doubt not but it will be made out.

About Foreign Treaties.

Sir *Tho. Litt.* This will appear by the Treaties themſelves, putting us in hopes of Peace, and ſo hindering the Fleet's ſetting out.

About Miſcarriage of the War.

Mr. *Thom.* I want not Perſons to bring to make it good.

Sir *Tho. Little.* Sir *Edward Sprag* deſires Money to give an Intelligencer, and has it; *Sprag* brings the Intelligencer to the King, the King Commands him to meet him at the Chancellor's, there he met the King, and then Order was given to divide the Fleet.

Mr. *Marvel* Chargeth Mr. *Seymour* with ſaying in his Accuſation, That the King was inſufficient for Government, which is now omitted in the Charge, and deſires he may declare where he had it.

Mr. *Seym.* The Party that told me at firſt differ'd ſomething afterwards, therefore I rather withdraw it than to trouble you with Uncertainties; but a Gentleman in the *Houſe* can give you further Satisfaction in it.

Sir *John Den.* A Peer of the Land heard the Earl of *Clarendon* ſay in a Coach, That the King was an unactive Perſon and indiſpoſed for Government: This will be made good.

Upon debate it appearing probable that theſe words were ſpoken before the Act of Oblivion, it paſſed over.

About the Cuſtoms.

Sir *Rich. Temp.* I have been informed that he had a ſhare for underletting the Cuſtoms, and 40000 *l.* Bribe for getting pretended Debts from the King.

Sir *Tho. Oſb.* The Earl of *Clarendon* ſaid, Bid who would for the Cuſtoms, none ſhould have them but the Old Farmers.

Mr. *Prynn.* Having gone over the Articles, we ſhould know where and when the words were ſpoken.

Mr. *Seym.* That will be a way to Suppreſs the Evidence. I hope you will Impeach him at the Lords Bar, and in due time produce your Witneſſes.

Mr. *Prynn.* You muſt reſolve to Impeach him of Treaſon, or Miſdemeanour, and name it accordingly.

Sir *Ed. Walp.* You ought firſt to give a Title to your Impeachment; for if it be for Treaſon, you will move for Commitment; if it be for Impeachment in general, not.

Mr. *Coleman.* What is laid before you is only by Hear-ſay, but no Aſſurance that it will be made good; only that if they who reported it do not make it good, you ſhall know who they are. In the Earl of *Strafford*'s Caſe (the worſt of Precedents) the *Houſe* proceeded not, till one ſpake in the *Houſe* upon his own Knowledge, and another engag'd his Reputation to make it good.

Sir *Rob. Atk.* Thoſe who have given you Inducements to proceed, do it at third hand, and tho' they may know the Credit and Impartiality of thoſe that told them, yet you do not.

Sir *Tho. Littl.* A Queſtion ſhould be put, Whether this *Houſe* hath ſufficient Inducement to Impeach? Afterwards Conſider what the Title ſhall be, then appoint a Committee to frame Articles.

Which Queſtion being put, was carried in the Affirmative.

Then Adjourned.

November 9.

The firſt Article read.

Sir *John Goodrick.* Treaſon ought to terminate in an overt Act, which Deſigning is not, therefore pray read the Statutes.

Thereupon ſundry Statutes were read.

25 *Ed.* III.
1 *Hen.* IV. Cap 10
1 *Ed.* VI. Cap 12
1 *Q. Ma.*
13 *Car.* II.
14 *Car.* II. Cap. 29.

Mr. *Steward* Declared it to be tranſcendent Miſdemeanour, but no Treaſon.

Mr. *Vaugh.* Two Queſtions will be conſidered, One, Whether what's Charg'd in the Article was Treaſon in Common-Law before 25 *Ed.* III. That ſo we may underſtand the Nature of Treaſon: The other, Whether by any ſubſequent Act it is made otherwiſe.

Mr. *Wall.* The Advice given to the King I look upon to be this: To eſtabliſh a New Government, To be Govern'd by *Janizaries* inſtead of a Parliament: To have a *Divan* and a great Miniſter of State, inſtead of *Vizier-Baſſau*, a worſe Plot than that of the 5*th* of *November*: There, if the Lords and Commons had been deſtroyed, there would have been Succeſſion, but here both had been deſtroyed for ever. Then in order to the Debate, conſider how the Law looks on it; for tho' we may Accuſe on leſs Evidence than ſhe may Judge, yet we muſt be Cautious in naming the Crime: What therefore doth the Law call this before 25 *Ed.* III.? Then look whether the Power of Conſtructive Treaſon be taken away ſince.

Sir *Fran. Goodr.* The matter concerns Life, therefore we ſhould be wary in the Exerciſe of Legiſlative Power; you are not tied to Rules, but you are now a ſtep towards Judicature: The Common-Law is *Jus non Scriptum*, and tho' every Treaſon includes Felony, yet not every Felony Treaſon, 25 *Ed.* III. There is a Declaratory Power, whether a thing be Treaſon, or other Felony, not whether it be Treaſon, and could not be declared Treaſon if not Felony before. In Caſes Capital at Common-Law they might declare it Treaſon, but in Caſes not Capital at Common-Law, they never exerciſed their Declaratory Power.

Among other things that Statute declares falſe Coin'd Money to be Treaſon, which is but Felony at Common-Law; afterward Money being imported, which was not according to the Stamp, there was no Puniſhment for it, but as a Miſdemeanour: Therefore 4 *Hen.* VII. Proviſion is made againſt that Practice, and it is made Treaſon; but if the Parliament's Declaratory-power could have made it Treaſon, what needed a Statute on Purpoſe? So that I cannot think the Article before you is Treaſon, it not coming within the Words of the Statute.

Mr. *Vaugh.* I ſhall ſpeak to the firſt Queſtion, whether this Article was Treaſon at Common-Law; and firſt remove what ſome have aſſerted, Namely, That nothing is Treaſon, but what was Felony before 25 *Ed.* III. where petty Treaſon is ſpoken of, the Wife killing the Huſband, *&c.* Theſe words follow, If hereafter it come into Queſtion whether there be another Treaſon? It ſhall not be reſolved by the Judges, till the Parliament determine it; For in Petty Treaſon, if it be Treaſon, it muſt be Felony, becauſe there is killing.

Then comes more, whether raiſing, *&c.* and it follows whether it be Felony or Treſpaſs: And the thing itſelf is more ſtrange. None ever doubted, but that all Treaſons of 25 *Ed.* III. was Treaſon before, and was ſo reſolved 12 Q. *Eliz.* That by that Act the King declares what ſhould be Treaſon: Namely, If any Man Vitiates the King's Eldeſt Daughter, *&c.* But by this Doctrine if it were not Treaſon, what was it? Only Adultery or Fornication, when it is the Eldeſt Daughter, not the Youngeſt.

It hath been in all Ages a Reputation to Perſons who have been Counſellors to Princes according to Emergencies to give Counſel to extricate them out of danger, and therefore hard to tax a Miniſter of State in a Caſe which he acquaints his Maſter with; for there can be no Treaſon but againſt the King himſelf.

I will ſhew you what I mean, It is true this is a Treaſon which cannot ariſe from Miſpriſion, becauſe it was ſpoke to the King himſelf; but as a Miniſter of State he has liberty to give Counſel for the King's Safety. If a Perſon be able to Inform his Maſter what Alliances are good for him, it is his Duty; ſo what Trades are Profitable, what not, *&c.* So where Men or Money are wanting, to adviſe how to extricate is commendable; but when it comes to this, that he breaks in upon the Laws, invading the Contract between the King and his Subjects, it will be as if a Man adviſeth, That if the King wants Money, he may ſet up High-way Men to take it, and bring it to him, and ſo the ſkilfulleſt for breaking the Law ſhall be eſteemed the beſt Counſellor; therefore whoever thinks to ſerve his Prince by breaking the Laws, he is ſo far from a wiſe Man, that he is the higheſt Criminal, *&c.* Then for the Nature of the thing, The Treaſons declared 25 *Ed.* III. were declared by the King's Commiſſion, and the Treaſons were of that Nature which concern'd Counſel, *&c.* they were not like to be declared. And there is a paſſage in *Glanvil*, called *Seductio Domini Regis*, that is, deceiving the King to what is pernicious to Him, and his People.

Now ſee the Nature of this Crime: If a Man Counſel his Prince, and Practiſe it ſuch a way as ſhall render him Prince of Conſcience, who hath broken his Oath, and all this to his Injury, ſo that he hath no Aſſent to it. Compare this with any Treaſon of 25 *Ed.* III. Conſider it: Here is a Perſon who gives the King Advice, which at once muſt make his People ſee he hath broken all his Faith to his Kingdom (and is not the Counſel of Governing by an Army ſuch?), all the Laws broken, to keep which the King has Sworn, and this the King put upon, tho' not Inclin'd to: I aſſert not this upon the Earl of *Clarendon*, but upon the Article. Who doth this Counſels the higheſt Treaſon againſt the Common-Law, becauſe others are ſo; but if a Man will pretend to give Counſel, wherein many ſhall have no benefit by the Law, he breaks all parts, and therefore I think this Counſel was Treaſon at Common-Law.

Mr. *Colem.* The Queſtion is, Whether it be in your Power to declare this Article Treaſon by 25 *Ed.* III. If he adviſed an Army againſt the King's Conſent, it is againſt the Statute; but I ſuppoſe that the Expreſſion in the Article was Advice to the King in Aid of his Government. Your Enacting Power is a kind of Omnipotency, but in a Declaratory Power you can declare no more than is committed to you, and with Safety to the Subject you cannot declare this Treaſon: Then what muſt be our Rule in Declaring I dare not ſay: For ſcarce any Man can tell what was Treaſon before 25 *Ed.* III. was made to bring things to a Certainty, and what was uncertain to them who made that Law cannot be certain to us now. As the Judges can declare no other Treaſon, ſo in your Declaratory-power, neither can you declare Treaſon unleſs there be Reſemblance to ſome other like Caſe: The Advice ſaid in the Article to be given the King, cannot be within that Statute, unleſs the Counſellor muſt run the hazard of his Advice.

Mr. *Vaugh.* The greateſt Declarations of Treaſons which ever were, equal not thoſe 22 *Rich.* II. in *Nottingham* Caſtle: The Judges are called to deliver their Opinions upon their Faith, and they declare the Acts to be Treaſon,

Treason, because Felony before, and tho' some of them were Hang'd for it, yet the Parliament declared the same thing.

Serj. *Mayn.* Was, what is mentioned, Treason by the Common-Law, tho' so said by the Lords? And what was so declared was repealed, *H.* IV.

Sir *Tho Littl.* Pray resolve whether it was Treason by Common-Law; and if so, when made so. Some think not, because they find not the Parliament declaring them Treasons, as being so at Common-Law, and that that Statute was made to bound them, but that was only to bound Inferior Courts, not themselves; for the Parliament makes not a new Crime, and then Condemns it, but the Crime was before, and the Parliament declares it.

Sir *Ed. Thur.* Hath the Parliament declaratory Power now? Yes, but it must be by King and Parliament, so it was in the Case of the *Genoua* Ambassador*. The Judges would not conclude the Articles Treason, nor would the Lords alone; and if you come to an equal declarative Power with them, you must examine Witnesses, or go by a Bill.

Serj. *Carl.* The Question is, Whether it be Treason by the Practice of *England*; the Common-Law is the Custom of *England*, and the Usage is grounded on Precedents. I know not one Precedent where Words or Intentions were Treason at Common-Law, for they are not Treason where no Act follows.

Sir *Rich. Temp.* The Article is Treason by Common-Law, and Judges have recourse to *Glanvil*, &c. who say, that giving Advice to overthrow the Realm is Treason by Common-Law.

Serj. *Mayn.* The Question is, Whether he shall be Impeached of Treason upon this Article? If you go to Treason at Common-Law before 25 *Ed.* III. you fly out of sight, for the Word *Seductio* was soon after called *Seditio*, Seducing, but not said to what; nor were those Authors ever reputed of Authority: It's true they are sometimes quoted for Ornament, but not Argument, and not one Case in one hundred of *Glanvil* is Law; but when a Case comes that is the Sheet-Anchor of Life, and Estate, you should be wary; for by Wit and Oratory That may be made Treason which is not; and this which is a great Crime ought not, because great, to be made Treason.

Object. But it will be said, levying War against the Law, is against the King, and here was an intent to alter the Law.

Answ. True; yet a Design to levy War is not Treason within the Statute, here is nothing of Act, but Words to that end: If a Counsellor gives bad Advice, it makes it not Treason, but by a Bill it may be made what you please. By that Statute of 25 *Ed.* III. are more Treasons than are mentioned; for it saith if any Case happen, the Judges shall stay till the King and Parliament hath declared, so that there is a Power, but the *Modus* is the Question, whether by Impeachment or Bill; you may the latter, not the former. It was done †, but you have repealed it, and have said *None of which pretended Crimes are Treason*; and what was pretended against him? That he had Traitorously Endeavoured (which is worse than Design'd) to alter the Government, &c. Now where is the Difference? Here is Advice to raise an Army, there to Use an Army raised, and these you have called pretended Crimes, and no Treason, which is not Comprehended by a Law; but to Impeach as a Traitor, and yet the thing No Treason, is strange. In this *House*, other than by Bill, you have no Power; you carry your Impeachment to the Lords, and they may give Judgment without coming back to you; declaring by Bill is by way of Judgment, but, as an Impeachment, is only an Accusation: So that whatsoever the Consequence is, the Lords Judge it, and it never comes back to you, and if you go by Bill you make it Treason *ex post facto*.

† Strafford's *Case, Tryal* 39.

Mr. *Vaug.* Concerning what you have declared about *Strafford*'s, that this Case is, if not less, equal to it, and you have declared that not one Charge against him is Treason, is true thus far; when that Act was made I repaired to it, because there were some Things which should not have passed so, if there had not been something to secure such Charges as these; for there is no expression of any Particular Charge, but that the Charge against the Earl of *Strafford* was not, in the particular, Treason; and in the Close of the Bill, it is said, that the whole Proceeding shall be taken away: and if so, no Man should speak against the Particulars, but look on it as Repealed.

Then this is said to be levying War, and it's true, it must be Actual, and so not within the Charge. And the Charge against *Spencer* was for Counselling the King, &c. and is called levying War against the Kingdom, and the Judgment against him was but Banishment; because the Sentence was mitigated at the instance of the King.

And for Counsel, tho' Counsel is given but in Words, yet Words are more than Counsel, and are an Action, otherwise a Counsellor is Sworn to nothing.

But it may be thought I have not dealt ingenuously with the *House*, than which I abhor nothing more; when the Case of *Strafford* was before the Lords, I was of Opinion the Parliament had no Declarative Power left, because 1 *Hen.* IV. there was an abolishing of all declared Treason, and that no Treason for the future should be so, and then the Treason about the *Genoua* Ambassador was gone, and all declared Treasons were gone, 1 *Hen.* IV. and no Statute hath recovered them; and if all Actual Treasons were taken away 1 *Hen.* IV. or if not then, 1 *Ed.* VI. then what doth the first of Q. *M.* do, unless it take away all declaratory Treason?

Upon the whole, the Question was, whether to accuse of Treason upon the first Article.

Yeas, 103.
Noes, 172.

275.

November 11.

The Second Article was Read.

Mr. *Prynn.* Let the Act made by you, about defending the King, be Read, because it limits Prosecution to a Time, to see if this be within Time.

Mr. *Vaugh.* In things wherein there is a Publick Defaming the King; it becomes no Man here to defend the Person accused; if the Charge be not proved, let the Party himself plead it; you had that which induced you to Impeach him; and have declared not to Impeach of Treason upon the first Article: And if any Man will add to the Rest of the Articles he may, but you ought to accuse.

Mr. *Sollicitor**. None accuseth but for Justice sake; and should be glad if the Party accused prove himself Innocent. There is a Duty to the King, and to Truth, and it is not fit that an Article of this Kind, brought into the *House*, should be laid by, upon pretence that the Time is elapsed; for the Crime is more than what is mentioned in the Act made by you; it is an Offence at Common-Law, and if it be prosecuted by Fine and Imprisonment, no Time is limited.

* *Sir* Heneage Finch.

The Third and Fourth Articles Read and Voted.

Mr. *Vaugh.* Your reading every Article is needless, unless it be to see whether any one may be Charged as Treason, for if One may be Objected against, so may all, as to Misdemeanours.

Fifth Article Read.

Sir *John Shaw.* The Old Farmers had not the Customs till others said they would give no more, and they had no reason to thank the *Chancellor*, because they gave more than others: And I declare upon my Life I know no Reward given him.

Sir *Tho Litt.* It appears by the Farmers Confession that they had it 50,000*l.* under, besides time of Payment which was 30,000*l.* more.

Mr. *Seym.* You are at liberty to receive Objections to the Articles; but tho' others bade more, they were told they should not have it, and had about 1000*l.* each given them to bid no more.

Sixth, Seventh, Eighth and Ninth Articles Read and Voted.

The Tenth.

Mr. *Vaugh.* This is an Article of an high Nature, *Dunkirk* was then as much a Part of his Majesty's Dominions as *Ireland*, and if the Sale of it be nothing, I know not what you would think of it if *England* should be Sold; you lately debated whether on the first Article he should be accused of treason, and found by the Statute of 25 *Ed.* III. he could not, tho' it was absolute Treason at Common-Law; and it's reported abroad that I said that the Right of the Parliament in declaring Treason is taken away, which I did not, for there are Treasons not mentioned in that Statute. Therefore it provided that the Judges should not upon any one Treason proceed to Judge, until declared before the King, and Parliament, and what is signified by it? If we think before the King, Lords, and Commons, that is impossible; for how can the Commons possibly declare before the King and Lords? Nor was that the Case, but this, that there is the ultimate Power of determining what the Law is in a doubtful Case. In Writs of Error let them pass from Court to Court, at last they come to the Lords, 24 *Ed.* III. If the Judges cannot resolve what the Law is, it is to be brought thither, that is, where it is questionable, but that is not in the *House of Commons*, any more than in a Writ of Error: How then is the Case here? If a Question be whether a Thing is Treason or not, it shall be Resolved where the Law useth to Resolve, that is, before the King in Parliament, that is in the Lords *House*. Had the Words of the Act been these, There shall be no Proceeding until Resolved by the King in the Lords *House*, and suppose that Clause taken away, That Treason shall not be Resolved; but suppose it shall be declared otherwise, doth it follow it is taken away? No. If you charge Treason which is not within the Statute, it is another thing; but I said not, there is no Treason at Common-Law.

Mr. *Sollicitor.* There was a great Mischief in the declaring Treason by Parliaments; for *Mortimer* † was made a Traitor for incroaching upon Royal Power, which every Man, who incroacheth upon any Power, doth. Hence the *Commons* Petition'd the King to explain what incroaching upon Royal Power was, and when no Answer could be gotten to it, 25 *Ed.* III. they Petition'd it might be declared certainly, and so Treasons were enumerated; and if the Judges be in doubt, it is *provided* that the King and Parliament shall first declare it.

Declaration in Parliament, is a Declaration before the King, Lords and Commons. Would our Ancestors leave what is to be Resolved Treason to the Lords, and themselves have no share in it? And *Talbot*'s being declared Treason by the Lords, it is said to be no Treason by Judge *Coke*, because the *Commons* had no hand in it; there is no Treason in Common-Law, because there can be no Treason where there is no way to judge it, which is not at Common-Law.

3 Inst. 22.

Mr. *Vaugh.* When the Law is made uncertain the Lords must declare it; it appears there were Treasons at Common-Law not mention'd, 25 *Ed.* III. It is one Thing for a Matter to be Treason, before, and the Parliament declare it; another, for the Parliament to make a Thing Treason which was not.

Sir *William Lewis.* I desire to be Resolved whether *Dunkirk* was annexed to *England*, because a Bill to that end was carry'd, but not Passed.

Mr. *Waller.* To shew that *Dunkirk* was annexed to *England*, consider we were Passing a Bill for 1,200,000*l.* But when we were making a Preamble to the Bill, we were to seek for Reasons for giving the Money, seeing we had no War, some said to keep *Dunkirk*, but we were

* *See this Case* 3 Co. Inst. p. 8. Rot. Parl. 3. Ric. II. No. 18. Placit. coram Rege Hil. 3. Ric. II. Rot. 8. 12. Co. Rep. 16. Holin. Chron. Vol. 3. p. 422. *Killing the King's Ambassador had formerly at the Common Law been adjudged Treason*, 22 E. III. Assis. pl. 49. *and may still be so by Parliament, for the Statute of* 25 E. III. *is a Restraint only upon the Judges, but not upon the Parliament.* † Holin. Chron. Vol. 3. p. 349.

told

told we ſhould take heed of looking upon it as annexed unto the Crown; but it was replied, *Dunkirk* was look'd upon as a Frontier Town, and accordingly noted in the Bill. Therefore the Sale of it Treaſon.

Mr. *Coventry*. Had it been part of the Crown of *England*, what needed a Bill to make it ſo?

Mr. *Prynn*. It cannot be Treaſon, becauſe Sold by the King's Conſent.

Mr. *Vaugh*. If the King agreed to it, doth it follow that he, who adviſeth the King to a Thing deſtructive to his Kingdom and King, is not a Traitor? If any part of the King's Dominions may be alienated, eſpecially when a Parliament is ſitting, for they concurring, it may be alienated; by the ſame Reaſon the King may alienate *Ireland* or *England* too without the Parliament. For by what Act of Parliament doth the King hold *Ireland* or *England?* It is by Acquiſition; I ſay not *Tangier*, for that was part of his *Portion*, and is his own: But *Dunkirk* would have been the Kingdom's if not thus diſpoſed of; and tho' it might have been alienated with the Parliament, it could no more without, than *England* or *Ireland*.

Mr. *Ed. Hartl*. The Act of Parliament for annexing was not this Parliament's, but of the Convention, and came in thus: The King was pleaſed to tell me, that the *Spaniſh* Ambaſſador might preſs him to part with it, which he had no mind to do; therefore he would have a Bill to annex it to the Crown, which ſhews it was the King's Will to have it annexed; accordingly this Parliament paſſed it, and *Dunkirk* might have been as uſeful as *Calais*.

At length this Article was paſſed by, without determining whether Treaſon or not.

Eleventh, Twelfth, Thirteenth, Fourteenth, and Fifteenth Articles Read and Voted.

The Sixteenth Article Read.

Lord *Vaugh*. I brought in this Article; his betraying the King's Counſels was to the *French* King during the War, and that in the Secrecy of State, which was the occaſion of the late Miſchiefs.

Sir *Tho. Oſb*. That is direct adhering to the King's Enemies, and if ſo, it is Treaſon.

Mr. *Sollicitor*. This muſt be Treaſon if you have any inducement to believe it.

Sir *Rob. How*. I have heard it from an Eye-Witneſs who told it me, and added that we are neither to be truſted nor dealt with, who were ſo betrayed.

Serjeant *Mayn*. Betraying the King's Counſel to his Enemies is, doubtleſs, Treaſon. Correſponding is another Thing. Betraying muſt be without the King's Knowledge, otherwiſe it is but delivering the King's Words to his Enemies.

Sir *John Bramp*. Did this Information come from a Subject, or from one of the King's Enemies?

Sir *Rob. How*. I would not have brought you Information from one of the King's Enemies, nor did I ever Converſe with them during the War.

Col. *Birch*. We cannot accuſe of Treaſon, except it be ſaid, Betraying the King's Counſel, or Correſponding with his Enemies.

Mr. *Vaugh*. You have declared that you have had inducement to Impeach, and ought to put the Queſtion, whether on this Article he ſhall be Impeached of Treaſon.

Mr. *Sollicitor*. To betray the King's Counſel, taken generally, is not Treaſon, for it may be to the King's Friends; but to his Enemies it is, if the Article be ſo.

Lord *Vaugh*. Let it be put, Betraying his Majeſty's Secret Counſels to his Enemies during the War.

Then the Queſtion was put whether theſe New Words delivered by the ſaid Lord *Vaugh*. ſhould be added.

Carried in the Affirmative.

Sir *John Hall*. Was this Information given by an Enemy or by a Subject?

Mr. *Vaugh*. It muſt come from a Foreigner, or you could not know it; may not the King have from a Foreigner a diſcovery of Treaſon againſt him? The end of queſtioning it muſt be to know the Man, for it might as well be aſked whether his Beard be Red or Black.

Sir *Thomas Meers*. The Words are *diſcovered*, not *betrayed*, and diſcovering may be with the King's Conſent.

Lord *Vaugh*. Add the Word Betraying, for ſo I meant it.

Serjeant *Mayn*. They who give the Information ſay not they had it from more than one Witneſs, which *Stat. Ed.* VI. requires, and only one of them names the Earl of *Clarendon*.

Mr. *Seym*. This Exception is proper to be made before the Judges.

Then the Queſtion was put,

Whether to Impeach of Treaſon on this Article,

Yeas, 161.
Noes, 89.
250

Sir *Tho. Litt*. That an Impeachment of Treaſon and other Crimes and Miſdemeanours be carried up to the Lords againſt him by Mr. *Seym*.

Serjeant *Mayn*. For Miſdemeanour he may have Counſel, not for Treaſon: Therefore ſo diſtinguiſh the Charge, that he may have Counſel.

Reſolved, *That a Charge be carried up.*

Reſolved, *That the Speaker and the whole Houſe carry it.*

Nov. 12. It being conſidered that if the Speaker go up with the Charge, ſome diſpute might ariſe about carrying the Mace and otherwiſe;

It was *Reſolved*, That Mr. *Seym*. carry it.

Accordingly he went, where at the Bar of the Houſe of Lords, the Lord Keeper *Bridgman* being come to the Bar to meet him, he delivered himſelf to this purpoſe:

My Lords,

THE *Commons Aſſembled in Parliament, having been informed of ſeveral Traitorous Practices, and other High Crimes and Miſdemeanours, committed by* Edward *Earl of* Clarendon, *a Member of this Honourable Houſe, have commanded me to Impeach him, and I do accordingly Impeach him of High-Treaſon and other Crimes and Miſdemeanours in the Name of the ſaid* Commons, *and of all the* Commons *of* England: *And they have farther Commanded me to deſire your Lo dſhips to Sequeſter him from Parliament, and to Commit him to ſafe Cuſtody, and in convenient time they will exhibit Articles againſt him.*

Nov. 15. The Lords ſent down to deſire a Conference in the Painted Chamber.

At which the Earl of *Oxford* delivered a Paper in writing (without any Debate) the Contents whereof were to this effect:

The Lords have not committed the Earl of *Clarendon*, becauſe the Accuſation is only of Treaſon in general, without charging any thing in particular.

Mr. *Garraway*. I had rather the Houſe ſhould loſe the Puniſhment of this Man, (tho' a great Offender) than that this Houſe ſhould loſe its Privilege: For if this Houſe may at no time Impeach a Lord without giving in particular Articles, it may fall out to be at a time (as in the Duke of *B*----'s Caſe) where a great Man by his Intereſt with the King procured the Diſſolution of the Parliament, and then the Accuſation falls.

Mr. *Vaugh*. Either you can juſtify your Proceedings, ſo as to ſatisfy the Lords what you have done, or you cannot; you muſt name a Committee as well to conſider what you are to do, if your Reaſons ſatisfy not, as to draw thoſe Reaſons.

Mr. *Sollicitor*. Without doubt this Houſe was not miſtaken in demanding that the Party accuſed for Treaſon ſhould be committed; that is, That Treaſon is worthy of Commitment, and you may find Precedents that Perſons have been accuſed of Treaſon, and thereupon have been committed: But the Caſe is this, Treaſon is an Offence for which Bail cannot be taken; the Lords tell you not they will, or will not Commit: But it is true, Perſons have been Committed for Treaſon, and Perſons accuſed of Treaſon, Judges may Commit or not.

Conſider this Law. Let the Crime be what it will, and Impriſoning till the Charge is given is but an Impriſoning to Security, not to Puniſhment; otherwiſe the Law is not Juſt: and if the Judges of the *King's-Bench* have a Judgment of Diſcretion, whether to Commit or not; can we wonder that the Lords have not Impriſoned, till they know the Article, when they have Judgments of Diſcretion tho' they knew it? You may find Precedents, but it is not an Argument it muſt always be ſo: But as the Judges have a Latitude much more than the Lords; the Impeachment from the Commons of *England* is properly the King's Suit, for there is no Treaſon but againſt him, and if the Judges may Bail in that Caſe, may not the Lords? But you are not told he ſhall be Bailed, but they deſire to know what his Crime is, and then you ſhall know their Anſwer; the Reſolution ſeems reaſonable, having gone no farther, I cannot except againſt it.

Sir *Thomas Litt*. The *Long-Parliament* had ſome good Precedents which we are not to caſt away, leſt we ſmart for it.

Reſolved, *To Reſume the Debate To-morrow.*

Nov. 16. Mr. *Vaugh*. The Lords do not ſay Commitments ſhould follow becauſe Treaſon is Bailable by the *King's-Bench*: it's true, the *King's-Bench* Bails for Treaſons, but how? If Perſons be brought thither for Treaſon directly, there is no Bail; but when a Commitment is by the Council-Table for Suſpicion of Treaſon, then if the Matter fall not out to be what was expected, they give notice to take Bail; elſe the great Article of the Great Charter, namely, that Juſtice ſhould not be delay'd, nor denied, would be to no purpoſe; and in ſuch a Caſe a Man may be in Priſon for ever. On the other ſide, what is the Caſe of Committing for Treaſon? When a Perſon is Committed by the Council Table, they ſay, they do no more but by ſpecial Command of the King, and that is the ground of his Committing; and were not this ſo, what would follow? Intelligence would be given of a Treaſon diſcovered, wherein many might be concerned, and if they who Commit ſhould Commit with the Treaſon, all the Complices would eſcape; and therefore ſometime they make it Treaſon General. Then for the Caſe, before you have gone up with a Charge of Treaſon generally, which is to the Lords a Warrant ſufficient for Commitment, ſay they, we will know the Particulars; then will not the ſame Inconveniencies follow, if other Perſons be concerned, and ſo the danger of all expoſed upon the Nicety.

If a Buſineſs comes before this Houſe, which concerns others, and may prove Treaſon, if we go to the Lords (for we have not Juriſdiction except in Caſe of our Privileges) but are not yet ready to bring up Particulars, and deſire the Lords to apprehend ſuch Perſons, would it be reaſonable for them to refuſe it, there being no Inconvenience like to follow the doing it, much the not doing it? I ſay not to commit them, and we not proſecute, for that is delay of Juſtice.

Q. But why do the Lords refuſe?

Anſ. Tho' I have great reſpect to the Lords, yet to clear ſomething in point of Privilege, the Lords have the ſame Privilege with us in point of Speech, their Members, *&c.* as they are eſſential to paſs Laws; but that great Privilege which they often aſſume as Peers, is as the King is there preſent in the higheſt Court: How then will it fall out in reſpect of this Privilege? If the King be there, there be many things which the Lords as Peers cannot pretend to, for the King hath often ſat there not only in paſſing Bills, but in Judgment. Had this Charge then come before the King there, it had been reaſon if the King ſhould have ſaid, *I deſire to know what this Treaſon is*; we muſt then have told it, becauſe he, whom it concerned, required it; or if we deſired Commitment, he, who could Releaſe or Pardon him, might ſay, *Let him be Bailed.* The Lords indeed retain this Privilege, but it is in the King's Right, not as Peers.

Now we have carried a Charge, if the Lords Bail him, I know not what would follow, for no Example can be given of it, and I think they will not do it, if the King do not direct it.

On the other ſide, I would be glad we might be no more troubled, than is neceſſary, becauſe others are liſtening what we do, and think there

is nothing in the Case: Therefore I am not for delay, but for satisfying others, that what we have done is not barely for imprisoning the Earl of *Clarendon*, but for Justice; and if you go this way, give the Lords the Reasons why we sent the Charge as we did, and yet keep up their Priviledges, and declare so to them.

But then we must go up with more than that Head, on which we Resolved to Impeach of Treason, for your Article must be so formed as to make it a Charge fit to be answer'd for Time and Place, and that Article hath something of that, which must be penned so as to make it more certain; for the Article goes but thus: That there was Discovery and Betraying of the King's Counsels to his Enemies, and if you leave it there, those, who scruple doing any Thing, because particular Treason is not mentioned, will say; you say he hath discovered and betrayed Counsels to Enemies, but as we trust you not what is Treason, but we will know it; so we know not whom you mean by Enemies; for we may think them not so: Therefore appoint a Committee to form Articles.

Mr. *Solicit.* It is a great Mistake to say, That the Power of the *King's-Bench* to take Bail for Treason, is no other but what is asserted, as if the Judges there had only Power from *Magna Charta*; when a Man is Committed upon Suspicion of Treason, and no Prosecution follows, and the Party bringing his *Habeas Corpus*, the *Bench* Bails him, because he should not lie there eternally. It is not to be said the Judges Bail for Treason; seeing no Crime is produc'd: For when a Man hath been accused of Treason for Coining false Money, and brought to the Bar, the Judges have Bailed him, not because they ought, but from that discretionary Power wherewith the Law trusts them; they may Bail if they will, for no other Judicature, but they, can Bail in that Case; for seeing Imprisonment before Trial is only that the Prisoner may be forthcoming, if they see there is no danger of escaping they may take Bail, for he is a Prisoner when Bailed, and the Bail is his Keeper; but there are few Cases of this kind, wherein they will Bail, they have a fundamental Power to do it, placed in them to preserve the Rights of the Crown; and the Lords will not think themselves less trusted with the Rights of the Crown than the *King's-Bench*. Yet tho' the Lords may Bail, they will not exercise their Discretion, when there is a probable Truth in the Impeachment; shall we then refuse this Intimation from the Lords, who saying, Because they have not a particular Article of Treason do not secure, seem to imply, that if they had, they would, tho' they might refuse. The Right of Bailing comes not from an imaginary apprehension of the King's sitting there, tho' some Kings have sat there in Judicature, but from their Inherent Authority of being trusted with the Right of the Crown: Let us do then what becomes us, and not let the Impeachment miscarry upon a Misunderstanding, but draw up the Article. But how is it possible to draw it as an Article which you expect he should be imprison'd upon? For your Impeachment is in the Nature of an Indictment, and must contain so much of Certainty as to put him to plead, that so he may not Demur.

How may it then be Circumstantiated, so as that he may be put to plead; if you do it according to 25 *Ed.* III. (for discovering the King's Secrets to his Enemies is within that Statute.) The first part of the Article is not pleadable, for we must shew how he adhered to the King's Enemies, and we must add what the Counsel was that he betrayed, else he will deny to plead, and say, I can avoid it: Therefore consider what kind of Certainty this Article must have to make him plead; for the other Articles, it's enough to say them without proving Time or Place, if the Facts were after the Act of *Oblivion*; but in Treason, the Matter must appear in the Indictment, for he hath Liberty not only to plead not Guilty, but to avoid it: Therefore prepare the Article accordingly.

Mr. *Vaugh.* What is moved is to put you upon an impossible Business, for an Article presented from the Parliament needs not that Certainty, as if it were to be tried at the *King's-Bench*.

Sir *Thomas Litt.* It is not for the Honour of this *House* to recede so easily from such a Privilege, for besides the Earl of *Strafford's* Case, we have express Precedents for, but none against us. We have heard that we must have no more Impeachments, because they are dangerous and tend to Rebellion. Consider the Archbishop of *Canterbury's* Case, *Finch*, *Ratcliff*, and others in the *Long Parliament*, and we should not so easily part with them. *William Delapool* being commonly reported to be no true Man, (which is a less Charge than Treason) desired he might acquit himself, and the Lords required no special Matter before they imprison'd him, and afterward he was accused more Specially.

Sir *Rob. Atk.* In the Case of *Anselm* Archbishop of *Cant.* the Commons accused him, but the Lords did not commit him, and gave no other reason for it, but that he was a great Man; and yet afterwards he was Condemned as a Traitor, tho' the King reduced his Punishment only to be Banishment. Tho' a Privilege is much spoken of, yet I shall never be fond of any Privilege which shall Intrench upon my Liberty as a Subject.

Mr. *Vaugh.* I hear it objected, That as you charge a Lord generally, so may the Lords a Commoner, but that cannot be; for the Lords cannot cause a Commoner to be committed tho' for Treason, without your Consent: Therefore put a Question, whether a Committee shall be named to draw up Reasons to justify what you have done.

Resolved, *That the Question shall be put.*

Resolved, *That a Committee shall draw Reasons.*

November 18.

The Committee brought in their Reasons.

First. What can or ought to be done by either *House* of Parliament is best known by the Customs and Proceedings of Parliament in former times; and it doth appear by Example, that by the Course of Parliaments the Lords have committed such Persons as have been generally Charged by the *House of Commons* for High-Treason, to safe Custody, tho' the particular Treason hath not been specified at the time of such Charge.

Second. That a Commitment for High-Treason in general, is a Legal Commitment, and if the Party so Committed bring his *Habeas Corpus*, and the Cause of his Commitment thereupon be returned for High-Treason generally; he may lawfully be remanded to Prison by the Judges upon that Return.

Third, If before securing the Person, the special matter of the Treason should be Alledged, it would be a ready course that all Complices in the Treason might make their Escape, or quicken the Execution of the Treason intended, to secure themselves the better there.

Fourth, If the *House* of *Peers* should require the particular Treason to be Assigned before the Party Charged be secured, they leave the Commons uncertain and doubtful (and that from time to time) how particular they must make their Charge to their Lordships Satisfaction; before the Offenders be put under any Restraint.

Fifth, The Commons conceive, that if they should desire the Lords to secure a Stranger, or Native Commoner, upon the Suspicion of Treason, which the Commons had of him, and which was by them under Examination to be evidenced to their Lordships in due time; their Lordships in Justice for the Safety of the King and People, would secure such Person or Persons, upon the desire of the Commons, and in such Case there would be no difference between a Lord and a Commoner so desired to be secured.

Sixth. The Proceedings of Inferior Courts, between the King and the Subject, or Subject and Subject, and the Discretion of Judges in such Courts, is bounded and limited by the Discretion of the Parliament which trust them; and 'tis not left to the Discretion of the Judges in ordinary Jurisdiction to give the King, or take from him inconvenient Power for the Subject, nor to dispense the Law Partially between Subject and Subject for Malice or Affection; but the Discretion of the Parliament, which is the whole Publick, comprehending the King, Lords and Commons (for the King's Presence is supposed to be in the Lords *House*) is, and ought to be unconfin'd for the Safety and Preservation of the whole, which is itself.

It cannot be malicious to a part of itself, nor affect more Power than already it hath, which is absolute over itself and part, and may therefore do for Preservation of itself whatsoever is not repugnant to natural Justice.

Mr. *Prynn.* I like not the first Reason, because it cannot be called a Custom, where only one Parliament hath done it.

Mr. *Swinf.* The great strength lies upon this first Reason, and is like to be a Precedent; for exact Precedents I find none, except that of *Michael Delapool*, and in the Long Parliament: But consider the Reasons why there was no express Precedent before, and what was the Custom of Parliaments before. The Parliament was wont to proceed formerly by Bill, and thus far that Proceeding makes against the Lords now, and for committing the Party accused; for then the Proceedings upon Treason were by Common-Law, and because the Judges could not proceed, therefore the Parliament went by Bill, and it cannot be supposed that the Parties were at liberty all that while.

Second, Third, Fourth and *Fifth* Reasons Voted, *Sixth* Read.

Mr. *Solicit.* I am against this Reason, not as a Reason, but unnecessary; for if the former Reasons satisfy not, this will not, because it supposeth things not in question.

Our Debate must at last end in this Question, betwixt Privilege of Parliament and former Proceedings; And there being no Privilege in Case of Treason, Why should not former Proceedings Sway? Except we call that Treason which is not, for otherwise no Privilege will help.

Therefore add this to your Reason, That there is no Privilege for Treason, and the Lords ought not to think that the Commons will call that Treason which is not, or if they do, the Lords may by a speedy Trial determine it.

Resolved, *That a Conference be desired with the Lords, and the Reasons carried up.*

November 21.

The Lords sent down to desire a Conference about the Subject Matter of the last Conference. But the Commons doubting that if they should consent to it, the Lords might afterwards refuse a Free Conference, because the Business in dispute concerns Judicature, which belongs to the Lords, and so the Impeachment generally falls:

Resolved, *To send an Answer by Messengers of their own: And accordingly did, with Order to acquaint the Lords how far they had proceeded, and they expected they should rather have desired a Free Conference.*

November 23.

The Debate about the Freedom of Speech in Parliament was resumed,

And the Report read of the Proceeding about Sir *John Elliot*, Mr. *Hollis*, *&c.* 5. *Car.* I. *Cr. Car.* 181.

Mr. *Solicit.* If you are satisfied that the Judgment passed upon them was Illegal, two ways you have to be safe; By taking notice of that Judgment, giving your Opinion upon it, and carrying it up to the Lords, that Judgment will be utterly Damned; else you may proceed by Act, but consider then the Consequence: For if you go by Act, you bound the Liberty of Speech, unless in penning it you prevent it, but an unknown Limitation is better than bounding, for an Act it self is subject to Exposition, but your Vote, and the Lords Concurrence, is not.

Mr. *Vaugh.* It is not safe for you to circumscribe Privileges, therefore that must be done which may take away what destroys them.

The Laws and Rights of this Kingdom are Rights by Common Law, or Act of Parliament; what is an Act of Parliament, may be repealed by Parliament; what is Common Law may be altered by Parliament, and whatever is both, may be altered by a *New Law*; and how is it possible to do one or the other without Liberty to speak about it? And how can there be any Inconvenience about Freedom of Speech, about any thing which cannot be a Law, without passing King, Lords, and Commons;

Then it being moved to put the Question for confirming that Report.

And it being reply'd that some Passages in that Business, *viz.* about keeping the *Speaker* in the Chair, were not warrantable, and so not to be joined in the Question with the rest;

Mr. *Vaugh.* That Buſineſs which is ſo much talked of, and condemned, I ſhall ſtate to you.

The Houſe is to adjourn it ſelf, tho' ſometimes the King adviſeth them to adjourn themſelves (as then he did) but the Adjournment is always made by a Queſtion, and without it the *Speaker* cannot leave the Chair.

The *Speaker* acquainting the *Houſe* then with the King's Meſſage, Sir *John Elliot* ſtood up to ſpeak, but the *Speaker* would not hear him, but was going to leave the Chair; whereupon ſome ſaid, if you go out without a Queſtion, the Parliament is diſſolved, upon which he was leaving the Chair; ſome kept him, and told him, if this be a *Houſe*, you, as *Speaker*, have no Place in it but the Chair; and this was all the Irregularity in that Buſineſs ſo much talk'd of.

Cr. Car. 604. Reſolved, *That the Judgment given againſt Sir* John Elliot, *&c.* 5 Car. *was an illegal Judgment, and againſt the Freedom and Privilege of Parliament.*

The Lords ſent for a preſent Conference, after which Report was made that the Lords had Voted the *Commons* denying them a Conference lately, was contrary to the Courſe of Parliamentary Proceedings, and gave Reaſons why it was not yet time for a Free Conference.

November 25.

After Debate whereof, it was *Reſolved* to grant them that the *Commons* agreed to the Conference formerly deſired.

At which the Lords declared that they had conſider'd of the Precedents and Reaſons formerly ſent them by the *Commons*, but were not ſatisfied to ſecure the Earl of *Clarendon*, or to Sequeſter him from Parliament, until ſome ſpecial Treaſon be aſſigned.

November 28.

The *Commons* ſent to the Lords to deſire a Free Conference upon the Matter of the laſt Conference.

To which the Lords concurring, Mr. *Vaugh*, Sir *Rob. How*, Sir *Tho. Littl.* and others were appointed to manage it, who went up immediately to that End.

Mr. *Vaugh.* Made Report of the Conference with the Lords yeſterday to the Purpoſe following.

The Lords told us, *That no Precedent can be againſt the Law.*

We Anſwered,

If that can be made good, we ſhall preſs Precedents no more: But what they moſt ſtood upon was the *Petition of Right*, where 'tis *provided* that none ſhall be Committed without ſpecial Cauſe, whereby the Party may Anſwer according to the Law; thence they infer that our Proceedings are againſt Law, becauſe a general Charge is againſt the *Petition of Right.*

Commons. The Caſe of the *Petition of Right*, rightly ſtated, will clear this, which was This: Some Perſons were committed by no other Warrant, but the King's ſpecial Command, they bring their *Habeas Corpus* to the *King's-Bench* to know the Cauſe: This Cauſe was returned by the Judges, that they could not Bail a Man, when ſo committed, becauſe they knew not the Cauſe, nor had any way to bring him to his Trial.

Then the *Petition of Right* provides, That the Cauſe ſhould be returned, whereby the Crime might appear, and that before and after the *Petition of Right* to this Day, if upon bringing a *Habeas Corpus*, it be returned that the Party is impriſoned for Treaſon, the Judges ought to remand, unleſs there be ſome ſpecial Cauſe to make them take Bail. So that the *Petition of Right*, was againſt them, for they ſay, a Man ought not to be Impriſoned upon a general Charge, becauſe 'tis the *Petition of Right:* We ſay it is not againſt the *Petition of Right*, becauſe the Judge may Remand the Party, if there be not ſpecial Cauſe.

Then the Lords ſaid, *That the Reaſon why the Judges Remanded in that Caſe was, becauſe the Party Committed knew it was for Treaſon: Therefore they Re-committed.*

We owned it, becauſe it was the Rule for the Judges to proceed by, but that was no Rule for Proceeding of Parliament; for as a Magiſtrate commits for Treaſon, and is ſuppoſed to be acquainted with it; ſo alſo is he with the Probability upon the Proof: But the Lords inſiſt not now upon that, but ſpecify Treaſon, and if the Courſe of Parliaments ſo much varied in ſuch Caſes, that was no concluding Proof, why they ſhould have ſpecial Treaſon. And for the other Part.

That upon the Return, there ſhould be a Cauſe Returned, that ſo the Party might Anſwer; for when a Return is made, if the Cauſe be ſuch as that the Party ought not to be Impriſoned, the Judges free him; otherwiſe they leave him to come to his Trial.

Then to the Precedent about the Earl of *Strafford*, they *Replied*, That it was made in bad times. And we *Anſwered*, That as good Laws were made before, in, and after that Time as any other; and if the Lords then might make ſuch Laws, we could not ſee why it ſhould be a good time to make Laws, and no good time to Adminiſter to Perſons the Laws already made.

Farther, to their *Objection*, that in the time whence thoſe Precedents were brought, there was a Face of War; We *Anſwered*, That could not alter the Caſe, for the Law calls no Time a Time of War, whilſt the Courts of Juſtice have Freedom, as they had when *Strafford*, *Finch*, *Canterbury* and *Ratcliff* were Impeached: And it was ſtrange that in the Parliament-Houſe there ſhould be ſuch a Conſternation as to make their Proceedings invalid, when in other Courts there were none: Beſides, in *Holland* for many Years there was a conſtant Scene of War, and can we imagine that there was not Juſtice done at that time.

Then they preſſed Precedents againſt ours, One 14 *Ed.* II. againſt the *Spencers*, where a great Man moved the King to Commit one of them, and the King anſwered, *it could not be unleſs Cauſe was ſhewed.* We *Replied*, This was a Precedent like that, a Man was Committed, becauſe he was Committed; for there was no Allegation of Treaſon.

Second Precedent was 38 *Hen.* VIII. againſt Lord *Stanhope*, the *Commons* moved the King to Impriſon him, and the King Anſwered, *he would conſider of it.* We *Anſwered*, That was no Denial, but a thing uſual with the King, and that Motion was to the King himſelf, which differs from this Caſe, for that was not alledged to be Treaſon: Beſides, had it been Treaſon, it was againſt the King himſelf, and being an Offence againſt himſelf, he might (if he would) not Impriſon, becauſe he may diſcharge a Man, or pardon him, tho' for Treaſon; but this Caſe is not ſo, becauſe the Lords Juſtice is but miniſtred to the King.

21 *R.* II. *Arundell* Archbiſhop of *Canterbury*, who, as they ſaid, was Impeached of Treaſon, but not Committed.

Anſwer. The Caſe was this: There was a Commiſſion iſſued out by *Ric.* II. That that Biſhop and others ſhould regulate what was amiſs by evil Government, and the King was offended at the granting of it, and at *Nottingham* ſent for the Judges, and charged them upon their Allegiance to give true Anſwer to what Queſtions he ſhould aſk them; and the firſt Queſtion was, *Whether that Commiſſion ſo granted, was not invading his Prerogative?* They Anſwered, *Yes.* Then he aſked *how they ought to be puniſhed, who procured it?* They Anſwered, *as Traitors.* In the 21 the Biſhop is charged by the *Commons*, and the Treaſon alledged is, That he had procured himſelf to be put into the Commiſſion.

This being the Caſe, we ſaid, that if a Fact be called Treaſon, which afterwards appears to be none, there could be no Commitment. For if a Man call another Man's coming into his Ground Treaſon, it falls of itſelf; therefore the Biſhop was not Committed.

The Lords ſaid farther, That all thoſe Articles were declared to be Treaſon, which before could not poſſibly be Treaſon to Commit a Man, becauſe the Nature of them muſt be Treaſon at Common-Law, and 'till theſe Treaſons were declared, which was not 'till 21 *Ed.* III. they were not Treaſon ſo as to Impriſon, or Try any Man for them.

We *Replied*, All that Parliament was repealed, yet the Precedent was the more authentick. But I think that Lord (it was the Earl of *Bridgwater*) underſtood not what he ſaid, at leaſt I did not.

Then about the Earl of *Strafford*'s Precedent, the Lords ſaid, that the very Impeachment was taken away by the Act of this Parliament, becauſe the Impeachment is recited in it. Namely, Whereas the Earl of *Strafford* was Impeached, *&c.* But every Clauſe in that Act of Attainder is taken away now, therefore the Impeachment; and you cannot make uſe of any Part of it.

We *Replied*, It's true, the Act of Attainder is taken away, but the very Act of Repeal doth recite that very Clauſe (whereas *Thomas* Earl of *Strafford* was Impeached, *&c.*) and the Act cannot take away any thing which ſtrengthens its own Suppoſition.

Then the Lords ſaid, that they ſhould be willing to comply with the *Commons*, but that they muſt be tender of their own Judicial Proceedings.

Commons. It's true they ought, and we ſuppoſed that the Lords might be jealous that we ſhould Intrench on their Power; but the *Commons* were ſo far from that, that they thought the Judicial Power better lodg'd with them than in the *Commons* themſelves could be; but we would open the Objection.

Their Lordſhips being the Judges in this Caſe might think, that for the *Commons* to take upon them to know what was Treaſon, would be an aſſuming to themſelves what was only proper to the Lords, and that it was ſo now in Charging the Earl of *Clarendon* generally.

Lords. The *Objection* is right.

Commons. For our knowing Treaſon, we have many among us who are Juſtices of Peace, truſted by Law to know and Commit, and (if the Parliament be not Sitting) even to Commit a Peer himſelf for Treaſon; and the knowing what is Treaſon is ſo far from being improper to the *Houſe of Commons*, that every Man in the Nation is bound to know it; for was it ever known, that Ignorance of the Law could ever excuſe a Man from breaking the Law? Laws are made to be known by Subjects, eſpecially thoſe which concern the King; and unleſs they could find a Reaſon, why the Parliament Embodied ſhould be more ignorant than particular Perſons, the preſent Caſe muſt be clear. That the Jealouſy of the Lords aroſe from a Fallacy thus, The Lords have Judicial Power concerning Treaſon, and muſt of neceſſity know it; the *Commons* have no Judicial Power over it, therefore cannot know it; that is, becauſe the *Commons* know what Law is, therefore they have Judicial Power over Law. To this was not any thing *Replied.*

Farther, We ſaid that becauſe they inſiſted upon us to ſpecify Treaſon, becauſe by Committing upon a General they might wrong the Party by Commiting him without Cauſe, and becauſe they themſelves were not inform'd in their Conſciences what they did: They would do well to conſider the many Inconveniencies which might follow, if the Charge of Treaſon was not General, but Particular; and ſuppoſe it was Special, their Lordſhips would know no more by it. For ſuppoſe a Man Impeached for Counterfeiting the Great Seal, which is expreſs Treaſon, and he may be Impeached for, yet neither their Lordſhips nor the Party could have any Advantages by that Specification, becauſe there might be as many Queſtions what is Counterfeiting the Great Seal, as what is Treaſon.

For Inſtance: One *Leak* *, a Clerk in *Chancery*, intending to Forge a Patent, puts together two Pieces of Parchment, and had fitted them, and put them together with Mouth-Glew, that they appeared as one: Then a Grant was written upon the outmoſt, and a Seal affix'd, ſo that the Great Seal is put to a true Thing; then he cuts off the Edges of the Parchment, ſo as to ſever them, takes off the written One, and leaves the Seal on the Blank, then Forgeth the Grant and makes uſe of it. This was queſtioned before the Judges, whether 'twas Treaſon or not, that is, whether Counterfeiting the Great Seal or not? If it were, it was Treaſon, otherwiſe not. They *Reſolved*, it was not Counterfeiting the Great

* *Co.* 12. *Rep.* 15. *Kelyng*, 80.

Seal,

Seal, and ſo not Treaſon, but Miſpriſion. And if it had been Treaſon, they *Reſolved*, that an Indictment had been enough to Impeach him. Then ſuppoſe you have ſuch an Impeachment before you for Counterfeiting the Great Seal, you have ſpecial Treaſon, and Impriſon him; but when it is brought to Queſtion, it appears not to be Treaſon, therefore he is wrong Impriſoned: And if your Lordſhips will examine what Knowledge you have of this Fact, you have no more than if it had been a General Treaſon.

Lords. There is a Caſe put there, as we are content to take a Special Treaſon, but expect not the Proof as there it was.

Commons. If it were a Caſe put, ſo is your Lordſhips *Reply*, for it was put *ex Conceſſo*, becauſe you agreed that if the Treaſon was Special, the Party was to be Committed, and this Caſe was to ſhew their Lordſhips, they were in no better Caſe then, than if the Treaſon were General.

But the Lords ſtill preſſing that the Impeachment it ſelf of the Earl of *Strafford* was Repealed in the Act about him.

Commons. We *Replied*, one Part of the Act ought to be ſevered from the other, and that which is without Exception ſhall ſtand, tho' the other be taken away: For, ſuppoſe a Man proſecutes in a Court of Juſtice, for what he apprehends to be his Right, and yet the Cauſe goes againſt him, and he hath no Effect of his Suit, afterward the Party (being an evil-minded Man, and thinking to reach his Ends) Forgeth a Deed, or Suborns Witneſſes, and then begins a Suit in ſome other Court, and by thoſe ways attains his Ends. Then a Bill comes before this Parliament to Reverſe the Judgment, reciting that ſuch a Perſon hath been a Suborner of Witneſſes, *&c.* ſo, and ſo, and therefore the Judgment is made void; certainly tho' this Perſon is Named to be an evil-minded Perſon, yet this lays no Blemiſh on his firſt Proceedings. So that it appears by the Act, that the Proceedings againſt the Earl of *Strafford* were legal at firſt; if thoſe afterwards, when the Times became tumultuous, were not, it is not to be applied to what was well done and legal. Then we told them that we had preſſed them with four Precedents, and to three of them nothing was Replied.

Lords. They Anſwered, the Reaſon why my Lord *Finch* was Committed, was becauſe of his Flight.

Commons. He was fled before the Impeachment; but it was *Ordered*, That he ſhould be Committed when found.

Then we told them, That we muſt Report to them, that be the Treaſon what it would, we could not go to the Lords to have it puniſhed without that Diſadvantage, which the publiſhing the Treaſon beforehand would expoſe us to by making of Witneſſes, eſcaping of Parties, and the like; then bade them conſider, whether if we ſhould lay before them a Treaſon in every Thing circumſtanced as *Gun-Powder-Treaſon*, they would not Impriſon the Party till the whole Matter was opened.

Lords. They Anſwered to hear that Caſe put, for in Matter of State, other Courſes are to be taken, and they could ſee no Inconveniency in publiſhing that to the Lords, which muſt be publiſhed before 400 in the *Houſe of Commons.*

Commons. The Commons may proceed with what Secrecy or Openneſs they pleaſe, and the Lords are not to take notice of their Proceedings, whether Open or Secret.

Farther, That by a Matter of State muſt be underſtood, when a Parliament is not Sitting, and we know not whither to reſort; but when a Parliament is particularly called to prevent the Miſchiefs threatning the Kingdom, if that be not capable of Remedying, no other Council could, or we are not bound to reſort to that, we are excluded from that to which we ought to reſort.

Lords. That the Lords bade us take heed of the Liberty of the Subjects, to which they are now fain to have Regard, bidding us conſider the Biſhop of *Canterbury*'s long Impriſonment, without knowing the Cauſe, and they muſt ſatisfy their Conſciences, leſt they ſhould Commit for 1 reaſon, and it not prov'd ſo.

Commons. It appears not that the Biſhop of *Canterbury* ſhould have lain leſs Time, had the Impeachment been Special; and for the Liberty of the Subject, we know not how a Subject ſhould have more Liberty by Special Matter, than General; Special being but adding a formal Title, and the Subject goes to Priſon, as well for the one as the other.

For their Conſciences. Suppoſe a Perſon accus'd generally, they are then to know whether it be Treaſon, and is not it as much that they Commit an innocent Perſon? So as if the Matter was Special.

December 2.

The Lords ſent down a Meſſage to the Commons by two Judges, to this Effect, *That upon the Report made to them of the laſt Free Conference, they are not ſatisfied to Commit or Sequeſter from Parliament the Earl of* Clarendon, *without the Particular Treaſon be mentioned or aſſigned.* Who being withdrawn;

Lord *Torring.* (General *M——ck*'s Son) Moved not to part with any Privileges of the *Commons* of *England*, but adhere to the General Impeachment.

Sir *Rob. How.* The Matter before us, is of as great Concernment as ever came before us; if there ſhould be Malice ſuppoſed in a Nation againſt it ſelf, it might be exerciſed by giving a particular Charge, as well as a general; many of the Lords are convinced by the Reaſons we gave and concur, thinking our Precedents good, and have enter'd their Proteſtation in the Lords Houſe, aſſerting the Rights of the *Commons* of *England* to Impeach generally: So that (excepting the Spiritual Lords) I think I may ſay the Major Part of the Lords are for us; and ſhould we give up this, we may be wreſted out of all Right, and the Commons have no way to proceed to an Impeachment, but ſome Men to be ſo great, as not to be fairly reach'd. Therefore adhere.

Mr. *Wall.* The Lords are a Noble Eſtate, but whatever the Matter is, they have of late ſome Advice given them, which makes them proceed as they never did yet; for ſcarce any Thing happens betwixt us, but they incroach upon us. The *Militia* is now as burdenſom to the Fifty Pound Man in the Country, almoſt as all other Taxes, and the Lords have gotten this Advantage of us, that they touch not the Burden of it with their Finger: So in time of the Plague, the Commons muſt be ſhut up, but not They, inſomuch that a good Act provided to that Purpoſe paſſed not; we Impeach'd the Lord *Mordant*, and could not bring him to the Bar (tho' formerly I have known an Earl and a Lord brought thither). You deſired a free Conference about it, but could not obtain one to this Day. *Rome* was at firſt modeſt, and only meddled with Spirituals, but afterwards concerned themſelves ſo much with other Matters, that every thing almoſt was made to be in *Ordine ad Spiritualia*, and many Kingdoms thereupon break from them. The Lords now inſiſt upon one Thing, becauſe they ſay 'tis in order to their Judicature, perhaps hereafter they will tell us we muſt come to them on our Knees, becauſe it is in order to their Judgment. Conſider therefore whether there be any Hope of giving them Satisfaction; then, whether you will adhere, and what you will do afterwards; for the preſent my Motion is to adhere.

Mr. *Vaugh.* It is truly ſaid, the Buſineſs before you ſeems to be as great as hath been in Parliament; many of the Conſequences being inviſible, therefore before you *Reſolve* what to do, take the whole Matter before you.

The Difference between the Lords and us, is upon a general Impeachment of Treaſon; the Lords, after a Free Conference, ſay, they will not Commit unleſs Special Treaſon be mentioned or aſſign'd; thoſe whom you employ to Manage the Conference were very unwilling to differ with them, but it ſeems it hath produced nothing, and I have nothing to make me believe, but that the Reaſon is, that the Lords were *Reſolved* (ſay what we would) not to be ſatisfied; for I know nothing which they Offer'd, but it was fully Anſwer'd, nor any thing left undone to ſatisfy them if they would have been ſatisfied; what I have to ſay now is to clear ſomething which the Lords may make much Sound of.

When we urged Precedents, and made them our principal Reaſon, we told them, the way to decide what was in Difference betwixt the *Houſes*, is, the Uſage of Parliaments; but to our Precedents we received no full Anſwer.

Then the Lords uſed this Reaſon, namely, That they cared not for Precedents, becauſe it was againſt the expreſs Law of the Land.

I Anſwer'd them, we would join with them, if they could ſhew Law againſt it, and expected what they would Anſwer, but heard nothing? Much diſcourſe there was, without Application, of the Great *Charter* and of a Statute of 28 *Ed.* III. but not applied; ſo that I thought Law in a Lord's Mouth, was like a Sword in a Lady's Hand, the Sword might be there, but when it comes to cut, it would be aukward and uſeleſs.

But I hear ſince, that their Meaning was this (which muſt be cleared by mentioning ſome Laws) that by *Magna Charta* it is provided, *That no Man ſhall be taken or Impriſoned, or Condemned, but by the Law*; and thence they infer, That no Man may be Impriſoned, but it muſt be by his Peers, or by the Law of the Land.

Again, 5 *Ed.* III. No Woman ſhall be attached upon Accuſation, or be adjudged of Life or Limb, but according to the Law.

25 *Ed.* III. No Man ſhall be taken by a Petition to the King or his Council, unleſs by Indictment of lawful People, or by Proceſs of Writ at Common Law, and (ſay they) this Caſe is to none of theſe.

28 *Ed.* III. No Man ſhall be Impriſoned without due Proceſs according to the Old Law of the Land: But this Caſe being neither by Preſentment nor Indictment, the Lords would not ſtand upon our Precedents, but relied on this, as if it were enough in Bar of all our Precedents.

Therefore to open this, and the Danger of the Conſequence, there are in the Land many different Laws, and Proceedings in theſe Laws, and Impriſonment upon them; and yet not one of them by Preſentment, Indictment, or Trial by Peers, tho' the Lords thought this was the Law, and there was no other.

1. It is known that the Crown-Law, or Prerogative, is diſtinct Law from that between Party and Party.

2. There is the Law and Cuſtom of Parliament, called a Law, *ab omnibus querenda, à multis ignorata, & à paucis cognita.*

3. Then the Canon-Law, (and it is much the Biſhops forgot that) and there is nothing in that Law, more than ſtanding in a White Sheet, which proceeds not by Indictment or Preſentment, yet there is Impriſonment even in that Law.

4. There is the Law of Admiralty, and the Articles of *Oleron*, where there is Proceedings of another Nature, and by Impriſonment.

5. The Law of Merchants, or of the Staple.

6. The Law of Arms, where is Impriſonment and Death, and yet different Proceedings from the Common-Law in the Great *Charter*: Now no Man thinks that all thoſe Courſes of Proceedings are taken away by the Common-Law, and it is groſs Ignorance to think it.

7. The Law of the Foreſt, which is moſt different: So that to urge *Magna Charta* to this Purpoſe, as if all Proceedings in thoſe Caſes muſt be according to the Common-Law, is abſurd.

Then there are divers Writs in the Regiſter.

One, When a Man hath received the King's Money to ſerve him, and went not, then there is a Writ to Arreſt him upon a Certificate from the Captain under whom he was to ſerve.

Then the ordinary Writ, which belongs to the Law Eccleſiaſtick, *de Excommunicato Capiendo.*

Another

Another, *de Apoſtata Capiendo*, to recover a Regular run away from his Convent.

Another, called *ne exeat Regno*, to Impriſon a Man, who will not give Security not to go out of the Kingdom, and this is not Traverſable any where, becauſe it ſuggeſts that he will *Machinate* ſomewhat hurtful to the Kingdom, and upon that Suggeſtion he is impriſoned.

Another, when a Man hath a *Leproſy*.

Another, to burn *Hereticks*, which concern'd the Biſhops alſo, if they had pleas'd to think of it.

Theſe Proceedings are no way agreeable to thoſe mentioned in the Common-Law.

Then conſider how this *Reſolution* of the Lords ſtrikes at the Law of Parliaments.

1. It is certain that all Impriſonment by Parliament is not by Preſentment, Indictment, *&c.* So that by this means that Power is taken away.

2. Contempt againſt Parliamentary Authority, whoſoever he is to appear before them, and diſobeys them, they may Impriſon him in the *Tower*, and yet it is not againſt *Magna Charta*.

Whither therefore tends this?

The Concluſion muſt be, that no Impeachment by the Commons muſt go on, unleſs it be by Preſentment, and ſo there is an end of all that, for which the Parliament is principally called; unleſs we are part of thoſe 5000 contemptible Ones, who are only fit to give Money: That may be reſerved for us, but nothing elſe; tho' 23 *E.* III. ſaith, *For Redreſs of Grievances in the Kingdom a Parliament ſhall be called every Year.* I would know which Way we ſhould redreſs Abuſes, if we are ſo far from remedying in Parliament, that we muſt be ſhut out to the Common Courſe in other Courts?

Obj. The Lords may ſay, if you find the Statutes broken, and ſhort, you ſhall have New.

Anſw. And when theſe New Ones are broken, then we ſhall have a Remedy; ſo riſe up Remedy, and go to the Remedy, *ad infinitum*, for there is no more Reaſon to think that a Second Law ſhall be maintained more than the Firſt, and what Way a Miſchief ſhall be redreſſed, other than by Parliament, I know not.

So that by this *Reſolution* of the Lords, and denying to Commit upon this Ground (for they ſhew'd no other) every Thing for which a Parliament is uſeful is denied us.

After all this come to the very Caſe.

If a Treaſon be committed, and the Fame is that *A. B.* is guilty of it, it is lawful to Apprehend him for it. If a *Hue* and *Cry* purſue a Man, tho' he be not of evil Fame, yet he may lawfully be Impriſoned: If it proves falſe, he hath his Remedy; but that obſtructs not the Law to bring him to Trial. Any Watchman may Arreſt a Night walker, and hath a Warrant in Law for it, and this is as good Proceſs in Law, as any original Writ.

And after all this, Conſider with what kind of Colour, when there are weighty Reaſons why we ſhould not mention ſpecial Treaſon, and that mentioning it generally, anſwers the Petition of Right, the whole Commons of *England* (who are in no Degree repreſented by the Lords, they only repreſent their own Perſons) ſhould be denied the Securing a Perſon Impeached unleſs a particular Charge be given, how prejudicial ſoever to the Kingdom.

Another Thing, there is no Right which a Man hath in this Land, or any part of the World, but his Right is ſuch, that if it be kept from him, he hath a Means to come to it, otherways it is *Damnum ſine injuriâ*; for where the Law gives no Remedy, there is but a Suppoſition of Right: By the ſame Meaſure it will follow, that there is no civil Wrong can be done to any Man, but the Law provides a Remedy, if that Wrong be done; and if by the Law there is no Remedy, it is no Wrong: conſider then this Caſe.

There are in this Kingdom, in the Civil State of it, three Eſtates which the King hath then in making Laws: There are three Eſtates, whereof the King is Principal; ſometimes they are mention'd as the King's three Eſtates, and he none of them: The Eſtates in general are, the Commons of the Kingdom, (who are perfectly repreſented in this *Houſe*) the Lords another, and the King another; and theſe are ſuch, that there is no Petitory Action, nor the Laws directed to any one of them, but the Laws you make, are to diſtribute Juſtice in other Courts.

For Inſtance, If all the Commons of *England* (who are one of the Eſtates) ſhould Accuſe one of themſelves, the Party can have no Wrong, becauſe the Parliament can have no Action brought againſt them, nor can they be ſuppoſed to do any thing for Malice.

It is the ſame between the Body of the *Lords* and *Commons*; and there is no Law either to Vindicate the one or the other; but they ſtand as if there were no communicable Law betwixt them; but the Meaſure between them is that which is good for the whole; for they are the Makers of Laws for others, but no Laws can be fancied to reach the whole of the *Commons*, or of the *Lords*.

So that it is eaſily to be ſeen, how it hath been put upon us; ſo that now we are in ſuch a Caſe, we know not to what ends we ſhall proceed upon this or any other Impeachment; for by this Judicial Power, you ſhall be excluded from any Proceedings by Laws of Parliaments, and ſo you take away the whole Right of the Kingdom.

Queſt. But now what ſhall you do?

Anſw. I ſee many Inconveniencies which may happen both ways, but I ſee ſo many this way, that if any Man gave ſuch Counſel as is charged upon the Earl of *Clarendon*, it is not ſo dangerous as the Caſe before you; for the Inconveniencies attending that Counſel would quickly ſhew itſelf by the Miſery following: But this is a ſmall thing begun with, which, like a Canker, may eat till it be uncurable, and that is as abſolutely juſtifiable as this.

And now I have ſaid this, I am perplexed what to ſay more, for all can bear me witneſs, what Reſpect I have endeavoured to preſerve to the *Houſe* of *Peers*, but I am ſo ſenſible of this, that tho' I cannot forget my Reſpect to them, yet I muſt lament the Condition into which they have brought themſelves firſt, and us next, for they cannot think to avoid it.

The *Houſe* of *Peers* is but a new Style, called ſo, as *Jurors* are called *Peers*, from the Word *Par*; for every Commoner hath his *Peers* as Lords have; and the whole Style formerly was *Arch-Biſhops*, *Biſhops*, *Dukes*, &c. But *Pares Regni* is a new Style. It is called the *Upper Houſe*, and is to be look'd upon with Reverence. The Lords have a Juriſdiction; but in this Caſe, I muſt be plain, their granted Juriſdiction ariſeth from the *Houſe* of *Commons*, if you Impeach not there, your Judicial Power will be very little. If a Lord be to be Tried for Treaſon, the Lords are but his Jurors; and tho' they Try him upon Honour, not upon Oath, yet they are no more his Triers, than as out of Parliament: The Judge of Treaſon in the Lords *Houſe*, is Conſtituted by the King, as a Lord *High Steward*, and is no other Judge, therefore I know not the Judicature they ſpeak ſo much of.

There is another for Writs of Error, which are there determined, but the Juriſdiction of that is very little, for the Inconveniency of the Lords determining what could not be determined in other Courts, is ſo found out 25 *Eliz.* They are to be brought firſt into the *Exchequer-Chamber*.

There is another Way when Perſons carry Complaints to the Lords, which is a Queſtion, for Commoners ought not to carry Complaints there, except in ſome Caſes from *Chancery*; therefore this matter of Juriſdiction, which they talk of, is not ſuch a wonderful thing as they would make it.

Therefore whatever we ſhall do after it, your Rights be ſo much concerned, that you know not where the ſtay will be, it is neceſſary that you make a Committee to draw up a Proteſtation to be made by this *Houſe* concerning this Matter. The Invaſion of your Right in it, and the Danger to the Kingdom by it.

M.. *Colem.* The Lords ſay, That committing upon a general Impeachment is againſt Law, and I think it will appear ſo; I deny not, but a *Mittimus* without ſpecial Cauſe is legal, and grounded upon the Petition of Right, the Reaſon of which is to ſecure Men againſt Commitment by a ſpecial Warrant, and a Judge ought not to diſcharge where Treaſon is alledged, but in this Caſe it is different; The Judges cannot diſcharge a Man Committed after Examination, but the Lords ought not to Commit a Man, except there be particular Treaſon.

If I come before a Juſtice of Peace, and ſay, I accuſe this Man of Treaſon, will any wiſe Man Commit him? he makes his Warrant indeed, but he that accuſeth muſt go farther and make it more particular, and the ſpecial Matter muſt appear before he Commits, and this is the preſent Caſe.

The Common-Law is, That no Man ought to be Committed without particular Cauſe; becauſe no Man can Commit in Capital Matters, without taking Examination before-hand, otherwiſe no Man can juſtify a Commitment: Therefore I am not ſatisfied that the Lords had not reaſon to deny. The Commons are in the Nature of a *Grand Jury* to preſent, but the Lords are the *Judges*; Commitment is not the Judgment, but in order to it, and the Lords have a diſcretionary Power in the Caſe: The Lords ſay not that they will not Commit, but that they are not ſatisfied to do it without ſpecial Matter, therefore we ought to ſend it up.

Sir *Rob. How.* I have attended the Reaſons given againſt making a Proteſtation, and whatever is ſaid, is but levelling a *Houſe* of Commons with every private Accuſer; a Juſtice of Peace (it is ſaid) muſt have Evidence before he Commit, and this *Houſe* has had Inducements to Impeach; and may not a *Houſe* of Commons Judge what is Treaſon as well as a Juſtice of Peace?

The Inconveniencies and Dangers laid before you, if you proceed, are nothing in compariſon of thoſe on the other ſide.

Had the Lords Impriſoned, they had before this had the particular Charge, and the Proteſtation is not to ſtop it, but to make way for it ſome other way; for it will reſolve into a Remonſtrance, by which you may give the Nation an Account of your Proceedings to come to a Trial of this Buſineſs.

Mr. *Vaugh.* By the Proteſtation ſpoken of, is meant to preſerve the Rights of this *Houſe* upon the whole Matter, and to give the Reaſons of your Proceedings.

Sir *Tho. Meers.* What is ſaid, not being explained, I know not what is meant by the Proteſtation; if it be but to enter it into our Books, I am not againſt it; if it be an Appeal to the Nation, pray conſider what you do.

Mr. *Vaugh.* This way of Proteſtation differs from entring in our Books, but the beſt way is to draw it up, and bring it to you, and then any Man may take Exceptions againſt it; for the meaning is, that this *Houſe* claims its Rights.

Mr. *Garraw.* Firſt make your Proteſtation, and then Appeal to the King.

Mr. *Vaugh.* None can ſurmiſe that you mean an Appeal to the People by what is moved, for what is done, muſt be done to ſome part of the Parliament; the King, Lords, or your ſelves: And they who ſpeak of it (if it were done with evil intent) deſerve to be called to the Bar; when it is brought before you for your Approbation, you may either retain, or reject it.

Sir *Walt. Young.* I deſire that the Houſe may know before-hand to whom they are to Remonſtrate, and on what ground, and therefore to Adjourn their Debate now.

Mr. *Trev.* What Appeal you make ought to be to the King, but bring it in hither and give it what Name you pleaſe.

Sir *Rob. Atk.* As I would be tender of your Privileges, ſo of giving Offence to the Lords, therefore we ſhall endeavour to be Unanimous in this *Houſe*; a Proteſtation is Named, I am a ſtranger to it, and would underſtand clearly what it is, before we do it; That it is a Courſe warranted by Precedents and Proceedings of Parliaments, conſidering what effect it hath had in late times, therefore we may do well to adjourn the Debate and conſider of it.

Sir *Tho. Lit.* This Proteſtation will be like that in the Lord *Maynard's* Caſe, but ſomewhat longer, and ought to go no farther than to one of the Eſtates, and be kept within the Walls.

Mr. *Swinf.* You ſent up a Charge to the Lords in general, deſiring that the Earl of *Clarendon* ſhould be ſecured, and in convenient time you

you would send up Articles; from that time it hath not been done, and the Lords have passed several Votes about it since, but you have not passed one.

First they voted, that they had not complied with your Desires for want of particular Treason; Then you give them Reasons, they are not satisfied with them; then a Free Conference, they are still unsatisfied; and all this while you have not come to any Resolution: So that till you come to a Vote, no Man knows but that you are satisfied with their Answer; for when the Matter of the Protestation is brought in, we shall not be ready for it till we have resolved, that what the Lords Insist on, is an Obstruction of Justice, and you cannot agree with them without great Inconvenience to the Nation; Therefore put a Question, *That the Lords, not having agreed to Secure the Earl of* Clarendon *upon the general Impeachment, have obstructed the Publick Justice of the Kingdom in Proceedings of Parliament, and is of dangerous Consequence:* This is necessary, because the Lords have heard nothing from you, but endeavour to satisfy them.

Sir *John Good.* This Question will be a greater Accusation of the whole *House* of Lords, than the other is of the Earl of *Clarendon.* If you will go by way of Protestation, and keep it within your own Walls, I like it better than this Question.

Sir *Rob. How.* The putting this Question is no Charge upon the *House* of Lords; and therefore if that Gentleman thinks it so great an one, sure he thinks the Charge against the Earl of *Clarendon* to be a very small one. Is there any Obstruction to Justice? If not, Why do we not Comply? If there be, we cannot it seems complain without Charging the Lords. Keeping it within your own Walls, is but like a Man, when he is alone, muttering Arguments to himself, and commending himself for it. If you meet with any Obstructions, pray first put the Question, whether you are obstructed.

Sir *Rob. Atk.* It is no light matter to Charge the Lords with Obstructing Justice; therefore the thing being new, pray adjourn it till to-morrow, that we may be more of one Mind.

Then the Question was stated, Namely,

That the Lords not having complied with the desire of the Commons in Committing the Earl of *Clarendon,* and Sequestering him from Parliament upon the Impeachment from this *House,* is an Obstruction to the publick Justice of the Kingdom, and is a Precedent of evil and dangerous Consequence.

Resolved, *That the Question be put,*

And being put, *Resolved* in the Affirmative.

Resolved, *That a Committee be appointed to draw up a Declaration to Vindicate the Proceedings of this* House.

December 3.

A Message from the Lords by two Judges, That they have received a large Petition from the Earl of *Clarendon,* which Intimates that he is withdrawn.

Sir *Tho. Tompk.* Moved to take care to get the *Sea-ports* stopt.

Sir *Tho. Lit.* I believe he is now past stopping, but we should do it, tho' it have no effect; lest it look as tho' we would have him escape.

Sir *Rob. How.* The Lords seem now mistaken in their Opinion at the Conference, they said there was no fear of his running away; and in our *House* it hath been Jested that he was not like to Ride Post. Besides, the Expression in the Message is (*withdrawn*) which may be an inward Chamber, therefore 'tis fit to desire to see the Petition, and Command some Members to prepare something to Vindicate your selves in discharge of your Duty.

Mr. *Seym.* You cannot take notice to the Lords of the Petition, unless they think good to Communicate it to you, but make the Declaration.

Mr. *Vaugh.* I look upon what the Lords say as doubtful, therefore beware lest you do something misbecoming you. They only say, that he is withdrawn, but not what is his Petition; for the saying that he is withdrawn, is not the Matter of a Petition. Perhaps he is gone into the Country, the Message seems light, and you are to take no notice of it. If it be of Moment, and they think us Concern'd, they should let us know it; and I cannot think so of the Lords, that they would use that word, if he were fled: therefore send a Message, to know whether fled or withdrawn.

Mr. *Sol. Gen.* When a Delinquent signifies to his Judges, that he is withdrawn, it cannot signify any thing, but that he is withdrawn from their Judgment. None but a mad Man will tell them that he is fled, fearing what may follow; it would be well if their Care would prevent his flying, but you cannot Answer it, if you hear they do nothing, and so seem to say, fare him well.

Upon all which Motions, *Ordered,*

That Sir *Tho. Clifford* (Comptroller of the King's Houshold) be sent to the King, to desire the *Ports* may be stopped.

December 4.

The Lord *Fitzharding* makes Report from the King, that the Message for stopping the *Ports* being delivered him, he had taken care accordingly.

A Message from the Lords to desire a speedy Conference:

From which Mr. *Solicitor* Reports;

We attended the Lords at the Conference, which was deliver'd by the Duke of *Buck.* who said to this Purpose,

That the Lords had Commanded him to deliver to us that Scandalous and Seditious Paper sent from the Earl of *Clarendon,* desiring us to present it to you; and to desire you in convenient time to send it to them again, for it had a Stile which they were in love with, and desired to keep it.

Which said Paper was read, and is as follows, *viz.*

To the Right Honourable the Lords *Spiritual* and *Temporal,* in Parliament Assembled, the humble Petition and Address of *Edward* Earl of *Clarendon.*

'*May it please your* Lordships,

'I Cannot express the unsupportable Trouble and Grief of Mind I sustain, 'under the Apprehension of being Misrepresented to Your *Lordships,* and 'when I hear how much of Your *Lordships* time hath been spent upon the 'mention of me; as it is attended with more Publick Consequences, and of 'the Differences of Opinion which have already, or may probably arise 'between Your *Lordships* and the Honourable *House* of *Commons*; where-'by the great and weighty Affairs of the Kingdom may be obstructed in 'the time of so general a Dissatisfaction.

'I am very unfortunate to find my self to suffer so much under two very 'disadvantageous Reflections, which are in no degree applicable to me.

'The First, from the Greatness of my Estate and Fortune, collected and 'made in so few Years, which if it be proportionable to what is reported, 'may very reasonably cause my Integrity to be suspected.

'The Second, That I have been the sole Manager and chief Minister in 'all the Transactions of State since the King's Return into *England,* to '*August* last, and therefore that all Miscarriages and Misfortunes ought to 'be imputed to me and my Counsels.

'Concerning my Estate, Your *Lordships* will not believe, that after Malice 'and Envy hath been so inquisitive and so sharp-sighted, I will offer any 'thing to Your *Lordships,* but what is exactly true; and I do assure Your '*Lordships* in the first place, That (excepting from the King's Bounty) I 'have never received nor taken one Penny but what was generally under-'stood to be the just lawful Perquisites of my Office, by the constant Prac-'tice of the best Times, which I did in my own Judgment conceive to be 'that of my Lord *Coventry,* and my Lord *Ellsmere*; the Practice of which I 'constantly observed, altho' the Office in both their Times was lawfully 'worth double to what it was to me, and I believe now is.

'That all the Courtesies and Favours which I have been able to obtain 'from the King for other Persons in *Church* or *State,* or in *Westminster-Hall,* 'have never been worth me Five Pounds: So that your *Lordships* may be 'confident I am as Innocent from Corruption as from any disloyal Thought, 'which after near Thirty Years Service of the Crown, in some Difficulties 'and Distresses, I did never expect would be objected to me in my Age.

'And I do assure Your *Lordships,* and shall make it very manifest, That 'the several Sums of Money, and some Parcels of Land, which his Majesty 'hath Bountifully bestowed upon me since his Return into *England,* are 'worth more than all I have amounts unto; so far I am from advancing 'my Estate by indirect Means. And tho' this Bounty of his hath very far 'exceeded my Merit, or my Expectation, yet some others have been as 'fortunate at least in the same Bounty who had as small Pretences to it, 'and have no great Reason to envy my Condition.

'Concerning the other Imputation of the Credit and Power of being 'Chiefest Minister, and so causing all to be done that I had a mind to; I 'have no more to say, than that I had the good Fortune to serve a Master 'of a very great Judgment and Understanding, and be always join'd with 'Persons of great Ability and Experience, without whose Advice and Con-'currence, never any thing hath been done.

'Before his Majesty's coming into *England,* he was constantly attended by 'the then Marquis of *Ormond,* the late Lord *Culpeper,* and Mr. Secretary *Ni-'cholas,* who were equally trusted with my self, and without whose Joint 'Advice and Concurrence, when they were all present (as some of them 'always were) I never gave any Counsel. As soon as it pleased God to bring 'his Majesty into *England,* he established his *Privy Council,* and shortly out 'of them he chose a Number of Honourable Persons of great Reputation, '(who for the most part are still alive) as a Committee for Foreign Affairs, 'and Consideration of such things as in the Nature of them required much 'Secrecy, and with these Persons he vouchsafed to join me: And I am con-'fident this Committee never transacted any thing of Moment (his Majesty 'being always present) without presenting the same first to the Council-'Board; and I must appeal to them concerning my Carriage, and whe-'ther we were not all of one Mind, in Matters of Importance.

'For more than two Years I never knew any Differences in the Councils, 'or that there were any Complaints in the Kingdom, which I wholly im-'pute to his Majesty's great Wisdom, and the intire Concurrence of his 'Counsellors, without the Vanity of assuming any thing to my self; and 'therefore I hope I shall not be singly charged with any thing that hath since 'fallen out amiss. But from the time Mr. Secretary *Nicholas* was removed 'from his Place, there were great Alterations; and whosoever knew any 'thing of the Court and Councils, know well how much my Credit hath 'since that time been diminished, tho' his Majesty graciously vouchsafed still 'to hear my Advice in most of his Affairs: Nor hath there been, from that 'time to this, above one or two Persons brought to the Council, or preferr'd 'to any considerable Office in the Court who have been of my intimate Ac-'quaintance, or suspected to have any Kindness for me; and most of them 'most Notoriously known to have been very long my Enemies, and of dif-'ferent Judgment and Principles from me, both in *Church* and *State,* and 'have taken all Opportunities to lessen my Credit with the King, and with 'all other Persons, by Mis-representing and Mis-reporting all that I said or 'did, and persuading Men I have done them some Prejudice with his Ma-'jesty, or crossed them in some of their Pretensions: Tho' his Majesty's 'Goodness and Justice was such that it made little Impression upon him.

'In my humble Opinion, the great Misfortunes of the Kingdom have pro-'ceeded from the War, to which it is notoriously known that I was always 'most averse, and may without Vanity say, I did not only foresee, but de-'clare the Mischiefs we should run into, by entring into a War, before any 'Alliances made with the Neighbouring Princes. And that it may not be im-'puted to his Majesty's want of Care, or the Negligence of his Counsellors, 'that no such Alliances were entred into, I must take the boldness to say, his 'Majesty left nothing unattempted in order thereunto; and knowing very 'well, that *France* resolved to begin a War upon *Spain,* as soon as his *Catho-'lick Majesty* should depart this World, which being much sooner expected 'by them, they had in the two Winters before been at great Charges in pro-'viding plentiful Magazines of all Provisions upon the Frontiers, that they 'might be ready for the War, his Majesty used all possible Means to prepare 'and dispose the *Spaniard* with that Apprehension, offering his Friend-'ship to that Degree, as might be for the Benefit and Security of both *Crowns.*

'But *Spain* flattering itſelf, That *France* would not break with them, 'at leaſt, that they would not give them any Cauſe by adminiſtring Matter 'of Jealouſy to them, never made any real Approach towards a Friendſhip 'with his Majeſty, but, both by their Ambaſſadors here, and to his Ma'jeſty's Ambaſſador at *Madrid*, always perſiſted, as Preliminaries, upon 'the giving up of *Dunkirk*, *Tangier*, and *Jamaica*.

'Tho' *France* had an Ambaſſador here, to whom a Project of a Treaty 'was offered, and the Lord *Hollis*, his Majeſty's Ambaſſador at *Paris*, 'uſed all Endeavours to purſue and proſecute the ſaid Treaty, yet it was 'quickly diſcerned, That the principal Deſign of *France* was to draw his 'Majeſty into ſuch a nearer Alliance as might advance their Deſign; with'out which, they had no mind to enter into the Treaty propoſed.

'And this was the State of Affairs when the War was entred into with 'the *Dutch*, from which time, neither *Crown* much conſidered the making 'any Alliance with *England*.

'As I did from my Soul abhor the entring into this War, ſo I pre'ſumed never to give any Advice or Counſel for the way of managing it, 'but by oppoſing many Propoſitions, which ſeemed to the late Lord Trea'ſurer and my ſelf to be unreaſonable, as the Payment of the Seamen by 'Tickets, and many other Particulars which added to the Expence.

'My Enemies took all Occaſions to inveigh againſt me, and making 'their Friendſhip with others out of the Council, of more licentious Prin'ciples, and who knew well enough how much I diſliked and complained 'of the Liberty they took to themſelves of Reviling all Councils and 'Counſellors, and turning all things Serious and Sacred into Ridicule. 'They took all ways imaginable to render me ungrateful to all ſorts of 'Men, (whom I ſhall be compelled to name in my Defence) perſuading 'thoſe that miſcarried in any of their Deſigns, that it was the Chancellor's 'doing; whereof I never knew any thing. However they could not with'draw the King's Favour from me, who was ſtill pleaſed to uſe my Service 'with others, nor was there ever any thing done but with the joint Advice 'of at leaſt the Major part of thoſe who were conſulted with. And as 'his Majeſty commanded my Service in the late Treaties, ſo I never gave 'the leaſt Advice in private, nor wrote one Letter to any one Perſon in 'either of thoſe Negotiations but upon the Advice of the Council, and alſo 'after it was read in Council, or at leaſt by the King himſelf, and ſome 'others; and if I prepared any Inſtructions or Memorials, it was by the 'King's Command, and the Requeſt of the Secretaries who deſired my A'ſſiſtance; nor was it any Wiſh of my own, that any Ambaſſador ſhould 'give me any Account of the Tranſactions, but to the Secretaries, to 'whom I was always ready to adviſe; nor am I conſcious to my ſelf of 'ever having given Advice that hath proved miſchievous or inconvenient 'to his Majeſty; and I have been ſo far from being the ſole Manager of 'Affairs, that I have not in the whole laſt Year been above twice with his 'Majeſty in any Room alone, and very ſeldom in the two or three Years 'preceding.

'And ſince the Parliament at *Oxford*, it hath been very viſible, that my 'Credit hath been very little, and that very few things have been hearkened 'to, which have been propoſed by me, but contradicted, *eo nomine*, be'cauſe propoſed by me.

'I moſt humbly beſeech Your *Lordſhips* to remember the Office and Truſt 'I had for ſeven Years, in which, in Diſcharge of my Duty, I was 'obliged to ſtop and obſtruct many Mens Pretences, and refuſed to ſet the 'Seal to many Pardons and other Grants, which would have been profit'able to thoſe who procured them, and many whereof, upon my Repre'ſentation to his Majeſty, were for ever ſtopt, which naturally have raiſed 'many Enemies to me: And my frequent concurring, upon the Deſires 'of the late Lord *Treaſurer*, (with whom I had the Honour to have a long 'and vaſt Friendſhip to his Death) in repreſenting ſeveral Exceſſes and 'Exorbitances, the yearly Iſſue ſo far exceeding the Revenues, provoked 'many Perſons concerned, of great Power and Credit, to do me all the 'ill Offices they could. And yet I may faithfully ſay, That I never med'dled with any part of the Revenue or the Adminiſtration of it, but when 'I was deſired by the late Lord *Treaſurer* to give him my Aſſiſtance and 'Advice, having had the Honour formerly to ſerve the *Crown* as *Chan'cellor* of the *Exchequer*, which was for the moſt part in his Majeſty's Pre'ſence. Nor have I ever been in the leaſt Degree concerned, in point of 'Profit, in letting any Part of his Majeſty's Revenue; nor have ever 'Treated or Debated it, but in his Majeſty's Preſence, in which my Opi'nion concurr'd alway with the Major part of the Counſellors who were 'preſent.

'All which, upon Examination, will be made manifeſt to Your *Lord'ſhips*, how much ſoever my Integrity is blaſted by the Malice of thoſe 'who I am confident do not believe themſelves. Nor have I in my Life, 'upon all the Treaties, or otherwiſe, received the value of One Shilling 'from all the Kings or Princes in the World, (excepting the Books of the '*Louvre* Print ſent me by the *Chancellor* of *France*, by that King's Direc'tion) but from my own Maſter, to whoſe entire Service, and the Good 'and Welfare of my Country, no Man's Heart was ever more devoted.

'This being my preſent Condition; I do moſt humbly beſeech Your '*Lordſhips* to entertain a favourable Opinion of me, and to believe me to 'be Innocent from thoſe foul Aſperſions, until the contrary ſhall be proved; 'which I am ſure can never be by any Man worthy to be believed: And 'ſince the Diſtempers of the Times, and the Difference between the Two '*Houſes* in the preſent Debate, with the Power and Malice of my Ene'mies, who gave out that I ſhould prevail with his Majeſty to Prorogue 'or Diſſolve this Parliament in Diſpleaſure, and threaten to expoſe me 'to the Rage and Fury of the People, may make me to be look'd upon as 'the Cauſe which obſtructs the King's Service, and Unity and Peace of 'the Kingdom.

'I moſt humbly beſeech Your *Lordſhips*, that I may not forfeit Your '*Lordſhips* Favour and Protection, by Withdrawing my ſelf from ſo power'ful a Perſecution, in hope that I may be able, by ſuch Withdrawing, 'hereafter to appear and make my Defence, when his Majeſty's Juſtice '(to which I ſhall always ſubmit) may not be Obſtructed, or Controlled, 'by the Power and Malice of thoſe who have ſworn my Deſtruction.'

CLARENDON.

Mr. *Vaugh.* I think it not convenient to loſe more time about this Paper. Since the time of the Earl of *Clarendon*'s Name being mention'd here, I had nothing to Charge him with till now, but moſt of the Heads of this Charge are ſo weighty, that I am confident they will be eaſily and thoroughly proved, tho' I know not how; ſo that I admire at his Confidence, to Charge this Houſe, and ſo the Nation, as his Perſecutors, and that in ſuch a Condition, as he hopes to vindicate himſelf. It's the firſt time that ever I heard an Innocent Man run away under the greateſt Charge, with hopes to return again and vindicate himſelf.

Then mark one Expreſſion, he ſaith, *he is as far from Corruption, as from Diſloyalty.* If he ſaid he was guilty of neither, he had ſaid ſomething; but by that Expreſſion he may be guilty of both: So inſolent a Paper I never met with in this Kingdom, nor have I ever read the like in any other; ſo inconſiderable a part of the Nation, as he is, to lay it upon the Nation, who, if innocent, might defend himſelf; if Guilty, why doth he Charge the Nation with perſecuting? Therefore without troubling your ſelves with it, do as the Lords have done; who deliver it to you as a Scandalous and Seditious Paper; it hath Malice in it, and is the greateſt Reproach upon the King, and the whole Nation, that ever was given by Man. Therefore put the Queſtion whether his Paper ſhall not have the Character, that it is a *Scandalous and Malicious Paper, and a Reproach to the Juſtice of the Nation.*

Reſolved, upon the Queſtion,

That the Paper ſent to the Lords by the Earl of *Clarendon*, and by them ſent down to the *Houſe of Commons*, and now read, is *Scandalous and Seditious, and doth Reproach the King and the Publick Juſtice of the Nation.*

Sir *Rob. How.* You have voted this Paper Scandalous, and therefore it ſhould not live, wherefore I move it ſhould be burnt by the *Hangman.*

Mr. *Garraw.* The Paper is the Lords, and you muſt ſend it to them, but enter it into your Books, and your Vote upon it.

Reſolved, *To have it burnt.*

Sir *Rob. Car.* The Paper is the Lords, therefore move them to concur that it may be burnt.

Sir *Rob. How.* The meaning of my Motion is, becauſe the Duke of *B———ks* deſired the Paper again for the admirableneſs of the Stile; it is entered into their Books already, and they need it not to that End; therefore deſire the Lords Concurrence to burn it.

Reſolved, *To ſend it to the Lords to that End.*

December 5.

A Motion being made to ſend to the Lords in purſuance of the Vote about burning the Paper:

Mr. *Vaugh.* I am againſt ſending up to the Lords to that purpoſe, becauſe you have Ordered to enter the Paper into your Books, and when a Paper is burnt, it is not to ſtand upon Record, but ſhould be raſed out; which two Things are a perfect Contradiction, therefore let it reſt as it is; We have Voted it *Scandalous*, &c. The Lords tell us not that they have done any ſuch thing, tho' they ought to have done it firſt.

As for the Earl of *Clarendon*, he being now gone, if ſuch a like Occaſion ſhould fall out, we are in a worſe Condition than we were: for there is this Precedent againſt us, in a Caſe now manifeſt: And it becomes us to do ſomething in order to the Lords concurring, that ſo a good Underſtanding may be got; therefore I ſhall propound this to you, to be ſent up to them to that End.

Namely, when any Subject ſhall be impeached by the Commons before the Lords in Parliament with deſire to ſecure him, ſuch Perſon by the Law of the Land ought to be ſecured accordingly. This you have in effect Voted already, in ſaying the *Juſtice of the Kingdom is obſtructed by their not doing it.*

Secondly, when ſuch Impeached Perſons ſhall be ſecured, the Lords may limit a certain Time for bringing in the Charge, to prevent delay of Juſtice.

This may ſalve all, and prevent ſuch Ways as may be diſpleaſing to the Lords, and perhaps us alſo, in ſome Caſes hereafter.

Mr. *Swin.* I am perſuaded that according to Rules of Parliament, when you Charge by Impeachment generally, and promiſe in due time to ſend up your Charge, they ought to ſecure; but they not having done it, I queſtion whether you could do what you have; but the Earl of *Clarendon* flying, it is manifeſt Juſtice was obſtructed; for he might have been brought to his Trial, if the Lords had ſecured him; but now your Vote is made good, which ſeems to lay the Advantage on your ſide.

Sir *Rob. How.* I think this Meſſage to the Lords will deſtroy the way of vindicating our ſelves by Declaration; therefore finiſh the Declaration, and then Reſolve, before you publiſh it, whether to ſend up this Meſſage.

Mr. *Vaugh.* If the Lords agree with us, we may ſpare the Declaration, but if they agree not now, they will much leſs hereafter: Your Declaration can amount to no more but this, make a Narrative of the Invalidity of the Lords Precedents; but then you muſt of neceſſity do ſomething more, elſe your Labour is in vain; therefore this Meſſage with theſe Votes are neceſſary.

Sir *Rich. Temp.* I expected that when the Earl of *Clarendon* had been fled, the Lords would have deſired the King to iſſue out a Proclamation to Apprehend him, ſeeing they have been the Occaſion of his Eſcape; therefore now deſire their Concurrence to go to the King to that End, and if they Concur, they have upon the Matter granted Commitment upon a general Impeachment.

Mr. *Vaugh.* I thought it my Duty to offer you what I have done; if you like it not, I deſire to be excuſed in ſerving you in the Declaration, and that they who think it neceſſary would be pleaſed to take the Pains to do it.

Sir *Tho. Lee.* If you declare, it will beget an Anſwer, and where will that end? If you ſend up your Votes, and the Lords agree, your End is Anſwered; for it is a yielding that which they have yet denied; your declaring, and entring it upon the Journal, will be to no purpoſe. It is but like a Man, who having been beaten publickly, in the Chamber calls him who did it Rogue.

Mr.

Mr. *Hampd.* I desire that the Words (*Law of the Land*) may be left out, and the Words (*Law of Parliament*, or, *Usage of Parliament*) put instead of them; for it hath been shewed us, that there are several ways of Impeachment besides Common-Law.

Mr. *Vaugh.* Those words were purposely put in, because at the free Conference, when we pressed the *Law of Parliaments*, the Lords pressed the *Law of the Land*, by way of Negative, as if the *Law of the Land* were otherwise; but rather than that shall be any obstruction, put it *by Law*.

Mr. *Stew.* Leave out the Words (*by Law*) for if a Man be secured, it is Implied by them who do Commit that it is according to Law.

Then it being Moved to draw both Votes in one;

Sir *Tho. Litt.* Tho' you should put both Votes into one, it will not answer your end, for the Lords will not Concur with the first Part, and yet may make use of what Part you grant of it, that is the last, and so have advantage against you: but there is another Reason, why you should forbear these Votes, Namely, *Prudence.*

The Earl of *Clarendon* being gone, there is an expectation that a Bill should be prepared to do something farther, wherein I hope both Houses will join; if you send up this, you will give disturbance to that Bill; and if you should enter this in your Books, in order to send it up hereafter, they will hear of it, as done to make them swallow their former *Resolves.* Therefore defer it for the present.

Mr. *Trev.* Consider whether the Matter betwixt you and the Lords is not well as it is: You have Voted, That when a Man is generally Impeached, he ought to be secured, and that the Lords not having done it, is an obstruction to Justice; and what will it signify to carry it to the Lords? What hath since fallen out, justifies you, and lays the disadvantage upon the Lords. The World expects now what you will do further, and that must be by Concurring with the Lords.

Sir *Tho. Cliff.* We all agree to these Votes, in order to justify your Rights; but what is the use of it? You have already done it in your Books, and you cannot expect the Lords should go so much against their own Votes; this therefore will but widen the Gap, it being telling them they must eat their Words.

Sir. *Tho. Litt.* Those, who have had a hand in the Charge against the Earl of *Clarendon*, have been thought sometimes too Violent, sometimes too Remiss, as not able to make out the Charge: But what I speak now, is for your Honour, which will be wrong'd in this Proceeding; I am for bringing the Impeachment to something; and therefore against these Votes: Now you make a Declaration of your own Rights, and entring it upon your Books, that not only the Vote may appear, but the Ground of it, but not to declare to the Lords, which will beget an Answer, and exasperate. It is now unseasonable to make the Lords retract, therefore lay it aside; for tho' I am confident that Gentleman did it to no such end, yet if I would design any thing to the Earl of *Clarendon*'s Advantage, I could not take a better way than this.

Mr. *Vaugh.* This is but the affirming all which hath been done already, and I am for none of those, who are contriving for any thing out of the House.

Sir *Will. Covent.* This Question is not now seasonable; tho' it is a better expedient than the Declaration, as things now stand, and considering what hath past, I am apt to think the Lords may do it of their own accord, and you would not willingly have a Negative to your Votes. Therefore seeing your Votes may be of use hereafter, put no question at all, but adjourn the Debate to a proper Season.

Mr. *Vaugh.* I am against the Adjourning of it, and have given Testimony, that I have done nothing to be thought to do that which is so much for the Advantage of the Earl of *Clarendon*, and shall take heed of doing any Thing hereafter to be so reflected on

Sir *Tho. Litt.* I hope I avoided any such Reflection, nor did I speak any Thing to such purpose. I do not believe, nor ever did think any such Thing, and hope that Gentleman himself believes, that no Man in this House hath more Honour for him than I.

Sir *John Charle.* Let the World see that you do not intend to restrain your Proceedings to the Earl of *Clarendon*, but make it a general Care; and therefore are concerned in Honour to put the Question.

Resolved upon the Question,

That the Question be put.

Resolved, *That both the Questions propounded by Mr.* Vaugh. *and put singly in the Affirmative, be carried up to the Lords.*

December 13.

A Bill was brought from the Lords, to Banish the Earl of *Clarendon*, and read.

After reading, several Objections being made, and it being alledged, that it was an Abuse put upon the *Commons* by the *Lords*, and that a Bill of Attainder being propounded, after some Debate, the *House* pass'd this Vote:

Resolved, *That this House taking notice of the Flight of the Earl of* Clarendon, *being under an Impeachment of High-Treason by this House; the King's Majesty be humbly desired to Issue out his Proclamation for Summoning the said Earl to appear by a Day, and to apprehend him in Order to his Trial.*

Resolved, *To send to the Lords for their Concurrence to this Vote.*

December 14.

A Message from the Lords for a Conference, at which they deliver'd two Reasons, why they could not Concur.

1. *First, for that they conceive a Proclamation in the way proposed would be ineffectual, since it is not* sub pœna Convictionis, *which cannot be 'till Particulars in order to Trial be declared.*

2. *That what the* House of Commons *hath proposed, and do propose at present, is intended in Order to a judicial way of Proceeding; but since the Earl of* Clarendon's *Flight, their Lordships upon Consideration of the whole State of Affairs, and of the Kingdom, have upon Grounds of Prudence and Justice thought fit, for securing of King and Kingdom, to proceed in a Legislative way against the said Earl, and have to that end past and sent down to them a Bill of Banishment and Incapacity against him, with which this Vote is inconsistent.*

December 16.

The said Reasons from the Lords being Reported and Considered, and it being Moved that the House would declare themselves unsatisfied with them:

Sir *Tho. Cliff.* I am against passing a Vote at present upon the Lords Reasons, but read the Bill sent down from thence, and summons him by it to appear by a Day.

Mr. *Trev.* Some are against the Bill, because it goes too far, Condemning before Hearing, others would have it to go farther. Summons is in Order to Hearing, Trial, and Judgment; of those he hath made himself incapable by Flight, and hath in his Paper told you, *That he will neither be heard, nor Tried by you:* Tho' you expected to have him secured by a general Accusation, yet you never expected Judgment upon it. Then it is said, *This Banishment falls short of Treason*; but we are not to pass Sentence for Crimes, but as a Council propound to the King what is necessary in this case; Then consider whether this Bill will answer our Ends, and if it doth, Delay will make it worse. I think we should make it reach them. What if he hath Life in other Parts, his Family untainted, and his Children alive, and enjoy his Estate?

Sir *Rob. Carr.* You have Ordered to consider the Reasons from the Lords, therefore do it.

Mr. *Hen. Covent.* The Motion to read the Bill is not against your Order, because part of the Reasons given by the Lords is, *That you have a Bill, and 'till you have read the Bill, you cannot lay by the Reasons.* The Earl of *Clarendon* is fled, you have a tye upon him in having his Innocent Relations, and by Proceeding farther you make him desperate, you are now in an even way with the Lords; therefore read the Bill.

Mr. *Swinf.* You may go upon the Reasons, and yet not reject the Bill; for when you sent to the Lords about a Proclamation, and went not upon the Bill, it was, because what the Bill drives at, is the highest Punishment next to Death. Therefore consider what weight is in the Reasons. One of them seeming to put you upon the Bill, they put you thereupon on a Legislative way; they will neither Secure nor Summon him, but will condemn him Unheard. They cannot Secure him upon a Charge of Treason, nor yet Summon him, but they can Condemn him; and this they put you upon, which is against Honour and Justice, especially to do it upon Reason of State. The Legislative Power of Parliament is great, it hath no Bound, but the Integrity and Justice of Parliaments. If Reason of State be a Motive of Parliament to Banish one Man, so it may be for many. If you go in this Legislative Way, you bring upon your selves all the Dishonour of the Business, but the Lords will have some Excuse, which you cannot, for they look'd upon the Charge so slight, as not to Imprison him; the Party is gone, because he was not Secured, apprehending (he saith) fear of the Multitude, not of his Trial; so that the Lords not giving Credit to your Charge against him, he says, *he flies not from Justice.* Now if upon this Bill you shall Banish him, it would be said you could not make good the Charge, and therefore laid this Sentence upon him.

The Precedent is also dangerous: If having gone so far in a Judicial way, you should now go in a Legislative: If upon Reason of State, Lords may be Banished, it may be by dozens: As you proceed Justly, so you will be Justified.

Nor is the Danger greater if the Lords go by Proclamation, and he be put into Custody when he comes; if he can practise any Thing, will not he be less capable when under the Proclamation, than when this Bill is Passed, which Condemns him without Hearing? and I am not for any Punishment till Heard. In *Cromwell*'s Case, who Moved in *Hen.* VIII.'s time, to Attaint a Lord Unheard, the Judges declared they might, and it would stand; afterward the said *Cromwell* was Attainted and Condemned Unheard, and such Counsel usually falls upon those that Counsell'd it.

Sir *Rob. How.* The Earl of *Clarendon* saith, *That he doth not withdraw from your Justice, but for fear of Tumults*; but that Reason any Man may give for his flying, if it will be an Excuse; but he might have secured himself from Tumults by rendring himself, and his Innocency upon his Trial would have cleared him. This at last may come to a free Conference, then you may be left to go along with the King; the House riseth and doth nothing, and then the World will see that this Business will assure the King of *France*, That he hath a Man with him so Great, as to hinder us from doing any Thing against him: Therefore as you ought to do something against him, see whether it may not be done by the Bill, by resuming his Lands, *&c.* if he come not in by a Day,

An Exception may be against this way, Namely, That there is no Attainder; but if there had been such a Bill, the Thing which should sway me should be the Duke of *York*'s Marriage: So that if you Commit this Bill, you may add all Severities, except that of Attainder, and if he come by a Day, then all to be void. If you go by Proclamation, the Lords may not Concur, and you lose your Ends. By this Bill all Favour that he can expect is shewed, and this way will be the best Confutation of the Lords Reasons; therefore Commit the Bill.

Mr. *Secretary Morr.* I am for Committing the Bill, tho' it be condemning Unheard; because he could not but conclude it would be so. *Et volenti non fit Injuria.*

Sir *Rich. Temp.* You have proceeded against this Earl in all ordinary Ways, and have been baffled by the Lords. In *Edward* the *Third*'s Reign, *Adam de Berry* fled, and a Proclamation went against him, and the Commons neither did, nor ever were bound to deliver their Articles till the Party appeared, and in that Case they delivered not their Articles till the last Day, when he not appearing was Convicted.

When

When you would go by Attainder, they tell you, Deliver ſpecial Matter, and we will Summon him; when you aſk a Proclamation, they tell you, Deliver ſpecial Matter: If you declare the Matter to the Court, it is upon Record; and all may know it. You have tried all ways Legal and Regular, and they will do you Juſtice in neither. Now what can you do? Except you and the Lords combine in Juſtice together, he muſt eſcape, and if you can be made do differ, he goes away in a Smoke. If you go to the King for a Proclamation, you muſt return to the Lords for Juſtice. I am ſorry the *Ivy* hath been ſo near the *Oak*, that you cannot touch it, without touching that. There remains a Bill before you, and in that you are upon equal Terms with the Lords; therefore give him a Day to be heard, and if he come, let him; but then his Penalties are too low for his Crimes; therefore read the Bill, go higher, degrade him of Honours, forfeit his Lands, and whether you will go ſo far, I leave with you.

Mr. Sol. Gen. It is not poſſible to agree with the Lords in their Reaſons, but the Reaſon muſt be becauſe the Bill is good. But if any Man thinks it is good upon the Lords Reaſons, he is miſtaken; and therefore my Advice is to proceed upon the Bill, tho' not upon the Reaſons from the Lords. Some think the Puniſhment in the Bill too little for the Crime, others too much, becauſe not Summon'd; ſo that it muſt fall out, That a Perſon impeached by the *Houſe of Commons* muſt ſee the *Houſe* riſe without any marks of Diſpleaſure upon him: Can any Man be heard, who will not be heard? Why ſhould not you proceed in ſuch a way againſt him, as whoſe very Flight amounts to a Confeſſion? And have you not burnt his Paper for reflecting upon the *Houſe?* and can you think he will appear who is departed in deſpair of the Court? And now you are contending to give him Time.

Then conſider the Thing in itſelf. Suppoſe the King had a mind to Attaint him, the King can do it without your help, for he may be *Outlawed* for High-Treaſon; for tho' that be Reverſible at Common Law, if he be beyond Sea, yet by two expreſs Acts of Parliament it is otherwiſe, but the King cannot Baniſh him without your Concurrence: Suppoſe him Fled and Attainted, ſo that the Queſtion is not upon his Life, but his Eſtate, ſuppoſe your Juſtice ſatisfied in that, is it not paſt all manner of Conſideration that the King cannot upon Application reſtore it, ſo that all you look'd for by Attainder, is done by this Bill of Baniſhment, for his Life is ſaved by Flight, as would his Eſtate by Compaſſion; but there is ſomething in this Bill, which, without it, you can never get, that is, you put him under your Diſpleaſure, which the King cannot Pardon; and will you have it thought abroad, that the Earl of *Clarendon*, fled as he is, hath been ſomething too hard for the Two *Houſes?*

Sir *Tho. Litt.* If there be a neceſſity of differing with the Lords, and I thought the Difference would produce ſuch Effects, I ſhould not ſpeak, but they only tell you 'tis unneceſſary and ineffectual. You have Impeached, and are now told if you proceed, it will make Difference; but I fear another greater Danger than this Difference. The World will ſay you were willing he ſhould fly, becauſe you could not prove; by flying he hath Forfeited his Eſtate; if the King give it him again, it is his Mercy; but do you Juſtice: Therefore preſs for a Proclamation, for the Bill is inconſiſtent with your Honour.

Mr. *Vaugh.* I have liſtened with much Attention to this Diſcourſe, and underſtand it as little now as at the beginning, the Diſcourſe being nothing adequate to that End. You have Reaſons from the Lords why they agree not with you, and if you agree with the Reaſons, the Sum is to read the Bill; but if you agree not, you muſt deſire a Conference, and if they concur, you may have a Proclamation, if not (as I think they will not) you are where you were: We ſuppoſe him not to be in *England*, and if ſo, what is the Proclamation more than the King's Writ? It reacheth no Man out of the Kingdom. It's true, in ſome Caſes, if the Perſons are gone out of the Land they are ſummon'd, and if they come not, their Lands are Seized, but it is not by Proclamation, which ſignifies nothing if the Party be gone.

Then go on; ſuppoſe the Lords join in deſiring a Proclamation, the End of which is Appearing and Apprehending; poſſibly you gain one part, that if he be apprehended, they do impriſon him upon a general Impeachment; but if they agree not, what Benefit have you by it? None: But if he appears, to what is it? There is no Charge, if apprehended, to Anſwer the general Charge.

Then the Third Way is, If the Lords agree not, that you ſhall go to the King; and there is a more dangerous Rock in that, than in any thing; for we never heard of a Commitment *per ipſum Dominum Regem*, but *per mandatum Domini Regis*, becauſe againſt the King lies no Damages: What then muſt you do? Many think it Injuſtice to proceed, if he be not called by Proclamation. But it is plain, if you proceed upon this Bill, you go not upon your Impeachment, but becauſe he is fled from the Juſtice of the Land, wherewith you have charged him in burning his Paper; and it imports little, that he ſaith he is innocent; for why then doth he fly? Shall we abate him of what he ought to ſuffer for his ſaying ſo? He is fled from the Juſtice of the Parliament, and therefore is proceeded with; and for what others ſay, you ought not to regard popular Reaſons, but to purſue your own; it is enough for you to hear ſome Proofs made: When was it known in any Court, that Proofs ſhould be taken only on one ſide? So that you cannot acquit your own Juſtice, nor bring him any ways to Anſwer, he being gone; nor can you have any Effect of the Proclamation, tho' the Lords join in it: Therefore unleſs you will have nothing done after all this, (for he may not be Guilty of all Charged, who yet hath made himſelf Guilty of what is Charged by flying) read the Bill.

At laſt the Queſtion was put, whether the Bill ſhould be read and Committed.

109 *for it.*
55 *againſt it.*

164

December 18.

The Bill for Baniſhing the Earl of *Clarendon* was Reported from the Committee, and Read.

Sir *Rob. How.* I deſire that to the *Preface* of the Bill this Addition may be made.

That whereas the Earl of Clarendon *was Impeached of Treaſon by the* Commons, *who deſired he might be ſecured, but was not; and thereupon is fled.*

And this to the End the proteſting Lords may be gratified, who took ſo much Care of the Commons.

Sir *Rob. Carr* Seconds the Motion.

Sir. *John Talb.* I cannot Concur with that Motion, becauſe we cannot take notice of what the Lords do.

Sir *Rich. Temp.* We may take notice of Things in the Lords Books which are Records, and there the Proteſt is entred; and tho' not to gratify them who owned our Right, yet we ought to take care of our own Right: And that the World may ſee we have ſome Cauſe to Paſs this Bill, neither deal ſo modeſtly with a Man who flies from Juſtice, as to uſe his own Word (*withdraw*) but call it *flying*.

Sir *Tho. Gow.* Let the Words be, *that having been Impeached, and moved to be Secured, hath withdrawn himſelf.*

Mr. *Sollicitor.* The Word *Moved*, deſtroys the Bill it ſelf: the Word of the Bill is to unite the Two *Houſes*, and this Amendment tends to deſtroy that End, for the Addition to the *Preface* being inſiſted on, the Lords will add the Reaſons for not Committing, and ſo revive the whole Matter again.

Let the Lords add in their Books what they will, your Books will as much juſtify you, as theirs them.

Sir *Hum. Win.* Let the Words be added, whether the Lords agree, or not, that it may appear upon our Books.

Mr. *Hugh. Boſcow.* The *Preface* is but Hiſtory, yet add theſe Words, and let the Lords inſert what they pleaſe. I ſhould rather Concur with them, than leave out thoſe Words.

Mr. *Vaugh.* Put no Queſtion upon theſe Words, but whether the *Preface* ſhall go as it is: The Bill in Probability is a ſafe Bill, becauſe it came from them: But if you begin an Alteration, you your ſelves render it unſafe; for if you put in theſe Words, then the Lords will add, *for want of Special Matter*, and ſo it will come to nothing.

Then the Bill was read the Third time.

Mr. *Vaugh.* I am againſt the Word *Withdrawn*, and for the Word *Flight* inſtead of it, and in regard the Juſtice of this Bill depends upon the Word (*Flight*) put it expreſly.

Sir *Rob. Carr.* I am againſt this Bill, tho' I was as earneſt in the Matter as any one while I thought there was Proof; but now none appearing, I am againſt the Bill, becauſe you are Confirming what the Lords have done.

Mr. *Vaugh.* Many Men wonder that no Reaſon is given for paſſing this Bill, but the Queſtion is miſtaken, the Bill is grounded upon his Flight after his Impeachment, and his flying implies ſome Guilt; if none, it is the ſafeſt Argument for any Man to run away, and then there is nothing to catch him. A Proclamation to a Man out of the Kingdom ſignifies nothing. But in the whole it is plain, that he ſaith, that finding the King's Juſtice obſtructed in Parliament, he is fled.

Obj. But it will be ſaid, Upon bare Flight never was any Man puniſhed.

Anſw. If one Man kills another and flies, tho' upon his Trial he ſhall be acquitted, yet he ſhall never recover his Goods becauſe of his Flight.

There have been ſeveral Acts of Baniſhment, *Spencer*, &c. And tho' in this there is ſomething more ſevere than in them, namely that none ſhall correſpond with him; yet there is alſo ſome Advantage, namely, that if he come in by the Firſt of *February* all ſhall be void; for when the Crime is laid, and his Flight makes him Guilty, he ought not to have a Day.

Then the Queſtion was put for paſſing the Bill.

65 *For it.*
42 *Againſt it.*

107

So the Bill paſs'd the Commons, and afterwards obtain'd the Royal Aſſent.

See the Earl of *Clarendon's* Vindication of himſelf againſt the Articles of High-Treaſon, *State-Trials*, Vol. 8. *p.* 381.

LXVIII. *The Trials of* Peter Meſſenger, Richard Beaſley, William Green, Thomas Appletree, John Earles, William Wilks, William Ford, Richard Farrell, Edward Cotton, Edward Bedle, Richard Latimer, John Sharpleſs, Richard Woodward, Thomas Limerick, John Richardſon *, *at the* Old-Baily, *for* High-Treaſon, *in tumultuouſly Aſſembling themſelves in* Moorfields, *and other Places, under Colour of pulling down* Bawdy-Houses, April 4, 1668. 20 Car. II.

UPON *Eaſter-Monday* laſt, being the 23d Day of *March*, in the 20th Year of the Reign of our Sovereign Lord the King that now is, it being the uſual time of the Apprentices Liberty for their Civil Recreations, a rude Multitude of People met together in *Moorfields*; where being ſo Aſſembled, were inſtigated by ſome Factious Perſons amongſt them; who, to colour their Deſign, inſinuated into the Rabble the pulling down of *Bawdy-Houſes:* Under which colour on reforming *Bawdy-Houſes*, they at length raiſed a great Hubbub; and ſo increaſing in their Diſorders, in a tumultuous Manner committed many notorious Crimes. But by the Vigilancy of the Magiſtrates of the City, with the Aſſiſtance of his Majeſty's Guards, were at laſt reduc'd: Some of the Ringleaders whereof were apprehended, and committed to the Goal for their Offences, to receive their Trials according to the known Laws of the Land.

And having been ſeveral Times examined, upon Confeſſion of ſome, and pregnant Proof againſt others, by a ſpecial Jury of ſeveral Knights, Eſquires and Gentlemen, of very great Worth and Eſteem, of theCounty of *Middleſex*;

Theſe Perſons following, to wit,

Peter Meſſenger,	*William Wilks,*	*Richard Latimer,*
Richard Beaſley,	*William Ford,*	*John Sharpleſs,*
William Green,	*Richard Farrell,*	*Richard Woodward,*
Thomas Appletree,	*Edward Cotton,*	*Thomas Limerick,*
John Earles,	*Edward Bedle,*	*John Richardſon,*

Were indicted of High-Treaſon, for levying of a Publick War againſt our Sovereign Lord the King: And at the Goal-Delivery of *Newgate*, held at the Seſſion-Houſe in the *Old-Bailey*, *London*, *April* 1, 1668, and continued till the fourth Day; on which ſaid fourth Day, in the Preſence of

Sir *John Kelyng*, Knt. Lord Chief Juſtice of his Majeſty's Court of *King's-Bench*,
Sir *Edward Atkins*,
Sir *Chriſtopher Turner*,
Sir *Richard Rainsford*, } Barons of his Majeſty's Court of *Exchequer:*

Together with Sir *William Wild*, Recorder of the City of *London*; theſe Priſoners following, *viz.*

Peter Meſſenger,	*William Green,*
Richard Beaſley,	*Thomas Appletree,*

Were firſt called to the Bar to receive their Trials; where, after Proclamation being made, they ſeverally pleaded to their Indictments, and put themſelves for their Trial upon their Country.

The Names of the Jury ſworn.

Anthony Hall,	*Thomas Jennins,*
William Knight,	*John Nichols,*
Henry Francis,	*Ralph Bradſhaw,*
John Baker,	*John Saving,*
Robert Shaw,	*John Marſh,*
Thomas Conſtable,	*Henry Kent.*

The Jury being ſworn, the Court proceeded to Trial.

Mr. *North.* You Gentlemen of the Jury, theſe four, *Peter Meſſenger*, *Richard Beaſley*, *William Green*, and *Thomas Appletree*, ſtand indicted for High-Treaſon; having left their Obedience to our Sovereign Lord the King, and being inſtigated by the Devil, upon the 24th Day of *March* laſt paſt, did contrive a Deſign to levy War and Rebellion againſt the King, being at the Head of four or five Hundred armed and array'd. If this Matter be prov'd againſt them, you muſt find them Guilty.

Mr. *Pemberton.* You Gentlemen of the Jury, theſe Priſoners at the Bar did contrive and levy War, and fell upon the King's Officers, and beat them, and broke the Priſon, and let out the Priſoners, ſome for Felony: Among the Multitude theſe were four of them, as we ſhall endeavour to prove.

The Names of the Witneſſes call'd and ſworn,

Richard Dowſon,	*James Martin,*
John Cowley,	*Abraham Brookes.*
Henry Bull,	

The OATH.

THE Evidence you ſhall give between our Sovereign Lord the King and the Priſoners at the Bar, ſhall be the Truth, the whole Truth, and nothing but the Truth. So help you God.

Counſel. Sir, pray tell my Lord what you ſaw theſe do on *Eaſter-Tueſday.*

Witn. My Lord, I ſaw this *Richard Beaſley* at the Head of four or five hunderd; he had a Sword, and I took his Sword from him: he had Colours, a green Apron upon a Pole. I heard ſome of them cry, *Down with the Red-coats*; and I did ſee *William Green* there too, but not *Appletree.*

Lord Chief Juſtice. Did they go with the Multitude or no, or were they with them?

Witn. They were with them; but I cannot ſay they went along with them.

Counſ. Pray tell my Lord what the Multitude ſaid at that Time.

Witn. When we fell on them, they ran away.

Ld. Ch. Juſt. Did *Beaſley* lead them on?

Witn. They ſaid he was their Captain.

John Cowley, Second Witneſs.

Counſ. Mr. *Cowley*, tell my Lord what you ſaw.

Cowley. My Lord, he cut me and wounded me on the Hand. The Conſtable charg'd them to be gone, and diſperſe themſelves; with that they ſtruck at the Conſtable, and knock'd him down.

Ld. Ch. Juſt. Under what Pretence did they pull down any Houſe?

Witn. The Conſtable and ſome more of us beat them up *Nightingale-Lane*; I know not what their Pretence was: I ſaw *Appletree* there, for he was the Firſt that ſtruck at the Conſtable. This was on *Eaſter-Tueſday.*

Ld. Ch. Juſt. Did you ſee *Green* there?

Witn. I cannot tell.

Ld. Ch. Juſt. Did you ſee them pull down any Houſe? What did you hear them ſay?

Witn. They ſaid, *Down with the Bawdy-Houſes.*

Ld. Ch. Juſt. Did you hear them talk of the Red-coats there? Was *Green* amongſt them, as one that help'd and acted with them?

Witn. I ſaw him in *Moorfields* on *Monday*, *Tueſday*, and *Wedneſday*, ſhout and throw up his Hat.

Third Witneſs.

Ld. Ch. Juſt. What did you ſee them do?

Witn. All that I ſaw, was, that *Peter Meſſenger* came along with the Colours in his Hand, and I took him and carried him to Priſon myſelf: I did not hear them cry, Down with honeſt Houſes, but *Bawdy-Houſes:* I did not ſee all thoſe, but only theſe two (pointing to two at the Bar).

Ld. Ch. Juſt. Ay, That was the Captain and the Enſign.

Fourth Witneſs, *Henry Ball.* My Lord, I ſaw this *Beaſley* and *Meſſenger* in *Moorfields*, pulling down Houſes on *Monday*, and on *Tueſday* at the Head of three Hundred; and at that time we routed them. On *Wedneſday* they came with four or five hundred, and cry'd, *Down with the Red-coats.*

James Martin, Fifth Witneſs.

Ld. Ch. Juſt. What can you ſay?

Witn. All I know is, *Beaſley* made a Blow at our Enſign, and ſtruck at him with his Sword.

Ld. Ch. J. What was their Pretence?

Witn. I cannot tell that.

Another Witn. I ſaw *Thomas Appletree* help to pull down *Peter Burlingham*'s Houſe, and broke another.

Serj. *Wild.* What Company had they?

Witn. About Three Hundred.

Ld. Ch. J. Had they any Colours? What did you hear them declare?

Witn. I heard them declare nothing, for I had like to have been knockt on the Head.

Ld. Ch. J. to the Priſoner *Beaſley.* Well, what do you ſay for your ſelf? You hear it is ſworn againſt you, that you were at the Head of this Rabble, and they call'd you Captain, and you led them up; and when the Conſtable came to command Peace in the King's Name, you fell on him, and wounded him, ſo that he is hardly able to be here this Day: Why did you gather this Multitude together? It will behove you to make your Anſwer; what Reaſon had you for it?

Beaſley Priſ. I do not know the Reaſon.

Ld. Ch. J. I ſpeak to you that you ſhould give a Reaſon: After all this Trouble that we have had in this Nation, it is a ſad thing that a great Number of giddy-headed People muſt gather together under Pretence of Reformation, to diſturb the Peace of the Nation again; if you can ſay no more for yourſelf, there will be little trouble with you.

Serj. *Wild.* What was the meaning of your gathering together?

Beaſley Priſ. We went to pull down Bawdy-Houſes.

Ld. Ch. Juſt. How did you know which were Bawdy-Houſes? If you had known them, you might have indicted them, there is a Law againſt them; but this is a ſtrange kind of Reformation, if a Rabble come, and ſay, This Man is a Papiſt, and this keeps a Bawdy-Houſe, and would pull it down; this is a mad Reformation.

Meſſenger Priſ. My Lord, that Man has ſworn I was out on *Tueſday*, it was *Wedneſday* before I came forth; but ſtaid at home with my Wife, becauſe I would not be among them.

Ld. Ch. J. Did not you carry a green Apron on a Pole for your Colours?

Priſ. My Lord, as I paſs'd along by the Rout, they flung a Bottle at me, and had like to have knock'd me down, and tore my Apron off, and charg'd me to carry it on a Pole; and I would fain have come away from them, and could not.

Ld. Ch J. Make this appear, that you would fain have got away, and that they did force you to do what you did, and I ſhall be glad of it.

Priſ. There is none of them here now that were there then.

* *Kelyng* 70. 1 *Sid.* 538.

Ld Ch. J. Then all that you ſay is of little Uſe; for it is no great thing to make a Lye to ſave one's Life.

Priſ. God is my Witneſs——

Ld Ch. J. Have a care what you ſay.

A Conſtable (Witneſs) ſworn.

Ld Ch. J. What ſay you of theſe four at the Bar?

Conſt. My Lord, I heard they were pulling down Houſes, and I did what I could to preſerve the King's Peace; and that Day I did ſave a great many Houſes and Goods. The next Day they were near my own Houſe, and I did endeavour to do the ſame, and this Fellow with his Company did ſurprize my Men, and knocked me down; yet I commanded the Peace, and they beſet me round about, and cut me over the Hand: I do remember that *Beaſly*. We were in a Place where there were three Turnings, but they knockt me down, and beat me ſo, that I could not tell who it was that did hurt me.

Ld Ch. J. Do you know any more of this Company?

Conſt. No, my Lord: For if the Soldiers had not come, they would not have left 'till they had kill'd me.

Counſ. Had you your Staff?

Conſt. Yes; but they took it away from me.

Another Witn. I ſaw *Meſſenger* on *Tueſday*, tho' he ſays to the contrary.

Ld Ch. J. Meſſenger, you hear what is ſaid againſt you; you ſay you were not out on *Tueſday*: He hath ſworn you were at the Head of a Company, with a green Apron on a Stick, and led them up.

Priſ. I was not there.

Henry Bull, Wit. I ſaw him, my Lord, on *Tueſday*, he and *Beaſly*, about Eleven of the Clock in *Moorfields*, and they had gathered a great Multitude of four or five Hundred, and then they made an Attempt to come into our Pariſh, and they cry'd, *Down with the Red-coats.*

Meſſenger. Priſ. Pray, my Lord, let my Witneſſes be called in, for they ſwear falſe.

Ld Ch. J. Your Witneſſes ſhall be called. A little of due Conſideration before-hand would have done you more Good than now.

Mr. Glover *and Mr.* Bennet, *the Priſoner's Witneſſes.*

Ld Ch. J. What ſay you concerning the Priſoner?

Glover. I can ſay, my Lord, he was 'till Five of the Clock on *Wedneſday* at Mr. *Bennet*'s Houſe in *Golden-Lane.*

Ld Ch. J. Where was he on *Monday* and *Tueſday?*

Glover. I know not.

Bennet. On *Wedneſday* he was at a Kinſman's Houſe.

Ld Ch. J. Theſe two Witneſſes give no Account at all of you, where you were on *Monday* and *Tueſday.*

Ld Ch. J. Greene, what ſay you?

Greene. I was not among them.

Ld Ch. J. It is ſworn you were amongſt them, and threw up your Cap. Were you not knockt down?

Priſoner. Yes, my Lord.

Ld Ch. J. How could you be knockt down if you were not amongſt them?

John Cowley Witneſs.

Ld Ch. J. Did you not ſee *Greene* in the Multitude?

Cowley. I ſaw him do nothing; but I ſaw him with a Staff in his Hand. I did not ſee him act any thing but follow the Colours.

Greene Priſ. I was not among them but as I came home.

Ld Ch. J. You mean you did not take part with them, but you were there; it is ſworn you were upon *Tueſday* following your Captain and the Colours; it is ſworn by Mr. *Bull* you were among the Rabble, and were knockt down: Now if the Jury do not believe that you did act among them, we will leave it to them.

Ld Ch. J. Appletree, what ſay you?

Appletree. As I was paſſing along (my Lord) I ſaw a Croud, and I went to know what was the Matter, and there came a Company down, and ſome running after me did me a Miſchief; I did not ſee the Conſtable, nor ſay, *Knock him down.*

Ld Ch. J. It is ſworn that you were the firſt Man that ſtruck the Conſtable, and that you were at the pulling down of *Burlingham*'s Houſe.

Priſ. I did not offer to pull down his Houſe, nor ſtrike the Conſtable.

Abraham Brooks, Witn. My Lord, he was in *Peter Burlingham*'s Houſe, and broke it down ſo that you might have ridden a Horſe through it; I ſpake to him two or three times to leave off, and if I had not ſtooped ſuddenly he had ſtruck me down with a Bedſtaff.

Cowley Wit. I did ſee him on *Tueſday* with their Company, and I did ſee him ſtrike at the Conſtable.

Ld Ch. Juſtice, to the Jury. Gentlemen of the Jury, you have heard what theſe ſay; the Priſoners are indicted for High-Treaſon, for levying of War againſt the King. By levying of War is not only meant, when a Body is gathered together, as an Army is, but if a Company of People will go about any publick Reformation, this is High-Treaſon, if it be to pull down Incloſures, for they take upon them the Regal Authority; the Way is worſe than the Thing. Theſe People do pretend their Deſign was againſt Bawdy-Houſes; now for Men to go about to pull down Houſes, under the Pretence of Bawdy-Houſes, with a Captain, and an Enſign, and Weapons; if this thing be endured, who is ſafe? It is High-Treaſon, becauſe it doth betray the Peace of the Nation, for every Subject is as much wronged as the King; for if every Man may reform what he will, no Man is ſafe: Therefore this thing is of deſperate Conſequence, we muſt make this for a publick Example: There is Reaſon we ſhould be very cautious, we are but newly delivered from Rebellion, and we know that that Rebellion firſt began under the Pretence of Religion and the Law, for the Devil hath always this Vizard upon it; we know that that Rebellion began thus, therefore we have great Reaſon to be very wary that we fall not again into the ſame Error, but it ſhould be carried on with a watchful Eye. And becauſe Apprentices hereafter ſhall not go on in this Road, we will have the ſolemn Reſolution of all the Judges, and therefore you are to find it ſpecially. You muſt find the Matter of Fact, and we will aſſemble all the Judges together in a ſober Way, to give their Judgment, whether it be High-Treaſon or no; not that we do doubt of it now, for we know it is High-Treaſon, but for general Satisfaction. It is proved that *Beaſley* went as their Captain, with his Sword, and flouriſhed it over his Head; *Meſſenger* was there with his Green Apron on a Pole in *Moorfields* on *Tueſday*, and on *Wedneſday* he was in the ſame Poſture again.

3 *Co. Inſt.* 9.

Priſoners. My Lord, we would have our Witneſſes heard.

Ld Ch. J. You ſhall have no wrong done to you.

As for *Green*, it is proved he was with them ſhouting, and caſting up his Cap: Now the Act that any one does in ſuch a Tumult is the Act of all, if they all join together. He was on *Tueſday* following there, and on *Wedneſday* he was taken. And then for *Appletree*, he was the firſt Man that ſtruck the Conſtable, and pulled down *Burlingham*'s Houſe.

Edmund Bedle, Richard Latimer, to the Bar.

Bill of Indictment. You that are now called, being moved through the Inſtigation of the Devil, and having not the Fear of God before your Eyes, have withdrawn your Obedience to our Sovereign Lord the King, and againſt him did imagine and contrive War and Rebellion the 24th Day of *March*, with four or five hundred Perſons in a Warlike Manner, arrayed with long Pikes and other Arms, there met and aſſembled againſt the Peace of our Sovereign Lord the King, his Crown and Dignity, *&c.*

Witneſſes ſworn.

William Badley, John Maldey, William Riggs, John Williams.

King's Counſel. Gentlemen of the Jury, *Bedle* and *Latimer* ſtand indicted for High-Treaſon; wanting that Love and Obedience that every Man ought to have of his King, did, the 24th of *March*, aſſemble themſelves together, to the Number of four or five hundred Perſons, to levy War and Rebellion: If we prove this, you muſt find them guilty of High-Treaſon.

Goaler of Finſbury *Priſon, Witneſs, ſworn.*

Counſ. Tell my Lord what you ſaw.

Witn. I can charge no particular Perſon, I was from home; and when I came home I found the Priſon-Doors open, and they had let out their own Company and two others; and I locked up the Priſon-Doors, and they gathered together about the Priſon, and there came their Captain with his Half-Pike, and commanded me to open the Door. I told them I would not open the Door. They told me, we have been Servants, but we will be Maſters now; and if you will not open the Door, we will do your Buſineſs for you by and by. They had Swords, and Belts, and Half-Pikes, and they did puſh at me; and I came to a Parly with them when I ſaw there was no Remedy. I let their Captain in, and when he could find none of his Company there he went way; but had it not been for the Company that ſtood without, I would have kept him faſt enough.

Another Witneſs ſworn.

Ld Ch. J. Were any of theſe that ſtand at the Bar, at *Clerkenwell*, with a Stick in his Hand?

Witn. Yes, my Lord, I ſaw *Latimer* there knocking at the Gate, and the Priſon was broke open, and there came down Juſtice *Welſh* to them to diſperſe them; but they let out two of their own Rabble, and two of the Felons.

Another Witneſs ſworn. Nine of the Clock on *Friday*, I went to the Gate of the *New-Priſon*, and they came and clapt a Bar in between the Gates to open them, and I ſaw *Latimer* throwing Stones at the Windows. Juſtice *Welſh* being there, would have taken ſome of them; and they cried, *One die, and all die.*

William Riggs, Witneſs, ſworn. I ſaw *Bedle*, and took him; their Number was about four or five Hundred; and I got out two Files of Men, and took four Men more, whereof this *Bedle* was one of them.

Judge. What do you ſay to this?

Latimer. This Man hath a Spite againſt me, my Lord; for getting up behind the Coach, I let my Whip fall and gave him a Laſh.

Ld Ch. J. But what ſays the other againſt you? What made you there? And *Bedle*, what do you ſay for yourſelf?

Bedle Priſ. My Lord, I was in *Southwark*, and came from thence to *Biſhopſgate-Street*, and met with a Friend, and we drank four Flaggons of Beer, ſo that I got a little too much Drink in my Head, and I ſtood and looked a-while at the Priſoners at *Biſhopſgate*; and my Uncle coming along, I went with him a little Way, and then turned about and left him, and there was a Man came and ſaid, *Brother, will you not go and ſee what they do in the Fields?* and it was my hard Fortune to be among them, but did not any Hurt, bleſſed be God; but I followed them without doing any Harm, and they went down *Old-Street* to *Clerkenwell*; but I did not break the Priſon, nor do not know where the Priſon is; for there was a Company made up to them, and they began to run.

Ld Ch. J. What did you ſay when they run away? Did you not ſay, *Face about?*

Priſ. Your Lordſhip heard ſo, but I did not ſay, *Face about.*

Ld Ch. J. You Gentlemen of the Jury, you ſee what their Indictment is: They gathered a Multitude together at *Clerkenwell*, and they had a Captain with a Half-Pike, that came to the Priſon and forced open the Door, and brought out two of their own Crew, and two of the Felons; and they ſaid, they had been Servants before, but now would be Maſters; and they cryed out, *One die, and all die.* And you have three Witneſſes that ſwear, that theſe two were there, *Latimer* eſpecially. The Keeper ſays, he was forced to come to a Parly with them, and took in their Captain, to give him Satisfaction that there was none other there of their Gang. *Bedle* ſays he was there, but he was drunk, which is no ſufficient Excuſe.

Richard

Richard Cotton, *Richard Farrel*,
John Earles, *William Ford*, Call'd to the
William Wilde, Bar.

Their Indictment read.

Sir Philip Howard, *Witness, sworn.*

Ld Ch. J. Sir *Philip*, speak what you know of these Men.

Sir *Ph.* I deliver'd these Men into the Constable's Hands.

Counsel. Did not you see a Multitude of these People gathered together in a Warlike Way? If so, tell my Lord.

Sir *Ph.* There came some sober People and told me that the Tumult was greater than it was when my Lord *Craven* was there, and they did desire my Assistance; and so I went into the Fields, and divided my Men, half on the one Side, and half on the other: and the People look'd upon us so contemptibly, that they told us we should quickly be unhors'd; therefore I charg'd my Men not to let any Man come within my Arms.

Ld Ch. Just. Had they any Colours?

Sir *Ph.* They had a Sheet for their Colours, and when they saw my Horse they got into the Field, and stood as if they did not fear us; and I order'd some of my Men to go and take him that had the Colours, and so our Men did; and I call'd for a Constable, but there was no Constable to be found: and I thought myself to govern them, and to bring them into better Order. At length this Man came with his Watch, and I deliver'd them into his Hands, and I believe these are the Men that I deliver'd to the Constable.

Sir Edward Fish, *Witness, sworn.*

Counsel. Pray, Sir, look upon the Prisoners, and see if you know any of them.

Witn. I cannot say that these were any of the Persons that we did take, but there was a Multitude of them gathered together, and we did desire them to go home; and they took up Brickbats in their Hands, and said, *They had as much to do there as we had.* I took a Hanger from one of them myself, which is here in the Court.

Robert Hoydon, *Witness, sworn.*

Counsel. Tell my Lord what you heard this Rabble of People say.

Witn. There came a Troop, and they thought it had been the Duke of *York*'s Troop, and they ran with Brickbats in their Hands to them, and said, *That if the King did not give them Liberty of Conscience, that* May-day *must be a bloody Day.*

Another Witness sworn.

Ld Ch. J. Speak what you know of these People.

Witn. My Lord, they ask'd if the Duke of *York* was there, and Answer was made, Yes, thinking they would have been satisfy'd and dispers'd; but notwithstanding they came up to the Wind-mills, and flung Stones amongst us.

Capt. Wilding, *Witness, sworn.* My Lord, we did desire them, by fair means, to disperse themselves, and go home; they told me, *No, They would be with us ere-long at* White-hall.

Another Captain sworn. My Lord, I was forc'd to make some Resistance, but they flung Stones very thick at us, saying, *These Life-Guard Rogues are but a few*; and because I commanded one of my Officers to seize on one of them, they cry'd, *Knock down the Rogue.*

Another sworn. My Lord, I desir'd them to go home; their Answer was, *That we were Rogues and Dogs, and ere-long they would come and pull* White-hall *down:* and their Word was, *Hey, now or never.*

Constable sworn. My Lord, I had these three at the Bar, but *Wilde* was none of them, pointing to the third.

Ld Ch. J. You say the other were.

Constable. Yes.

Pike *and* Gillington, *Witnesses, sworn.*

Pike. I did see this *Cotton* breaking down *Burlingham*'s House.

Gillington. I can speak of the tall Man, *Cotton*, I will swear he was one of them.

Ld Ch. J. Sir *Philip Howard* says he deliver'd Five to the Constable, and the Constable says he does not know whether these be the Persons or no, but it is the same thing if they were among those that did it.

Serj. *Wilde.* Yea, the thing is the same.

Ld Ch. J. You hear the Indictment is for High-Treason, you are Persons of the same Company, what do you say for yourselves?

Prisoners. We were not there.

Serj. *Wilde.* The Constable swears it.

Constable. I cannot say, these were they, but two of them, *Farrel* is one.

Pris. I was walking to *Islington*, and I did march a little way with them, but did nothing.

Ld Ch. J. Where were you taken?

Pris. By *Hollowell-Lane*, and I was all alone, and a Horseman rode after me, and ask'd me, if I were not one of them.

Ld Ch. J. All the Constable can say, is this, There were Men deliver'd to him from the Guard, and this Man does not deny but that the Guard took him, but he did nothing; but many People are walking abroad in the Holiday; it is Pity to take away a Man's Life without sufficient Evidence.

Ld Ch. J. Farrel, What do you say?

Farrel. I was with my Father and Mother all the Holidays.

Ld Ch. J. Cotton, What say you?

Cotton. I came through *Moorfields* about Noon, and I was taken by one of the Life-Guard.

Serj. *Wilde.* But you were pulling down a House.

Witn. He was pulling down a House on *Monday*, I was inform'd, and he was commonly among the Players at Pigeon-holes; and after he had been pulling down a House, he was looking about to see what he could light of.

Pris. As I have a Soul to save, he swears falsly.

Ld Ch. J. Have a care what you say.

You Gentlemen of the Jury, here are five Men more that are indicted for the same Disorder that the rest were, and we have now a little more Discovery of their Rising, and we have discover'd other Colours, for they thought the Duke of *York* had been in the Fields, and that enrag'd them the more, they taking Sir *Philip Howard* for the Duke of *York*; and when they did desire them to disperse themselves and go home, they said, They would not for such Rogues as the King's Life-Guard were, but they would soon be at *Whitehall*: but you shall see what a Disguise is put upon it: If the King will not give us *Liberty of Conscience*, *May-day* shall be a *bloody Day.* This is, Gentlemen, to give us an Alarm, that we may not be too secure: And this must be punish'd as High-Treason, else we do destroy all. I think no body would have the Innocent to suffer: I had rather a guilty Person should escape, than a guiltless Person suffer. You hear the Constable cannot swear that all those were the Men, and some others, because in such a Hurry a particular Person cannot be known: Except you know any of them by sight, I cannot see how you can find them guilty; God forbid.

John Richardson, *Richard Woodward*,
Thomas Limerick, to the Bar.

Counsel. You Gentlemen of the Jury, these three that were call'd last to the Bar stand indicted as the others, for levying War and Rebellion in *Holbourn*; you shall hear the Evidence, and if we make good the Evidence you must find them guilty.

William Rogers, *sworn Witness.* My Lord, I found this Man at the head of a Party, and I took him, and committed him to the charge of a Company.

Ld Ch. J. Was he leading them on? Are you sure he was there?

Witn. He will not deny that he was there, but he made no Resistance at all; for we had three or four Companies ready to surprise them.

Mrs. Burlingham, *Witness, sworn.* My Lord, this was the first Man that laid Hands to pull down my House.

Serj. *Wilde.* Mistress, was yours a Bawdy-house?

Mrs. *Burlingham.* No, but they dragg'd me out of it.

Ld Ch. J. Was your House pull'd down?

Husband's Answ. Yes: And all my Goods destroy'd, and Ten Pounds in Gold taken out of my Wife's Pocket.

Another Witness sworn.

Judge. What can you say of *Woodward?*

Witn. I cannot say he did take any thing out of the House that I know of.

Ld Ch. J. I do not ask you that; but did he go along with them, or had he a Staff in his Hand?

Witn. That *John Richardson*, my Lord, is a Tapster; I heard him say he had made Work for us, for he had help'd to pull down a House.

John Hand, *Witness, sworn.* My Lord, on *Saturday* last at six of the Clock, I heard him in the red Hair say, *I have made Work for you all*; I do not know what he is.

Ld Ch. J. What do you say for yourself?

Limerick, Prisoner. My Lord, I went up to see what the Tumult was doing, for I lodg'd hard by; and when they had pull'd down the House, some run one way, and some another: and I was going to *Westminster*, and as I was walking up *Holbourn*, the rest of them were at my Heels.

Ld Ch. J. That was because you was their Captain, and dragg'd the Woman out of the House that says she hath lost all she had. *Woodward*, what say you?

Woodward. My Lord, Mr. *Brooks* gave me a black Pot to drink, and I staid no longer than the drinking of that.

Ld Ch. J. What, do you say that *Richardson* pull'd down the Woman's House?

Pris. My Lord, there was a Whore that clapped Hands on me, and I wrung myself from her, and told her that her House should be pull'd down.

Ld Ch. J. Truly I see scarcely an Apprentice among you all, and I am glad of it there is no more.

Witn. I dogg'd him home to his Master's House, but did not lay hold on him.

Pris. I am very innocent of any thing of hurt that I did.

Ld Ch. J. Prove it.

Pris. I was alone, How can I prove it? I was not all the Holidays abroad.

The Apprentice's Master. All *Monday* he was at home, and on *Tuesday* he was at home.

Serj. *Wilde.* It is impossible for him to be one of them; you might mistake.

Ld Ch. J. You Gentlemen of the Jury, in this Case take notice: As for *Woodward*, they say he was there with a Stick in his Hand. I would have you take notice that there is but one Witness: for the other you have his own Brags, if you will believe him, that he pull'd down a House, you have no other; if you will believe him to be a bragging Fool you may. And now for *Limerick*'s Witness, he shall be heard.

The Prisoner's Witness.

Ld Ch. J. What do you know of the Prisoner at the Bar?

Witn. This Man, my Lord, did lie in my House, and he did never stay out after Nine or Ten of the Clock: He was at Home every Night betimes, and did give me all his Money to lay up, and he did earn Sixteen Pence a-day.

Another Woman, Witness, sworn.

Ld Ch. J. What can you say?

Witn. My Lord, I can say nothing but that he is a very honest Man.

John Sharpelisse, Prisoner at the Bar.

His Indictment read.

Counsel. Gentlemen, he at the Bar stands indicted for High-Treason, and stirring up Rebellion in *Poplar* at the Head of Five hundred Persons, and pulling down Houses in *Ratcliff-Highway*, which we shall endeavour to prove.

John Harding, *Owen Maxum*, Witnesses call'd, but came not in against the Prisoner.

Ld Ch.

Ld Ch. J. Gentlemen of the Jury, you know for Matter of Fact you are Judges: if you are not ſatisfied in the Evidence, then you cannot find them guilty. Conſider who thoſe Perſons are, where the Evidence have not given ſufficient Satisfaction.

The Sum of the Jury's Verdict.

THE Jury being diſmiſs'd to conſider of their Verdict, after a ſhort ſtay they return'd, and found as to *Meſſenger*, *Appletree*, *Beaſley*, and *Green*, that according to the Time in the Indictment mention'd, they were met together in a riotous manner in *Eaſt-Smithfield* in *Middleſex*, and about *Moorfields*, under colour to pull down the Bawdy-Houſes. That their Captain was *Beaſley*, who led them on with his Sword drawn, and that they had their Enſign carry'd by *Meſſenger*, which was an Apron carry'd upon a Pole, and ſo they march'd with their Conductor. That they reſiſted the Conſtable who charg'd them in the King's Name to keep the Peace, and ſtruck him, and took away his Staff; and that theſe ſeveral Perſons were Abettors in that Tumult.

And as to *Bedle* and *Latimer*, they found that a great Number of People were met together arm'd with Swords, Clubs, and Staves, *&c.* at *Clerkenwell-green*, to break *New-Priſon* there; and had their Commander, who had a Pike in his Hand, and came to *New-Priſon*, and releas'd the Priſoners, ſome whereof were committed for Felony; and that when they were commanded to be gone, they cry'd out that they had been Servants, but now they would be Maſters; and that theſe Perſons were ſeen acting in the Tumult, and there taken.

As for *Cotton*, they found, that the riotous Perſons were met together upon the 24th of *March* with a great Number of People arm'd with their Swords, and ſuch-like warlike Weapons, for pulling down Bawdy-houſes: that when Sir *Philip Howard* with the King's Guards came up to them, and commanded them to depart, they refus'd; and when it was given out that Sir *Philip Howard* was the Duke of *York*, thinking thereby they would be appeas'd, they were enrag'd the more, and declar'd, that if the King would not give them Liberty of Conſcience, they would make *May-day* a bloody *May-day*, threatening to pull down *Whitehall*; and very contemptuouſly ſlighted the King's Guards, becauſe they were but a ſmall Number: and this *Cotton* was prov'd to be one of them in the Action, and all along acting in the Riot.

And further, as to *Limerick*, he was met with the ſame Pretence of pulling down of *Bawdy-houſes*, being arm'd as the reſt were, and was own'd by the Rabble to be the Captain of their Company: That he with his Companions pull'd down the Houſe of *Peter Burlingham*, and ſtole his Goods. The reſt were found Not guilty.

The Jury having thus found it Specially, my *Lord Chief Juſtice* commanded the Priſoners again to the Bar, to whom he ſpoke to this Effect: That we all now ſee what great Cauſe we have to bleſs God, that we live under ſo merciful a Prince, and ſo good a Law as we now find we do live under; and that not only one Prince hath been ſo merciful, but ſuch has been the Graciouſneſs of other former Kings of *England*, that we ſhall rarely find any Severity us'd in the execution of Penal Statutes, where any fair means (which conſtantly hath been us'd) could have any Effect at all. That our Juſtice is not privately but publickly adminiſtered in the ſight of all People, like a Beacon that gives warning to all; ſo that all might take notice thereof, and avoid the like Danger that others have fallen into. That the Priſoners more eſpecially ought to bleſs God, and ſeriouſly to reflect within themſelves this great Mercifulneſs of our King, and Law: for hereby they ſee they have not been ſerv'd ſo as they have ſerv'd others (for then upon the very apprehending of them they might have receiv'd their Execution); but contrariwiſe, they have had a fair Trial, not by Strangers, but by their own Country and Neighbours, having had the Liberty to ſpeak what they could for themſelves, and Witneſſes for them, ſo that if it were poſſible all might have been found innocent; and he heartily wiſh'd all could have been ſo found; and that ſome, bleſſed be God, are not found Guilty, and to them he hop'd this would be a ſufficient Warning, *&c.*

Now as to all theſe Eight, againſt whom the Verdict was ſpecially found, the Court took further time (becauſe they would adviſe thereof) before they would give their Judgment whether High-Treaſon or no, it being declar'd by my *Lord Chief Juſtice* to be Matter of Law; and in the mean time theſe Perſons are to remain in ſafe Cuſtody in his Majeſty's Goal at *Newgate*.

And for the other Six, *viz.*

John Earls,	*Richard Woodward*,	*John Richardſon*,
William Wilks,	*Richard Farrel*,	*William Ford*;

The Jury found them Not guilty, and ſo acquitted them of the Offence whereof they ſtood charg'd, who after ſeveral Admonitions by the Cout for their future good Behaviour, were diſcharg'd.

The Lord Chief Juſtice KELYNG's *Report of the Judgment of the Judges in relation to the aforeſaid Trial.*

Kelyng. 70. MEmorandum, That at the Seſſions at the *Old Bailey*, after *Eaſter*, in the Twentieth Year of K. *Charles* II. ſeveral diſſolute Perſons having on *Eaſter Tueſday* and *Wedneſday* next before aſſembled together, and led by Perſons whom they call'd Captains, and having Colours, *viz.* Aprons, *&c.* on Staves, went to ſeveral Places on pretence to pull down Bawdy-Houſes, and break open Priſons and ſet Priſoners at Liberty; and having actually pull'd down ſome Houſes, and broke up the Priſon at *Clerkenwell*, and let out four Priſoners there, were by the Direction of the King's Counſel, *viz.* Mr. *Attorney* Sir *Jeffery Palmer*, having Order to proceed againſt them, he directed four Indictments to be preferr'd againſt them who were taken, *viz.* one Indictment againſt *Peter Meſſenger*, *Richard Beaſley*, *William Green*, and *Thomas Appletree*, and another Indictment againſt *Edward Cotton*, and a third againſt *Edward Bedle* and *Richard Latimer*, and a fourth againſt *Thomas Limerick*. All the Indictments were, that they with other Perſons to the Number of 500, unknown to the Jurors, being arm'd in a warlike manner with Swords, Half-pikes, Halberts, long Staves, and other Arms offenſive and defenſive, with Force and Arms, unlawfully and traitorouſly aſſembled themſelves together, and levied War againſt the King, *&c.* And firſt I told them they had not done well to make ſo many ſeveral Indictments, for by that means the King's Evidence would be broken; whereas if all had been put into one Indictment, the Evidence as to the main Deſign would have been entire againſt all: and then the aſſembling in ſeveral Places to the ſame Intent had made the Matter more foul, and would have been aptly given in Evidence againſt them all to the ſame Jury, and the ſeveral Acts which each of them did, would have come in better. But however we proceeded upon the Indictments as they were; and after the Evidence given againſt the four in the firſt Indictment, when I came to give Directions to the Jury, I told them, that altho' I was well ſatisfy'd in my own Judgment, that ſuch aſſembling together as was prov'd, and the pulling down Houſes on pretence they were Bawdy-houſes, was High-Treaſon, becauſe they took upon them Regal Power, to reform that which belong'd to the King by his Law and Juſtices to correct and reform; and it would be a ſtrange Way and miſchievous to all People to have ſuch a rude Rabble without an Indictment to proceed in that manner againſt all Perſons Houſes, which they would call Bawdy-houſes, for then no Man were ſafe; therefore as that way tore the Government out of the King's Hands, ſo it deſtroy'd the great Privilege of the People, which is not to be proceeded againſt, but upon an Indictment firſt found by a Grand-Jury, and after upon a legal Trial by another Jury, where the Party accus'd was heard to make his Defence; yet I told them, becauſe the Kings of this Nation had oftentimes been ſo merciful, as when ſuch Outrages had been heretofore done, not to proceed capitally againſt the Offenders, but to proceed againſt the Offenders in the Star-Chamber, being willing to reduce their People by milder Ways, if it were poſſible, to their Duty and Obedience; yet that Lenity of the King in ſome Caſes did not hinder the King, when he ſaw there was need to proceed in a ſeverer way, to take that Courſe which was warranted by Law, and to make greater Examples, that the People may know the Law is not wanting ſo far to the Safety of the King and his People, as to let ſuch Outrages go without capital Puniſhment, which is at this time abſolutely neceſſary, becauſe we ourſelves have ſeen a Rebellion rais'd by gathering People together upon fairer Pretences than this was: For no ſuch Perſons uſe at firſt to declare their wickedeſt Deſign; but when they ſee that they may effect their Deſign, then they will not ſtick to go further, and give the Law themſelves, and deſtroy all that oppoſe them. But yet becauſe there was no body of the Long Robe there but my Brother *Wilde*, then Recorder of *London*, and myſelf, and that this Example might have the greater Authority, I did reſolve that the Jury ſhould find the Matter Specially, and then I would procure a Meeting of all the Judges of *England*, and what was done ſhould be by their Opinion, that ſo this Queſtion might have ſuch a Reſolution as no Perſon afterwards ſhould have reaſon to doubt the Law, and all Perſons might be warn'd how they for the time to come mingle themſelves with ſuch Rabble on any kind of ſuch Pretences: and thereupon the Jury as to the firſt four in the Indictment gave a ſpecial Verdict to this Effect, *&c.*

A Special Verdict as to Meſſenger, Appletree, Beaſley, *and* Green.

They find that the 24th of *March* laſt, a great Number of Perſons, to the Number mention'd in the Indictment, were aſſembled in *Eaſt-Smithfield* and *Moorfields*, in the County of *Middleſex*, with Arms mention'd in the Indictment, on pretence of pulling down Bawdy-houſes; that *Beaſley* led them, and was called their Captain, and had in his Hand a naked Sword which he brandiſh'd over his Head; and that *Meſſenger* had a piece of green Apron on a Staff, which he flouriſh'd as Colours in the Head of the Company; and that *Beaſley* and he led the Company as their Leaders; that they did the like on *Wedneſday* the 25th of *March*, and were breaking down Houſes. That *Peverell*, one of the Conſtables of *Middleſex*, having a Conſtable's Staff in his Hand, came to them with other Perſons to aid him, and charged them to depart and keep the Peace, and thereupon *Beaſley* with his Sword ſtruck him, and wounded him; and ſeveral Perſons aſſembled with him, ſtruck him down and took away his Conſtable's Staff. That the ſaid *William Green* was among them, caſting up his Cap, and hollowing, with a Staff in his Hand; and that whilſt he was amongſt them he was knock'd down by a Party of the King's Soldiers that came to ſuppreſs them, and was then taken. That *Beaſley* ſtruck at the Enſign that led thoſe Soldiers. That the ſaid *Appletree* was amongſt them both Days, and was the firſt that ſtruck at *Peverell* the Conſtable, and was amongſt them at *Burlingham*'s Houſe on *Saffron-hill* in the County of *Middleſex*, and pull'd part of the Houſe down, and the next Houſe to it, and ſtruck at one that admoniſh'd him to be quiet. And if upon the whole Matter, it ſhall ſeem to the Court that they are Guilty of the Offence mention'd in the Indictment, then they find them Guilty, *&c.*

Special Verdict alſo as to Cotton.

On the Second Indictment as to *Cotton* alone, the Jury did find, that at the Time and Place mention'd in the Indictment, a great Number of Perſons, to the number mention'd in the Indictment, met together arm'd with Swords, Clubs, Staves, and other Weapons, under pretence of pulling down Bawdy-houſes, and had a Cloth on a Staff for an Enſign carry'd before them. And that Sir *Philip Howard*, with a Troop of the King's Guards, found them arm'd in ſuch a ſeditious Manner, and commanded them to diſperſe; that they refus'd ſo to do, and threw Stones at him; that ſome of them enquir'd who it was that led thoſe Guards, whether it was the Duke of *York*? and being told it was, they preſently threw Stones at Sir *Philip Howard* who led the Horſe; and ſome of them ſaid, that unleſs the King would give them Liberty of Conſcience, *May-day* ſhould be a bloody Day; others bid kill the Guards, and others ſaid, that they would come and pull down *Whitehall*; and others ſaid, they would be with them at *Whitehall*, (the King's Capital Palace) and

and that they car'd not for the Guards, for they were but two or three Hundred, and they could easily knock them on the Head; that they continu'd many Hours, till they were dispers'd by the Guards. That *Cotton*, who was indicted, was one of them assembled in this manner, and that *Cotton* was amongst them the next Day when they were assembled in the same Manner, and was pulling down a House in the Parish of St. *Leonard Shoreditch*, in the County of *Middlesex*; and if on the whole Matter, &c.

Special Verdict on the third Indictment, Bedle *and* Latimer.

On the third Indictment against *Bedle* and *Latimer*, the Jury find that, the Day and Place mention'd in the Indictment, a great Number of Persons, to the Number mention'd in the Indictment, armed as in the Indictment, did meet together on *Clerkenwell-Green*, in the County of *Middlesex*, on pretence of breaking open Prisons, and releasing Prisoners; that one of them who had a Half-pike in his Hand, own'd himself to be their Captain; that they came so assembled together to a Place there call'd the *New-Prison*, being a publick Prison of the County of *Middlesex*, and then and there said, that they came to search for Prisoners; and brake open the Prison-Doors, and let out four Prisoners, two whereof were committed thither for Felony, and two for other Offences; and that they being charg'd to depart, reply'd, they had been Servants long, but now they would be Masters; that some being taken, they cry'd, *One die, and all die.* That *Latimer* was amongst them, and active in breaking of the Prison, and was with the rest in the Prison after it was broken open; and that *Bedle* was there, and being pursu'd by one of the King's Soldiers, call'd out to the rest of the Company to face about, and not to leave him: And if on the whole, &c.

Special Verdict as to Limerick.

On the fourth Indictment against *Limerick* the Jury find, that the Day, Year and Place in the Indictment mentioned, a great Number of Persons, to the Number, &c. assembled together on pretence of pulling down of Bawdy-houses; and being arm'd *prout* in the Indictment, they marched in warlike Manner, and the said *Limerick* led them as their Captain with a Club in his Hand, and was own'd by the Company to be their Captain: That the said *Limerick* had the said Persons to the House of *Peter Burlingham*, and they pull'd down the said House, and destroy'd and took away divers Goods of the said *Burlingham*'s, to the Value of 30 *l.* And if on the whole Matter, &c.

And in *Easter* Term following, all the Judges met at my Chamber, there being then but Eleven. My Lord *Bridgeman*, who was Chief Justice of the Common Pleas, being then Lord Keeper, the Judges were my self, Chief Justice of the *King*'s *Bench*, Sir *M. Hale* the Chief Baron, and my Brother *Atkins*, Brother *Twisden*, Brother *Tyrell*, Brother *Turner*, Brother *Wyndham*, Brother *Archer*, Brother *Rainsford*, Brother *Morton*, and Brother *Wylde*.

And on the whole Matter the Chief Baron *Hale* deliver'd his Opinion, that there was no Treason in the Case, because he said that the Stat. 1 Q. *Mary, cap.* 12. is, That if any Persons, to the Number of Twelve, or more, assemble to the Intent to pull down Inclosures, &c. with force, and continue together an Hour after Proclamation made for their Departure, it shall be Felony; and if those Actions had been Treason at Common-Law, it had been to no purpose to make it Felony.

But all the other Judges answer'd, That this was the Objection made by some Judges in the Case of *Bradshaw* and *Burton*, which is reported by *Popham* in his Reports, *pag.* 122, and there it was resolv'd, that if any Persons assembled with Force to alter the Laws, or to set a Price on Victuals, or to lay violent Hands on the Magistrate, as on the Mayor of *London*, and the like, and with Force attempt to put the same in Execution, this is Rebellion and Treason at the Common-Law; and they there resolv'd, that that Statute of 1 *Mary* was to be intended, where Persons to the Number of Twelve, or more, pretending any or all of them to be injur'd in particular, as by reason of their Common, or other Interest in the Land inclos'd, and the like, assemble to pull it down forcibly in Cases where they have an Interest, or where in particular they are annoy'd or griev'd, that is not Treason: But in case their Act goeth generally to pull down Inclosures, in which they, or any of them, are not particularly concern'd, this Act, if it be put in Execution by Force, is Treason at Common-Law. And it was agreed by us all, that the Statute of 13 *Eliz.* which maketh the Intention in many Cases Treason, extends to nothing, but where if the Act had been done, it had been Treason at the Common-Law.

And therefore all the rest of the Judges did unanimously agree, that this Rising, with Intent to pull down Bawdy-houses in general, or to break open Prisons in general, and let out Prisoners, and putting their Intention in Execution by Force, any of these Instances was a levying War against the King, and High-Treason at Common-Law, within the Declaration of the Statute of 25 *Edw.* III. and for that, besides the Resolution in *Popham*'s *Reports* before cited, we consider'd the Case of the Apprentices, reported in the second Part of *Anderson's Reports*, *p.* 4, 5. where it was resolv'd, that by the Statute of 13 *Eliz.* if any intend to levy War for any thing, which the Queen by her Laws and Justice ought to do, and reform in Government as Queen, this shall be an Intendment to levy War against the Queen within that Statute of 13 *Eliz.* And as we said before, nothing can be Treason by the Intention within the Statute, which had not been Treason by the Common-Law, if it had been actually put in Execution. And see the same Book of *Anderson*, *Part* II. *pag.* 66. and by the Case of several Persons in *Oxfordshire* rising to pull down Inclosures in general, resolv'd accordingly; in which Case it was also resolved, that if any Persons rise and assemble together, with intent to levy War, the Justices of the Peace and Sheriffs may use Force to suppress such Rebels, without any special Commission or Warrant, and this by the Common-Law. And see *Popham's Reports*, *p.* 121. and a Resolution of all the Judges, 39 *Eliz.* that any Justice of the Peace, Sheriff, or other Magistrate, or any other Subject of the King, may, by the Common-Law, arm themselves, to suppress Riots, Rebellions, or resist Enemies, and endeavour themselves to suppress such Disturbers of the Peace: But they said the most discreet way was for every one to attend and assist the Justices in such Case, or other Ministers of the King in doing it: And *Cook*, *Pl. Cor.* 9. If any levy War to expulse Strangers, to deliver Men out of Prison, to remove Counsellors, or to any other End pretending Reformation on their own Heads without Warrant, this is a levying of War against the King, because they took upon them Royal Authority. And *Moor's Reports*, *pag.* 620, 621. in the Case of the Earl of *Essex*, in which, amongst other things, it was resolv'd, that his Attempt with Force to remove the Queen's Counsellors was High-Treason; and likewise that the Earl of *Southampton*, who adher'd, to him, altho' he knew of no other Purpose of the Earl of *Essex*, but a private Quarrel against some of the Queen's Servants, yet this was Treason in him, the Act of the Earl of *Essex* being Rebellion and Treason; and so it was also resolv'd, that all those who went with him out of *Essex-House* in aid of him, it was Treason in them, whether they knew any thing of his Intent or not. And *Cro. Part* I. 583, in *Benstead*'s Case, it was resolv'd by all the Judges, That going to *Lambeth-House* in warlike Manner with Drums, and a Multitude, as in the Indictment, to the Number of Three hundred, &c. to surprize the Archbishop, who was a Privy Counsellor, was Treason. And, 2*dly*, It was resolv'd that the Justices of Oyer and Terminer may sit, enquire and try Prisoners all in one Day. 3*dly*, It was resolv'd, that the breaking of a Prison, wherein Traitors were in durance, and causing them to escape, was Treason, altho' the Parties did not know that Traitors were there. And so to break a Prison whereby Felons escape, this is Felony, tho' they do not know them to be in Prison for such Offence. *Note*, That Resolution as to breaking a Prison where Felons, &c. are, must (as I think) be intended only where the Intent was only to break open one Prison, and no more; for if the Design was to break open Prisons in general, and they put that in Execution as to one Prison, that is High-Treason according to the Books before cited; but then on the Evidence it must be prov'd that their Intent was such, and by such Proof as satisfieth the Jury.

After this Resolution in general, we went to consider the particular Cases as they were found upon the several Special Verdicts; and thereupon it was agreed by all of us, except the Chief Baron, who said he doubted on the main; That as to *Messenger* and *Beasley* in the first Verdict, and to *Cotton* in the second Special Verdict, and as to *Limerick* in the fourth Special Verdict, that the Matter, as it was found against these four, was High-Treason in them all, and accordingly they had Judgment, and were Executed: But as to *Appletree* in the first Special Verdict, and as to *Latimer* in the third Special Verdict, there was Difference in Opinion amongst us, whether the Verdict was sufficiently found against them to judge it High-Treason or not. For besides the Chief Baron, who was against all, my Brother *Atkins*, *Tyrell*, *Windham*, and *Wylde*, held that the Verdict was not sufficient against those two, for to give Judgment that they were guilty of Treason; because, they said, it was not expresly found that they were aiding and assisting. But my self, Brother *Turner*, *Twisden*, *Archer*, *Raynsford*, and *Moreton*, thought the Verdict, as it was found against them, to be as full and plain as any of the rest. For first, as to *Appletree*, the Verdict first finds in general, that the Number in the Indictment were assembled, as in the Indictment, with an Intent to pull down Bawdy-Houses: That *Beasley* led them as their Captain; that *Messenger* had a green Apron upon a Staff, which he flourish'd as Colours; and then that *Appletree*, the Person now in question, was amongst them both the Days, and was the first that struck at *Peverell* the Constable, and was amongst them at *Burlingham*'s House at *Saffron-Hill*, and pull'd part of that House down, and the next to it, and struck at one that admonish'd him to be quiet; so that here are several Acts of Force found to be actually committed by him in pursuance of their Design, and then there is no need to find him to be Aiding and Assisting: for that Clause, we said, was only necessary to be found where the Jury find a Person was there among them, and find no particular Act of Force done by him, but only his Presence, there it is necessary that they find he was present Aiding and Assisting. And for the same Reasons we held the Verdict to be full also against *Latimer*, because it was first found that the Multitude was assembled, as in the Indictment, on pretence of breaking Prisons and releasing Prisoners in general, which is agreed by all (except the Chief Baron) to be Treason; and then they find that *Latimer* was amongst them, and active in breaking open the Prison at *Clerkenwell* (where Prisoners, some for Felony, and others were let loose), and that he was with the rest in the Prison after it was broken open, and so an Act fix'd upon him. But altho' six of us were well satisfy'd in our Judgments as to them, yet when I waited on the King, I acquainted him there was some Difference in Opinion as to those two, upon finding of the Special Verdict; and altho' the greater Number of us were of Opinion, that the Verdict was well found as to those also, yet I intreated his Majesty to make use of that Difference in Opinion to shew his Mercy towards them, the rather because we had agreed, that as to four of them the Verdict was clearly good as to proceed to Judgment against them, and that I hop'd would be Example enough to deter others from the like Practices; and besides it would appear an Instance of his Majesty's great Mercy, that he would not proceed to the last Extremity against any, where there was not a full Concurrence of all his Judges: which his Majesty was pleas'd to take very graciously, and order'd me to proceed accordingly, and so they two were spar'd. But as to *Green* in the first Special Verdict, and *Bedle* in the third Special Verdict, we all agreed that the Verdict was not full enough as to them, for us to judge it Treason in them, because the Verdict only finds that they were present, and finds no particular Act of Force committed by them, and doth not find that they were Aiding and Assisting to the rest; and it is possible one may be present amongst such a Rabble only out of Curiosity to see: and whether they were Aiding and Assisting is Matter of Fact which ought to be expresly found by the Jury, and not be left to us upon any colourable Implication; and accordingly these two were discharg'd.

LXIX. *The Trial of* Robert Hawkins, *Clerk, late Minister of* Chilton, *at the Assizes at* Ailesbury, *for* Felony, 11 March, 1668. 20 Car. II. *Wrote by himself.*

UPON *Tuesday*, being the 9th of *March*, 1668, I went to *Ailesbury*, and got thither about Four of the Clock in the Afternoon, and about the same time came in the Reverend Judges, *viz.*

Sir *Matthew Hale*, Knt. (then Lord Chief Baron of his Majesty's Court of *Exchequer*, but now) Lord Chief Justice of *England*; and *Hugh Windham*, Serjeant at Law. And upon *Wednesday* the 10th of *March* the Assizes began, and in the Afternoon of the same Day, *Larimore* (by the Advice of Sir *John Croke*, who had then got Leave to come to the Assizes) carried his Bill of Indictment against me, to the Grand Jury: Their Names were as followeth,

John Hill, Gent.
Samuel Grange, Gent.
Richard Cokeman, Gent.
Jacob Sale, Gent.
Thomas Redding, Gent.
Thomas Berringer, Gent.
Clement Summerford, Gent.
John Winter, Gent.
John Burnham, Gent.
Ralph Rice, Gent.
Jonathan Tomlins, Gent.
William Barret, Gent.
John Butterfield, Gent.
William Pedder, Gent.
John Fosket, Gent.
John Sare, Gent.
John Merydale, Gent.
Robert Worrel, Gent.
George Wells, Gent.
In all Nineteen.

These were the Gentlemen of the Grand Inquest for the Body of the County of *Buckingham*, and unto them the foresaid *Larimore* exhibited his Bill of Felony against me; the Sum and Substance of it was as followeth:

The Grand Inquest for our Sovereign Lord the King upon their sacred Oaths present, that Robert Hawkins, *late of* Chilton, *in the County aforesaid, Clerk, did upon the* 18*th of* September, *in the* 20*th Year of the Reign of our Sovereign Lord* Charles *the Second, by the Grace of God, of* England, Scotland, France, *and* Ireland, *King, Defender of the Faith*, &c. *with Force, and Arms*, &c. *at* Chilton *aforesaid, in the County aforesaid, two Gold Rings, each of them at the Value of Ten Shillings; one white Holland Apron, of the Value of one Shilling Six Pence; two pieces of Gold, each of them at the Value of Ten Shillings, and Nineteen Shillings in Silver, of the Goods and Chattels of* Henry Larimore, *in the Parish and County aforesaid, then and there being found, then and there Feloniously he did steal, take, and carry away, contrary to the Peace*, &c.

This Bill was signed by the Grand Jury, *Billa Vera*, and returned to my Lord Chief Baron *Hale*, who then sat on the Crown's side, (or upon Life and Death) about Six of the Clock at Night.

Upon *Thursday* the 11th of *March*, 1668, my Lord Chief Baron came to the Hall about Eight of the Clock in the Morning, and the Court being set, I rendered my self willing to be tried according to the Laws of this Kingdom. And when the Clerk of the Assizes saw me bow to the Court, he then inform'd my Lord, and said, This is Mr. *Hawkins*, who stands indicted for Felony; and then the Clerk of the Arraignments read the Bill, which was sign'd and return'd, as aforesaid; and then I was set to the Bar, without any other Prisoners.

Clerk of the Arraignments said, *Robert Hawkins*, hold up thy Hand, which I then did, and then the Clerk read the Indictment against me as followeth.

YOU stand indicted in Ailesbury, *in the County of* Bucks, *by the Name of* Robert Hawkins, *late of* Chilton, *in the County aforesaid, Clerk, for that you the said* Robert Hawkins *(not having the Fear of God before your Eyes) upon the* 18*th of* September, *in the* 20*th Year of the Reign of our Sovereign Lord* Charles *the Second, by the Grace of God, of* England, Scotland, France, *and* Ireland, *King, Defender of the Faith*, &c. *with Force and Arms*, &c. *at* Chilton *aforesaid, in the County aforesaid, into the Dwelling-House of one* Henry Larimore *Feloniously did enter, and two Gold Rings at the Value of Ten Shillings each of them; one white Holland Apron, of the Value of One Shilling and Six-Pence; two pieces of Gold, each of them at the Value of Ten Shillings, and Nineteen Shillings in Silver, of the Goods and Chattels of him, the said* Henry Larimore, *then and there being found, then and there Feloniously you did steal, take, and carry away, contrary to the Peace of our said Sovereign Lord the King, his Royal Crown and Dignity*, &c.

How say'st thou, *Robert Hawkins*, art thou Guilty of the Felony whereof thou standest indicted, or Not Guilty?

Robert Hawkins. Not Guilty, my Lord.

Clerk. How wilt thou be tried?

Rob. Hawk. By God and my Country.

Clerk. God send you a good Deliverance.

Court. Call the Jury. [*which the Clerk did.*]

Crier, Call these, *viz.*

Richard Lambourne,
James Reynolds, Jun.
Robert Hoare, I challeng'd him.
L. C. B. Set him by.
Edward Butler.
Tho. Coles, I challeng'd him.
L. C. B. Set him by.
Richard Hearnese.
Thomas Sanders of *Chilton* was challenged by *Larimore*, contrary to Custom.
Edward Carter.
John Goodwyn.
William Porter.
John Ringham.
William Cannon, Jun.
William Welsh.
Edward Cope.
Francis Rushell.

All these being in Number Fifteen, but three of them were challeng'd, two of them by me (I being inform'd they were no Friends to the Church of *England)*; and for the third, *viz.* Mr. *Tho. Sanders*, he was challeng'd by *Larimore* contrary to Custom, without shewing any Reason, he being a Neighbour that knew us both, and the Business, better than any of the rest of the Jurors. The other Twelve were sworn as followeth:

Clerk. Rob. Hawkins, Hold up thy Hand; which I did.

Marshal. Richard Lambourne, Lay thy Hand upon the Book; look upon the Prisoner.

YOU shall well and truly Try, and true Deliverance make between our Sovereign Lord the King, and the Prisoner at the Bar, whom you shall have in Charge according to your Evidence, So help you God: Kiss the Book. And so were all the rest sworn.

Clerk. Crier, count these. *Richard Lambourne, James Reynolds*, two, &c. Twelve good Men, and true, stand together, and hear your Evidence.

Clerk. Crier, make a Proclamation.

O Yes, &c.

IF any Man can inform my Lords, the King's Justices, the King's Serjeant, or the King's Attorney, of any Murders, Felonies, or Treasons, done or committed by the Prisoner at the Bar, before this Inquest be taken, between our Sovereign Lord the King, and the Prisoner at the Bar, let them come forth and they shall be heard, for now the Prisoner at the Bar stands upon his Deliverance. And all others bound by Recognizance to give in Evidence against the Prisoner at the Bar, come forth and give your Evidence, or else you will forfeit your Recognizances.

Clerk. Crier, call the Witnesses.

Henry Larimore, Sen. the Prosecutor.
Richard Mayne, Jun. Constable.
Tho. Beamsley, Tithingman (Brother in Law to the said *Larimore.*)
Dodsworth Croke, Esq; (Sir *John Croke*'s eldest Son.)
John Cox.
Henry Larimore, Jun. (Son to the Said *Larimore*, near Twenty Years old, and not Baptized.)
Mary Keen.
Joan Beamsly (Sister to the said *Larimore.*)
Margaret Larimore (Wife to the said *Larimore.*)
John Chilton.
William Croke, Gent. (Son to Sir *John Croke.*)
John Boyse.
Thomas Welch.
Samuel Salter.
John Step, (Sir *John Croke*'s Man.)
Francis Luce.
William Mantill, alias *Miles* (Nephew to the said *Larimore.*)
Richard Mantill, alias *Miles* (Brother-in-Law to the said *Larimore.*)
Tho. Croxton, of *Weston on the Green*, in the County of *Oxon*, Yeoman.
Nicholas Sanders.
Christopher Bethum.
Edward Good, of *Long Crendon*, Clerk, (a Person that committed a Riot and forcible Entry upon my Church at *Chilton.*)

All these (being in Number 22) were Witnesses procur'd (by Sir *John Croke* and *Larimore*) and sworn against me.

Clerk. Rob. Hawkins, Hold up thy Hand. [Which I did.]

Here the Indictment was again Read.

The Clerk speaks to the Jury thus. Look upon the Prisoner, you that be sworn. You shall understand that the Prisoner at the Bar hath been Arraign'd upon this Indictment, and thereunto hath pleaded Not Guilty, and for his Trial hath put himself upon God and the Country, which Country you are. Your Charge is, to enquire whether the said *Robert Hawkins* be guilty of this Felony (in Manner and Form as he stands indicted), or Not Guilty; if you find him Guilty, you shall enquire what Goods and Chattels, Lands and Tenements he had at the Time of committing this Felony, or at any time since; if you do find him Not Guilty, you shall enquire if he fled for the same; if you do find that he fled for the same, you shall enquire what Goods and Chattels, as if you had found him Guilty: If you find him Not Guilty, and that he did not flee for the same, you shall say so, and no more; and hear the Evidence.

Henry Larimore, the Prosecutor, was sworn as followeth. Mr. *Larimore*, lay your Hand upon the Book, look upon the Prisoner.

THE Evidence that you shall give unto the Court, and to the Jury, between our Sovereign Lord the King, and the Prisoner at the Bar, shall be the Truth, the whole Truth, and nothing but the Truth. So help you God. Kiss the Book.

Here I took Pen, Ink, and Paper, to take Notes at the Bar.

Larimore said, May it please your Honour, my Lord, upon *Friday* the 18th of *Sept.* in the Year of our Lord 1668, between Twelve and One o'clock at Noon, I lock'd my Doors fast, and left no body in my House, putting the Keys in my Pocket. I went to a Hemp-plot, about two Furlongs from my House, to pluck Hemp; where I, and the rest of my Family, continued till an Hour

Hour and half of Sun-ſet, and then coming home, found my Doors wide open: So I went in, and run up the Stairs into my Chamber (or upper Loft, over my inward Chamber where I lie.) I then hearing a Noiſe in the Chamber where I lie, juſt under me, I peeped down through ſome of the Chinks of the Loft-boards, there I ſaw this Mr. *Hawkins* (pointing with his left Hand towards me, but having his Face all that time towards the Judge) ranſacking and rifling of a Box, in which Box was then, amongſt other Goods, one white Holland Apron, a Purſe, and in that Purſe was, at that time, two Gold Rings, each of them of the Value of 10*s.* two Ten-Shilling Pieces of Gold, and Nineteen Shillings in Silver, all the which ſaid Gold Rings, Gold and Silver (except one ſmall Piece of Silver or two) I then ſaw this Mr. *Hawkins*, that is now the Priſoner at the Bar, take and turn out of this very Purſe, which I do now ſhew unto your Honour; and he did then ſteal and carry away all the foreſaid Rings and Money, with the ſaid Holland Apron. All theſe things, my Lord, I ſaw him take out of my Box and Purſe, for I was all that time looking through the Chinks of the Board. And when Mr. *Hawkins* heard ſome Noiſe above, I further ſaw the Priſoner now at the Bar go out of my ſaid Lower Room where my Box was, and glanc'd by the Stair-foot Door, and ſo run out of my Houſe, with a great Bunch of Keys in his Hand, down my Yard, and hid himſelf in a Cloſe where there were ſome Beans and Weeds. All this, my Lord, I ſaw with my own Eye. Moreover, my Lord, I having a Warrant from Sir *Richard Pigott* to ſearch for the ſaid Rings and Money, *&c.* I did upon the next Day (it being *Saturday*, and the 19th of *September*) after Mr. *Hawkins* had robbed me, call *Richard Mayne*, Jun. the Conſtable, and Mr. *Tho. Beamſly*, Tithing-man, with ſome others of our Town, to ſearch Mr. *Hawkins*'s Houſe for my ſaid Money and Goods, which the Day before I ſaw him ſteal from me: But he refuſing to open his Doors, or to let us ſearch; when we ſaw that, the Conſtable broke open his Doors, and then we went in, and ſearching his Houſe, I did then find in an inward Room below Stairs, in a Baſket hanging on a Pin (put amongſt Papers and Rags, and other Trumpery) this Gold Ring, and this Five-Shilling Piece of Silver. And I do ſwear, that this Ring and Piece of Silver is one of the ſame Rings and Pieces of Silver which the Day before I ſaw the Priſoner now at the Bar take out of this very Purſe, it being *Friday* the 18th of *September*, and an Hour and half before Sun-ſet. This was the Sum and Subſtance of *Larimore*'s Evidence, whereupon my Lord Chief Baron aſked *Larimore* theſe Queſtions.

Lord Chief Baron Hale. Are you ſure, *Larimore*, that you left your Doors lock'd, when you went out to pluck Hemp?

Larimore. Yes, my Lord, I am ſure I did.

L. C. B. When?

Lar. Between Twelve and One of the Clock at Noon, my Lord.

L. C. B. Upon what Day was it?

Lar. It was upon the 18th of *September* laſt paſt, my Lord.

L. C. B. Upon what Day of the Week was it?

Lar. It was upon *Friday*, my Lord.

L. C. B. In what Year was it?

Lar. It was in the Year of our Lord 1668, my Lord.

L. C. B. Are you ſure that your Chamber-Door where your Box ſtood was lock'd at that time?

Lar. I cannot certainly tell, my Lord.

L. C. B. Was the Box lock'd at that time?

Larimore to this Queſtion paus'd a while, and gave no Anſwer.

Marſhal. My Lord deſires to know whether your Box was lock'd at that time when you loſt your Money and Goods out of it.

Lar. It was lock'd, my Lord.

Clerk. Was it at that time lock'd, by the Oath you have taken?

Lar. It was lock'd, if it ſhall pleaſe your Honour.

L. C. B. Were the Locks of the Doors and Box broken?

Lar. My Lord, I cannot certainly tell, but I do believe that they were pick'd open with ſome Pick-lock or falſe Key.

L. C. B. Did you ſee him, that is now the Priſoner at the Bar, in your Houſe at that time, and in that Poſture, by the Oath you have taken?

Lar. I did then ſee him that is now the Priſoner at the Bar in my Houſe, my Lord, as I ſaid before.

L. C. B. At what time of the Day was it that you ſaw him in your Houſe?

Lar. It was an Hour and half before Sun-ſet.

L. C. B. ſaid to me, Sir, will you aſk *Larimore* any Queſtions before we call more Witneſſes?

Hawkins. Yes, my Lord, if I may have Leave.

L. C. B. Sir, you may proceed to your Queſtions.

Hawkins. I humbly thank your Honour.

Hawkins. I pray, my Lord, aſk *Larimore* if he be ſure that I am the Perſon that robb'd him.

L. C. B. Larimore, anſwer to the Queſtion.

Lar. Yes, my Lord, I am ſure he is the Perſon that robb'd me, for I know him very well.

Hawk. Why did you ſay before Sir *John Croke*, when I was before him, that you could not ſay that I had ſtolen them?

Lar. I ſaid no ſuch thing, this all that were there can juſtify.

Hawk. My Lord, I deſire to know of *Larimore* if he be ſure that it was upon a *Friday*, and the 18th of *September* 1668, and in an Hour and half before Sun-ſet, when he ſaw me in his Houſe robbing him.

Lar. replied, that it was upon that Day and Time, as near as he could gueſs.

Hawk. Why (when *Larimore* found his Doors open, which he expected to have found lock'd) did not he call ſome of his Neighbours to aſſiſt him in ſearching his Houſe, and to ſecure me, or any other Perſon which he might find robbing him, rather than to run up Stairs by himſelf to alarm any Perſon that was in his Houſe, and thereby giving them Opportunity to eſcape?

Larimore ſaid, He did not then ſo well conſider of it as now; but being willing, ſeeing his Doors open, ran up the Stairs to know what the Matter was, and looking through the Chinks of the Loft, ſaw me in his Houſe, as aforeſaid.

Hawk. Larimore, did you ſpeak to me when you ſaw me, or endeavour to ſtay me?

Lar. replied, That he was for that time ſo amazed, that he could not ſpeak to me.

Hawk. My Lord, I think he is ſtill in great Amazement.

Hawk. Was my Houſe the firſt, or the only Houſe you ſearched?

Lar. replied, No.

Hawk. If you ſaw me commit the Robbery in your Houſe, why then did you ſearch other Houſes for the Goods which you ſaw me ſteal?

Lar. replied to this, That he had been robbed at ſeveral other times.

Hawk. Why did not you then rather ſend out Hue and Cries to apprehend my Perſon, than to ſearch my Houſe; and why did not you charge me with flat Felony before Sir *Richard Pigott*, of whom you had your Warrant, if you ſaw me rob you?

Lar. to theſe Queſtions made no direct Anſwer.

L. C. B. Mr. *Hawkins*, will you aſk *Larimore* any more Queſtions?

Hawk. No, my Lord, not at preſent; but when I come to my Defence, I hope I ſhall be heard.

L. C. B. You ſhall be heard at large, and ſo ſhall they.

Hawk. I humbly thank your Honour.

Clerk. Aſſ. *Larimore*, who ſhall be next called?

Lar. Call *Henry Larimore* the younger.

Clerk. Crier, call *Henry Larimore* the younger: who anſwered, Here, Sir.

Marſhal. Lay your Hand upon the Book, look upon the Priſoner.

Hawk. My Lord, may I be heard a Word?

L. C. B. Yes, Sir, you may go on.

Hawk. I humbly thank your Honour.

Hawk. My Lord, is it uſual to admit Perſons that are not Baptized to give Evidence upon a Trial of Life and Death? for that Perſon which is now about to be ſworn (I ſuppoſe) is not Baptized.

L. C. B. Sir, a Perſon that is not Baptized may be ſworn, and give Evidences, in Caſes of Felony.

Hawk. My Lord, I ſubmit, but am not fully ſatisfied in it; and if occaſion be I ſhall crave Counſel in that Point, it being Matter of Law, and not of Fact.

L. C. B. The Jury may conſider of it.

Hawk. My Lord, I doubt not but they will weigh of what Validity the Oath and Evidence of ſuch a Perſon is.

Mar. Larimore the younger, Lay your Hand upon the Book, look upon the Priſoner.

The Evidence that you ſhall give to the Court, between our Sovereign Lord the King and the Priſoner at the Bar, ſhall be the Truth, the whole Truth, and nothing but the Truth. So help you God. Kiſs the Book.

Larimore Jun. My Lord, upon the 18th of *September*, I came home a little after my Father, and coming in the Yard, I ſaw this Mr. *Hawkins* (that is now at the Bar) run out of my Father's Houſe, with a great Bunch of Keys in his Hand, and run down my Father's Yard, and hid himſelf in a Cloſe with Beans and Weeds; and when I came into my Father's Houſe, I aſked him what Mr. *Hawkins* did there: He anſwer'd me, that he had done too much there, for he had robbed him.

L. C. B. What Day of the Week was it?

Lar. Jun. It was upon a *Friday*.

L. C. B. In what Year was it?

Lar. It was this laſt *September*, my Lord.

L. C. B. Will you aſk him any Queſtions?

Hawk. Yes, my Lord, if I may be permitted.

L. C. B. You may proceed to your Queſtions.

Hawk. I humbly thank your Honour.

Hawk. Larimore, are you ſure that I am the Perſon which you ſaw run out of your Father's Houſe?

Lar. Yes, I am ſure that you are the ſame Perſon that I then ſaw run down my Father's Yard.

Hawk. What time of the Day was it when you ſaw me?

Lar. It was an Hour and an half before the Sun was down.

Hawk. Was your Father within when you came there?

Lar. He was within when I came there, and I aſked him as aforeſaid.

Hawk. Did your Father ſay no more to you, than what you have related? and did not he enquire which way I ran, or went?

Lar. He ſaid no more, but that you had robbed him.

Hawk. My Lord, and you of the Jury, Is it likely, that when the Father had ſeen me commit a Robbery in his Houſe, and the Son coming in immediately upon it, that the Father would not aſk of him which way I went?

Hawk. My Lord, I have done with him at preſent.

Lar. Sen. My Lord, pray let *Joan Beamſly* be called next.

Clerk. Crier, call *Joan Beamſly*.

Crier. Joan Beamſly. She anſwer'd, Here, Sir.

Joan Beamſly, Lay your Hand upon the Book, look upon the Priſoner, *The Evidence that you ſhall give ſhall be the Truth*, &c.

Joan Beamſley. May it pleaſe your Honour, my Lord, upon *Friday* the 18th of *September* laſt paſt, about an Hour and half before Sun-ſet, as I was going to Milking, in the Street (near *Larimore*'s Houſe) I met *Henry Larimore* the younger, and being at that time much troubled with the Tooth-ach, I told him of it, deſiring him to help me to ſome hot Water, for I believed that might give me Eaſe; *Larimore* reply'd, that if I would go with him to his Father's Houſe, he would help me to ſome: So going both together, we ſaw this Mr. *Hawkins* (that is now the Priſoner at the Bar) run out of *Larimore*'s Houſe, with a great Bunch of Keys in his Hand, and run down *Larimore*'s Yard into a Cloſe of Beans and Weeds, and there hid himſelf; and when we came into *Larimore*'s Houſe, I there heard young *Larimore* aſk his Father what Mr. *Hawkins* did there; *Larimore* told his Son that he had done too much there, for he had robbed him. [When my Lord Chief Baron *Hale* heard how theſe three Witneſſes agreed in their Evidence, he ſaid, Here is enough ſworn (if believed) to hang twenty Men.]

Hawk.

Hawk. I doubt not but to clear my ſelf, notwithſtanding their Evidence, if I may be heard.

L. C. B. You ſhall be heard.

Hawk. I humbly thank your Honour.

L. C. B. Larimore, have you any more Witneſſes?

Lar. Yes, if it may pleaſe your Honour, a great many more.

L. C. B. Who are they? Call them.

Lar. Call *Richard Mayne*, Conſtable.

Clerk. Crier, call *Richard Mayne*, Conſtable; who anſwer'd, Here, Sir. And being ſworn, ſaid as followeth.

Mayne. My Lord, upon *Saturday* the 19th of *September* laſt paſt, came *Henry Larimore* Sen. to me, and giving me a Warrant from Sir *Richard Pigott* to ſearch, commanded me (amongſt others) to ſearch Mr. *Hawkins* for ſome Money and Goods, which he had loſt; and when I ſaw his Warrant, I went to *Tho. Beamſly*, Tithing-man, and charged him, with three or four others, to aſſiſt me; and coming to Mr. *Hawkins*'s Houſe, he denying to open his Doors, I broke them open, and I went into his Houſe, and *Henry Larimore* Sen. did find in a Baſket this Gold Ring, and Five-ſhilling-piece of Silver (Mr. *Hawkins* himſelf being by whilſt he found them); ſo we had him before Sir *John Croke*, who committed him to Priſon, and ſo on *Sunday* Morning we brought him to *Aileſbury*. This alſo was ſworn by *Dodſworth Croke*, Eſq; *Tho. Beamſly*, and young *Larimore*.

L. C. B. ſaid to me, Will you aſk theſe Witneſſes any Queſtions?

Hawk. Yes, my Lord, if I may be permitted.

L. C. B. You may go on to your Queſtions.

Hawk. I humbly thank your Honour.

Hawk. Mayne Conſtable, did *Larimore* deſire you to ſearch my Houſe alone, and did he then tell you, that he ſaw me rob him the Day before?

Conſtable. Larimore did deſire me to ſearch ſeveral Houſes, but did not ſay to me that he ſaw you rob him.

Hawk. Where is the Warrant upon which you broke open my Houſe? I deſire to ſee it.

Conſt. Here it is.

Hawk. Was it *Larimore* himſelf that found the Ring and Five-ſhilling-piece?

Conſt. It was *Henry Larimore* the elder that found it.

Hawk. Was I in the ſame Room when he found them?

Conſt. You were in the ſame Room when he found them.

Hawk. This was proved falſe, by Mr. *Charles Wilcox* and *Nicholas Faulkner*, which Perſons kept me in the Hall, whilſt they pretended to find them in the Buttery.

Hawk. Conſtable, why did you compel me to go before Sir *John Croke*, which you knew was my Adverſary?

Conſt. We did not force you before him.

Hawk. This I proved to be ſo, by *Michael Reed*, Gent. Mr. *Tho. Saunders*, Mr. *Wilcox*, Mr. *Goulder*, *Robert Caſemore*, and many others that ſaw it.

Hawk. Conſtable, why did you adviſe the Jaylor, Mr *Burch*, to load me well with Irons?

Conſt. I did not adviſe him to do ſo.

Hawk. Pray, my Lord, aſk the Jaylor, Mr. *Burch*, what the Conſtable ſaid to him when he brought me thither.

Clerk. Mr. *Burch*, inform the Court what the Conſtable ſaid to you, when he brought Mr. *Hawkins* to you as a Priſoner.

Jaylor. My Lord, when the Conſtable delivered Mr. *Hawkins* to me on *Sunday* Morning, he ſaid, that Mr. *Hawkins* was a notorious Picklock, and that he was confident he could pick every Lock about the Priſon, and therefore he adviſed me to watch him narrowly, and load him well with Irons.

Thomas Beamſly being ſworn, his Evidence being the ſame in Effect with the Conſtable's, for Brevity ſake I omit; but I craved leave to aſk him a Queſtion or two; which being granted, were as followeth.

Hawk. Beamſly, Pray what Diſcourſe had you with Mr. *Wilcox* upon the 19th of *September*, preſently after my Houſe was broken up, concerning the time when (as your Brother pretended to you) he loſt the Ring and Five-ſhilling-piece of Silver?

Beamſly. He did not remember that he had any Diſcourſe with Mr. *Wilcox* about that.

Hawk. Did you not ſay to Mr *Wilcox*, that your Brother *Larimore* told you that he had loſt the Stone Ring, and Five-ſhilling-piece of Silver, (which as he pretended was found in my Houſe) before the difference began betwixt me and your Brother; and moreover that your Brother ſaid he had an intent to ſearch for the ſame a Month before?

Beamſly replied, that he did not remember any ſuch Diſcourſe.

Hawk. My Lord, may I be heard a Word or two?

L. C. B. You may go on.

Hawk. I humbly thank your Honour.

Hawk. My Lord, I ſuppoſe that I can prove theſe Particulars.

1. That *Larimore* told *Beamſly* that he had loſt this Gold Ring and Five-ſhilling-piece of Silver now in Queſtion, before there was any difference between *Larimore* and my ſelf, which began in *Michaelmas* Term 1667. This was proved by Mr. *Wilcox*.

2. And that *Larimore* confeſs'd upon his Oath before Sir *John Croke* (upon the 19th of *Sept.*), when I was committed, that he loſt the ſaid Ring and Piece of Silver about a Month before, which muſt be about *Aug.* 19. This was proved by Mr. *Brown*, *Faulkner*, and others.

3. I can prove that *Larimore* told Sir *Richard Pigott*, when he went for his Warrant to ſearch, that he did ſuſpect ſeveral Perſons for robbing him of this Gold Ring and Five-ſhilling-piece, and that I was only one of the ſuſpected Perſons. This Sir *Richard Pigott* did acknowledge to be true.

But now he ſwears that he ſaw me ſteal the Gold Ring and Five-ſhilling-piece out of his Houſe on *Friday* the 18th of *September*, an Hour and half before Sun-ſet, 1668.

Hawk. I pray, my Lord, and you that are of this Jury, take notice of this, and compare the times out of his own Mouth; but more of this when I come to make my Defence.

L. C. B. Larimore, have you any more Witneſſes?

Lar. Yes, my Lord.

L. C. B. Call them, who are they?

Lar. Call *Margaret Larimore.*

Clerk. Crier, call *Margaret Larimore*, the Wife of *Henry Larimore.*

Crier. Margaret, the Wife of *Henry Larimore.* She being ſworn ſaid, that, when ſhe was a Servant to *Larimore*, which now is her Huſband, ſhe had ſeen Mr. *Hawkins*, at ſeveral unſeaſonable Hours in the Night (when her Maſter was in bed) lying lurking in and about her Maſter's Houſe, Yard, Windows, and Doors, and ſaid, that ſhe believed he lay there for no good Intent.

Hawk. My Lord, may I aſk this Woman a Queſtion or two?

L. C. B. You may do ſo, if you pleaſe.

Hawk. I humbly thank your Honour, I'll promiſe you to be brief.

Hawk. At what time was it, *Margaret Larimore*, that you ſaw me lurking in your Maſter's Yard, as you have ſaid?

Marg. Lar. It was in the Night-time.

Hawk. But how long may it be ſince?

Marg. Lar. I can't tell, it might be about the time that my maſter was robbed.

Here Larimore *prompts his Wife, which I told my Lord, for which he checked him.*

Hawk. Did you ſpeak, or call to me, when you ſaw me there?

Marg. Lar. No, for I was affrighted at it. This ſame was alſo ſworn by *Richard Mantill*, alias *Miles*, Son-in-Law to the ſaid *Larimore*, and alſo by *William* his Son, which for brevity ſake I omit farther to relate.

L. C. B. Larimore, have you any more?

Lar. Yes, my Lord, to prove that this Ring and Five-ſhilling-piece is mine.

L. C. B. Call them, who are they?

Lar. Eſq; *Dodſworth*, Sir *John Croke*'s eldeſt Son, and Mr. *Good*, Miniſter of *Long Crendon*, my Lord.

Clerk. Crier, call *Dodſworth Croke, Eſq*; and *Edward Good* of *Long Crendon*, Clerk: both anſwer'd, Here, Sir. They both being ſworn, Mr. *Dodſworth Croke* ſaid as followeth, (taking the Ring in his Hand, turned it up and down, and looked very narrowly upon it within and without, and put it upon his Finger, and pulling it off ſeveral times in the Face of the Court and Country, he then inform'd my Lord) That he was confident, that this was *Larimore*'s Ring; and for his Proof and Credit, tells the Court that he had pawned it to *Larimore.*

Mr. *Good* took the Five-ſhilling Piece into his Hand, and ſwore, that he being at *Buckingham* laſt Seſſions, about ſome Trouble which I had put him to, he then wanting ſome Money, did pawn a Five-ſhilling-piece to this *Larimore* for other Money; and he deſiring of him to take care that he had the ſame Piece again, *Larimore* told him that he put a Mark upon it: So ſeeing a Mark upon this Five-ſhilling-piece, he ſwore that he did verily believe that this was the ſame Five-ſhilling-piece which he had pawned to *Larimore* at the Seſſions before.

L. C. B. ſaid to me, Sir, if you will aſk the Witneſſes any Queſtions, you may.

Hawk. I humbly thank your Honour for that Freedom; but I do humbly conceive that the proving of the laſt point, *viz.* that the Ring and Five-ſhilling-piece was either *Larimore*'s own Goods, or pawn'd to him, is not much material to my Caſe; for I am free to confeſs (as much as I can have ground to believe), which is, that *Larimore* might have the Ring and Five-ſhilling-piece of Silver in his Poſſeſſion; but the Charge againſt me is, that I ſtole them from him, which I do flatly deny, and do not doubt of clearing my ſelf when I come to my Defence, if I may be heard.

L. C. B. Sir, you need not queſtion but you ſhall be heard.

Hawk. I humbly thank your Honour, and crave leave to be heard a Word or two (if it be not unſeaſonable).

L. C. B. You may go on.

Hawk. May it pleaſe your Honour, and the Jury, to take Notice that Mr. *Good* ſwears he believes this to be the Five-ſhilling-piece that he pawn'd to *Larimore* laſt Seſſions at *Buckingham*, but I deſire to know if *Larimore* ſwears that this is that Piece which Mr. *Good* pawned then to him, for he beſt knows.

L. C. B. Larimore. what ſay you to that?

Lar. My Lord, I do ſwear that this is the ſame Five-ſhilling-piece which Mr. *Good* pawned to me, the laſt Seſſions at *Buckingham.*

Hawk. Then, my Lord, and the Jury, be pleaſed to obſerve, That Seſſions was held upon the 9th and 10th of *July*, 1668, but the Difference between me and *Larimore* (for Tithes) was begun in *Michaelmas-Term*, 1667, which is near nine Months before that Seſſions; and notwithſtanding *Larimore* did ſay to his Brother *Beamſly*, upon the 19th of *September*, that he had loſt this very Ring and Five-ſhilling-piece of Silver before the difference began, which is impoſſible, my Lord, as appears by the Oaths of *Larimore* and Mr. *Good*; for how could he be robbed of that Five-ſhilling-piece nine Months before he had it? And that he did ſay the very Words to his Brother *Beamſly* we have already proved, by the Teſtimony of Mr. *Wilcox.*

L. C. B. ſaid, Mr. *Hawkins*, was this Suit for Tithes begun by you againſt this *Larimore* before the time that *Larimore* ſwears this Felony was committed?

Hawk. Yes, my Lord, for I began that Suit for Tithes in *Michaelmas-Term*, 1667, and *Larimore* ſwears that I robb'd him upon the 18th of *September*, 1668, which is, my Lord, about a Year after. My Lord, it is an eaſy way thus for the Fanaticks to pay Tithes; if they can but hang up the Clergy, they may ceaſe all their future Pleading for Liberty of Conſcience.

Now *Larimore* began to ſtumble, and ſhew his Malice in proſecuting me unjuſtly, by his multiplying of feigned Felonies, wherewith he did then endeavour to load me, of which I appeared innocent.

L. C. B. Larimore, have you any more?

Lar. Yes, my Lord, Pray call *John Chilton.*

Clerk. Crier, call *John Chilton.*

Crier. John Chilton: who anſwered, Here, Sir; and being ſworn, my *L. C. B.* ſaid to him, Come, *Chilton*, what can you ſay to this Buſineſs?

John Chilton ſaid, My Lord, I can ſay nothing but that I am paid for my Boots.

L. C. B. What Boots?

Chilt. My Lord, I am paid for my Boots.

L. C. B. Our Buſineſs is not now about Boots, but however, come and tell me what thou meaneſt by them?

Chil. My Lord, Mr. *Hawkins* brought me a Pair of Tops, to put new Legs to them, which I did, and he coming by my Shop, told me he wanted his Boots; I replied, they were done: But I being then about to go out, did promiſe Mr. *Hawkins* to lay them in my Window, ſo that he might take them as he went home, which accordingly he did; and when I came home I went to Mr. *Hawkins*, who at that time was at Sir *John Croke*'s Houſe, where he contented me for my Work before we parted: And this is all that I can ſay, my Lord.

L. C. B. What is this to the Purpoſe? Can you ſay any more, *Chilton?* If you can, go on.

Chil. My Lord, Mr. *Hawkins* paid me honeſtly for the Boots: But as ſoon as he began to demand the Tithes of *Chilton*, and did ſue for them, then they lay at me Night and Day to have me charge Mr. *Hawkins* with flat Felony, for ſtealing the ſaid Boots out of my Shop; but I told them, that I laid them in my Shop-Window for him, and did bid him take them as he came back; and he paid me for my Work, and therefore I cannot ſay he ſtole them.

L. C. B. Who were they that deſired you to charge Mr. *Hawkins* with the ſtealing of your Boots?

Chil. This *Larimore*, Mr. *Dodſworth Croke*, *Richard Mayne* the Conſtable, *Miles* and *John Sanders* (who is ſince dead, my Lord).—*Larimore* here interrupted *Chilton*, and ſaid, My Lord, I have five or ſix Witneſſes that can prove that all this is falſe which *Chilton* hath ſworn.

L. C. B. Call them, for I'll hear all, if I ſit 'till Night.

Then *Larimore* called *Dodſworth Croke*, *William Croke*, *John Stop*, *Thomas Welch*, *Samuel Salter*, and *William Sanders*; all theſe being ſworn, the Sum and Subſtance of their Evidence was to this Effect:

That they had heard *John Chilton* ſay, that I had ſtolen a Pair of Boots from him, to which *Chilton* (being then upon Oath) ſaid, that Mr. *Hawkins* did no otherwiſe than what before I have ſworn; and he further added, that he never ſaid that I had ſtolen any thing from him, for he had no Reaſon for it.

L. C. B. Did this *Larimore* deſire you to charge this Mr. *Hawkins* with Felony? And when did he deſire you to do ſo?

Chilton. My Lord, *Larimore*, and the reſt that I have named, deſired me to charge Mr. *Hawkins* with flat Felony, for ſtealing the ſaid Boots, as ſoon as he demanded the Tithes of *Chilton*; and they would have forced me to fetch a Warrant from a Juſtice of Peace to ſearch for them, and did further threaten me, in caſe I would not do it, that Sir *John Croke* would indict me at the Aſſizes, as one acceſſary to the ſtealing of my own Goods.

L. C. B. Was *Larimore* one of them?

Chilton. Yes, my Lord, and he ſaid, that he would make me ſwear that Mr. *Hawkins* had ſtole my Boots, and for that End did ſerve me with a *Subpœna* to be here.—Here *Larimore* the ſecond time interrupted *Chilton*, and ſaid, my Lord, this Fellow (pointing at *John Chilton*) is hired by Mr. *Hawkins* to ſwear this.

Chilton replied, No, my Lord, I am not hired by Mr. *Hawkins* to ſwear, but I might have been hired, or borne out, if I would but ſwear that Mr. *Hawkins* ſtole my Boots, by one *Croxſtone*.

L. C. B. How! what is that! hired or borne out to ſwear? By whom, and how? Tell me the Story.

Chilton. My Lord, I am not hired to ſwear by Mr. *Hawkins*; but if I would ſwear that he ſtole my Boots out of my Shop, I might have been borne out in ſo doing. For *Tho. Croxſtone*, of *Weſtone on the Green*, in the County of *Oxon*, told me upon *Monday* laſt, it being the 8th of *March* 1668, that if I would but ſwear what he would have me againſt Mr. *Hawkins* (*viz.* that he ſtole my Boots) he would bear me harmleſs; but I replied, that it went againſt my Conſcience to do it. I added further, that if I ſhould be ſo wicked as to ſwear it, Mr. *Hawkins* can prove the contrary by Mr. *William Croke* and others; to which *Larimore* replied, that I need not fear what Mr. *Croke* knew in that Caſe, for he is one of us, and will not juſtify any thing that may tend to our Prejudice. I farther told him that I durſt not do it; for if I ſhould, Mr. *Hawkins* might make me fly the Country, as *Smart* did *Wheeler*: To which *Croxſtone* replied, that if I would ſwear it, he would bear me out againſt the ſaid Mr. *Hawkins* as far as an Hundred Pound would go, and if that would not do, as far as Five Hundred Pound would go.

L. C. B. How! bear you out to ſwear! What *Croxſtone* is this that would do ſo? This is not likely to be true.

Tho. Croxſtone ſaid, My Lord, I ſaid no ſuch Thing.

L. C. B. I do not believe it to be true.

Chilton run in, and ſaid, As I live and breath, my Lord, *Croxſtone* did ſay, if I would ſwear that Mr. *Hawkins* had ſtole my Boots, he would bear me out, as I ſaid before, and if I made any doubt of it, he would give me Bond to make good his Promiſe.

L. C. B. ſaid, This is ſtrange.

Croxſtone. My Lord, I ſaid I would bear him out in ſpeaking the Truth, and no otherwiſe.

Hawk. My Lord, may I be heard?

L. C. B. Yes, you may go on.

Hawk. I thank your Honour. My Lord, pray let me aſk Mr. *Croxſtone* two or three Queſtions.

L. C. B. So you may; go on.

Hawk. Mr. *Croxſtone*, do you confeſs that you did promiſe to bear out *Chilton* (as you ſaid before) in ſwearing the Truth?

Croxſtone. Yes, Sir, I did, and no otherwiſe.

Hawk. Was it not about the Boots?

Croxſtone. Yes, Sir, it was ſo.

Hawk. Did not you deſire *Chilton* to ſwear that I had ſtolen his Boots, after that he had told you I had paid him for them, and thereupon promiſe to bear him out againſt me, in 100 or 500 *l.*

Croxſtone. I think you cannot prove it againſt me.

Hawk. I pray, my Lord, and you of this Jury, conſider that this *Chilton* is one of *Larimore*'s Witneſſes, and ſwears for the King, yet he ſwears that he had given me Orders to take thoſe Boots, and that I then paid him for legging of them, and that he had repeated this to *Larimore* and *Croxſtone* ſeveral times; and after all this, *Larimore* and *Croxſtone*, with others, uſed their utmoſt Endeavours to perſuade *Chilton* to charge me with Felony for ſtealing them, and *Croxſtone* promiſed him to bear him out in ſo doing, as far as 100*l.* would go, and if that would not do, as far as 500*l.* and give him Bond for his Security, *&c.* My Lord, if this amounts not to a Subornation, I am miſtaken. But my Lord, I have two Witneſſes more to prove the ſame againſt Mr. *Croxſtone*, and I pray that they may be heard.

L. C. B. Who are they?

Hawk. Ann Scoly, and *John*, the Son of Mr. *Tho. Sanders.* Both theſe being called, juſtified in Court what *Chilton* had ſworn againſt Mr. *Croxſtone:* Upon which my Lord Chief Baron ſaid to *Croxſtone*, Come, you did ill to ſolicite Perſons to ſwear theſe things which you knew were falſe; and 'tis farther added, that this made not for the King, but rather for the Priſoner at the Bar. After all this, a rude Fellow *(Thomas Welch)* came in, and ſaid, My Lord, I did hear *Chilton* ſay, that Mr. *Hawkins* had ſtole a Pair of Boots from him.

L. C. B. What, more Boots ſtill? Come, *Larimore*, have you any more?

Larimore ſaid, Yes, my Lord, one Mr. *Boyce*; who being ſworn, ſaid, That at a certain time, he coming into a Houſe at *Chilton*, found this Mr. *Hawkins*, now the Priſoner at the Bar, and one *James Noble* (which *Noble* was then drunk, and aſleep upon a Bed), and I ſaw Mr. *Hawkins* have his Hand in *Noble*'s Pocket, and the ſaid *Noble* told me, that at that time he loſt a Gold Ring and a Piece of Gold out of his Pocket.

L. C. B. ſaid to me, Sir, what ſay you to that?

Hawk. My Lord, I deſire to know if there be any Bill or Indictment againſt me for it.

Clerk. There is none, my Lord, that I do know of.

Hawk. I deſire, my Lord, that *Noble* may be ſworn, if he be here.

Lar. He is not here, my Lord.

L. C. B. Why was not that *Noble* here himſelf to proſecute?

Lar. I could not find him, my Lord.

Hawk. I deſire to know whether *Boyce* came hither of his own Accord, or if he be *Subpœna'd* to be here; (if ſo) by whom, and who bears his Charges?

Boyce. I was *Subpœnaed* by *Larimore*, and he bears my Charges, my Lord.

Hawk. How long was it ſince, Mr. *Boyce*, that you ſaw my Hand in *Noble*'s Pocket, as you ſaid before?

Boyce. It may be near two Years ago, my Lord.

Hawk. Did you ſee me pick (or take) out of the ſaid *Noble*'s Pocket, the ſaid Ring, or Piece of Gold, or any thing elſe?

Boyce. I ſaw your Hand in *Noble*'s Pocket, but did not ſee you take any thing out of it.

Hawk. Did *Noble* ever tell you, that I had picked his Pocket of the ſaid Ring, or Piece of Gold, or any thing elſe?

Boyce. No; but ſaid, he loſt them at that time.

Hawk. But you ſay, that *Noble* was drunk at that time, and if ſo, it's poſſible he might be miſtaken.

Boyce. So he was drunk, and aſleep likewiſe.

L. C. B. I think you were all drunk.

Hawk. Boyce, you might have done well, to have told Mr. *Noble* of this, when he told you that he had loſt his Ring and Piece of Gold; but can you ſay any thing touching *Larimore*'s being robbed, or do you know that I am the Perſon that robbed him?

Boyce. No, not I, my Lord, I cannot charge him.

Hawk. But you ſay that *Larimore Subpœna'd* you to be here, and that he bears your Charges?

Boyce. Yes, my Lord, and ſo he does.

Hawk. Mr. *Boyce*, if this be all you can ſay for *Larimore*, you will hardly requite his Charges?

Hawk. My Lord, may I be heard, as to the Evidence of *Boyce?*

L. C. B. You may go on.

Hawk. I humbly thank your Honour.

Hawk. This *Boyce* ſwears, my Lord, that about two Years laſt paſt he ſaw my Hand in *Noble*'s Pocket, and that *Noble* told him, he then loſt a Gold Ring and a Piece of Gold. My Lord, I think (with Submiſſion to your Honour and the Court) I am not bound to anſwer to this Charge, becauſe there is no Indictment exhibited againſt me for it, nor is *Noble* himſelf here to proſecute, or can *Boyce* ſwear that I picked *Noble*'s Pocket, or that *Noble* ever told *Boyce* I did (as he himſelf ſwears). But, my Lord, I obſerve in this the Malice of *Larimore*'s Heart, as well as in that of the Boots; for *Boyce* ſwears, that he can ſay nothing to *Larimore*'s Bill of Robbery, and yet he forces him to come from *London* hither, to ſtart a ſenſeleſs Story about *Noble*'s Ring and Gold, which is of near two Years ſtanding. My Lord, if there had been any Truth in it, why was not *Noble* himſelf here to proſecute it? And why did he let it reſt ſo long? I ſay again, my Lord, if it had been true that I had pick'd *Noble*'s Pocket, and if *Larimore* had known it, I pray, my Lord, and you of the Jury, what had that concern'd *Larimore?* But, my Lord, I am as clear of picking *Noble*'s Pocket, as I am of ſtealing *Chilton*'s Boots, and as clear of both theſe, as I am of robbing this Fellow *Larimore*, that now calls my Life in Queſtion: Nay, if he can fairly prove me guilty of one, I am willing to ſuffer as guilty of all.

My Lord, I am bold to appeal to your Honour, whether it be a fair Proſecution in *Larimore*, to ſtir up *Chilton* falſely to charge me with Felony in ſtealing his Boots, when I had not only a Right in them, but alſo Leave from him to take them, and paid him for his Work, which *Larimore* himſelf knows. Nay, my Lord, if I had never paid *Chilton* for his Legs, the Tops being mine, by Law it had not been Felony, but a Treſpaſs, becauſe I had leave from him to take them, and a Right in them, the Tops being mine. And again, my Lord, I appeal to your Honour, whether it be fair in *Larimore* for him to ride up and down City and Country, to bring a Multitude of Witneſſes together that can ſay nothing to this Bill (as *Boyce* ſwears he cannot): If this doth not diſcover Malice in a Proſecutor's Heart, I know not what doth; and if that appears to your Honour and the Jury, to be in him, how far that ought (as well by Law as Equity) to fruſtrate his Evidence, I am willing to leave to your Honour and the Jury; and ſo I have done as to *Boyce*'s Evidence.

L. C. B. Larimore, have you any more?

Larimore. Yes, my Lord, *John Cox*, and *Francis Lucy*. They being both ſworn:

John Cox ſaid, My Lord, I being in Mr. *Hawkins*'s Company not long ſince, one aſked him, how he thought to come off at the Aſſizes: Mr. *Hawkins* reply'd, he cared not much for this Plot (tho' he ſhould be convicted), for they could but burn him in the Hand for it, and that he could bite out.

Lucy being ſworn, ſaid, that he heard Mr. *Hawkins* confeſs, that he owed *Larimore* 15*s*. but becauſe he had dealt ſo unjuſtly with him, he would make it coſt *Larimore* fifteen times 15*s*. before he would pay him.

L. C. B. ſaid, This makes little to the purpoſe.

Come, *Larimore*, Have you any more?

Lar. I think not, my Lord.

L. C. B. If you have any more Witneſſes, call them, and they ſhall be heard, and do not ſay, when I am gone, that your Witneſſes could not be heard.

Lar. My Lord, I confeſs they have been fully heard, and I have no more to ſay.

L. C. B. ſaid to me, Sir, you have heard the Indictment againſt you, and the Evidence to prove it; you have heard the Charge, now ſay what you can for your own Defence, and you ſhall be heard.

Hawk. I humbly thank your Honour; and I hope, my Lord, becauſe the Evidence is large, I ſhall have the more time allowed me to make my Defence; and if ſo, I doubt not but fully to open this Conſpiracy.

L. C. B. Do not fear that; for as they have been heard at large, ſo ſhall you likewiſe (God forbid elſe).

Hawk. I humbly thank your Honour, and do promiſe to be as brief as conveniently I can: And as I intend to offer nothing but the naked Truth, ſo I will ſay no more (if I am not miſinform'd) than I can prove to be true. And, my Lord, becauſe it may ſeem neceſſary for me to offer many Things by way of Defence, in anſwer to ſo great a Charge; to ſave time, I pray that it may not be expected by your Honour, or the Jury, that I ſhould call Witneſſes to prove every Particular: But when I offer ſuch Things as are moſt material, if either your Honour, or the Jury, be not fully ſatisfied touching the Truth of ſuch material Points, I do humbly pray, that I may be called upon to prove them; for when I am not called upon for Proof, I ſhall, under Favour, my Lord, take it for granted that I am believed. And for Method herein, if I may have leave, I do intend this.

1. In General, to ſhew how improbable it is, that I ſhould be guilty of this Robbery, and alſo deliver ſome Hints to move the Court and Jury to queſtion whether this Proſecutor (*Larimore*) was robbed at all, or no.

And 2*dly*, More particularly to examine the Evidence, as to Matter of Fact.

L. C. B. Go on, Sir, to your Defence.

Hawk. May it pleaſe your Honour, and you of this Jury, I begin with the firſt part of my Defence, which is to hint how unlikely it is, that I ſhould be guilty of robbing this *Larimore*.

1. *Larimore* is generally known to be a notorious Anabaptiſt, and an Enemy to the Church of *England*, and a Hater of the Miniſtry in general; but more particularly, he is moſt envious and malicious againſt myſelf, becauſe I ſued him for Tithes, and cauſed him to be indicted for not coming to Church, or Baptizing his Children: For which Reaſon his Malice againſt me hath appeared notorious ſeveral Ways, as, amongſt others,

1. By diſſuading all that owed me any Money, not to pay me.
2. By his inducing thoſe to whom I owed Money to Arreſt and trouble me.
3. By diſſuading thoſe that I ſued for Tithes, not to agree with me; he promiſing them, that Sir *John Croke* and himſelf would force me to run the Country ere-long.
4. By his continual tormenting, and vexing me with his falſe Arreſts, and illegal Indictments.
5. By his conſtant Endeavour to diſſuade my Friends from any ways relieving me, or mine, in my greateſt Wants and Neceſſities, adviſing them to ſtarve us.

My Lord, and this Jury, if you are not fully ſatisfied in any of theſe Particulars that I have alledged, I am ready to prove them; but if this be granted, they are no doubt ſufficient Arguments to prove the Malice of his Heart. Again, I ſay, that it is no ways poſſible that *Larimore* was robbed at all; and of this Opinion are moſt of his Neighbours round about him, as may appear by this Certificate, which followeth:

WE do humbly Certify, That Henry Larimore *of* Chilton, *in the County of* Bucks, *Labourer, is a notorious Anabaptiſt, an Enemy to the Church of* England, *and a perfect Hater of all Miniſters of the ſame, but in particular, moſt inveterate and malicious againſt* Robert Hawkins, *Clerk, late Miniſter of the Church of* Chilton *aforeſaid; for that he doth not only ſeek and deſign utterly to ruin the ſaid Mr.* Hawkins *himſelf, but makes it his Buſineſs, and daily Practice, to inſtigate others to do the like, and for no other Cauſe, as he hath often confeſſed himſelf, but for that the ſaid Mr.* Hawkins *hath cauſed him to be indicted for not coming to Church, and ſued him for Tithes: And we do verily believe, and are fully ſatisfied in our Conſciences, that the ſaid Mr.* Hawkins *is not at all guilty of the pretended Felony, in ſtealing the Ring, and Piece of Silver, which the ſaid* Larimore *hath charged him with, but that it is meer Contrivance inchoated, and ſet on Foot by the ſaid* Larimore, *Sir* John Croke, *and others, on Purpoſe to revenge themſelves. And we do alſo believe, that the ſaid Mr.* Hawkins *is a very honeſt Man, and that he is a very able Miniſter, and a true and faithful Labourer in God's Word, and never heard that he was ſuſpected in the leaſt of Felony, till this malicious Proſecution, which is by the ſaid* Larimore, *and others, whom the ſaid Mr.* Hawkins *ſueth for Tithes,*

Witneſs our Hands, *March* 8, 1668.

Michael Read, Gent.	Mrs. *Bulſtrode*, Widow.	*John Turner*
William Read, Gent.	Mr. *John Bulſtrode*	*Joſeph Parſons*
Nicholas Faulkner	*John Carr*	*Robert Steele*
Mr. *William Bulſtrode*	*John Acreman*	*Stephen Toms*
John Chilton	*Thomas Whyte*	*Robert Willet*
The Widow *Paverell*	*Thomas Ludet*	*William Neighbour*
Robert Sanders	The Widow *Meades*	*Will. Chittle*
Chriſtopher Hinton	*Richard Toms*	*Henry Parker*
John Mortimer, ſen.	*Joſeph Nero*	*William Aſh*
Mr. *John Daniel*	*Richard Low*	*John Golder*, jun.
Mr. *John Clarke*	*John Culledge*	*William Golder*
The Widow *Clare*	*Richard Waude*	*William Tipping*
William Landſdell	*Theophilus Hinton*	*Richard Goodwyn*
William Bouden	*Edward Clarke*	*John Boſley*
John Newman	*Jeffery Hart*	*Moſes Collings*
Thomas Coles	*Richard Budd*	*Roger Carr*
The Widow *Newman*	*John Budd*	*John Cato*
Robert Barlow	*Thomas Higgs*	*William Hayward*
Theophilus Sanders	*Roger Gye*	*Edward Hellyman*
John Sanders	*Robert Coxhead*	*Abraham Quelch*
John Mortimer, jun.	*William Hitchcock*	*John Pymm*
Mr. *Henry Golder*	*John Powel*	*John Carter*
Mr. *Thomas Sanders*	*Luke Turner*	*William Toms*
Mr. *Henry Lovell*	*Richard Badger*	*Robert Budd*
Mrs. *Lovell*, Widow.	*John Golder*	*William King*
Owen Gibſon	*John Newton*	*Cadwalider Crawton*
Mr. *Tho. Sanders*, ſen.	*William Collet*	*William Aſh*
Robert Caſemore	*John Beckley*	*Thomas Whyte*, ſen.
Edward Jarvice	*Richard Kemp*	*Thomas Whyte*, jun.
Thomas Green	The Widow *Acreman*	*David Turner*
Edward Barker	*Robert Flint*	*Jonathan Hand*
John Grace	*William Beckly*	*John Young*
John Freeman	*Robert Hicks*	*John Bedford*
Richard Carr	*John Barney*	*John Norcutt.*

By this Certificate, which you ſee ſubſcribed with above an Hundred Names, wherein many others (for brevity ſake) are omitted, altho' I made no uſe of it upon my Trial; yet the World may ſee what an Opinion *Larimore*'s Neighbours had concerning him, and his (pretended) Robbery; which Certificate I have for that Purpoſe here inſerted.

2. It is not likely that *Larimore* was robb'd, becauſe he did not declare it to his Neighbours immediately, which doubtleſs he would have done, had any ſuch thing befallen him.

3. Nor is he certain (as to the time) when he was robbed.

For 1. He told his Brother *Beamſly*, that he had loſt the Ring and Five-ſhilling-piece (in Queſtion) before there was any difference between him and I: As may appear by this Certificate under Mr. *Wilcox*'s own Hand, which is as followeth:

THESE are to Certify all whom it may concern, that Thomas Beamſly *of* Chilton, *Tithingman, told me,* Charles Wilcox, *of* Long Crendon *(upon* September 19, *in the 20th Year of his Majeſty's Reign,* An. Dom. 1668), *That the Five-ſhilling-piece of Silver, and the Stone-ring, which* Larimore *pretended he found in Mr.* Hawkins's *Houſe, were both loſt before there was any difference between the ſaid* Larimore *and the ſaid Mr.* Hawkins; *and he further added, that his Brother* Larimore *told him, that he had an intent to ſearch for the ſame Ring and Five-ſhilling-piece, above a Month before he did. This I can, and will depoſe, whenſoever I ſhall be thereunto required.*

Witneſs my Hand *Octob.* 1, 1668. *Charles Wilcox.*

By this Certificate, it appears (by *Larimore*'s own Confeſſion to his Brother *Beamſly*) that he had loſt this Ring, and Five-ſhilling Piece, before there was any Difference between him and I; and ſeeing I began my Suit for Tithes in *Michaelmas* Term, 1667, againſt him and others, as it is well known to the Inhabitants of *Chilton* (and alſo may appear by the Records of the Exchequer).

This is the firſt time that *Larimore* ſaid he had loſt the Ring, and Five-ſhilling Piece.

And that this is falſe, muſt needs appear by what Mr. *Good* and *Larimore* have already ſworn in open Court, *viz.* that Mr. *Good* pawned the Five-ſhilling Piece to *Larimore* at *Buckingham* Seſſions laſt (which Seſſions were held upon the 9th and 10th of *July*, 1668), which is near nine Months after the Difference began.

And moreover, *Larimore* confeſſed upon his Examination before Sir *John Croke*, when I was committed (which was upon the 19th of *September*, 1668), that he had loſt the Ring and Five-ſhilling Piece a Month before, which muſt (conſequently) be about the 19th of *Auguſt*, 1668.

And if ſo, how is it poſſible that he could have loſt them before the Difference began betwixt us, which was above ten Months before?

3. He now ſwears in open Court, that he ſaw me ſteal the ſaid Gold Ring, and Five-ſhilling-piece of Silver, out of his Houſe, upon *Friday* the 18th of *Sept.* 1668 (preciſely), an Hour and half before Sun-ſet; all which times being compared together, can no ways be poſſible; for which I dare appeal to all that hear it. Nor is it likely, in caſe he could prove that he was robb'd (which I am confident he never can), that I am the Perſon that robbed him; as may appear upon theſe conſiderations, amongſt others.

1. Is it likely that I ſhould commit a Robbery in my own Pariſh (in the Day-time), where all that ſaw me muſt needs know me, and at the Houſe of ſuch a Perſon as this *Larimore* is, that had ſolemnly ſwore (but a little before) that he would take away my Life, as may appear by what his Son ſaid to *Anne Scholy*?

2. Is it probable, that if I were Guilty, I would not have made my Eſcape, having twenty-four Hours time, and four or five Hours notice after they firſt attempted to ſearch my Houſe? Or that in all that time, I could find no better place to conceal a Ring, and Five-ſhilling Piece, than in a little Baſket with two or three Eggs (which all that time was hanging upon a Pin)?

Again,

Again, if *Larimore* ſaw me rob him upon the 18th Day of *Sept.* 1668 (as he ſwears he did), why did he not then ſecure me? He ſwears I ran away, why did he not ſend out Hue and Cries, to diſcover and apprehend me? But the ſaid *Larimore* was ſo far from doing it, that he never declared it to any of his Neighbours, nor to the Conſtable, when he commanded him to ſearch, as may appear as well by the Search itſelf, (in that they ſearched other Houſes before they ſearched mine) as by the Conſtable's Oath, who ſwears that *Larimore* ſaid not any thing to him, that he had ſeen me rob him; nor did the ſaid *Larimore* declare it to Sir *John Croke*, for if he had, Sir *John* (no doubt) would have inſerted it in the *Mittimus*, which he hath not done: Nor did he declare it to Sir *Richard Pigott*, from whom he fetch'd his Warrant to ſearch, as may appear by the Contents of it. Whereupon, my Lord Chief Baron *Hale* calling to the Conſtable for the Warrant (which being deliver'd), the Judge (himſelf) immediately eſpied, that the ſaid Warrant bore date a Day before the Robbery was committed; which when my Lord obſerved, he aſked *Larimore* if he fetched this Warrant to ſearch for this Ring and Five-ſhilling Piece; to which *Larimore* replied, he did; and then my Lord aſked *Larimore* upon what Day he was Robbed, he replied, upon *Friday*, the 18th of *September*, 1668.

L. C. B. How comes it then to paſs, *Larimore*, that the Warrant bears date the 17th Day, and you ſwear that the Priſoner at the Bar did not Rob you till the 18th Day? This is likely to be true!

Larimore to this replied, that he was robbed at ſeveral other times.

Hawk. (My Lord) may I be heard a word?

L. C. B. You may go on.

Hawk. I humbly thank your Honour. And I hope the Jury will take notice how *Larimore* hath enſnared himſelf, by the date of the Warrant, which my Lord firſt diſcovered. And whereas *Larimore* replies, that he was robbed at ſeveral other times, he may have credit (but by thoſe only that can believe all that he hath ſaid and ſworn): For he ſaith that he was robbed before he and I differed, which muſt be before *October*, 1667; and he told Sir *John Croke* likewiſe (when I was committed) that he was robbed of the foreſaid Goods but a Month before, which muſt needs be about the 19th of *Auguſt*, 1668; but now he ſwears in Court, that he ſaw me ſteal theſe Goods on *Friday*, the 18th of *September*, 1668, which muſt needs be impoſſible, that I ſhould rob him at three ſeveral times of the ſame Ring and Five-ſhilling-piece; and beſides this, it is improbable, that he ſhould be robbed before, *October* 1667, and again in *Aug.* 1668, becauſe he never declared any of theſe Robberies to any Perſon before the 16th of *Sept.* 1668, upon which Day, he and Sir *John Croke* concluded upon this Conſpiracy, as hereafter we ſhall make appear: And moreover *Larimore* (himſelf) confeſſed even now, that he fetch'd this Warrant to ſearch for this very Ring and Five-ſhilling-piece (which now he denies.) By this, all may ſee, how notoriouſly he contradicts himſelf.

L. C. B. ſaid to *Larimore*, Thou art very cunning, to be provided with a Warrant a day before you was robbed. It ſeeems you knew upon the 17th day, that you ſhould be robbed on the 18th day, and alſo, that this Perſon (now at the Bar) ſhould Rob you. Surely you can Divine. Here the People began to cry out ſhame on *Larimore*.

L. C. B. ſaid to me, Sir, but if you were innocent of this Robbery, why did you refuſe to open your Doors, or to have your Houſe Search'd?

Hawk. My Lord, I had ſeveral Reaſons that moved me ſo to do.

1. In General, moſt of thoſe Perſons, that were preſent, were my inveterate Enemies, and ſeveral of them had threatned to ruin me, and my Family; and therefore I had reaſon to ſuſpect, that they came to injure me, either in my Poſſeſſion, or Goods: For the firſt, Sir *John Croke* and *Larimore* had often threatned to pull down my Houſe, and for that end, had hired ſeveral Perſons to make a Forcible Entry upon it, and particularly, they had lately hired *Jaires* the Son of *Leonard Styres* of *Thame* (in the County of *Oxon*), by a Ladder to climb up, and run down my Chimney, and open my Doors, when we were all Abroad: And about the ſame time they alſo contracted with one *Chriſtopher Tyler* of *Chilton* for the ſame purpoſe. And 2. I feared the ſeizing of my Goods by the ſaid Perſons, becauſe they had then a Writ of *Levary* (or Execution) to ſeize them, which *Larimore*'s Son had a few days before in part executed, and he was then preſent: And if theſe reaſons are not ſufficient, I have more to juſtify my act, in refuſing to have them ſearch my Houſe, which was all (my Lord) I ever denied, for I then declared my ſelf willing that Mr. *Sanders* the other Conſtable (he being then at the next Door) might charge whom he pleaſed, and ſearch as narrowly as he could.

L. C. B. ſaid, Mr. *Hawkins*, can you prove what you have ſaid?

Hawk. Yes, my Lord; which Particular ſhall I prove?

L. C. B. Prove that about the Ladder, if you can.

Hawk. I pray, my Lord, call *John Acreman*: He being called, did fully juſtify what I ſaid concerning their intended Forcible Entry, and added farther, that he did help to ſet up the Ladder for that purpoſe, being called by Sir *John Croke*'s own Sons, they and *Larimore* ſtanding by all that time to watch. And touching the ſecond Particular, concerning the ſeizing of my Goods, Mr. Sheriff himſelf can juſtify, that they had then in their Hands ſuch a Writ: (my Lord) he is in Court, if your Honour pleaſe to call him.

And for the 3d particular, that I ſhewed my ſelf willing that Mr. *Sanders* ſhould ſearch, I can prove (my Lord) by theſe Witneſſes following, *viz.* *Michael Read*, Gent. Mr. *Thomas Sanders*, Mr. *Henry Golder*, *Robert Caſemore*, Mr. *Charles Wilcox*, and ſeveral others that were preſent. My Lord Chief Baron hearing theſe Reaſons fully proved, commended my Diſcretion, in not opening my Doors; and he added further, that he ſhould have done as much himſelf, ſaying it was a foul buſineſs; and the Judge (then looking towards Sir *John Croke* with an angry Countenance) ſaid to me, Sir, is this Sir *John Croke* concerned in this buſineſs?

Hawk. If it may pleaſe your Honour (my Lord), with permiſſion, I ſuppoſe that Sir *John Croke* is deeply concerned in this Conſpiracy, and I doubt not but to make it appear to the World (if I may be heard).

L. C. B. You need not fear that, for you ſhall have time; go on.

Hawk. I humbly thank your Honour; and I crave leave to call two Witneſſes, *viz.* Mr. *Charles Wilcox*, and Mr. *Samuel Brown*. Both theſe being called, Mr. *Wilcox* ſaid, If it may pleaſe your Honour, my Lord, upon *Friday* the 18th of *September*, 1668, I was at *Larimore*'s Houſe in *Chilton* (from Noon till it was near Night), with *Larimore*, a driving of ſome bargain about Tiles, and other things; and, my Lord, Mr. *Hawkins* was not at *Larimore*'s Houſe all that Afternoon, nor did I hear any thing at all then, that *Larimore* was robb'd, which (my Lord) I muſt needs have done, if he had been robb'd that Afternoon, for I was there.

L. C. B. At what time came you to *Larimore*'s Houſe, Mr. *Wilcox*? take heed what you ſay.

Wilcox. Before Noon, my Lord.

L. C. B. Mr. *Wilcox*, how long did you ſtay there?

Mr. *Wilcox.* Until it was near Night, my Lord.

L. C. B. Was *Larimore* with you all that time?

Mr. *Wilcox.* Yes, my Lord, for we were about to bargain for ſome Tiles, and other things.

L. C. B. Are you ſure that it was upon the 18th of *September* that you was at *Larimore*'s Houſe?

Mr. *Wilcox.* I am ſure, my Lord, that it was upon the 18th of *September* that I was there, and the Day before Mr. *Hawkins*'s Houſe was broke open.

L. C. B. What day of the Week was it upon?

Mr. *Wilcox.* It was upon a *Friday*, my Lord, and Mr. *Hawkins*'s Houſe was broke open on the next Day, it being *Saturday*.

Lar. It was upon *Thurſday*, my Lord, that Mr. *Wilcox* was at my Houſe, it was not upon that Day that my Houſe was robb'd, but the Day before.

Sir *Ralph Verney* replied, No, no, *Larimore*, it could not be on the *Thurſday* that Mr. *Wilcox* and you were together at your Houſe, for that was the 17th Day of *September*, and that was the Day you was buſied in fetching your Warrant from Sir *Richard Pigott*.

L. C. B. It is well obſerved, Sir, and ſo he was, and therefore it could not be on the *Thurſday* that Mr. *Wilcox* was with him at his Houſe.

Sir *Richard Pigott* replied, I am ſure (my Lord) that *Larimore*, and that Fellow the Conſtable, were both at my Houſe upon the 17th of *September*, as my Warrant teſtifieth.

L. C. B. At what time was it, Mr. *Wilcox*, when you came that Day from *Larimore*'s Houſe?

Mr. *Wilcox.* It was about Sunſet, my Lord, for it was dark by that time I got to my Houſe at *Crendon*.

L. C. B. How far is it from your Houſe at *Crendon*, to *Larimore*'s Houſe?

Mr. *Wilcox.* It is about a Mile and a half, my Lord.

L. C. B. Were not the ways bad at that time?

Mr. *Wilcox.* No, my Lord, the ways were very good.

L. C. B. Did not you ſtop, or ſtay, or meet with ſome body by the way that might hinder you?

Mr. *Wilcox.* No, my Lord, I went a good pace; it being near Night, my Lord, I was afraid of being benighted, and yet it was dark by that time I got home.

L. C. B. You that are of the Jury, do you know this Mr. *Wilcox*, of what credit is he?

Jury. We have known him a long time, and we know no harm by him.

L. C. B. He looks with an honeſt Face, and you *Larimore*, do you know what that honeſt Man, Mr. *Wilcox*, ſays? Do you know him? and did you ever ſee him at your Houſe?

Lar. Yes, my Lord, I know him well.

L. C. B. *Larimore*, do not you remember that he was at your Houſe on *Friday* the 18th of *September*, 1668?

Larimore replied, No, my Lord, ſure it was not upon that Day that I was robbed.

My L. C. B. *Hale* replied, *Larimore*, No, in my Conſcience thou ſay'ſt well, for it ſeems you were not robbed upon the ſame Day that you have ſworn you ſaw the Priſoner at the Bar commit this Robbery.

Hawk. My Lord, or upon any other Day (as I do verily believe.) And here many of the People cried out, that they believed as much.

L. C. B. If that Man Mr. *Wilcox* ſpeaks true, then all is falſe that *Larimore*, his Son and Siſter, hath ſworn, &c.

Come, Mr. *Hawkins*, ſaid my Lord Chief Baron, have you any more to ſay?

Hawk. I have one Witneſs more, that I deſire may be called, *viz.* Mr. *Samuel Brown*.

L. C. B. Yes, yes, call him; come, Mr. *Brown*, what can you ſay?

Mr. *Brown* ſaid, My Lord, I can ſay ſomething, but I dare not ſpeak.

L. C. B. Why dare you not? Come, ſpeak the Truth, and ſpare not, and ſay no more.

Mr. *Brown* ſaid, I dare not ſpeak, for Sir *John Croke* and this *Larimore* have threatned me, that if I came down to this Aſſizes, to teſtify what I heard about this Plot, Sir *John Croke* ſaid, he would fling me in the Goal, and load me with Action upon Action of 1000*l.* and ruin me and my Family.

When the Judge and the Juſtices heard Mr. *Brown* relate this, every Eye began to be fixt upon Sir *John Croke*, and the People aſked which was that Sir *John Croke*? Then my Lord Chief Baron *Hale* commanded the Clerk of the Aſſizes to give Mr. *Brown* a Writ of Privilege, to protect him home again; which being immediately done in Court, my L. C. B. ſaid, Come, Mr. *Brown*, let us now hear what you can ſay to this buſineſs.

Mr. *Brown* ſaid; If it pleaſe your Honour (my Lord) upon *Wedneſday*, the 16th of *Septemb.* laſt paſt (early in the Morning), as I lay in my Bed at Sir *John Croke*'s Houſe in *Chilton*, hearing a great Noiſe (I being then intruſted by Sir *John Lentall* as Keeper to Sir *John Croke*, which is a Priſoner at the *King*'s-*Bench*), I fearing that they were contriving ſome way for him to eſcape, I ſtarted ſuddenly out of Bed (having nothing on but my Shirt), and ſtood at the Dining-Room Door behind the Hangings, and then, my Lord, I heard this *Larimore* tell Sir *John Croke* that he had undone him, by cauſing him to contend with the Parſon. Sir *John Croke* aſked him why? *Larimore* replied, Becauſe

cauſe this *Hawkins* will undo me, for he hath entered me into moſt Courts of *England*, and ſummoned me into the Crown-Office and Chancery, and I cannot maintain ſo many Suits: Sir *John Croke* replied, Is that all? Come, Brother *Larimore*, be contented, we will have one Trick more for *Hawkins* yet, which ſhall do his Work. *Larimore* replied, Sir *John*, you have put me upon too many Tricks already, more than I can manage, and the Parſon is too hard for us ſtill. Sir *John* replied, [If thou wilt but act, I will hatch enough to hang *Howkins*.] *Larimore* replied, But how ſhall we bring this to paſs? Sir *John Croke* made Anſwer, [Can'ſt not thou convey ſome Gold or Silver into Mr. *Hawkins* his Houſe, and have a Warrant ready to ſearch his Houſe, and then our Work is done?] *Larimore* replied, Sir, if we could but bring this to paſs, it might do well, but I know not how. Sir *John Croke* ſaid to *Larimore*, Do you but go to Sir *Richard Pigott*, and inform him, that you have loſt ſome Money and Goods, and deſire his Warrant to ſearch for them (which Sir *Richard* neither can nor will deny you), and then take *Dick Mayne* the Conſtable, (who is one of us, and will do whatever we deſire him), and go and ſearch Mr. *Hawkins*'s Houſe, and there you will find theſe things; and then charge him with flat Felony, and force him before me, and no other Juſtice, and I'll ſend him to Goal without Bail. [And we will hang him at the next Aſſizes.] Come, (ſaid Sir *John Croke*) Brother *Larimore*, let us go and drink our Morning's Draught, and we will conſult more about this Buſineſs. And ſo, my Lord, I heard no more for that time. But—

L. C. B. That was enough, and too much too; but however, Mr. *Brown*, go on.

Mr. *Brown*. So upon *Saturday* next (being the 19th of *Sept.* 1668.) I having been abroad (and towards Night) coming up the Town, I was informed that Mr. *Hawkins* (as *Larimore* pretended) had robbed him: I then began to think more ſeriouſly upon what I had heard paſs the *Wedneſday* before, between Sir *John Croke* and this *Larimore*, and coming to Sir *John*'s Houſe, I ſaw a Paper lying upon the Hall-Table, full of Writing, and *Larimore* with the Conſtable, and ſeveral others, had brought Mr. *Hawkins* before Sir *John Croke*, who committing Mr. *Hawkins* for robbing *Larimore*, as he pretended, took up the ſaid Paper and read it to the Conſtable, and ſaid, that it was Mr. *Hawkins*'s *Mittimus*, which ſaid *Mittimus* was written before Mr. *Hawkins* came to Sir *John Croke*, as all that were there can juſtify. And on *Sunday* Morning I went to an Alehouſe, where they had kept Mr. *Hawkins* all Night, and there I ſaw Mr. *Hawkins* go to the Goal, and then my Heart began to tremble, and yet I durſt not diſcover any thing of what I had heard; but coming home, I ſaid to Sir *John Croke*, Sir, What, they have carried the poor Parſon to the Goal? Sir *John Croke* replied, [Yes, let him go, and the Devil go with him, and more ſhall follow after;] have I not often told you, that if my Brother *Larimore* and I did but lay our Heads together, none are able to ſtand againſt us? I replied, Yes, Sir *John*, I have often heard you ſay ſo, but I never believed it until now.

L. C. B. Mr. *Brown*, is all this true which you have related?

Mr. *Brown*. Yes, My Lord, all that I have ſaid is true, and there ſits Sir *John Croke* (pointing to him with his Finger), who knows that every Word that I have ſaid is true.

L. C. B. If but ever a Word that Mr. *Brown* ſays be true, it is as foul a Conſpiracy as ever was heard of.

About this time Sir *John Croke* ſtole away from the Bench, without taking his Leave of my Lord Chief Baron, or any of the Juſtices.

My *L. C. B.* ſaid, Is this Sir *John Croke* a Gentleman, and contrives ſuch Plots as this? I never in all my Days heard of the like: But I think once in this Place I met with one ſomething like it, but this far exceeds that, if this be true that Mr. *Brown* hath ſaid.

But you of this Jury, there is an honeſt Man (ſaid my Lord, pointing to Mr. *Wilcox*) he overthrows all; if that be true which he ſaid, then all that is falſe which *Larimore*, his Son, and Siſter hath ſworn.

Larimore ſaid, My Lord, what I have ſworn, as to Mr. *Hawkins*, is true.

My *L. C. B.* replied, Come, *Larimore*, thou art a very Villain.

Larimore ſaid, I wiſh that the Ground may open, and ſwallow me, if any thing that I have ſworn againſt Mr. *Hawkins* is falſe.

L. C. B. replied, Come, come, *Larimore*, thou art a very Villain; nay, I think thou art a Devil.

Hawk. I hope your Honour, and this Jury, are by this time fully convinced, that Sir *John Croke* is concerned in this Plot; for, my Lord, he hath appeared all along to be the Grand Contriver of it, as appears by Mr. *Brown*'s Teſtimony, and by what he ſaid to *Larimore* before me and others. See their Charge in thoſe Words.

L. C. B. Hale replied, I am fully ſatisfied, and ſo (I think) are all that heard it: And he ſaid to the Juſtices, Gentlemen, where is this Sir *John Croke?* They replied, he is gone.

L. C. B. Is Sir *John Croke* gone? He ſaid, Gentlemen, I muſt not forget to acquaint you (for I thought that Sir *John Croke* had been here ſtill), that this Sir *John Croke* ſent me this Morning two Sugar-Loaves for a Preſent, praying me to excuſe his Abſence Yeſterday. I did not then know, ſo well as now, what he meant by them; but to ſave his Credit, I ſent his Sugar-Loaves back again. Mr. *Harvey*, did you not ſend Sir *John* his Sugar-Loaves back again?

Clerk of the Aſſize. Yes, my Lord, they were ſent back again.

L. C. B. I cannot think that Sir *John Croke* believes that the King's Juſtices come into the Country to take Bribes, I rather think, that ſome other Perſon (having a Deſign to put a Trick upon him) ſent them in his Name. And ſo taking the Letter out of his Boſom, ſhewing it to the Juſtices, ſaid, Gentlemen, do you know this Hand? To which ſome of them replied, they believed it might be Sir *John Croke*'s own Hand; which Letter being compared with his *Mittimus* (for he had no Clerk) and ſome other of his Writings there, it plainly appeared to be his own Hand. So my *L. C. B.* ſeeing that (putting up the Letter again into his Boſom), ſaid, he intended to carry that to *London*; and he added farther, that he would relate the Foulneſs of the Buſineſs, as he found Occaſions fit for it.

L. C. B. ſaid, Mr. *Hawkins*, have you any more?

Hawk. My Lord, I hope that the Jury, and your Lordſhip, is fully ſatisfied as to my Innocency, if ſo, my Lord; but if not, I humbly deſire to know wherein I have not given full ſatisfaction; and if any thing elſe ſhall be alledged againſt me, I humbly crave Time and Leave to anſwer it; for, my Lord, I am confident, I can give a fuller Satisfaction, if what I have ſaid already be too ſhort.

L. C. B. You of the Jury, what do you think? The Priſoner at the Bar deſires to know whether you are ſatisfied as to the Indictment; if not, you may do well to declare wherein you are not ſatisfied.

Jury. It is a very plain Caſe, my Lord.

L. C. B. And I think ſo too, but it is a very foul one.

L. C. B. ſaid to me, Sir, have you any more?

Hawk. My Lord, I humbly thank your Honour and the Court, for that great Patience and Liberty I have had, and intend to ſay no more, but with *Quintilian* I conclude, *Innocentia melior eſt quàm Eloquentia*, Innocence is better than Eloquence.

My Lord Chief Baron Hale's *Directions to the Jury were to this Effect.*

L. C. B. ſaid, You that are of the Jury, the Priſoner at the Bar ſtands indicted for Robbing this *Larimore*, and you have heard at large both the Proſecutor's Evidence to prove him guilty (which if you do believe) I never heard a fuller. And, *2dly*, You have alſo heard the Priſoner's Defence, wherein (as I think) he hath as fully anſwered the ſame Charge. I ſhall, Firſt, repeat the Evidence againſt him, which conſiſts of two Branches; the firſt is the Proſecutor's Proof of this Indictment; and ſecondly, his charging him with other Crimes of the like Nature, as the ſtealing of *Chilton*'s Boots, and the picking of *Noble*'s Pocket.

1. For to prove him guilty of Robbing him, he obſerves this Method:

Firſt, He himſelf ſwears, that he ſaw the Priſoner at the Bar commit the Robbery.

Secondly, His Son and Siſter ſwear, that they ſaw him run out of the Houſe at the ſame time.

Thirdly, He brings in four or five Perſons that ſwear the Gold Ring, and the Five-Shilling Piece, was found in the Houſe of him that is now the Priſoner at the Bar.

Fourthly and *Laſtly*, He proves by two Witneſſes, that the Gold Ring and the Five-Shilling Piece was pawned to him.

And for the firſt of theſe, *Larimore* ſwears, that upon *Friday* the 18th of *September* laſt paſt, he lockt his Doors, between Twelve and One of the Clock at Noon, and went out (leaving no body at home) to pluck Hemp, about two Furlongs from his Houſe, where he ſtayed with the reſt of his Family till within an Hour and an Half of Sunſet; at which time, he coming home, found his Doors open, and ran up into his Chamber, and there through the Chinks of the Loft-boards he ſwears that he ſaw the Priſoner, now at the Bar, ranſacking and rifling of a Box, in which was at that time a Holland Apron, and a Purſe, in which Purſe was two Gold Rings, two Pieces of Gold, and nineteen Shillings in Silver, all which ſaid Rings, Gold, and Silver, with the ſaid Apron, he ſwears that he did ſee the Priſoner now at the Bar turn out of the ſaid Purſe, take, and feloniouſly carry away, except one Piece or two of the Silver, and ſhews the very Purſe out of which he ſaw him take them. If you compare the Evidence with the Indictment, you may ſee the Policy of the Proſecutor; for he would gladly ſeem a moderate Proſecutor, by indicting him for Felony only, as the ſtealing of Rings and Money, *&c.* But by his Evidence, he would as gladly charge him with Burglary alſo, for he ſwears, he broke open or picked the Locks of his Doors, and Box, which by Law is the ſame.

And Secondly, To corroborate this his Evidence, he brings in two Witneſſes more, *viz.* his Son, and Siſter *Beamſly*, and they ſwear that they did, at the ſame time, ſee the Priſoner that is now at the Bar run out of *Larimore*'s Houſe, with a great Bunch of Keys in his Hand, and he hid himſelf amongſt Beans and Weeds: And note the Keys, to intimate that, by the Help of thoſe, he picked *Larimore*'s Locks.

Thirdly, He brings in his Son, *Dodſworth Croke*, the Conſtable, and Tithing-man, which all ſwear that they found this Gold Ring and Five-Shilling Piece of Silver in a Baſket hanging upon a Pin, in the Houſe of the Priſoner at the Bar, with a few Eggs, which the Priſoner at the Bar the Day before had ſtolen from him.

And Fourthly and Laſtly, He brings in one of Sir *John Croke*'s Sons, and Mr. *Good*, who ſwear, that the one pawned the Ring, the other the Five-Shilling Piece to *Larimore*.

Thus *Larimore* ſwears he ſaw the Priſoner rob him, his Son and Siſter ſwear, that they ſaw him run out of the Houſe, the ſame time four more ſwear, that they found the Ring and Five-Shilling Piece in his Houſe upon Search: And Laſtly, two ſwear that the Ring and Five-Shilling Piece was pawned to him. If all this be true, he muſt needs be guilty; and if ſo, although I have a great Reſpect for his Calling, yet that ſhall no ways excuſe him, but rather aggravate his Crime.

And thus much touching the Indictment.

And Secondly, He ſeems to charge him with other Acts of the like Nature; as,

1. He brings in one *Chilton* to ſwear, that the Priſoner at the Bar did ſteal a Pair of Boots from him, and four or five Perſons ſwear, that they did hear *Chilton* ſay he did.

2. He brings in one *Boyce* from *London*, a Perſon, I think, of no great Credit; he ſwears, that he ſaw the Priſoner at the Bar about two Years ago, have his Hand in the Pocket of one *James Noble*, and that *Noble* ſaid, that he loſt a Gold Ring, and Piece of Gold at the ſame time. This (if true) would render the Priſoner now at the Bar obnoxious to any Jury. Thus far the Evidence againſt the Priſoner at the Bar.

Now we come to the Priſoner's Defence, which, becauſe it is ſo full, I ſhall be the briefer in it. The Parts of his Defence were two, as himſelf obſerved.

1. He

1. He ſhews how too improbable it is.

And 2. How impoſſible that he ſhould be guilty of this Charge.

Firſt, That it is not likely that *Larimore* was robbed at all, becauſe he did not declare it to any of his Neighbours, as ſoon as he ſaw the Robbery committed; again, he varies as to the time when it was done, for that he told his Brother *Beamſly*, that he had loſt the Ring and Five-Shilling Piece, before there was any Difference between him and the Priſoner at the Bar, as appears by Mr. *Wilcox*, and that Difference began in *Michaelmas* Term, 1667: And before Sir *John Croke* he confeſſed that he had loſt this a Month before the Priſoner (*viz.* Mr. *Hawkins*) was committed, which muſt be about the 19th of *Auguſt*, 1668. And in Court he ſwears that he ſaw the Priſoner at the Bar rob him of the ſame Gold Ring, and Five-Shilling Piece of Silver, upon *Friday* the 18th of *September* 1668, an Hour and half before Sunſet; all this cannot be true; and for the Warrant, that bears Date a Day before the Robbery was committed. Whereupon the Judge ſaid to *Larimore*, Come, thou art a cunning Fellow, for thou went'ſt to Sir *Richard Pigott* for a Warrant on the 17th Day, and was not robb'd until the 18th Day; *Larimore*, thou kneweſt, it ſeems, upon the 17th Day, that thou ſhould'ſt be robbed on the 18th Day, that the Priſoner now at the Bar ſhould rob thee: Surely, thou can'ſt Divine, if all this be true. Again, it is likely, that when the Priſoner at the Bar was charged with flat Felony at his own Doors, the Conſtable likewiſe threatning to break open his Houſe to ſearch, if he had been guilty, his Wife and himſelf having the Opportunity of going abroad after they had ſo Charged him, while they were gone to conſult with Sir *John Croke*, as the Priſoner at the Bar ſufficiently proved they did, by the Teſtimony of ſeveral Witneſſes, (as Mr. *Read*, Mr. *Sanders*, and others) that in all that Time he would not have made his Eſcape, or at leaſt found a more convenient Place to convey a Ring, and Five-Shilling Piece, than to let it remain all that time in a little Baſket with a few Eggs, hanging on a Pin? Again, Who came firſt into the Room where this Egg-Baſket hung? Why, *Larimore*. And who took down the Baſket? *Larimore*. Who turn'd out the Eggs? *Larimore*. And who had the dreſſing of the Eggs? *Larimore*. He is a ſpecial Cook. You Gentlemen of the Jury, it is an eaſy thing for *Larimore* to juggle a Ring and Five-Shilling Piece into a Baſket, he being the firſt that came into the Room; as he put up his Hand to take down the Baſket, he might with eaſe enough convey ſuch things as thoſe were into it. All this, and many more, are probable Circumſtances to move you and me to believe, that it is not poſſible that the Priſoner at the Bar is guilty of this Robbery; but that I muſt leave to you to conſider of.

Again, The Priſoner at the Bar proves the whole Buſineſs to be but a meer Contrivance of Sir *John Croke*'s and this *Larimore*'s, on purpoſe to ruin him, as is fully made manifeſt by the Teſtimony of Mr. *Brown*, who juſtifies, that upon *Wedneſday* the 16th of *September* laſt paſt, and but two Days before this pretended Robbery, he heard Sir *John Croke* adviſe this *Larimore* to fetch a Warrant to ſearch the Houſe of the Priſoner at the Bar, and then to convey Gold and Silver into it; which having done, charge him with flat Felony, and bring him before the ſaid Sir *John Croke*, and no other Juſtice, he then promiſing to the ſaid *Larimore* to commit him to the Goal without Bail, and hang him at the next Aſſizes, which is now: And, as I take it, they do aim at it. You of this Jury, if you do believe what Mr. *Brown* ſaith, it is as foul a Conſpiracy as ever was heard of: And I am apt to think it may be probable, becauſe that Sir *John Croke* and *Larimore* did threaten to caſt this Mr. *Brown* into Priſon, and ſo ruin him, if he came down and teſtified his Knowledge about this Buſineſs, which thing is of a very ill Conſequence. Again, it ſeems likely that Mr. *Brown* may be credited, if you compare their Actions with the Times; for upon *Tueſday* Sir *John* arreſted the Priſoner upon a feign'd Action of an 100 *l.* Upon *Wedneſday* the Plot was concluded upon by Sir *John Croke* and *Larimore*, as may appear by Mr. *Brown*'s Teſtimony. On *Thurſday* they procured of Sir *Richard Pigott* the Warrant to ſearch. On *Friday*, *Larimore* pretends that he was robbed (tho' in Truth there appears no ſuch thing). Upon *Saturday* the Priſoner's Houſe was broke open, and he apprehended; and upon *Sunday* he was carried to the Goal: It was a good Week's Work. But there is an honeſt Man, ſaid my Lord Chief Baron (pointing at Mr. *Wilcox*), he knocks down all; for he juſtifies, that he came to *Larimore*'s Houſe upon *Friday* the 18th of *September* laſt paſt (it being the ſame Day that he ſwears he ſaw the Priſoner at the Bar robbing him, and an Hour and half before Sunſet) and there continued till it was near Night; and he further ſaith, that *Larimore* was with him all that Afternoon. And he ſaid, that *Larimore* was not robbed that Afternoon, nor was Mr. *Hawkins* there at that time. If this that Mr. *Wilcox* ſaith be true, then all that *Larimore*, his Son, and Siſter hath ſworn muſt need be falſe.

And as touching the Boots, *Chilton* ſwears that he had legg'd a pair of Boots for the Priſoner at the Bar, and laid them in his Shop-window, for him to take along with him as he went by, which he did, and paid him for his Work; and yet this *Larimore*, Sir *John Croke*, *Croxſtone*, and others, did uſe their utmoſt Endeavours to ſtir up this *Chilton* to indict the Priſoner at the Bar for ſtealing of them (*Croxſtone* promiſing him to bear him out in it). This can argue nothing elſe but Malice in thoſe Perſons: And for that which *Boyce* ſwears, is a Story that can argue nothing elſe; for neither is *Noble* here to proſecute, nor can *Boyce* ſwear that the Priſoner at the Bar did pick his Pocket, or that *Noble* ever ſaid he did.

Thus I have repeated the Evidence to prove him Guilty, and have not I think omitted any thing in it that is material. Which if you do believe, he muſt needs be Guilty. And alſo the Priſoner's Defence, which I think is ſufficient. It is a plain Caſe, and I ſuppoſe you need not go from the Bar; but that I leave to you.

And ſo the Jury not ſtirring from the Bar, which the Clerk obſerving, he called the Jury, who ſeverally anſwered to their Names; which being done, the Clerk of the Arraignments aſked whether they were all agreed upon their Verdict.

Jury. Yes, we are all agreed.

Clerk. Who ſhall ſpeak for you?

Jury. Our Fore-man.

Clerk. *Robert Hawkins*, Hold up thy Hand. Which I did.

Jury, look upon the Priſoner at the Bar, How ſay you? Is he Guilty of the Felony whereof he ſtands indicted, or Not Guilty?

Foreman of the Jury ſaid, Not Guilty, my Lord.

L. C. B. Hale ſaid to the Jury, You have found like Honeſt Men: I do believe, that he is Not Guilty. And he ſaid to *Larimore*, Thou art a very Villain.

Jaylor ſaid, Is Mr. *Hawkins*, my Lord, diſcharged of his Impriſonment?

L. C. B. replied, Yes, yes, he is diſcharged, paying his Fees.

Hawk. May it pleaſe your Honour, my Lord, I am poor; and this, with other Troubles, which they have unjuſtly occaſion'd, hath coſt me a great deal of Money already.

L. C. B. I cannot help that, nor can I give away other Mens Rights; if they will not remit their Fees, you muſt pay them.

Hawk. I humbly thank your Honour, and ſhall obſerve your Lordſhip's Commands.

And ſo the Court aroſe, there being no other Buſineſs but my Trial the whole Morning, which laſted from Eight until One. So as ſoon as my Trial was over, Sir *John Croke*, *Larimore*, and the reſt of that Crew, fled privately out of *Aileſbury*, and durſt not ſtay.

LXX. *The Trial of* WILLIAM PENN *and* WILLIAM MEAD, *at the* Old-Baily, *for a* Tumultuous Aſſembly, *the 1ſt, 3d, 4th, and 5th of* September, 1670, 22 Car. II. *Wrote by themſelves.*

PRESENT

Sam. Starling, *Mayor.*		Richard Ford, *Alderman.*
Tho. Howel, *Recorder.*		Joſeph Shelden, *Alderman.*
Tho. Bludworth, *Alderm.*	}	John Smith, } *Sheriffs.*
William Peak, *Alderm.*		James Edwards, }
John Robinſon, *Alderm.*		Richard Browne.

Cryer.

O Yes! *Thomas Veer*, —— *Buſbel, John Hammond, Charles Milſon, Gregory Walklet, John Brightman, William Plumſted, Henry Henley, Thomas Damaſk, Henry Michel, William Lever, John Baily.*

The Form of the OATH.

" You ſhall well and truly Try, and true Deliverance make betwixt our " Sovereign Lord the King, and the Priſoners at the Bar, according to " your Evidence. *So help you God.*

The Indictment ſets forth, That *William Penn*, Gent. and *William Mead*, late of *London*, Linen-Draper, with divers other Perſons to the Jurors unknown, to the Number of 300, the 14th Day of *Auguſt* in the 22d Year of the King, about Eleven of the Clock in the Forenoon, the ſame Day, with Force and Arms, *&c.* in the Pariſh of St. *Bennet Grace-Church* in *Bridge-Ward*, *London*, in the Street called *Grace-Church Street*, unlawfully and tumultuouſly did Aſſemble and Congregate themſelves together, to the Diſturbance of the Peace of the ſaid Lord the King: And the aforeſaid *William Penn* and *William Mead*, together with other Perſons to the Jurors aforeſaid unknown, then and there ſo Aſſembled and Congregated together; the aforeſaid *William Penn*, by Agreement between him and *William Mead* before made, and by Abetment of the aforeſaid *William Mead*, then and there, in the open Street, did take upon himſelf to Preach and Speak, and then and there did Preach and Speak unto the aforeſaid *William Mead*, and other Perſons there, in the Street aforeſaid, being Aſſembled and Congregated together, by Reaſon whereof a great Concourſe and Tumult of People in the Street aforeſaid, then and there, a long time did remain and continue, in contempt of the ſaid Lord the King, and of his Law, to the great Diſturbance of his Peace; to the great Terror and Diſturbance of many of his Liege People and Subjects, to the ill Example of all others in the like Caſe Offenders, and againſt the Peace of the ſaid Lord the King, his Crown and Dignity.

What ſay you, *William Penn* and *William Mead*, are you Guilty, as you ſtand Indicted, in Manner and Form, as aforeſaid, or Not Guilty?

Penn. It is impoſſible that we ſhould be able to remember the Indictment *verbatim*, and therefore we deſire a Copy of it, as is cuſtomary in the like Occaſions.

Recorder. You muſt firſt plead to the Indictment, before you can have a Copy of it.

Pen. I am unacquainted with the Formality of the Law, and therefore, before I ſhall anſwer directly, I requeſt two Things of the Court. Firſt, that no Advantage may be taken againſt me, nor I deprived of any Benefit, which I might otherwiſe have received. Secondly, that you will promiſe me a fair hearing, and liberty of making my Defence.

Court. No Advantage ſhall be taken againſt you; you ſhall have Liberty; you ſhall be heard.

Pen. Then I plead Not Guilty in Manner and Form.

Clerk. What ſayeſt thou, *William Mead*, art thou Guilty in Manner and Form, as thou ſtandeſt indicted, or Not Guilty?

Mead. I ſhall deſire the ſame Liberty as is promiſed *William Penn.*

Court. You ſhall have it.

Mead. Then I plead Not Guilty in Manner and Form.

The Court adjourn'd until the Afternoon.

Crier. O Yes, *&c.*

Clerk. Bring *William Penn* and *William Mead* to the Bar.

Obſer. *The ſaid Priſoners were brought, but were ſet aſide, and other Buſineſs proſecuted. Where we cannot chooſe but obſerve, that it was the conſtant and unkind Practices of the Court to the Priſoners to make them wait upon the Trials of Felons and Murderers, thereby deſigning, in all probability, both to affront and tire them.*

After five Hours Attendance, the Court broke up and adjourned to the third Inſtant.

The third of *September*, 1670, the Court ſat.

Crier. O Yes, *&c.*

Clerk. Bring *William Penn* and *William Mead* to the Bar.

Mayor. Sirrah, who bid you put off their Hats? Put on their Hats again.

Obſer. *Whereupon one of the Officers putting the Priſoners Hats upon their Heads (purſuant to the Order of the Court) brought them to the Bar.*

Record. Do you know where you are?

Pen. Yes.

Record. Do not you know it is the King's Court?

Pen. I know it to be a Court, and I ſuppoſe it to be the King's Court.

Record. Do you not know there is Reſpect due to the Court?

Pen. Yes.

Record. Why do you not pay it then?

Pen. I do ſo.

Record. Why do you not pull off your Hat, then?

Pen. Becauſe I do not believe that to be any Reſpect.

Record. Well, the Court ſets forty Marks a piece upon your Heads, as a Fine for your Contempt of the Court.

Pen. I deſire it might be obſerved, that we came into the Court with our Hats off (that is, taken off), and if they have been put on ſince, it was by Order from the Bench; and therefore not we, but the Bench ſhould be fined.

Mead. I have a Queſtion to aſk the Recorder, Am I fined alſo?

Record. Yes.

Mead. I deſire the Jury, and all People to take notice of this Injuſtice of the Recorder; Who ſpake to me to pull off my Hat? and yet hath he put a Fine upon my Head. O fear the Lord, and dread his Power, and yield to the Guidance of his Holy Spirit, for he is not far from every one of you.

The Jury ſworn again.

Obſer. J. Robinſon, *Lieutenant of the* Tower, *diſingenuouſly objected againſt* —— Buſhel, *as if he had not kiſs'd the Book, and therefore would have him ſworn again; tho' indeed it was on purpoſe to have made uſe of his Tenderneſs of Conſcience in avoiding reiterated Oaths, to have put him by his being a Jury-man, apprehending him to be a Perſon not fit to anſwer their arbitrary Ends.*

The Clerk read the Indictment, as aforeſaid.

Clerk. Crier, Call *James Cook* into the Court, give him his Oath.

Clerk. James Cook, lay your Hand upon the Book.

The Evidence you ſhall give to the Court, betwixt our Sovereign the King, and the Priſoners at the Bar, ſhall be the Truth, and the whole Truth, and nothing but the Truth. So help you God.

Cook. I was ſent for, from the *Exchange*, to go and diſperſe a Meeting in *Gracechurch-Street*, where I ſaw Mr. *Penn* ſpeaking to the People, but I could not hear what he ſaid, becauſe of the Noiſe: I endeavoured to make way to take him, but I could not get to him for the Crowd of People; upon which Capt. *Mead* came to me, about the Kennel of the Street, and deſired me to let him go on; for when he had done, he would bring Mr. *Penn* to me.

Court. What Number do you think might be there?

Cook. About three or four Hundred People.

Court. Call *Richard Read*, give him his Oath.

Read being ſworn was aſk'd, What do you know concerning the Priſoners at the Bar?

Read. My Lord, I went to *Gracechurch-Street*, where I found a great Crowd of People, and I heard Mr. *Penn* preach to them; and I ſaw Capt. *Mead* ſpeaking to Lieutenant *Cook*, but what he ſaid, I could not tell.

Mead. What did *William Penn* ſay?

Read. There was ſuch a great Noiſe, that I could not tell what he ſaid.

Mead. Jury, obſerve this Evidence, He ſaith he heard him Preach, and yet ſaith, he doth not know what he ſaid.

Jury, take notice, he ſwears now a clean contrary thing to what he ſwore before the Mayor when we were committed: For now he ſwears that he ſaw me in *Gracechurch-Street*, and yet ſwore before the Mayor, when I was committed, that he did not ſee me there. I appeal to the Mayor himſelf, if this be not true. But no Anſwer was given.

Court. What Number do you think might be there?

Read. About four or five hundred.

Pen. I deſire to know of him what Day it was?

Read. The 14th Day of *Auguſt.*

Pen. Did he ſpeak to me, or let me know he was there? for I am very ſure I never ſaw him.

Cler. Crier, call —— into the Court.

Court. Give him his Oath.

——. My Lord, I ſaw a great Number of People, and Mr. *Penn*, I ſuppoſe, was ſpeaking; I ſaw him make a Motion with his Hands, and heard ſome Noiſe, but could not underſtand what he ſaid. But for Capt. *Mead*, I did not ſee him there.

Rec. What ſay you, Mr. *Mead*, were you there?

Mead. It is a Maxim in your own Law, *Nemo tenetur accuſare ſeipſum*, which if it be not true Latin, I am ſure it is true Engliſh, *That no Man is bound to accuſe himſelf:* And why doſt thou offer to inſnare me with ſuch a Queſtion? Doth not this ſhew thy Malice? Is this like unto a Judge, that ought to be Counſel for the Priſoner at the Bar?

Rec. Sir, hold your Tongue, I did not go about to inſnare you.

Pen. I deſire we may come more cloſe to the Point, and that Silence be commanded in the Court.

Crier. O yes, All manner of Perſons keep Silence upon Pain of Impriſonment—Silence in the Court.

Pen. We confeſs our ſelves to be ſo far from recanting, or declining to vindicate the Aſſembling of our ſelves to Preach, Pray, or Worſhip the Eternal, Holy, Juſt God, that we declare to all the World, that we do believe it to be our indiſpenſable Duty, to meet inceſſantly upon ſo good an Account; nor ſhall all the Powers upon Earth be able to divert us from reverencing and adoring our God who made us.

Brown. You are not here for worſhipping God, but for breaking the Law; you do your ſelves a great deal of Wrong in going on in that Diſcourſe.

Pen. I affirm I have broken no Law, nor am I Guilty of the Indictment that is laid to my Charge; and to the End the Bench, the Jury, and myſelf, with theſe that hear us, may have a more direct Underſtanding of this Procedure, I deſire you would let me know by what Law it is you proſecute me, and upon what Law you ground my Indictment.

Rec. Upon the Common-Law.

Pen. Where is that Common-Law?

Rec. You muſt not think that I am able to run up ſo many Years, and over ſo many adjudged Caſes, which we call Common-Law, to anſwer your Curioſity.

Pen. This Anſwer I am ſure is very ſhort of my Queſtion, for if it be Common, it ſhould not be ſo hard to produce.

Rec. Sir, will you plead to your Indictment?

Pen. Shall I plead to an Indictment that hath no Foundation in Law? If it contain that Law you ſay I have broken, why ſhould you decline to produce that Law, ſince it will be impoſſible for the Jury to determine, or agree to bring in their Verdict, who have not the Law produced, by which they ſhould meaſure the Truth of this Indictment, and the Guilt, or contrary of my Fact?

Rec. You are a ſaucy Fellow, ſpeak to the Indictment.

Pen. I ſay, it is my place to ſpeak to Matter of Law; I am arraign'd a Priſoner; my Liberty, which is next to Life it ſelf, is now concern'd: You are many Mouths and Ears againſt me, and if I muſt not be allowed to make the beſt of my Caſe, it is hard. I ſay again, unleſs you ſhew me, and the People, the Law you ground your Indictment upon, I ſhall take it for granted your Proceedings are merely Arbitrary.

Obſer. *At this time ſeveral upon the Bench urged hard upon the Priſoner to bear him down.*

Rec. The Queſtion is, whether you are Guilty of this Indictment?

Pen. The Queſtion is not, whether I am Guilty of this Indictment, but whether this Indictment be legal. It is too general and imperfect an Anſwer, to ſay it is the Common Law, unleſs we knew both where and what it is: For where there is no Law, there is no Tranſgreſſion; and that Law which is not in being, is ſo far from being Common, that it is no Law at all.

Rec. You are an impertinent Fellow, will you teach the Court what Law is? It's *Lex non ſcripta*, that which many have ſtudied thirty or forty Years to know, and would you have me to tell you in a Moment?

Pen. Certainly, if the Common Law be ſo hard to be underſtood, it's far from being very Common; but if the Lord *Coke* in his *Inſtitutes* be of any Conſideration, he tells us, That Common-Law is Common Right, and that Common Right is the Great Charter-Privileges: Confirmed 9 *Hen.* III. 29. 25 *Edw.* I. 1. 2 *Ed.* III. 8. *Coke Inſtit.* 2. p. 56.

Rec. Sir, you are a troubleſome Fellow, and it is not for the Honour of the Court to ſuffer you to go on.

Pen. I have aſked but one Queſtion, and you have not anſwer'd me; tho' the Rights and Privileges of every *Engliſhman* be concern'd in it.

Rec. If I ſhould ſuffer you to aſk Queſtions till To-morrow Morning, you would be never the wiſer.

Pen. That is according as the Anſwers are.

Rec. Sir, we muſt not ſtand to hear you talk all Night.

Pen. I deſign no Affront to the Court, but to be heard in my juſt Plea: And I muſt plainly tell you, that if you will deny me *Oyer* of that Law, which you ſuggeſt I have broken, you do at once deny me an acknowledged Right, and evidence to the whole World your Reſolution to ſacrifice the Privileges of *Engliſhmen* to your ſiniſter and Arbitrary Deſigns.

Rec. Take him away. My Lord, if you take not ſome Courſe with this peſtilent Fellow, to ſtop his Mouth, we ſhall not be able to do any thing to Night.

Mayor. Take him away, take him away, turn him into the Bale-dock.

Pen. Theſe are but ſo many vain Exclamations; Is this Juſtice or true Judgment? Muſt I therefore be taken away becauſe I plead for the Fundamental Laws of *England?* However, this I leave upon your Conſciences, who are of the Jury (and my ſole Judges), that if theſe Ancient Fundamental Laws, which relate to Liberty and Property, (and are not limited to particular Perſuaſions in Matters of Religion) muſt not be indiſpenſably maintained and obſerved, who can ſay he hath Right to the Coat upon his Back? Certainly our Liberties are openly to be inva-

ded, our Wives to be raviſhed, our Children ſlaved, our Families ruined, and our Eſtates led away in Triumph, by every ſturdy Beggar and malicious Informer, as their Trophies, but our (pretended) Forfeits for Conſcience ſake. The Lord of Heaven and Earth will be Judge between us in this Matter.

Rec. Be ſilent there.

Pen. I am not to be ſilent in a Caſe wherein I am ſo much concerned, and not only my ſelf, but many ten thouſand Families beſides.

Obſer. *They having rudely haled him into the Bale-dock*, William Mead *they left in Court, who ſpake as followeth.*

Mead. You Men of the Jury, here I do now ſtand, to anſwer to an Indictment againſt me, which is a Bundle of Stuff, full of Lies and Falſhoods; for therein I am accuſed, that I met *Vi & armis, illicitè & tumultuosè:* Time was when I had Freedom to uſe a carnal Weapon, and then I thought I feared no Man; but now I fear the Living God, and dare not make uſe thereof nor hurt any Man; nor do I know I demeaned my ſelf as a tumultuous Perſon: I ſay, I am a peaceable Man, therefore it is a very proper Queſtion what *William Penn* demanded in this Caſe, An *Oyer* of the Law, on which our Indictment is grounded.

Rec. I have made Anſwer to that already.

Mead, turning his Face to the Jury, ſaith, You Men of the Jury, who are my Judges, if the Recorder will not tell you what makes a Riot, a Rout, or an unlawful Aſſembly, *Coke*, he that once they called the Lord *Coke*, tells us what makes a Riot, a Rout, and an unlawful Aſſembly —— A Riot is when three, or more, are met together to beat a Man, or to enter forcibly into another Man's Land, to cut down his Graſs, his Wood, or break down his Pales.

Obſer. *Here the Recorder interrupted him, and ſaid,* I thank you, Sir, that you will tell me what the Law is; *ſcornfully pulling off his Hat.*

Mead. Thou may'ſt put on thy Hat, I have never a Fee for thee now.

Brown. He talks at random, one while an Independent, another while ſome other Religion, and now a Quaker, and next a Papiſt.

Mead. *Turpe eſt doctori cum culpa redarguit ipſum.*

May. You deſerve to have your Tongue cut out.

Rec. If you diſcourſe on this Manner, I ſhall take Occaſion againſt you.

Mead. Thou didſt promiſe me, I ſhould have fair Liberty to be heard; Why may I not have the Privilege of an *Engliſhman?* I am an *Engliſhman*, and you might be aſhamed of this dealing.

Rec. I look upon you to be an Enemy to the Laws of *England*, which ought to be obſerved and kept, nor are you worthy of ſuch Privileges as others have.

Mead. The Lord is Judge between me and thee in this Matter.

Obſer. *Upon which they took him away into the Bale-dock, and the Recorder proceeded to give the Jury their Charge, as followeth:*

Rec. You have heard what the Indictment is, It is for preaching to the People, and drawing a tumultuous Company after them, and Mr. *Penn* was ſpeaking; if they ſhould not be diſturbed, you ſee they will go on; there are three or four Witneſſes that have proved this, that he did preach there; that Mr. *Mead* did allow of it: after this, you have heard by ſubſtantial Witneſſes what is ſaid againſt them: Now we are upon the Matter of Fact, which you are to keep to, and obſerve, as what hath been fully ſworn, at your Peril.

Obſer. *The Priſoners were put out of the Court into the Bale-dock, and the Charge given to the Jury in their Abſence, at which* W. P. *with a very raiſed Voice, it being a conſiderable diſtance from the Bench, ſpake.*

Pen. I appeal to the Jury, who are my Judges, and this great Aſſembly, whether the Proceedings of the Court are not moſt Arbitrary, and void of all Law, in offering to give the Jury their Charge in the Abſence of the Priſoners; I ſay, it is directly oppoſite to, and deſtructive of the undoubted Right of every *Engliſh* Priſoner, as *Coke* in the 2 *Inſtit.* 29. on the Chap. of *Magna Charta*, ſpeaks.

Obſer. *The Recorder being thus unexpectedly laſh'd for his extra-judicial Procedure, ſaid, with an enraged Smile,*

Rec. Why, ye are preſent, you do hear, do you not?

Pen. No thanks to the Court, that commanded me into the Bale-dock; and you of the Jury, take notice, that I have not been heard, neither can you legally depart the Court, before I have been fully heard, having at leaſt ten or twelve material Points to offer, in order to invalidate their Indictment.

Rec. Pull that Fellow down, pull him down.

Mead. Are theſe according to the Rights and Privileges of *Engliſhmen*, that we ſhould not be heard, but turned into the Bale-dock, for making our Defence, and the Jury to have their Charge given them in our Abſence? I ſay theſe are barbarous and unjuſt Proceedings.

Rec. Take them away into the Hole: To hear them talk all Night, as they would, that I think doth not become the Honour of the Court; and I think you (*i. e.* the Jury) your ſelves would be tired out, and not have Patience to hear them.

Obſer. *The Jury were commanded up to agree upon their Verdict, the Priſoners remaining in the ſtinking Hole. After an Hour and half's time eight came down agreed, but four remained above; the Court ſent an Officer for them, and they accordingly came down. The Bench uſed many unworthy Threats to the four that diſſented; and the Recorder, addreſſing himſelf to* Buſhel, *ſaid,* Sir, You are the Cauſe of this Diſturbance, and manifeſtly ſhew your ſelf an Abettor of Faction; I ſhall ſet a Mark upon you, Sir.

J. Robinſon. Mr. *Buſhel*, I have known you near this fourteen Years; you have thruſt your ſelf upon this Jury, becauſe you think there is ſome Service for you: I tell you, you deſerve to be indicted more than any Man that hath been brought to the Bar this Day.

Buſhel. No, Sir *John*, there were threeſcore before me, and I would willingly have got off, but could not.

Bloodw. I ſaid, when I ſaw Mr. *Buſhel*, what I ſee is come to paſs, for I knew he would never yield. Mr. *Buſhel*, we know what you are.

May. Sirrah, you are an impudent Fellow, I will put a Mark upon you.

Obſer. *They uſed much menacing Language, and behaved themſelves very imperiouſly to the Jury, as Perſons not more void of Juſtice than ſober Education: After this barbarous Uſage, they ſent them to conſider of bringing in their Verdict, and after ſome conſiderable time they returned to the Court. Silence was call'd for, and the Jury call'd by their Names.*

Cler. Are you agreed upon your Verdict?

Jury. Yes.

Cler. Who ſhall ſpeak for you?

Jury. Our Foreman.

Clerk. Look upon the Priſoners at the Bar; how ſay you? Is *William Penn* Guilty of the Matter whereof he ſtands indicted in Manner and Form, or Not guilty?

Foreman. Guilty of Speaking in *Gracechurch-ſtreet.*

Court. Is that all?

Foreman. That is all I have in Commiſſion.

Rec. You had as good ſay nothing.

May. Was it not an unlawful Aſſembly? You mean he was ſpeaking to a Tumult of People there?

Foreman. My Lord, This is all I had in Commiſſion.

Obſer. *Here ſome of the Jury ſeemed to buckle to the Queſtions of the Court; upon which,* Buſhel, Hammond, *and ſome others, oppoſed themſelves, and ſaid,* they allowed of no ſuch Word as *an unlawful Aſſembly* in their Verdict; *at which the Recorder, Mayor,* Robinſon *and* Bloodworth *took great occaſion to vilify them with moſt opprobrious Language; and this Verdict not ſerving their Turns, the Recorder expreſs'd himſelf thus:*

Rec. The Law of *England* will not allow you to part till you have given in your Verdict.

Jury. We have given in our Verdict, and we can give in no other

Rec. Gentlemen, you have not given in your Verdict, and you had as good ſay nothing; therefore go and conſider it once more, that we may make an end of this troubleſome Buſineſs.

Jury. We deſire we may have Pen, Ink and Paper.

Obſer. *The Court adjourn'd for half an Hour; which being expired, the Court returns, and the Jury not long after.*

The Priſoners were brought to the Bar, and the Jury's Names called over:

Clerk. Are you agreed of your Verdict?

Jury. Yes.

Clerk. Who ſhall ſpeak for you?

Jury. Our Foreman.

Clerk. What ſay you? Look upon the Priſoners: Is *William Penn* Guilty in Manner and Form, as he ſtands indicted, or Not Guilty?

Foreman. Here is our Verdict; holding forth a piece of Paper to the Clerk of the Peace, which follows;

WE *the Jurors, hereafter named, do find* William Penn *to be Guilty of Speaking or Preaching to an Aſſembly, met together in* Gracechurch-ſtreet, *the* 14*th of* Auguſt *laſt,* 1670. *And that* William Mead *is Not guilty of the ſaid Indictment.*

Forem.	*Thomas Veer,*	*Charles Milſon,*	*Henry Michel,*
	Edward Buſhel,	*Gregory Walklet,*	*John Brightman,*
	John Hammond,	*John Baily,*	*James Damaſk,*
	Henry Henley,	*William Lever,*	*Wil. Plumſted.*

Obſer. *This both Mayor and Recorder reſented at ſo high a rate, that they exceeded the Bounds of all Reaſon and Civility.*

May. What, will you be led by ſuch a ſilly Fellow as *Buſhel?* an impudent canting Fellow? I warrant you, you ſhall come no more upon Juries in haſte: You are a Foreman indeed, *addreſſing himſelf to the Foreman,* I thought you had underſtood your Place better.

Rec. Gentlemen, you ſhall not be diſmiſt till we have a Verdict that the Court will accept; and you ſhall be lock'd up, without Meat, Drink, Fire, and Tobacco; you ſhall not think thus to abuſe the Court; we will have a Verdict, by the help of God, or you ſhall ſtarve for it.

Pen. My Jury, who are my Judges, ought not to be thus menaced; their Verdict ſhould be free, and not compelled; the Bench ought to wait upon them, but not foreſtal them. I do deſire that Juſtice may be done me, and that the Arbitrary Reſolves of the Bench may not be made the Meaſure of my Jury's Verdict.

Rec. Stop that prating Fellow's Mouth, or put him out of the Court.

May. You have heard that he preach'd, that he gathered a Company of tumultuous People, and that they do not only diſobey the Martial Power, but Civil alſo.

Pen. It is a great Miſtake; we did not make the Tumult, but they that interrupted us: The Jury cannot be ſo ignorant, as to think, that we met there, with a Deſign to diſturb the Civil Peace, ſince (1ſt) we were by Force of Arms kept out of our lawful Houſe, and met as near it in the Street as their Soldiers would give us leave; and (2dly) becauſe it was no new thing (nor with the Circumſtances expreſs'd in the Indictment), but what was uſual and cuſtomary with us; 'tis very well known that we are a peaceable People, and cannot offer Violence to any Man.

Obſer. *The Court being ready to break up, and willing to huddle the Priſoners to their Goal, and the Jury to their Chamber,* Penn *ſpoke as follows.*

Pen. The Agreement of Twelve Men is a Verdict in Law, and ſuch a one being given by the Jury, I require the Clerk of the Peace to record it, as he will anſwer it at his Peril. And if the Jury bring in another Verdict contradictory to this, I affirm they are perjur'd Men in Law. And looking upon the Jury, ſaid, You are *Engliſhmen*, mind your Privilege, give not away your Right.

Buſh. &c. Nor will we ever do it.

Obſer. *One of the Jury-men pleaded Indiſpoſition of Body, and therefore deſired to be diſmiſt.*

May. You are as ſtrong as any of them; ſtarve them; and hold your Principles.

Rec. Gentlemen, You muſt be contented with your hard Fate, let your Patience overcome it; for the Court is reſolved to have a Verdict, and that before you can be diſmiſt.

Jury. We are agreed, we are agreed, we are agreed.

Obſer. *The Court ſwore ſeveral Perſons, to keep the Jury all Night without Meat, Drink, Fire, or any other Accommodation; they had not ſo much as a Chamber-pot, tho' deſired.*

Cry.

Cry. O Yes, &c.

Obſer. *The Court adjourns till Seven of the Clock next Morning* (*being the 4th Inſtant, vulgarly call'd* Sunday), *at which time the Priſoners were brought to the Bar: The Court ſat, and the Jury called to bring in their Verdict.*

Cry. O Yes, &c.——Silence in the Court, upon pain of Impriſonment.

The Jury's Names called over.

Cler. Are you agreed upon your Verdict?

Jury. Yes.

Cler. Who ſhall ſpeak for you?

Jury. Our Fore-man.

Cler. What ſay you? Look upon the Priſoners at the Bar; is *William Penn* Guilty of the Matter whereof he ſtands indicted, in Manner and Form as aforeſaid, or not Guilty?

Forem. William Penn is guilty of Speaking in *Gracechurch-Street.*

May. To an unlawful Aſſembly?

Buſh. No, my Lord, we give no other Verdict than what we gave laſt Night; we have no other Verdict to give.

May. You are a factious Fellow, I'll take a Courſe with you.

Blood. I knew Mr. *Buſhel* would not yield.

Buſh. Sir *Thomas*, I have done according to my Conſcience.

May. That Conſcience of yours would cut my Throat.

Buſh. No, my Lord, it never ſhall.

May. But I will cut yours ſo ſoon as I can.

Rec. He has inſpired the Jury; he has the Spirit of Divination, methinks I feel him; I will have a poſitive Verdict, or you ſhall ſtarve for it.

Pen. I deſire to aſk the Recorder one Queſtion, Do you allow of the Verdict given of *William Mead?*

Rec. It cannot be a Verdict, becauſe you were indicted for a Conſpiracy, and one being found Not guilty, and not the other, it could not be a Verdict.

Pen. If Not guilty be not a Verdict, then you make of the Jury and *Magna Charta* but a meer Noſe of Wax.

Mead. How! is Not guilty no Verdict?

Rec. No, 'tis no Verdict.

Pen. I affirm, that the Conſent of a Jury is a Verdict in Law; and if *William Mead* be Not guilty, it conſequently follows, that I am clear, ſince you have indicted us of a Conſpiracy, and I could not poſſibly conſpire alone.

Obſer. *There were many Paſſages, that could not be taken, which paſt between the Jury and the Court. The Jury went up again, having received a freſh Charge from the Bench, if poſſible to extort an unjuſt Verdict.*

Cry. O Yes, &c. Silence in the Court.

Court. Call over the Jury. Which was done.

Cler. What ſay you? Is *William Penn* Guilty of the Matter whereof he ſtands indicted, in Manner and Form aforeſaid, or Not guilty?

Forem. Guilty of ſpeaking in *Gracechurch-ſtreet.*

Rec. What is this to the Purpoſe? I ſay, I will have a Verdict. And ſpeaking to *Edw. Buſhel*, ſaid, You are a factious Fellow; I will ſet a Mark upon you; and whilſt I have any thing to do in the City, I will have an Eye upon you.

May. Have you no more Wit than to be led by ſuch a pitiful Fellow? I will cut his Noſe.

Pen. It is intolerable that my Jury ſhould be thus menaced: Is this according to the Fundamental Laws? Are not they my proper Judges by the great Charter of *England?* What hope is there of ever having Juſtice done, when Juries are threatned, and their Verdicts rejected? I am concerned to ſpeak, and grieved to ſee ſuch Arbitrary Proceedings. Did not the Lieutenant of the *Tower* render one of them worſe than a Felon? And do you not plainly ſeem to condemn ſuch for factious Fellows, who anſwer not your Ends? Unhappy are thoſe Juries, who are threatened to be fined, and ſtarved, and ruined, if they give not in Verdicts contrary to their Conſciences.

Rec. My Lord, you muſt take a Courſe with that ſame Fellow.

May. Stop his Mouth; Jaylor, bring Fetters, and ſtake him to the Ground.

Pen. Do your Pleaſure, I matter not your Fetters.

Rec. Till now I never underſtood the Reaſon of the Policy and Prudence of the *Spaniards*, in ſuffering the Inquiſition among them: And certainly it will never be well with us, till ſomething like unto the *Spaniſh* Inquiſition be in *England.*

Obſer. *The Jury being required to go together to find another Verdict, and ſtedfaſtly refuſing it (ſaying they could give no other Verdict than what was already given) the Recorder in great Paſſion was running off the Bench, with theſe Words in his Mouth,* I proteſt I will ſit here no longer to hear theſe Things; *at which the Mayor calling,* Stay, ſtay, *he returned, and directed himſelf unto the Jury, and ſpoke as followeth:*

Rec. Gentlemen, we ſhall not be at this trade always with you; you will find the next Seſſions of Parliament there will be a Law made, that thoſe that will not conform ſhall not have the Protection of the Law. Mr. *Lee*, draw up another Verdict, that they may bring it in Special.

Lee. I cannot tell how to do it.

Jur. We ought not to be return'd, having all agreed, and ſet our Hands to the Verdict.

Rec. Your Verdict is nothing, you play upon the Court; I ſay you ſhall go together, and bring in another Verdict, or you ſhall ſtarve; and I will have you carted about the City, as in *Edward* the Third's Time.

Forem. We have given in our Verdict, and all agreed to it; and if we give in another, it will be a Force upon us to ſave our Lives.

May. Take them up.

Offic. My Lord, they will not go up.

Obſer. *The Mayor ſpoke to the Sheriff, and he came off his Seat, and ſaid,*

Sher. Come, Gentlemen, you muſt go up; you ſee I am commanded to make you go.

Obſer. *Upon which the Jury went up; and ſeveral ſworn to keep them without any Accommodation, as aforeſaid, till they brought in their Verdict.*

Cry. O yes, &c. The Court adjourns till to Morrow Morning, at ſeven of the Clock.

Obſer. *The Priſoners were remanded to* Newgate, *where they remained till next Morning, and then were brought unto the Court, which being ſat, they proceeded as followeth.*

Cry. O yes, &c. Silence in the Court, upon pain of Impriſonment.

Cler. Set *William Penn* and *William Mead* to the Bar. Gentlemen of the Jury, anſwer to your Names; *Tho. Veer, Edw. Buſhel, John Hammond, Henry Henly, Henry Mitchell, John Brightman, Charles Milſon, Gregory Walklet, John Baily, William Leaver, James Damask, William Plumſtead.* Are you all agreed of your Verdict?

Jur. Yes.

Cler. Who ſhall ſpeak for you?

Jur. Our Foreman.

Cler. Look upon the Priſoners. What ſay you? Is *William Penn* Guilty of the Matter whereof he ſtands indicted, in Manner and Form, &c. or Not guilty?

Foreman. Here is our Verdict in Writing, and our Hands ſubſcribed.

Obſer. *The Clerk took the Paper, but was ſtopt by the Recorder from reading of it; and he commanded to aſk for a poſitive Verdict.*

Foreman. That is our Verdict; we have ſubſcribed to it.

Cler. How ſay you? is *William Penn* Guilty, &c. or Not guilty?

Foreman. Not guilty.

Cler. How ſay you? is *William Mead* Guilty, &c. or Not guilty?

Foreman. Not guilty.

Cler. Then hearken to your Verdict; you ſay that *William Penn* is Not guilty in Manner and Form as he ſtands indicted; you ſay that *William Mead* is Not guilty in Manner and Form as he ſtands indicted, and ſo you ſay all?

Jur. Yes, we do ſo.

Obſer. *The Bench being unſatisfied with the Verdict, commanded that every Perſon ſhould diſtinctly anſwer to their Names, and give in their Verdict, which they unanimouſly did, in ſaying,* Not Guilty, *to the great Satisfaction of the Aſſembly.*

Rec. I am ſorry, Gentlemen, you have followed your own Judgments and Opinions, rather than the good and wholeſome Advice which was given you; God keep my Life out of your Hands; but for this * the Court Fines you forty Marks a Man; and Impriſonment till paid. At which *Penn* ſtept up towards the Bench, and ſaid:

Pen. I demand my Liberty, being freed by the *Jury.*

May. No, you are in for your Fines.

Pen. Fines, for what?

May. For Contempt of the Court.

Pen. I aſk, if it be according to the Fundamental Laws of *England*, that any *Engliſh-Man* ſhould be fined or amerced, but by the Judgment of his Peers or Jury; ſince it expreſly contradicts the fourteenth and twenty-ninth Chap. of the great Charter of *England*, which ſay, No Free-man ought to be amerced, but by the Oath of good and Lawful Men of the Vicinage.

Rec. *Take him away, take him away, take him out of the Court.*

Pen. I can never urge the Fundamental Laws of *England*, but you cry, Take him away, take him away. But it is no wonder, *ſince the* Spaniſh *Inquiſition hath ſo great a place in the* Recorder's *Heart.* God Almighty, who is juſt, will judge you all for theſe things.

Obſer. *They haled the Priſoners into the Bale-dock, and from thence ſent them to* Newgate, *for Non-payment of their Fines; and ſo were their* Jury. *But the Jury were afterwards diſcharged upon an* Habeas Corpus, *returnable in the* Common-Pleas, *where their Commitment was adjudged illegal.* Vaugh. Rep. 135—158.

LXXI. *Proceedings in the CASE of* Anthony *Earl of* Shaftsbury †, *at the* King's-Bench, *the 27th and 29th of* June, 1677. Trin. 29 Car. II.

THIS Day the Earl of *Shaftsbury* was brought to the Bar upon the Return of an *Alias Hab. Corp.* directed to the Conſtable of the *Tower* of *London*; the Effect of the Return was, that *Anthony* Earl of *Shaftſbury*, in the Writ mentioned, was committed to the *Tower* of *London*, 16 *Feb. Anno Dom.* 1676, by Virtue of an Order from the Lords Spiritual and Temporal then in Parliament aſſembled: the Tenor of which Order followeth *in hæc verba.*

Ordered, by the Lords Spiritual and Temporal in Parliament aſſembled, That the Conſtable of His Majeſty's Tower *of* London, *his Deputy, or Deputies, ſhall receive the Bodies of* James *Earl of* Saliſbury, Anthony *Earl of* Shaftſbury, *and* Philip *Lord* Wharton, *Members of this Houſe, and keep them in ſafe Cuſtody, within the ſaid* Tower, *during His Majeſty's Pleaſure, and the Pleaſure of this Houſe, for High Contempts committed againſt this Houſe: And this ſhall be a ſufficient Warrant on that Behalf.*

To the Conſtable of the Tower, &c.
J. Browne Cler. Parl.

The Earl of *Shaftſbury*'s Council prayed that the Return might be Filed, and it was ſo, and *Friday* following appointed for debating the Sufficiency of the Return, and in the mean time Directions were given to his Council to attend the Judges and Attorney-General, with their

* *See* Yelv. 23. Hardr. 409. Kelyng 51, 58. Noy. 48. Throgmorton's *Caſe*, Trial V. Vol. I. p. 78.

† *He with others had been committed to the* Tower *by the Houſe of Lords during the King's Pleaſure, or the Pleaſure of the Houſe, for moving a Queſtion in Parliament about the Legality of a Prorogation.* Burn. *Hiſt. own Times*, Vol. I. p. 401. *See his Character*, ibid. 96.

Exceptions

Exceptions to the Return, and my Lord was remanded 'till that Day; and it was said, that tho' the Return was filed, the Court could remand or commit him to the *Marshalsea* at their Election.

On *Friday* the Earl was brought into Court again, and his Council argued the Insufficiency of the Return.

Williams said, That the Cause was of great Consequence, in regard that the King was touched in his Prerogative; the Subject was touched in his Liberty, and this Court in its Jurisdiction.

1st. The Cause of Commitment which is returned, is not sufficient, for the general Allegation of high Contempts is too uncertain, for the Court cannot judge of the Contempt, if it doth not appear in what Act it consists.

2dly. It is not known where the Contempts were committed, and in favour of Liberty, it shall be intended they were committed out of the House of Peers.

3dly. The time is uncertain, so that, peradventure, it was before the last Act of General Pardon.

4thly. It does not appear whether the Commitment were on a Conviction or Accusation only.

It cannot be denied, but that the Return of such a Commitment, by any other Court, would be too general and uncertain, *More.* 893. *Astwish* was Bailed on a Return, *quod commissus fuit per mandatum.* N. *Milit. Dni. Custod. Magn. Sigil. Angliæ virtute cujusdem contemptus in curiâ facti*, and in that Book, that divers other Persons were bailed on such general Returns, and the Cases have been lately affirmed in *Bushel*'s Case, reported by the late Lord Chief Justice *Vaughan*, where it is expresly said that such Commitment and Return being too general and uncertain, the Court can't believe in an implicit manner, that in truth the Commitment was for Causes particular and sufficient.

Vaughan's Reports, 140. *Accord.* 2 *Inst.* 52. 53. & 55. and the 1 *Rolls.* 218. and though the Commitment of the Jurors was for acquitting *Penn* and *Mead*, *contra plenam & manifestam evidentiam:* It was resolved to be too general, for the Evidence ought to appear as certainly to the Judge of the Return, as it appears before the Judge authorized to commit. *Rush. Case.* 137.

Now this Commitment being by the House of Peers will make no difference; for in all Cases where a Matter comes in Judgment before this Court, let the question be of what nature it will, the Court is obliged to declare the Law, and that without distinction, whether the question began in Parliament or no. In the Case of *Geo. Binion* in *C. B.* there was a long Debate, *Whether an Original Writ might be Filed against a Member of Parliament, during the time of Privilege:* and it was urged, *that it being during the Session of Parliament, the termination of the Question did belong to the Parliament:* But it was resolved that an Original might be filed; and *Bridgman*, then Chief Justice, said, that the Court was obliged to declare the Law in all Cases that came in Judgment before them. *H.* IV. *Ed.* IV. *Rut.* 4. 7. 10. in *Scacc.* In Debt by *River* versus *Cousin*, the Defendant pleads that he was Servant of a Member of Parliament, *& ideo Capi seu Arestari non debet*, and the Plaintiff prays Judgment, and afterwards by Advice of all the Judges the Judgment was entered. *Videtur Baronibus, quod tale habetur Privilegium, quod Magnates*, &c. *Et eorum familiares capi seu arestari non debent, sed nullum habetur Privilegium, quod non debent Implacitari, ideo respondeat ouster.* So in *Triviniard*'s Case, a question of Privilege was determined in this Court. *Dyer* 60. in 14 *Ed.* III. in the Case of Sir *John* and Sir *Jeoffry Stanton*, which was cited in the Case of the Earl of *Clarendon*, and is entred in the Lords Journal.

An Action for Waste depended between them in the Common-Pleas, and the Court was divided, and the Record was Certified into the House of Lords, and they gave direction that the Judgment should be Entred for the Plaintiff; afterwards on a Writ of Error brought in this Court that Judgment was Reversed, notwithstanding the Objection, that it was given by Order of the House of Lords; for the Court was obliged to proceed according to the Law in a matter that was before them in point of Judgment. Not long since the Earl of *Bristol* Exhibited an Accusation against the Earl of *Clarendon* to the House of Lords, and it contained divers matters, whereof some did arise out of Parliament, and it was referred to the Judges to consider whether that Procedure was Parliamentary; and the 4th of *July* 1663, it was resolved by the Judges, that the Lords ought not to proceed only upon an Impeachment by the Commons, when the matters arise out of the House.

The Construction of all Acts of Parliament are given to the Courts of *Westminster*, and accordingly they are Judges of the Validity of Acts of Parliament, they have searched the Rolls of Parliament, *Hub.* 109. Lord *Hunsdon*'s Case, they have determined, whether the Journal be a Record, *Hub.* 110. When a point comes before them in Judgment, they are not foreclosed by any Act of the Lords, but ought to Judge according to the Law, by which the Realm is governed, and not by the Lords: If it appears that an Act of Parliament be made by the King and Lords without the Commons, that Act is *Felo de se*, and the Courts of *Westminster* ought to judge it void, 4 *H.* VII. 18. *Hub.* 111. and accordingly they ought to do, if this Return contain in it that which is fatal to itself. It hath been a question often resolved in this Court when a Writ of Error in Parliament shall be a *Supersedeas*, and this Court hath determined what shall be said to be a Session of Parliament, 1 *Rolls.* 29. and if the Law were otherwise there would be a failure of Justice. If the Parliament were dissolved, there would be no question but the Prisoner should be discharged on a *Habeas Corpus*, and yet then the Court must examine the Cause of Commitment, and by Consequence a matter Parliamentary, and the Court may now have Cognizance of the matter, as clearly as when the Parliament is dissolved. The Party would be without remedy for his Liberty, if he could not find it here, for it is not sufficient for him to procure the Lords to determine their Pleasure for his Imprisonment, for before his Enlargement he must have the Pleasure of the King to be determined, and that ought to be in this Court, and therefore the Prisoner ought first to resort hither.

Let us suppose (for it does not appear in the Return, and the Court ought not to enquire of any matter out of it), that the supposed Contempt was a thing done out of the House; it would be hard for this Court to remand him: Suppose he were removed to a Foreign Prison, during the Pleasure of the Lords: No doubt, but that would have been an Illegal Commitment against *Magna Charta* and the Petition; there the Commitment would have been expresly Illegal, and it may be this Commitment may be no less; for if it had been expresly shewn, and if he be remanded, he is Committed by this Court; who are to answer for his Imprisonment.

But 2. The Limitation of the Imprisonment during the Pleasures of the King and the House is Illegal and uncertain; for since it ought to determine in two Courts, it can have no certain Period, a Commitment until he shall be Discharged by King's Bench and Common Pleas is Illegal; for the Prisoner can't apply himself in such a manner as to obtain his Discharge. If a Man be committed to further order, *Coke* saith, he is Bailable presently, for that Imports 'till he shall be delivered in good course of Law; and if this Commitment have not that Sense, it is Illegal, for the Pleasure of the King is that, which shall be determined according to Law in his Courts, as where the Stat. of *Westminster*, 1 *Chap.* 15. declares that he is not repleviable, who is taken by Command of the King; this does not extend to an Extra-judicial Command, but in his Courts of Justice, to which all matters of Judicature are delegated and distributed. 2 *Inst.* 186. and 187.

Wallop, to the same purpose, cited *Bushel*'s Case, *Vaughan*, 137. that the Return for high Contempts was not sufficient, and the Court that made the Commitment in this Case makes no difference in the Case, for otherwise one may be Imprisoned by the House of Peers Unjustly, for a matter relievable here, and yet shall be without any manner of relief by such a Return; for on Supposition that this Court ought not to meddle where the Person is Committed by the Peers, any Person at any Time and for any Cause may be subject to a perpetual Imprisonment at the Pleasure of the Lords.

And the Law is otherwise, for the House of Lords is the Supreme Court, yet their Jurisdiction is limited by the Common and Statute-Law, and their Excises are examinable in this Court; for there is a great difference between the Errors and Excise in and of a Court between an Erroneous Proceeding with Jurisdiction, which is void and a meer Nullity, 4 *H.* VII. 18. 6. in the Parliament the King would have one attainted of Treason, and lose his Lands, and the Lords assented, but nothing was said of the Commons; wherefore all the Justices held clearly that it was no Act, and he was restored to his Land; and without doubt in the same Case if the Party had been Imprisoned, the Justices might have made the like Resolution that he ought to have been discharged.

It is a Solecism that a Man shall be Imprisoned by a limited Jurisdiction, and it shall not be examinable, whether the Cause were within the Jurisdiction or not. If the Lords without the Commons should grant a Tax, and one that refused to pay it should be Imprisoned, the Tax is void; but by a general Commitment the Party shall be remedyless if so be the Lords should award a *Capias* for Treason or Felony.

By these Instances it appears that their Jurisdiction was restrained by the Common-Law, and it is also restrained by divers Acts of Parliament, 1 *H.* IV. *Chap.* 14. no Appeals shall be made, or any ways pursued, or where a Statute is made a Power is Implicitely given to this Court, by the Fundamental Institution, which makes the Judges Expositors of Act of Parliament; and peradventure if all this Case appeared upon the Return, this might be a Case in which they were restrained by the Stat. 4 *Hen.* VIII. *Chap.* 8. That all the Suits, Usements, and Condemnations, *&c.* many time from henceforth, at any time to be put or had upon any Members for any Bill speaking or reasoning of any matters concerning the Parliament to be Communed or Treated of, shall be utterly void and of no effect; now it does not appear, but this is a Correction and Punishment Imposed upon the Earl, contrary to the Statute. There is no question now made of the Power of the Lords, but it is only urged that it is necessary for them to declare by Virtue of what Power they proceed, otherwise the Liberty of every *English* Man shall be subject to the Lords, whereof they may deprive any of them against an Act of Parliament, but no usage can justify such a proceeding. *Elsemore*'s Case of the *Post Nati.* 19. The Duke of *Suffolk* was Impeached by the Commons of High-Treason, and Misdemeanours, the Lords were in doubt whether they should proceed upon such a general Impeachment to imprison the Duke, and the Advice of the Judges being demanded, and their Resolution given in the Negative, the Lords were satisfied. This Case is mentioned with design to shew the respect given to the Judges, and that the Judges have determined the highest matters in Parliament. At a Conference held between the Lords and the Commons, 3d *April*, 4 *Car.* concerning the Right and Privilege of the Subject, it was declared and agreed, that no Freeman ought to be Committed or restrained by Commitment of the King or Privy-Council, or any other (in which the House of Peers is included) unless some Cause of Commitment, Restraint, or Detainor be set forth, for which by Law he ought to be Committed, *&c.*

Now if the King, who is the Head of the Parliament, nor the Privy-Council, which is a Court of State, to which Secrecy is so necessary, may not Imprison without shewing Cause, *a fortiori*, the Lords in Parliament can't, which are a Court of Law as well as a Court of State, and therefore ought not to proceed in an Illegal manner. 'Tis true in 1 *Rolls.* 192. *Rushworth*'s Case, *Coke* is of Opinion that the Privy-Council may Commit without shewing Cause, but in his more Mature Age he was of another Opinion, and and accordingly the Law is declared in the Petition of Right.

Smith argued to the same Purpose, and said, A Judge cannot make a Judgment unless the Fact appears to him, and on an *Habeas Corpus*, the Judge can only take notice of the Fact returned; it is lawful for any Subject that finds himself agrieved by any Sentence or Judgment to Petition the King in an humble manner for redress, and where the Subject is restrained of his Liberty, the proper place for him to apply himself unto is this Court, which hath the Supreme Power as to this purpose, over all Courts, and an *Habeas Corpus* issuing hence, the King

ought to have an Account of his Subject, *Rolls. Hab. Corp.* 64. *Witherly*'s Case; and though the Commitment be by the Lords, yet if it be Illegal, this Court is obliged to discharge the Prisoner, as well as if he had been Illegally Imprisoned by any other Court; the House of Peers is a high Court, but the *King*'s-*Bench* hath ever been Intrusted with the Liberty of the Subject, and if it were otherwise in case of Imprisonment by the Peers, the Power of the King was less absolute than the Power of the Lords.

It does not appear but that this Commitment was for Breach of the Privilege, but nevertheless if it were, this Court might give relief, as appears in Sir *George Bigmore*'s Case before cited, and *Mich.* 12 *Ed.* IV. *Rut.* 20. for the Court which has Power to judge what is Privilege, has also Power to judge what is Contempt of Privilege; if the Judges may judge of an Act of Parliament, *a fortiori*, they may judge of an Order of the Lords, 20 *Ed. Butcher*'s Case, where he in Reversion brought an Action of Wast, and died before Judgment, and his Heirs brought an Action for the same Wast, and the King and the Lords determined that it did lie, and commanded the Judges to give Judgment accordingly for the time to come; but by *Ryley*, 39. it appears that it is only an order of the King and the Lords, and that was the Cause the Judges conceived that they were not bound by it, but 39. 3. 13. and ever since have judged the contrary if it be admitted. For that for Breach of Privilege may Commit, yet it ought to appear on the Commitment that that was the Cause, for otherwise they may be called a Breach, which is only a refusal to answer to a matter whereof the House of Lords is restrained to hold Plea by the Stat. of the 1st of *Hen.* IV. and for a Contempt committed out of the House they cannot Commit, for the Word Appeal in the Statute extends to all Misdemeanors, as it was resolved by the Judges in the Earl of *Clarendon*'s Case, *July*, 1663. If the Imprisonment be not lawful, the Court cannot remand him to his wrongful Imprisonment, for that would be an Act of Injustice, to Imprison him, *De novo*, *Vaughan.* 156. It does not appear whether the Contempt was a Voluntary Act, or an Opinion, or an Inadvertency, and he has now suffered five Months Imprisonment already; false Imprisonment is not only where the Commitment is unjust, but where the Imprisonment is too long. 2 *Inst.* 53. In this Case if this Court cannot give Remedy, peradventure the Imprisonment shall be perpetual; for the King, as the Law is now taken, may Adjourn the Parliament for 10 or 20 Years.

But all this is said on Supposition that this Session has continuance, I conceive that by the King's giving his Royal Assent to several Laws which have been Enacted, the Session is determined, and then their Order for the Imprisonment is also determined, *Brook* Parliament. 86. Every Session in which the King Signs Bills is a Day of itself, a Session of itself, 1 *Car.* I. 7. A Special Act is made, that the giving the Royal Assent to several Bills, shall not determine the Session. ('Tis true, 'tis there said to be made for the avoiding all Doubts.) In the Stat. 16 *Car.* I. there is a Proviso to the same purpose, and also 12 *Car.* II. 1. and 22 and 23 *Car.* II. 2. 1. 11. *Ro.* 2. *No.* 12.

By the Opinion of *Coke*, 4 *Inst.* 27. the Royal Assent does not determine; but the Authority on which he relies, don't warrant his Opinion; for first in the Parliament, *Rell.* 1 *H.* VII. it appears that the Royal Assent was given to the Act, for the reversal of the Attainder of the Members of Parliament, the same Day it was given to the other Bills; and the same Year the same Parliament Assembled again, and then 'tis Probable, that the Members which had been attainted were present, and not before. 8 *R.* II. *No.* 13. is only a Judgment in case of Treason, by Virtue of a Power reserved to them on the Statute, 25 *Ed.* III. *Rot.* Parliament. 7 *H.* IV. *No.* 29. is not an Act of Parliament, 14 *Ed.* III. *N.* 789. The Act is first entred on the Roll, but on Condition the King will grant their other Petitions, the Inference my Lord *Cook* makes, that the Act for the Attainder of Queen *Catherine*, 33 *H.* VIII. was passed before the determination of the Session, yet it was on a Judgment given against her by the Commissions of *Oyer* and *Terminer*, and the subsequent Act is only an Act of Confirmation; but *Cook* ought to be excused, for all his Notes and Papers were taken from him, so that this Book did not receive his last Hand, but 'tis observable he was one of the Members of Parliament, 1 *Car.* I. when the special Act before mentioned was made; and no Instance can be given where an Act was passed, and afterwards the Parliament did proceed in that Session, only where there was a precedent Agreement between the King and the Houses; so I conclude that the Order is determined with the Session, and the Earl of *Shaftsbury* ought to be Discharged.

Eyres argued to the same effect; That the Warrant is not sufficient, for it does not appear that it was made by the *Jurisdiction* is desired in the House of Peers; for that is *coram Rege in Parliamento*, so that the King and the Commons are present in supposition of Law, and the *Writ of Error* in Parliament is *Inspecto Recordo nos consilio & advisamento Spiritualium & Temporaliu*m, *& Communitatum in Parliamento predict' existent'*, &c. it would not be difficult to prove that anciently the Commons did assist there, and now it shall be intended that they were present; for there can be no Averment against the Record. The Lords do several Acts as a distinct House, as the *Debating Bills*, the *Enquiring of Breaches of Privileges*; and the Warrant in this Case being by the *Lords Spiritual* and *Temporal*, cannot be intended otherwise, but that it was done by them in their distinct Capacity, and then the Commitment being during the Pleasure of the King and the House of Peers, it is manifest that the King is Principal, and his Pleasure ought to be determined in this Court.

If the Lords should commit a great Minister of State, whose Advice is necessary for the King and the Realm, it cannot be imagined that the King shall be without remedy for his Subject, but that he may have him Discharged by his Writ out of this Court.

This present Recess is not ordinary Adjournment; for it is entred in the Journal that the Parliament shall not be assembled at the Day of Adjournment, but Adjourned or Prorogued to another Day, if the King do not signify his Pleasure by Proclamation.

Some other Exceptions were made to the Return.

1. That no Commitment is returned, but only a Warrant to the Constable to receive him.

2. The Return does not answer the Mandate of the Writ; for that is to have the Body of *A. E.* of *S.* and the Return of the Warrant is for the Imprisonment of *A. Ashley* E. of *S.*

Serjeant *Maynard* argued to maintain the Return; *The House of Lords is the Supreme Court of the Realm; 'tis true this Court is superior to all Courts of ordinary Jurisdiction. If this Commitment had been by any Inferior Court, it could not have been maintained: But the Commitment is by a Court that is not under the Controul of this Court; and that Court is in Law sitting at this time, and therefore the expressing the Contempt particularly, is a Matter that continues in the Deliberation of that Court: 'Tis true, this Court ought to determine what the Law is in every Case that comes before them, and in this* Case *the Question is only whether* this Court *can judge of a* Contempt *committed in Parliament during the same Session of Parliament, and discharge one committed for such* Contempt. *When a Question of* Privilege *ariseth in an Action depending in this* Court, *the* Court *may determine it; but now the Question is, Whether the Lords have Capacity to determine their own Privileges, and whether this* Court *can controul their Determination, and discharge during their Session a Peer committed for* Contempt. *The Judges have often demanded what the Law is, and how a Statute should be expounded of the Lords in Parliament, as on the Statute of* Amendments, 40 *Ed.* III. 34. 6. 8. *Co.* 157. and 158. a fortiori. *The* Court *ought to demand their Opinion, when a Doubt ariseth on an Order made by the House of Lords now sitting.*

As to the Determination of the *Imprisonment*, doubtless the Pleasure of the King is to be determined in the same Court where the Judgment was given.

As to the Determination of the Session, the Opinion of *Coke* is good Law, and the Addition of Provisoes in many Acts is only in *Majorem cautelam.*

Sir *Will. Jones*, *Att. Gen.* To the same Effect, as to the Uncertainty of the Commitment, it is to be considered that this Case differs from all other Cases in two Circumstances: 1. The Person which is committed is a Member of the House by which he is committed (I do not take upon me to say that the Case would be different if the Person committed were not a Peer). 2. The Court that does commit is Superior to this Court, and therefore if the Contempt had been particularly shewn, of what Judgment soever this Court should have been as to the Contempt, yet they would not have discharged the Earl, and thereby take upon them a Jurisdiction over the House of Peers.

The *Judges* in no Age have taken upon them the Judgment of what is *Lex & Consuetudo Parliamenti*; but here the Attempt is to engage the *Judges* to give their Opinion in a Matter whereof they might have refused to have given it, if it had been demanded in Parliament. 'Tis true, if a Writ be brought where Privilege is pleaded, the Court ought to judge of it as an Incident to the Suit whereof the Court was possess'd; but this will be no Warrant for this Court to assume a Judgment of an Original Matter arising in Parliament, and that which is said of the Judges Power to expound Statutes, cannot be denied.

But it is not applicable to this Case; by the same Reason that this Commitment is question'd, every Commitment of the House of Commons may be likewise question'd in this Court. It is objected, that there would be a Failure of Justice if the Earl should not be discharged; but the contrary is true; for, if he be discharged, there would be a Failure of Justice for Offences in Parliament, and therefore the Earl would be discharged from all Manner of Punishment for his Offence, if he be discharged (for he must be discharged or remanded; for the Court cannot Bail but where they have Jurisdiction of the Matter), and so deliver'd out of the Hands of the Lords, who only have Power to punish him.

It is objected, that the Contempt is not said to be committed in the House of Peers, but it may well be intended to be committed there; for it appears he is a Member of that House, and that the Contempt was against the House; and besides, there are Contempts whereof they have Cognizance, tho' they are committed out of the House. It is objected, that 'tis possible this Contempt was committed before the General Pardon; but surely such Injustice shall not be supposed in the Supreme Court, and it may well be supposed to be committed, during the Session in which the Commitment to Prison was.

It would be great Difficulty for the Lords to make their Commitments so exact and particular, when they are employ'd in the arduous Affairs of the Realm; and it has been adjudged on a Return out of *Chancery*, of a Commitment for a Contempt against a Decree, that it was good, and yet the Decree was not shown.

The Limitation of the Imprisonment is well, for if the King or the House determine their Pleasure, he shall be discharged, for then 'tis not the Pleasure of both that he should be detained, and the Addition of those Words *during the Pleasure*, is no more than was before implied by the Law; for if those Words had been omitted, yet the King might have pardon'd the Contempt, if he had but express'd his Pleasure under the Broad Seal. If a Judgment be given in this Court, that one shall be Imprison'd during the King's Pleasure; his Pleasure ought to be determined by Pardon, and not by any Act of this Court, so that the King would have no Prejudice by the Imprisonment of a great Minister, because he could discharge him by a Pardon. The double Limitation is for the Benefit of the Prisoner, who ought not to complain of the Duration of his Imprisonment, since he has neglected to make Application for his Discharge in an orderly way.

I confess by the Determination of the Session, the Orders made the same Session are discharged, but I shall not affirm whether this present Order will be discharged or no, because it is a Judgment. But this is not the present Case, for the Session continues notwithstanding the Royal Assent given to several Bills, according to the Opinion of *Coke*, and all the Judges. *Hutton* 61, 62. Every Proviso in an Act of Parliament is not a Determination of what was the Law before; for they are often added for the Satisfaction of those that are ignorant of the Law.

Turner, *Solicitor Gen.* To the same Effect, in the great Case of *Mr. Selden*, 5 *Car.* I. the Warrant was for notable Contempt committed against

againſt us and our Government, and ſtirring up Sedition; and altho' that be almoſt as general as that in our Caſe, yet no Objection was made to it for that Clauſe in any of the Arguments, *Ruſhworth's Collections*, 18, and 19, in the Appendix. But I agree that this Return could not have been maintained if it were out of an Inferior Court, but during the Seſſion this Court can take no Cognizance of the Matter, and the Inconvenience would be great if the Law were taken otherwiſe; for this Court might judge one way, and the Houſe of Peers another: which doubtleſs would not be for the Advantage and Benefit of the Subject. For the avoiding of this Miſchief, it was agreed by the whole Court in the Caſe of *Barnardiſton* and *Somes*, that the Accord for the double Return could not be brought in this Court until the Parliament had determined the Right of Election, leſt there ſhould be a Difference between the Judgments of the Courts.

When a Judgment of the Lords comes to this Court, tho' it be of a Reverſal of a Judgment of this Court, the Court is obliged to execute it; but their Judgment was never examined or corrected here. In the Caſe of the Lord *Hellis*, it was reſolved that this Court had no Juriſdiction of a Miſdemeanor committed in Parliament; when the Parliament is determined, the Judges are the Expoſitors of the Acts, and are intruſted with the Lives, Liberties and Fortunes of the Subject, and if the Seſſion were determined, the Earl might apply himſelf to this Court, for the Subject ſhall not be without a Place where he may reſort for the Recovery of his Liberty, but this Seſſion is not determined: For the moſt part the Royal Aſſent is given the laſt Day, as ſaith *Plowden*, *Partridge*'s Caſe; yet the giving the Royal Aſſent does not make it the laſt Day of Parliament without a ſubſequent Reſolution or Prerogative, and the Court judicially takes notice of Prorogation and Adjournments of Parliament. *Cro. Jac.* 111. *Ford verſus Hunton*, and by Conſequence no Order is diſcontinued, but remains as if the Parliament were actually Aſſembled. *Cro. Jac.* 324. Sir *Chr. Hauden*'s Caſe, ſo that the Earl ought to apply himſelf to the Lords, who are his proper Judges.

It ought to be obſerved, That this Attempt is *Primæ Impreſſionis*, and though Impriſonment upon Contempt hath been frequent by the one and the other Houſe, till now no Perſon ever ſought Inlargement here: The Court was obliged in Juſtice to grant the *Habeas Corpus*, but upon the whole Matter being diſcloſed, it appears upon the Return, that the Cauſe belongs *ad aliud examen*; they ought to remand the Party.

As to the Limitation of the Impriſonment, the King may determine his Pleaſure by a Pardon under the Great Seal of *England*, as in the Caſe of *Reinger* and *Flageſſa*, *Plowden* 20.

As to the Exception that no Commitment, is returned, the Conſtable can only ſhew what concerns himſelf, which is the Warrant to him directed; and the Writ does not require him to return any thing elſe.

As to your Exception, that he is otherwiſe named in the Commitment than in the Writ: The Writ requires to have the Body of *A.* Earl of *S. Quocunque nomine Cenſeatur* in the Commitment.

After this, my Lord *Shaftſbury* made a Speech; the Subſtance thereof followeth.

My Lords,

'I DID not intend to have ſpoken one Word in this Buſineſs, but 'ſomething hath been objected and laid to my Charge by the King's 'Counſel, Mr. *Attorney* and Mr. *Solicitor*, that enforceth me to ſay ſome-'thing for your better Satisfaction. They have told you that my Coun-'ſel in their Arguments ſaid, That this Court was greater than the Houſe 'of Peers, which I dare to appeal to your Lordſhips and the whole Court, 'that it was never ſpoken by them, I am ſure was not by any Directions 'of mine. What is done by my Counſel, and by me, is, That this is 'the moſt proper Court to reſort unto, where the Liberty of the Subject 'is concerned. The Lords Houſe is the Supreme Houſe of Judicature in 'the Kingdom; but yet there is a Juriſdiction that the Lords Houſe 'does not meddle with. The King's Counſel hath mention'd, as a 'Wonder, That a Member of the Lords Houſe ſhould come hither to 'diminiſh the Juriſdiction of the Lords. I acknowledge them to be Su-'perior to this, or any other Court, to whom all Appeals and Writs of 'Error are brought; and yet there are Juriſdictions that they do not 'challenge, and which are not natural to them, or proper for them. 'They claim not to meddle in Original Cauſes, and ſo I might mention 'in other things; and I do not think it a Kindneſs to any Power or Body 'of Men, to give them ſuch Powers that are not natural or proper to 'their Conſtitution. I do not think it a Kindneſs to the Lords to make 'them abſolute and above the Law, for ſo I humbly conceive this muſt 'do, if it be adjudged that they by a general Warrant, or without any 'particular Cauſe aſſigned, do commit me, or any other Man, to a per-'petual and indefinite Impriſonment: And, my Lords, I am not ſo in-'conſiderable a Perſon, but what you do in my Caſe, muſt be Law for 'every Man in *England*.

'Mr. *Attorney* is pleaſed to ſay, I am a Member of the Lords Houſe, 'and to lay weight on the Word *Member*. It is very true, I am one of 'them, and no Man hath a greater Reverence or Eſteem for the Lords, 'than my ſelf: but, my Lords, I hope my being a Peer, or a Member of 'either Houſe, ſhall not loſe my being an *Engliſhman*, or make me to 'have leſs Title to *Magna Charta* and the other Laws of *Engliſh* Liberty.

'My Opinion is not with one of my Counſel, who argued very learn-'edly, That the paſſing an Act by the King's Royal Aſſent can make a 'Seſſions, becauſe the uſual Proviſo was not in it. It was without any 'Inſtruction of mine to mention that Point.

'The King's Counſel tells your Lordſhip of the Laws and Cuſtoms 'of Parliament; and if this was ſo, I ſhould ſubmit: But this Caſe 'of mine is *Primæ Impreſſionis*, and is a new way, ſuch as neither Mr. '*Attorney* nor Mr. *Solicitor* can ſhew any Precedent of, and I have no other 'Remedy nor Place to apply to than the Way I take.

'Mr. *Attorney* confeſſeth that the King's Pleaſure may releaſe me with-'out the Lords. If ſo, this Court is *Coram Rege*. This Court is the 'proper Place to determine the King's Pleaſure. This Court will and 'ought to judge of an Act of Parliament void, if it be againſt *Magna* '*Charta*, much more may judge an Order of the Houſe, that is put in 'Execution to deprive any Subject of his Liberty. And if this Order of 'Commitment be a Judgment, as the King's Counſel affirms, then it is 'out of the Lords Hands, and properly before your Lordſhips, as much 'as the Acts which were lately paſſed, which I preſume you will not re-'fuſe to judge of, notwithſtanding that the King's Attorney General 'ſaith that this Parliament is ſtill in Being. I take it ſomething ill that 'Mr. *Attorney* tells me I might have applied elſewhere.

'My Lords, I have not omitted what became my Duty towards the 'King; for beſides the Oath of Allegiance I took as a Peer, or an '*Engliſhman*, there is ſomething in my Breaſt that will never ſuffer me to 'depart from the Duty and Reſpect that I owe him; but I am here be-'fore him, he is always ſuppoſed to be here preſent, and he alloweth his 'Subjects the Law.

'My Lords, they ſpeak much of the Cuſtom of Parliament; but I do 'affirm to you, there is no Cuſtom of Parliament that ever their Mem-'bers were put out of their own Power; and the Inconveniencies of it 'will be endleſs.

'Mr. *Attorney* was pleaſed eaſily to anſwer the Objection of one of my 'Counſel; If a great Miniſter ſhould be ſo committed, he hath the Cure 'of a Pardon, a Prorogation, or a Diſſolution: But if the Caſe ſhould 'be put, why forty Members, or a greater Number, may not as well 'be taken away without Remedy in any of the King's Courts, he will 'not ſo eaſily anſwer; and if in this Caſe there can be no Relief, no Man 'can foreſee what will be hereafter.

'I deſire your Lordſhips well to conſider what Rule you make in my 'Caſe, for it will be a Precedent that in future Ages may concern every 'Man in *England*.

'My Lords, Mr. *Attorney* ſaith you muſt either releaſe or remand me; 'I differ from him in that Opinion. I do not inſiſt upon a Releaſe: I 'have been a Priſoner above five Months already, and come hither of 'Neceſſity, having no other way to get my Liberty, and therefore am 'very willing to tender your Lordſhips Bail, which are in or near the 'Court, good as any are in *England*, either for their Quality or Eſtate, 'and I am ready to give any Sum or Number.

'My Lords, this Court being poſſeſs'd of this Buſineſs, I am now 'your Priſoner.'

The Court deliver'd their Opinion *Seriatim*.

Sir *Tho. Jones*, Juſtice. Such a Commitment by an ordinary Court of Juſtice, would have been ill and uncertain; but the Cauſe is different when it comes before this High Court, to which ſo much Reſpect has been paid by our Predeceſſors, that they have deferred the Determination of Doubts conceived on an Act of Parliament, until they have received the Advice of the Lords: and now, inſtead thereof, it is demanded of us to control the Judgment of all the Peers, given on a Member of their own Houſe, and during the Continuance of the ſame Seſſion. The Caſes where the Courts of *Weſtminſter* have taken Cognizance of Privilege, differ from this Caſe: for in thoſe it was only an Incident to the Caſe before them, which was of their Cognizance; but the direct Point of the Matter is now the Judgment of the Lords.

The Courſe of all Courts ought to be conſider'd, for that is the Law of the Court, *Lane's Caſe*, 2 *Reſt.* and it has not been affirmed, That the Uſage of the Houſe of Lords has uſed to expreſs the Matter more particularly on Commitments for Contempts, and therefore I ſhall take it to be according to the Courſe of Parliament. 4 *Inſt.* 50. It is ſaid that the Judges are Aſſiſtants to the Lords, to inform them of Common Law; but they ought not to judge of any Law, Cuſtom, or Uſage of Parliament.

The Objection as to the Continuance of the Impriſonment, has received a plain Anſwer, for it ſhall be determined by the Pleaſure of the King, or of the Lords: and if it were otherwiſe, yet the King could pardon the Contempt under the Great-Seal, or diſcharge the Impriſonment under the Privy-Seal.

I ſhall not ſay what would be the Conſequence (as to this Impriſonment) if the Seſſion were determined *, for that is not the preſent Caſe: but as the Caſe is, the Court can neither Bail nor Diſcharge the Earl.

Wild, Juſtice. The Return, no doubt, is illegal; but the Queſtion is of a Point of Juriſdiction, Whether it may be examined here? This Court can't meddle with the Tranſactions of the moſt High Court of Peers in Parliament during the Seſſion, which is not determined; and therefore the Certainty or Uncertainty of the Return is not material, for it is not examinable here: but if the Seſſion had been determined, my Opinion would be, that he ought to be diſcharged.

Rainsford, Chief Juſtice. This Court has no Juriſdiction of the Cauſe, and therefore the Form of the Return is not conſiderable. We ought not to extend our Juriſdiction beyond its due Limits, and the Actions of our Anceſtors will not warrant us in ſuch an Attempt.

The Conſequence would be very miſchievous if this Court ſhould deliver a Member of the Houſe of Peers and Commons who are committed; for thereby the Buſineſs of Parliament may be retarded; for it may be the Commitment was for evil Behaviour, or indecent Reflections on other Members, to the Diſturbance of the Affairs of Parliament.

The Commitment in this Caſe is not for ſafe Cuſtody, but he is in Execution of the Judgment given by the Lords for the Contempt; and therefore if he ſhould be Bailed, he would be delivered out of Execution; for a Contempt *in facie Curiæ* there is no other Judgment or Execution.

* *This was the Caſe afterwards of the Earl of* Danby, N° 78.

This

This Court has no Juriſdiction, and therefore he ought to be remanded. I deliver no Opinion whether it would be otherwiſe in Caſe of a Prorogation.

Twiſden, Juſtice, was abſent, but he deſired Juſtice *Jones* to declare that his Opinion was, That the Party ought to be Remanded.

So the Earl was remanded to Priſon, and ſtaid there 'till another Seſſion of Parliament; when his Application to an inferior Court was Voted a Breach of Privilege by the Lords, for which the Earl was to anſwer his Contempt at the Bar of the Houſe.

On the 22d of *February* he was accordingly brought to the Bar, where he offered to acknowledge his aſſerting the Diſſolution of the Parliament to be an unadviſed Action, and to beg their Lordſhips Pardon for his Offence in bringing an *Habeas Corpus*.

Upon which the Houſe proceeded to a Reſolution, That the Lord *Shaftſbury* ſhould make his Submiſſion and Acknowledgment in a Form preſcrib'd by that Houſe; and accordingly a Declaration was prepar'd for that purpoſe. The Lord *Chancellor* read the Words to him, and the Lord *Shaftſbury*, kneeling, repeated them at the Bar, and then withdrew. So the Houſe ordered the Lords with white Staves to acquaint his Majeſty, That they had received Satisfaction from the Earl of *Shaftſbury*, in the Matter of the *Habeas Corpus*, and the other Contempt, and pray'd him to diſcharge the Earl from his Confinement, which was done.

LXXII. *The Trial of* James Mitchel*, *in* Scotland, *for attempting the Murder of Dr.* James Sharp, *Archbiſhop of St.* Andrews †, *and Wounding the Biſhop of* Orkney, *the 7th of* January, 167⅞. 29 Car. II.

JAMES Mitchel being indicted for an Attempt to murder the Archbiſhop of St. *Andrews*, in *July* 1668, was committed 1674 Priſoner to the *Tolbooth* at *Edinburgh*; whereupon the Lord Commiſſioner and the Lords of the Privy-Council appointed a Committee to examine him, *viz.* Lord *Linlithgow*, Preſes (Preſident): *Hatton*, Treaſurer Depute; *Dundonald*, *Roſs*, and *Murray*, Juſticiaries; *Craigy*, *Collington*, &c. When he was brought before the Committee, he was perſuaded to make Acknowledgment of the Fact; a Relation whereof is thus given by himſelf.

'My Indictment I take up in theſe two Particulars: *Firſt*, As they 'term it Rebellion and Treaſon, anent which I anſwered to *My Lord* 'Chancellor in Committee, that it was no Rebellion, but a Duty which 'every one was bound to have performed in joining with that Party, and 'I: In the Year 1656, Mr. *Robert Lighton* being then *Primar* in the 'College of *Edinburgh*, before our Laureation, tendered to us the *National Covenant, and Solemn League and Covenant*; upon mature Deliberation, I found nothing in them, but a ſhort Compend of the Moral 'Law, only binding us to our Duty towards God and towards Men in 'their ſeveral Stations; and I finding, that our baniſhed King's Intereſt 'lay wholly included therein, and both Coronation and Allegiance Oaths, '&c. and they being the Subſtance of all Loyalty; and, my Lord, it was 'well known, that then many were taking the Tender, and forſwearing '*Charles Stuart*, Parliament and Houſe of Lords, I then Subſcribed both, 'the doing of which *My Lord Chancellor* would have ſtood at no leſs Rate, 'if as well known, than this my preſent adhering and proſecuting the 'Ends thereof doth now; and when I was queſtioned what then I called 'Rebellion, I anſwered, it is in *Ezra* vii. 26. *And whoſoever will not do 'the Law of God and of the King*, &c. But being queſtioned before the 'Commiſſioner and the Council thereanent, I anſwered as I ſaid to *My 'Lord Chancellor* before: In the Year 1656, Mr. *Robert Lighton* being 'then *Primar* in the College of *Edinburgh*, before our Laureation, he 'tendered to us the National and Solemn League and Covenant: He ſtopt 'me, ſaying, I'le wad ye are come here to give a Teſtimony: And then 'being demanded what I called Rebellion, if it was not Rebellion to oppoſe his Majeſty's Forces in the Face: To the which I anſwered, *viz.* '*My Lord Chancellor*, if it pleaſe your Grace, I humbly conceive they 'ſhould have been with us: meaning, that it was the Duty of theſe 'Forces to have joined with us, according to the National and Solemn 'League and Covenant; at which Anſwer I perceived him to ſtorm: 'But, ſaith he, I heard ye have been over Seas, with whom did ye converſe there? Anſwer, With my Merchant. But, ſaith he, With whom 'in particular? Anſwer, With one *John Mitchel*, a Couſin of mine own. 'Saith he, I have heard of him, he is a Factor in *Rotterdam*; to which I 'conceded. But, ſaith he, did ye not converſe with Mr *Livingſton*, and 'ſuch as he? To which I anſwered, I converſed with all our baniſhed 'Miniſters. To which he replied, Baniſhed Traitors; ye will ſpeak 'Treaſon at the Bar. Then he anſwered himſelf, ſaying, But they 'would call the Shooting at the Biſhop an Heroick Act. To which I anſwered, That I never told them any ſuch thing. But where did you 'ſee *James Wallace* laſt? Anſwer, Towards the Borders of *Germany*, ſome 'Years ago. But what ailed you at my Lord *St. Andrews*? (pointing at 'him with his Finger) Anſwer, My Lord Commiſſioner, the grievous 'Oppreſſion and horrid Blood-ſhed of my Brethren, and the eager Purſue after my own, as it appeareth this Day to your Grace, and to all 'his Majeſty's honourable Privy-Council. After which he commanded to 'take me away, that they might ſee what to do next with me.

'The Second is, the Shooting of the Shot intended againſt the Biſhop 'of *St. Andrews*, whereby the Biſhop of *Orkney* was hurt; to which I anſwered *My Lord Chancellor* in private, *viz.* That I looked on him to be 'the main Inſtigator of all the Oppreſſion and Bloodſhed of my Brethren 'that followed thereupon, and the continual purſuing after my own; and 'my Lord, as it was creditably reported to us (the Truth of which your 'Lordſhip knows better than we) that he kept up his Majeſty's Letter 'inhibiting any more Blood upon that Account, until the laſt Six were 'Execute: And I being a Soldier, not having laid down Arms, but being 'ſtill upon my own Defence, and having no other End nor Quarrel at 'any Man (but according to my Apprehenſion of him) that as I hope in 'Sincerity, with fixing either my Senſe or Action upon the Covenant it 'ſelf, as it may be underſtood by the many Thouſands of the Faithful, 'beſides the Proſecution of the Ends of the ſame Covenant, which was, 'and in that Point the Overthrow of Prelates and Prelacy, and I being a 'declared Enemy to him on that Account, and he to me in like manner; 'So I never found my ſelf obliged, either by the Law of God, or Nature, 'to ſet a Centry at his Door for his Safety, but as he was always to take 'his Advantage, as it appeareth, ſo I of him, to take any Opportunity 'offered. Moreover we being in no Terms of Capitulation, but on the 'contrair, I, by his Inſtigation, being excluded from all Grace and Favour, thought it my Duty to purſue him at all Occaſions: Alſo, my Lord, 'Sir *William Sharp* making his Apology, anent his unhandſome and cheating way taken, he took me under the Pretence to have ſpoken with me 'about ſome other Matters. I not knowing him until five or ſix of his 'Brothers, and his Servants were laying faſt hold on me, they being armed 'of purpoſe, deſired I would excuſe him, ſeeing what he had done was 'upon his Brother's Account, which Excuſe I eaſily admitted, ſeeing 'that he thought himſelf obliged to do what he did to me without Law 'or Order, in the behalf of his Brother; much more was I obliged to do 'what I did, in the behalf of many Brethren, whoſe Oppreſſion was ſo 'great, and whoſe Blood he cauſed to be ſhed in ſuch Abundance. Moreover, he perſiſting in his bloody Murders, as witneſſeth the wounding 'of Mr. *Bruce* at his Taking, by his Emiſſaries, ſome few Days before 'that fell out concerning himſelf, I was deſirous, if by any means in 'taking him away I could, to have put a Stop to the then currant Perſecution. Thus far I have truly reſumed what paſſed. My Confeſſion 'was made upon Oath and Promiſe made to me upon Life and Safety, 'and indeed the Promiſe made to me by my Lord *Chancellor* was in theſe 'Words; *Upon my great Oath and Reputation, if I be Chancellor, I ſhall 'ſave your Life, and if ye will not confeſs, the Council will take another way 'to make it out*, which I took for the Boots, as I found afterwards.'

After two Years Impriſonment, upon the 18th of *Jan.* 1676, he was unawares, at Six a Clock of the Night (about the time of the incloſing of the Wards), called forth before the Committee.

At his Appearance, the Lords Juſticiaries obſcuring themſelves by putting their Hands upon their Faces, and leaning upon their Elbows upon the Table: My Lord Preſes ſaid, Sir, Ye are brought here before the Committee, to ſee if you will adhere to your former Confeſſion, or not. To which he anſwered, My Lord, it is not unknown to your Lordſhip, and others here preſent, that by the Council's Order I was remitted to the Lords Juſticiaries, before whom I received an Inditement, at my Lord Advocat's Inſtance, wherein I was indited both of Life and Fortune, although, my Lord, Fortune have I none. To which Inditement I anſwered at three ſeveral Dyets, being deſerted by my Lord Advocat. I humbly conceive, that both by the Law of the Nation, and the Practice of the Houſe at that time, I ought to have been ſet at Liberty, yet notwithſtanding I was, contrary both to Law, Juſtice, and Equity, returned to Priſon. And upon what Account I am brought this Night before your Lordſhip, I know not. To the which my Lord Preſes anſwered, Ye are not accuſed here, neither upon Life nor Fortune, but to ſee whether you will adhere to your former Confeſſion. To which it was anſwered, I am not convinced of any Crime, therefore I know not any ſuch Confeſſion as your Lordſhip alledges. To which my Lord Treaſurer Depute replyed, He is one of the moſt arrogant Rogues, Cheats, Liars, and what not. To which he replyed, My Lord, if there were fewer of ſuch Perſons of whom your Lordſhip have been ſpeaking, in the Nation, I would not be ſtanding this Night at your Bar: But my Lord Advocat knows, that what hath been alledged againſt me, is not my Confeſſion. To which he replyed, Do you not remember that before the Lord Commiſſioner and the Council ye ſaid ſuch and ſuch thing? To which it was replyed, That my Lord Commiſſioner never enquired about any ſuch thing; only he ſaid, he heard that I had been abroad, and over Seas, and enquired with whom I did converſe there; to which it was replyed, With my Merchant, my Lord; But with whom in particular? To which I anſwered, With one *John Mitchel*, a Couſin of mine own; ſo that there was no ſuch Diſcourſe before the Council. But, ſays my Lord Preſes, we will make a ſharper thing make you to confeſs. To which it was replied by the Pannel, I hope your Lordſhips are Chriſtians, and not Pagans. To which the Treaſurer Depute added, ſaying, That the Pannel was no Chriſtian. To which the Pannel replyed, My Lord, you know the old Proverb, *Turpe eſt Doctori*, &c. And ſo he was returned to Priſon for that Night.

* Burnet's *Hiſt. of his own Times*, Vol. I. p. 413—416.

† *About two Years afterwards, in* 1679, *he was actually murder'd by the Mob, as he was going home in his Coach.* Ibid. 470.

Upon the 22d Day, he being called before the ſaid Committee, who ſate in the Town's Council-Houſe, at which time my Lord Preſes ſaid to him: Sir, ye are called here again to ſee if ye will adhere to your former Confeſſion (opening a Paper to the Pannel, and alledged it to be ſubſcribed by him.) To which it was anſwered, My Lord, I acknowledge no ſuch Thing. Then he replyed, Sir, ye ſee what is upon the Table before you; I ſhall ſee if that can cauſe you do it. To which it was anſwered, By that Torture you may cauſe me blaſpheme God, as *Saul* did compel the Saints; you may by that Torture cauſe me to ſpeak amiſs of your Lordſhip; to call my ſelf a Thief, a Murtherer, or Warlock, and what not, and then pannel me upon it: But if ye ſhall, my Lords, put me to it, I here proteſt before God and your Lordſhip, that nothing extorted from me by Torture ſhall be made uſe of againſt me in Judgment, nor have any force againſt me in Law, or any other Perſon whomſoever; but to be plain with your Lordſhip, I am ſo much a Chriſtian, that whatever your Lordſhip ſhall legally prove againſt me, if it be a Truth I will not deny it. But, my Lord, on the contrary, I am ſo much a Man, yea, and a *Scots* Man, that I never held my ſelf obliged, either by the Law of God or Nature, or by the Law of Nations, to become my own Accuſer. Then ſaid my Lord Depute Treaſurer to the Preſes, He hath the Devil's Logick, and ſophiſticats like him. Aſk at him whether or not that be his Subſcription? To which he anſwered, he acknowledged no ſuch thing. To which *Hattoun* anſwered, Bid him ſay, Yea, or Not. Then my Lord Preſes ſaid, (pointing his Hand to the Boot) You ſee what is before you, ſay either Yea or Not. He anſwered, I ſay not; and ſo he was returned to cloſe Priſon as before.

Upon the 24th Day they ſolemnly aſſembled, to wit, with their Robes in the Parliament-Houſe, where the Lords of the Seſſion ſit, at which time the Executioner was preſent with the Boots, and the Pannel being brought as before to the Bar, the Lord Preſes ſaid, You are now brought here to ſee if you will yet confeſs before you be put to Torture. But the Pannel knowing, according to the rate of the *Spaniſh* Inquiſition, that always the more he confeſſed, either concerning himſelf, or any other Perſon, the more ſeverely the Torture would be made uſe of, to make him confeſs more; therefore he anſwered after this manner: My Lord, I ſhall ſtudy Brevity by ſpeaking a few Words what I have to ſay, to wit, That I have been now theſe two full Years in Priſon, and more than one of them in Bolts and Fetters, and upward of thirty Weeks in cloſe Priſon, ſo that my Impriſonment hath been more intolerable to me than the Pains of many Deaths, if I had been capable thereof: Yea, and it is well known, that within a ſhorter Time in regard of my Impriſonment, ſeveral have made away themſelves rather than endured the Affliction of a Priſon; but, my Lord, an Obedience to the expreſs Commandment of God hath made me to undergo all Hardſhips I have hitherto met with, and to undergo this preſent Torture; to wit, the Preſervation of my Life, and the Lives of others, as far as it is in my Power, and to keep off innocent Blood from your Lordſhip, and your Families and Relations, which by ſhedding of mine, doubtleſs you would bring upon yourſelves, Poſterity, and Relations, Wrath from the Lord, to the conſuming thereof, until there ſhould be no Remnant nor Eſcaping. And now, my Lords, I do again proteſt before God and your Lordſhips, that whatever may be extorted from me by Torture, may not be made uſe of againſt me, nor any other Perſon in Judgment, nor have any force in Law. And ſo, my Lords, I have done: You may call the Men whom you have appointed to your Work. After which they cauſed the Macer to call upon the Executioner, and two Officers appointed for that effect, who tyed him in an armed Chair, and brought the Boots, and enquired which of his Legs they ſhould take; but they, after ſpeaking amongſt themſelves, commanded the Executioner to take any of them, upon which he laid the left Leg upon the Boot, but the Pannel lifted it out again, ſaying, Seeing ye Judges have not determined it, take the beſt of the two, for I freely beſtow it in the Cauſe; and laid his right Leg into the Torture; after which the King's Advocate ſaid, I ſhall ſpeak but one Word or two, but notwithſtanding continued his Diſcourſe for a conſiderable time; ſo when he had made an end, the Pannel anſwered thus; My Lord Preſes, the Advocat's one Word or two hath multiplied to ſo many, that my Memory cannot ſerve me, in the Condition wherein I am, to reſume them ſo as to anſwer them in particular: But I ſhall anſwer to the Scope of his Diſcourſe. Firſt, Whereas he hath been ſpeaking to the Sovereignty of the Magiſtrat, I ſhall ſay ſomewhat more than he hath ſaid; to wit, that the Magiſtrat whom God hath appointed, is God's Deputy, and that both the Throne and the Judgment is the Lord's, while he judgeth for God, and according to the Law of God, and that a great part of his Office is to deliver the Oppreſſed out of the Hand of the Oppreſſor, and to ſhed no innocent Blood, according to the Commandment of God to *Zedekiah* by the Prophet *Jeremiah*, Chap. xxii. 3. And, my Lords, Diſobedience to his Commandment brought the Wrath of God upon him, his Princes, and the whole Nation of the *Jews*, Chap. xxxvii. Secondly, my Lord Advocat hath been hinting at the Sinfulneſs of Lying upon any Account: It is anſwered, my Lords, that not only Lying is ſinful, but alſo a pernicious ſpeaking of the Truth is a horrid Sin before God, while it tendeth to the ſhedding of innocent Blood, as witneſſeth that of *Doeg*, *Pſ.* lii. compared with 1 *Sam.* xxii. 29. But what my Lord Advocat hath forged againſt me is falſe, ſo that I am ſtanding upon my former Ground, *viz.* the Preſervation of my Life, and the Lives of others, as far as it lies in my Power, the which I am expreſly commanded to do by the Lord of Hoſts. After which, the Clerk's Servant being call'd by the Advocat, they interrogate him of many Queſtions, upward to the Number of Thirty, only to ſee if they could catch him in a Contradiction, or to ſee if they could find out any Perſon to witneſs againſt him; but he underſtanding their Drift, anſwered as followeth: My Lords (not knowing that I ſhall eſcape this Torture with my Life) therefore I beſeech you to remember what *Solomon* ſays, *He who ſheweth no Mercy ſhall have Judgment without Mercy.* And if there be any here preſent, as I hope there are few or none, yet if there be any ſuch here; whoſe Diſpoſition is ſo eager in purſuing after innocent Blood, that nothing leſs than a full Draught will ſatisfy them, I ſay, let ſuch remember what is ſpoken, *Rev.* xix. 5, 6. *Thou art righteous, O Lord, which was, and art, and ſhalt be, becauſe thou haſt judged thus, for they have ſhed the Blood of the Saints and Prophets, and thou haſt given them Blood to drink, for they are worthy*, &c. And now, my Lords, I do freely from my Heart forgive you who are Judges ſitting upon the Bench, and the Men who are appointed to be about this Piece of horrid Work, and alſo theſe who are vitiating their Eyes beholding the ſame. And I do intreat that God may never lay it to the Charge of any of you, as I beg that God may be pleaſed for his Son Chriſt's ſake to blot out my Sins and Iniquities, and never lay them to my Charge here nor hereafter.

Queſt. Are you that Mr. *James Mitchel* who was excepted out of the King's Act of Grace and Favour, or not? *Anſ.* I never committed any ſuch Crime deſerving me to be excluded, but rather to be included, protected and defended. *Q.* Know you any more of that Name? *A.* Yes, there are two within *Midlouthian*; and what know I, but there may be more elſewhere? *Q.* When knew you of the Riſing in Arms, *Anno* 1666? *A.* My Lords, I knew of it when the reſt of the Citizens knew of it. *Q.* When was that? *A.* When there was a Meſſenger to the Council for that effect, and when *Dalzel* and his Soldiers marched out at the Weſt Port in order thereto. *Q.* Went not you out of the Town with Captain *Arnot?* *A.* No. *Q.* Where did you meet with *James Wallace?* *A.* I did not know him at that time. *Q.* Was you at *Air?* or, did you join with the Rebels there, or any where elſe? *A.* I never joined with any ſuch. To which my Lord *Hattoun*, Treaſurer Depute, replied, ſaying, My Lord, he never acknowledges theſe Men to be Rebels. To which the Pannel anſwered, My Lord, I ſhall in anſwer to what is ſpoken follow *Solomon*'s Advice, in that he ſays, at ſome times even a Fool by holding his Peace, will be reputed Wiſe. Whether or not *Hattoun* took it to be ſpoken of him, I cannot tell, but there was nothing replied thereto by any of them. *Q.* Where was you at the time of *Pentland?* *A.* In *Edinburgh*. *Q.* Where was you before it? *A.* In *Edinburgh*. *Q.* Where was you after it? *A.* In *Edinburgh*. *Q.* Where did you lodge before that time? *A.* In one *Girſell Whiteford*'s. *Q.* Where did you ſtay at that time, and was you ſtill in the Town, or not? *A.* My Lord Advocate, I do not know what you mean by being ſtill in the Town, for you may call it out of the Town, if I was at the *Wind-mill*, or at *Leith*. *Q.* What, was you no where further abroad, than at ſuch Places? *A.* My Memory cannot ſerve me now, after ten Years Space, to determine where I was; neither do I keep a Diurnal of times paſt, nor is it my Duty ſo to do; neither do I think any Man's Memory here preſent can ſerve him for ſo long a time: But this I judge, that it is my Duty every Day to be about my lawful Employment and Calling, according as God hath commanded, and therewith to reſt ſatisfied. *Q.* What took you out of the Town at that time? *A.* I was making my ſelf ready to go over to *Flanders*. *Q.* With whom went you? *A.* With one *John Forreſter*, an *Oſtender*. *Q.* How long was it after *Pentland* before you went? *A.* I cannot tell. *Q.* Can you not give it a gueſs? *A.* About a Month or ſix Weeks. *Q.* What was you doing all that time? *A.* I was making myſelf ready, and thereafter there came a contrary Wind. *Q.* Who was Merchant in the Ship? *A.* I enquir'd not. *Q.* But went not the Merchant along with you? *A.* No. *Q.* What was the Reaſon of that? *A.* It was the time of the *Dutch* War againſt the *Engliſh*, and at ſuch times Merchants of Ships do not hazard their Perſons with their Goods, but commits their Affairs to Factors abroad. *Q.* How long ſtayed you there? *A.* About three Quarters of a Year. *Q.* Why ſtayed you ſo long there? *A.* It was a Space before I was ready to return, and thereafter the Report of Peace came, which thereafter followed, and I thought it better to wait a little time than hazard in War. *Q.* With whom came you home again? *A.* With *Dutchmen*, who were *Amſterdamers*. *Q.* Was there no *Scotſman* with you? *A.* I have told you, my Lords, I came home with *Dutchmen*. *Q.* Who was the Skipper of the Ship? *A.* I cannot remember, but he came to *Lime Kills* for a Loading of Coals from Sir *James Hacket*. *Q.* What Goods fetcht you home? *A.* I cannot remember the Particulars. *Q.* Where did you enter them? *A.* I made the beſt Shift I could to ſhun the Cuſtomers. At which Sir *William Parvas* riſeth to cauſe call the Exciſe-men; to which the Pannel replied, O Sir *William*, it was out of your time and theirs. *Q.* Did you know *Peniry?* *A.* Yes. *Q.* Is he living? *A.* No. *Q.* Did you know Sir *James Stirlin*, and Mr. *Robert Ferguſon?* Are they alive? *A.* They are both dead; the one in this Town, and the other in the *Indies*, being called by the *Indian* Merchants to be a Miniſter in one of their Plantations. *Q.* Knew you *William Young*, and whoſe Tenant he was? *A.* Yes; I both knew him, and that he was a Tenant of Sir *John Gibſon*'s. *Q.* Bought you a Horſe from him at that time? *A.* I never bought a Horſe from him. *Q.* From whom had you a Horſe, when you went out of the Town? *A.* There was none in the City who had a Horſe to lend for Hire, who would have refuſed me for my Money. *Q.* But of whom had you a Horſe? *A.* Where I could have none, I took me to my Feet.

Which Examination being ended, the Executioner being commanded thereto, took down his Leg from off a Cheſt upon which it had been lying the whole time in the Boot, and it being ſet upon the Ground, he began to thruſt in the Shafts, and drive the Wedge. And at every Stroak they enquired, if I had any more to ſay. To which it was anſwered, No more, my Lords; and thus it continued to the Number of Nine Stroaks, upon the Head of the Wedge, at the end of which he fell by into a little Swarfe thro' the Extremity of Pain, at which the Executioner cried out, Alas! my Lords, he is gone, he is gone. Then they commanded to leave off the Torture, and riſing from their Seats went away. After which he was returned to the *Tolbooth*, being carried by his Friends in the Chair in which he was tied during the time of his Torture.

He ſtill continued Priſoner in the *Tolbooth*, till the 7th of *Jan.* 1678, when they proceeded againſt him before the Juſtices, as follows:

XXIX. CAR. II. 1678.

Curia Justiciariæ. S. D. N. *Regis tenta in Prætorio Burgi de* Edenburgi, *Septimo die Mensis* Januarii, 1678. *Per honorabiles viros Dominos* Archibaldum Primrose *de* Caringtoun *Justiciarium Generalem*, Jacobum Fouclis *de* Colintoun, Robertum Nairn *de* Strathurd, Joannem Lockhart *de* Castlehill, Davidem Balfour *de* Ferret, & Thomam Murray *de* Glendoick, *Commissionarios Justiciariæ dicti* S. D. N. *Regis.*

Curia legittime affirmata.

Intran^{t} Mr. James Mitchel, Prisoner.

INDYTED and Accused, forasmuch as be the Common-Law and Law of Nations, and the Law of this Kingdom, Murder and the Assaulting and Attempting upon any Person or Persons be way of Forethought Fellonie & *per insidias & industriam*, of purpose and design to kill, are most atrocious and detestable Crimes, destructive to and against the Being of Humane Society, and is severly punishable, but especially when the samen are committed upon the Persons of Counsellors and other Officers who doe represent Authoritie, and are liable to the Mistakes and Malice of wicked Persons for doing their Duty, or when the samen are committed upon the Persons of Churchmen, Bishops or Ministers, who are of the Sacred Function; who be the Laws of all Nations are priviledged and secured, as much as can be, from the Malice and sacrilegious Attempts of wicked Persons. And particularly, it is statute be the fourth Act of the sixteenth Parliament of King *James* the Sixth, that whatsoever Person invades or persues any of the Lords of Session, secret Council, or any of his Majesty's Officers, for doing of his Majesty's Service, shall be punished with Death. And be the seventh Act of the first Parliament of his Majesty's Royal Father in *Anno* 1633, intitulat, *anent the invading of Ministers*, it is statute that the same shall be extended to all Archbishops, Bishops, and Ministers whatsoever. And be the fourth Act of his Majesty's second Parliament, and second Session of the same, it is statute, That whatsoever Persons shall be guilty of the assaulting the Lives of Ministers, that they shall be punished with the Pain of Death and Confiscation of their Moveables. And be the Laws and Acts of Parliament of this Kingdom, the Mutilation and Dismembration of any of his Majesty's Subjects, be way of Forethought Felonie, is ane high and capital Crime, and punishable with the Pain of Death. Nevertheless, it is of Veritie, That ye having shaken off all Fear of God and Conscience, Respect and Regard to his Majesty's Authoritie and Laws, and conceiving a deadly Hatred and Malice against a Reverend Father in God, *James* Archbishop of St. *Andrews* (a Person who had never known or seen you, so as to take Notice of you, and much less had given you any Offence), without any Ground or Quarrel, and upon Account only that he was advanced and promoted to be Archbishop, and to be of his Majesty's Privie Council, and did serve God and his Majesty faithfullie in the saids Stations and Offices; you did dayly contrive, resolve and design the Murder and Assasination of the said Archbishop: And in order thereto, having provyded yourself with a Pair of long *Scots* Iron Pistols near Musket Bore, you did upon the Nynth Day of *July*, 1668, or ane or other of the Days of the said Moneth, proceed and take the Opportunity to execute and goe about your horrid and cruel Design, when the said Archbishop in the Afternoon of the said Day did come down his own Stair, and was going to his Coach, being to go abroad upon his Occasions with a Reverend Father in God, *Andrew* Bishop of *Orkney*. And you having a charged Pistol with Powder and Ball, did most cruellie and felloniously assault the saids Bishops, and did fire, discharge, and shot the said Pistol upon them, being within the said Coach; and God of his Goodness having preserved the Archbishop whom you intended to murder, you did by the said Shot grievouslie wound the Bishop of *Orkney*, to the great Hazard and Danger of his Life; so that having for a long tyme, and with great Pain, Torture, and Expence of Blood, languished of the said Wound, being in a most dangerous Place in the joyning of the Hand and Arm, where there is a Confluence of Nerves and Fibres, he never did recover his Health to that Measure and Vigour that he had, or might have had, if he had not gotten the said Wound. And he was mutilat and dismembred as to his Arm and Hand, so that he could make no Use of the same, but languished thereof until he dyed. And after you had attempted and committed the said Assasination and Villanie *tanquam insidiator & per industriam*, and be Way of Forethought Fellonie, ye did goe away and escape throw the Multitude and Throng that had gathered upon the Noise of the said Shot, having another charged and bended Pistol in your Hands, of Purpose and Design to have killed any Person who should have offered to take and apprehend you. The foresaid Attempt and Villanie being without any Parallel, the Circumstances being considered, *viz.* That it was committed by one who professed to be of the reformed Religion, and who did pretend to be and serve as a Chaplain in several Families; that it was committed to the great Scandal and Disadvantage of Christian Religion, and especially of the Protestant Reformed Religion, the Professors and Preachers of the same having so much declared against, and be their Preaching and Wrytting having expreset their Detestation of such Attempts and Practices committed by Persons, and ouned by Wrytters of the *Roman* Profession: And that it cannot be instanced that any of the Protestant Religion was guilty of any Attempt upon the Account of Religion: And that the worst of Men being ashamed to commit such Villanies; for covering of the same, and for their Security, doth take the Opportunity of Darkness and Solitude, in Corners and solitary Places; your Malice was so implacable, that you was prodigal of your own Lyfe to be Master of the Lyfe of the said Archbishop; and in the High Street of *Edinburgh*, and in the Day-light, and in the Face of the Sun, and before many Witnesses, near or at a little Distance from the said Coach, where you could not but expect to be presently seased upon, you did devote yourself and did adventure to commit the said most villanous and wicked Attempt: Yet notwithstanding of all the saids Aggravations and Circumstances of Horror and Remorse, you did continue in your implacable Malice, and did converse and keep Correspondence with *Robert Cannon* of *Mondregatt*, and with —— *Welsh* of *Cornlie*, and —— *MacClelland* of *Barscop*, declared and excepted Rebels and Traitors; had divers Meetings with them, and upon Discourse concerning the said Attempt, every one of the saids Persons putting it upon one another, when it was put to you, you said and uttered these or the like Speeches, *Shame fall the Misse*, and that *ye should make the Fire hotter*: And after the tyme and Attempt foresaid in the Year 1668, and subsequent Years, Moneths, and Days of the saids respective Years, and in ane or other of them, your guilty Conscience disquieting and persuing you, you did rove and go abroad several tymes to *Holland*, *England* and *Ireland*, until Divine Justice did drive and bring you back to this Kingdom, that Justice might be satisfied and vindicat in some Measure where you had committed so great Villanies. After your Return you did proceed to that Height of Boldness and Confidence, or rather Impudence, that you did repair to and live in *Edinburgh*, and was married there with your Wyfe, who is yet living, by Mr. *John Welsh*, who is a declared and excepted Traitor, and Forefault for his Accession to the Rebellion 1666. And your Boldness was so great in out-daring both God and Authoritie, that for a long tyme ye have been lodged and has kept a Shop near that Place where the Archbishop doth and is in use to lodge when he is in *Edinburgh*, until at length ye was discovered and apprehended, having upon you when you was taken the same Pistol which ye shot when ye committed the said Attempt, which was found under your Coat charged with Powder and three Ball, of Purpose to attempt again and execute your bloodie Design against the said Archbishop, at least against any Person who should offer to take you. From all which Premises, it is evident that you are guilty of the saids atrocious Crymes of Murder and Assasinat be way of Forethought Fellonie, and is a *Percussor & Siccarius*, and of Mutilation, and of the other Crymes abovementioned: And therefore the saids Pains ought to be inflicted upon you as ane Murderer and Assasinat, and as guilty of the Crymes foresaids, in ane exemplarie Manner to the Terror of others.

Persuer,	Proctors in Defence,
Sir *George Mac Kenzie* of *Rosehaugh*,	Sir *George Lockhart*.
our Sovereign Lord's Advocate.	Mr. *John Eleis*.

His Majesty's Advocate produced ane Warrand from his Majesty's Privy Council for persuing the said Mr. *James Mitchel*, whereof the Tenor follows: *Edinburgh*, the sixth Day of *December*, 1677, The Lords of his Majesty's Privie Council do hereby grant, order, and warrand to Sir *George Mac Kenzie* of *Rosehaugh*, his Majesty's Advocate, to raise and persue a criminal Process before the Lords Commissioners of Justiciary against Mr. *James Mitchel* for the Assasination attempted by him upon the Archbishop of Saint *Andrews* and the Bishop of *Orkney*. Extract be me, *sic subscribitur*, Al. Gibsone.

Master *John Eleis* Advocate produced ane Act of his Majesty's Privy Council impowering Sir *George Lockhart* and him to appear for the Pannal's Defence, whereof the Tenor follows: *Edinburgh*, the third Day of *January*, 1678, the Lords of his Majesty's Privie Council, having considered a Petition presented in Behalf of Mr. *James Mitchel* Prisoner, representing, that he is upon *Monday* next to undergo a Trial before the Justices at the Instance of his Majesty's Advocate, as the alledged Person who shot a Pistol at the Archbishop of St. *Andrews*: Yet no Advocate will undertake to appear for him, without they be speciallie commanded so to do. And therefore supplicating, that Sir *George Lockhart* and Mr. *John Eleis*, Advocates, may be ordered to that Effect, the saids Lords do hereby order and recommend the said Sir *George Lockhart* and Mr. *John Eleis* to appear and plead for the Supplicant before the Justices, in the Cause above-mentioned, upon *Monday* next, and other Dyets of that Process, and appoints Intimation to be made hereof to the said Sir *George Lockhart* and Mr. *John Eleis*, and to the Petitioner. Extract be me, *sic subscribitur*, Al. Gibsone.

His Majesty's Advocate declares he passes from my Lord Justice General as a Witness in this Cause.

Mr. *John Eleis*, Advocate, as Proctor for the Pannal, declares, that they sustain my Lord Justice General to be a Judge in this Cause notwithstanding of his being cited as a Witness both by Persuer and Defender.

Mr. *James Mitchel* Pannal denyes the *Dittay*, and any pretended Confession alledged emmitted be him.

Mr. *John Eleis* for the Pannal alledges, that he cannot pass to the Knowledge of any Assyse: And the Conclusion that the Pannal has committed Murder, cannot be inferred from the Subsumption of the Lybell, because be the Laws of this Kingdom, the Civil Law, the Common Opinion of Doctors, the Law and general Custom of all Nations, *Nudus conatus & affectus sine effectu*, even in the most atrocious Crymes, except Treason, Parricide, and other excepted Crymes, is not punishable by Death: And it were against all Reason, seeing Punishments ought to be proportional to the Crymes, that a naked and simple Design of Murder should be punished as Murder that had taken Effect. *Et in criminibus gravioribus & gravissimis, viz. Adulterium, Furtum, Sodomie, &c.* the naked Design is not punished *pœna ordinaria*, even by the Civil Law. And tho' *Lex Cornelia de siccariis* by ane extraordinary Stretch does declare *si quis cum telo ambulaverit*, yet it is but a statutory Law, and deregot to by the Law of Nations, and the special Laws of our Nation, in sua far as Murder in our Law is defined to be, and has only Place in *Interfectis per felloniam*, and these who were killed upon forethought Fellonie. (2*do.*) In sua far as the Lybell concludes him guilty of Assasination, the same is no ways relevant, it being both a Term and a Cryme unknown

known in our Law. And be the Laws and Acts of Parliament of this Nation, the Subjects of *Scotland* are to be governed by the Laws of *Scotland*. And tho' the Cryme of Assasination were a point of *Dittay* by our Law, as it is not; yet it is not, nor cannot be pretended he was hired for that Effect, nor is it lybelled. (3*tio.*) In sua far as the Lybell concludes the Pain of Death for Mutilation of the Bishop of *Orkney*; it is answered, that the same is no ways relevant. And the said Conclusion cannot be inferred from the Subsumption, because the Act of Parliament does only declare Demembration to be punished as Slaughter. (2*do.*) The said Act declares Demembration to be only punished as Slaughter when it proceeds upon forethought Fellonie. (3*tio.*) The said Act requires another Qualification, *viz.* That it be persued be the Partie: None of which can be subsumed upon in this Case, because it is not lybelled that the Bishop was dismembred, or had his Hand cut off, but only had a Wound in the Hand. And the Lybell does expresslie bear, That the Bishop of *Orkney* got the Shot in the Hand accidentallie, when the Design was against the Bishop of Saint *Andrews*, and so was not upon forethought Fellonie as to him. And lastlie, the Bishop's neareſt of Kine does not concur nor persue, which is a special Requisite in the said Act of Parliament. Like as the said Act is *exolet*, and in no Regisler can it be made appear that any Person was capitallie punished for Dismembration: But upon the contrary, many accused and condemned in Arbitrarie Punishments. So that the Lybell is no ways relevant as to that Article, for the Reasons foresaids; speciallie seeing Dismembration is not so much here as lybelled or pretended. And whereas it is insinuat, that the Bishop did languish and die of the said Wound: It is answered, that the Lybell is no ways relevant, he conceived, because it is not lybelled that the Wound was *ex sua natura* lethal or mortal. And it is offered to be proven, that the Bishop did live several Years thereafter, and go about his ordinary Function as a Bishop, by Preaching, *&c.* which is a sufficient Ground of Exculpation and Defence.

4*to.* In sua far as the Lybell is founded upon the Act of Parliament anent invading of Counsellors, it is answered, That this present Case does not fall under the Compass of the said Act of Parliament, because it is not lybelled that the Cause of the pretended Invasion of the Archbishop was upon the Account he was in the Prosecution of his Majesty's Service; but upon the contrar it may appear strange to any rational Man *Quorsum & cui bono* he could have done it.

5*to.* As to the Acts anent invading of Ministers, they import no capital Punishment, but only Confiscation of Moveables, and as to which the saids Acts are opponed, and as to the Act 1670, it is posterior to the Fact lybelled.

In sua far as the Lybell seems to be founded on a Confession; and in sua far as the Confession may be made use of as a sole or conjunct Probation, the Pannal does object against the samen upon the Grounds and Reasons following. *Primo*, If any such Confession was emmitted by the Pannal, which he has absolutlie denyed in Presence of your Lordship) no ways acknowledging the Lybell) no respect can be had thereto: and it is not probatorie, because the samen is extrajudicial *& extra Bancam*, in regard it is not made inPresence of the Assyse, who are Judges to the Probation, which is expresslie contrar to the 90 Act, 7. Parliament, King *James* VI. which requires the hail Probation to be led in Presence of the Assyse and Partie. And which Act of Parliament was not only made for Securetie of Pannals, as to a just and legal Procedure against them; but also that the Assysers to whom the Truth of the Lives of the Subjects of this Kingdom is committed, as to the Point of Probation, might not proceed upon Fame and Report, but upon a clear Probation before them. For if that were not, the Assyse would be altogether deprived to know how the Confession was emmitted, if spontaneously or *ex constantia vel trepidatione*, or *spe veniæ*. And the most that ever was sustained in this Case, was, that the Assyse did find a Partie guilty upon a Confession emmitted before a *Quorum* of the Justices in a fenced Court. *Esto* the said pretended Confession should be sustained probative, as for the Reasons above-represented (the Pannal with all submission to your Lordships humbly conceaves) it cannot: Yet, if any such Confession was, it is null because it was *elicete spe veniæ & immunitatis*. And for proving thereof, the Pannal does repeat his Exculpation, which he conceaves is relevant in Law; and craves the Witnesses therein to be examined upon the Contents thereof. (2*do.*) The said Confession being emmitted *extra Judicium & spe veniæ*, as said is, *est in se nulla*, and cannot be confirmed or validitat by the Testimonie of any Witnesses whatsomever. And to Evidence that the Pannal's Lyfe was never intended to be taken upon the said pretended Confession: The same (if any was) is opponed; by which it evidently appears that he was examined upon Oath, as to the most material part of the Cryme, *viz.* his Complices, which makes it more than evident, that it being *in materia criminale & capitale*, in which Oaths cannot be taken by Law, renders the Confession null and invalidat, at least makes it evident that the Lybell has been restricted *ad civiles effectus*.

My Lord Advocat insists in the first Place upon the fourth Act of the sixteent Parliament, *James* VI. By which *nudus conatus* attempting and invading, tho' nothing follow, is found relevant to inferr the pain of Death. But so it is that the said Mr. *James Mitchel* did attempt the killing the Archbishop of Saint *Andrews*, a Privy Councellour; which Attempt *devenit ad actum proximum*, the said Mr. *James* having done all that was in his Power. And as to the Quality adjected in the Act, insinuating the Defence, that it must be proven, that it was for doing of his Majesty's Service; it is replyed, That this Qualitie is inferred, and cannot, nor requires not to be otherways proven, than by a presumed Inference. For the Design of the Attempter being ane Act of the Mind and the Secret of the Heart, it cannot be otherways proven, but simplic by the Attempting a Secret Councellour, or any of his Majesty's Officers, against whom the Pannal could have no Quarrel, but for doing of his Duty, and therefore the Law still concludes the same, except the Pannal will offer to condescend upon another relevant Reason, *viz.* any private Fead; for if it were otherways, the Act would be absolutelie useless, since any Person might attempt or kill a Privie Counsellour, it being impossible to prove what was the Designe. And this Act was designed meerly to make all Attempts against Privie Counsellours, punishable by Death; for otherwise it could be no Fence nor Protection for Privie Counsellours, if it were onlie granted to them under a Qualitie which were impossible to be proven. Nor can this seem hard, since the Subjects have only themselves to blame, who attempt against the Lives of Privie Counsellours. And it were very ridiculous to think, that if the Brother of a Pannal should attempt to kill the Judge or King's Advocate immediatlie after a Process, that it were necessar to prove the Designe otherways than by the natural Contingencie which obviously aryses from the Qualitie and Circumstances of the Perpetration: But in this Case as Mr. *James Mitchel* is a Person who can condescend upon no private Offence betwixt the Archbishop and him, they being absolute Strangers to one another; so besides the Presumption of Law above-specified, it is offered in Fortification of the Act, That, *Primo*, the said Mr. *James* ownes himself to be of a Profession who hates and execrates that Hyerarchie, and of which Sect the unhallowed Penman of *Nephtalie* declares it lawful to kill those of that Character. 2*do.* It is notour and offered to be proven, that Mr. *James* himself defended that it was lawful to kill such, and indeavoured by wrested Places of Scripture to defend himself; and gain Proselytes thereby. And if need were, as there is none, it is specificklie and distinctly offered to be proven, that he acknowledged that the Reason why he shot at the Archbishop, was, because he thought him a Persecutor of the nefarious and execrable Rebels who appeared on *Pentland-Hills*: Nor can Designs nor Acts of the Mind be otherways proven than by such emmitted Declarations, Arguments and Acknowledgments. Like as in the whole Course of our Law, the invading or attempting any of that Sacred Function is still declared equivalent to killing: And tho' the last Act be posterior, yet it is sufficient to demonstrate and clear. And, 3*tio.* By the Common Law *conatus* and indeavour is *in criminibus atrocissimis* punishable by Death, *ubi reus devenit ad actum proximum & omne quod in se erat fecit*, which is in itself most reasonable, since the Atrocitie of the Cryme should put the same even beyond the Attempt. And there can be nothing more just than that the Extraordinaryness of a Cryme should have an extraordinarie Allowance. And Guilt attempted in atrocious Crymes, such as sacrilegious Assasination, is in the Eye of the Law as great and greater than the stealing ane Horse or Cowe, speciallie where Securitie from the Effect proceeded from no Innocencie in the Committer, who did all he could; but from the special Providence of God disappointing the Effect of a Cause he so much hated: And *Carpsovius* requires only three Qualifications to make Indeavour punishable by Death: Primo, *Quod eventum erat ad actum morti proximum*: (2do.) *Quod non stetit per Assasinum quin consummaretur delictum.* (3tio.) *Quod occidendus fortuito casu tantum evaserit*; all which concurr but too well here: And that *in omnibus criminibus atrocissimis Conatus* is punishable, is clear from *Gothofred. tit. de Conatu*, from *Covarivius in Clementina, Si furiosus, num.* 6. And particularlie in the Cryme of Assasination *totidem verbis*, by *Matheus de Siccariis, num.* 3. *Assasinus tamen nihil prodesse debet soluſque conatus capite puniendus*, a great Instance whereof is given in a Decision by *Gothofred* in the Senate of *Savoy*, where Death was inflicted upon a Person who but struck with a Batton. And whereas it is pretended that Assasination is no Cryme in our Law, and that it is only inferred where the Designe of Murdering proceeds from the Committers taking Money: It is answered, that this Part of the Defence is most groundless: And our Nation would be more barbarous than those of *Lapland* or the *Tartars*, if the lying in Wait with a Constant Design to kill clandestinely *& per insidias* any Person who had never offended us, should not be raised to a higher Degree of Detestation than ordinar Murder. For, though the Law does not always punish a meer Indeavour when designed against such as have offended us, when Nature pleads some Excuse from the greatnes of Passion and Resentment, or where the Partie killed gave some Occasion by doing the Wrong, or where the Suddenness of the Design allowed no tyme to consider or repent; yet where a Person after mature Deliberation ryppens his own Villanie, and resists the Motions of Reason and the Inspirations of God Almighty, by lying in Wait to kill a Person who never offended, the Law thinks the Common Wealth can never be secured as long as such a Viper is alive, who wants nothing but Opportunitie to kill Mankind one by one. And the Specialitie of taking Money is only demonstrative, and not restrictive, since the Guilt in this, and such like Cases, is greater and more dangerous than that of taking Money. For, he who takes Money will not kill but in Darknes, and where he may escape; but the Sun, and the Cross, and the Confluence of all the World, cannot secure against Murderers, where the Partie imagines that the Cryme deserves Heaven, or at least where he thinks that these of his Persuasion will rise in a Tumult upon the Streets for his Defence. Likeas since the Law has inferred Death *ob conatum* in the Crymes of *Raptus, robbrie, &c.* much more should it inferr Death in this unparalleled and execrable Cryme.

As to what is alledged against the Acts of invading Ministers; it is answered, That the first Act appoints that it shall be punished with all Rigor. And the 7 Act, King *Charles* I. and the last Act is sufficient, tho' posterior to the Cryme, to declare what was the Meaning of that General of punished with all Rigor. And since our Law makes the attempting of such as are doing his Majesty's Service Capital, that General ought to be extended to Death, since lesser Crymes and other Crymes are for the same Reasons which are applicable to this, punishable by Death: Nor can there be any Hazard in this, since there is a Law for the future. And no Man shall ever dye for so great a Cryme in our Nation.

Whereas it is alledged, that here the Pannal did only confess upon Hopes of Lyfe: It is replied, that *Primo*, the Promise of Lyfe from a Judge, who could not grant the same, cannot defend, especiallie where no threatning preceded; and where it is clear that what was confest

feſt was founded on other Preſumptions & *Indicia*. Nor is this relevant, except the Pannal could offer to prove, *Firſt*, Threatning, to the Fear whereof he yeelded; 2*do*. That he expreſslie pactioned that this Confeſſion ſhould not operate againſt him, which is very clear from *Boſſius, tit. De confeſſis per torturam*, Num. 12. where he ſtates the Caſe, and concludes, that a ſpontaneous Confeſſion, though Lyſe were promiſed, does not defend: Nor is the Guilt leſs, nor the Truth leſs, that a Judge promiſe. And if this were ſufficient, every Judge might make himſelf King, and grant Remiſſions at his Pleaſure. And though this might weigh with the Judge who promiſed; yet the Law conſiders the Partie confeſſing ſtill guiltie, and ſo does never ſecure him. *Et quod poteſt condemnari tenent, Cinus Cod. de iis qui ad Eccleſiam effugiant, Alciad. lege de verborum ſignificatione*; and *Clarus* himſelf ſayes, That *Ego ſuſpicor opinionem Ceni eſſe majus communem*; but giving his own Opinion rather as a private Man than as a Lawyer, he ſays, *Ego tamen non condemnarem ad mortem niſi aliis indiciis fuerit gravatus, Ergo reus indiciis gravatus eſt morte plectandus*, which is moſt juſt and reaſonable. For, though the Law be jealous where a meer ſillie Innocent confeſſes to a Judge, who may terrifie him, or have ane Intereſt in cauſing him confeſs to lay the blame off his Friends, yet where the Confeſſion proceeded from a Perſon ſuſpect by all the World, by a Perſon who publickly in all Places ſince has owned the Deed; who fled upon that Account; who was taken with unlawful Weapons, unfit for his Profeſſion, and the ſpecifick Weapons which committed the Attempt; who condeſcended upon all the Circumſtances, and declared that he gloried in being a Martyr upon that Account: In being ſeen run away immediately upon doing of the Deed with a Piſtol in his Hand; in being found out in a thouſand Lies and Prevarications when he was examined; in having renewed his Confeſſion publickly; It were but to ſcorn the Law and Maſſacre Mankind, to think that a Confeſſion ſo adminiculat ſhould not bind the Confeſſor, who can alledge nothing of any Threatning uſed againſt him by the Judge to whom he confeſſed. And Lawyers do in that Caſe conſider the qualitie of the Judge as ſevere, unjuſt, rigid or partial: but the Confeſſion is alledged to be made here upon Promiſe of Lyſe given by my Lord Chancellor, whoſe benign, gentle Temper frees him from all Suſpition. And the proponing of Exculpation acknowledges the Deed to be done by Mr. *James Mitchel* the Pannal, againſt which the Proteſtation denying the Lybell cannot be ſuſtained, being *Contraria facto*, as is evident to any rational Man; and that the Pannal cannot either pretend *alibi*, nor any other pretence of Error, for excuſeing his Retractation: ſo his Majeſty's Advocate oppones his Confeſſion, bearing no Qualification. And though he is very ſecure that the Exculpation cannot be proven, yet ſince it is notorly known that he is the Committer, and that this may be a Preparative to other Pannals, againſt whom no Probation is ordinarlie had, but Confeſſions *elicite* by Judges, with fair and gentle Promiſes, he *mordicus* adheres to the Relevancie. For, as *Boſſius* ſays, *Et ſi Judex dixerit nihil mali eveniet tibi vel etiam promittat ut liberabitur Majus tamen communis eſt opinio Confeſſionem valere quia Judex etiam poterat ita fingere ad veritatem inveniendam.* And as this is moſt advantagious to the Common Wealth and Mankind, ſo there can be no Hazard to a private Pannal, ſince if he can but aſtruct his own Innocencie, or the reaſon of his Error, by alledging that he was *alibi*, or that there was ſevere Threatnings or Torture uſed, the ſame will ſtill be allowed to qualifie his Confeſſion. But the general Preſumption lies, that a Judge will not damn his own Soul, ſtain his Function, ruin his Fame, expoſe himſelf to the Terrors of God Almightie, by alluring a Confeſſion from a poor Innocent.

As to what is objected againſt the Confeſſion as extrajudicial and before ane incompetent Judge: It is replyed, That Confeſſions are of all Probations the moſt infallible, ſince Witneſſes may, but it cannot be preſumed a Man will wrong himſelf: And the Riſe of that Maxime, That extrajudicial Confeſſions are not relevant, was only to exclude Probation upon Confeſſions emmitted where there was no Judge nor no Deſign of Inquirie. But the Confeſſor being louſe and inconſiderate, and under no Reaſon of Advertance, did at random own a Deed of which they were moſt innocent, either for Oſtentation, or to pleaſe the Companie, or in Raillerie: But, to ſay that a Man ſhould not be judged by what he deliberatlie confeſſes, where he knows the Deſigne is to inquire into the Cryme, and that the Event muſt be a Criminal Trial, is without all Foundation or Probability of Reaſon: Nor can Judges or Aſſyſers be ſo much convinced by what Witneſſes will ſay, who may have Malice, or be brybed, or miſtaken; as what proceeds from a Man's own Breaſt deliberatlie and in cold Blood, which in Effect is oft tymes the Inſpiration and Influence of Almightie God, who to ſhow his Love to Juſtice and Kindneſs to Mankind, draws even from the greateſt of Malefactors the cleareſt Confeſſions. And ſince Men do not uſe to bring Witneſſes when they commit Crymes, nor can the Nature of the Thing allow Probation by Wrytt, to cut off Confeſſions in theſe Caſes were to make Crymes for ever paſs unpuniſhed, and to make Law, which is founded upon Principles of Reaſon, and the good of the Common Wealth, evaniſh in meer Terms of Art and hard Words, contrar to the Deſigne of Lawyers and the ſolid Principles of ſincere Truth.

That this Confeſſion is then Judicial is clear, being taken by Authoritie of the Privie Council, the Supream Judicatorie of the Nation, and where the Deſign was to expiſcate this Truth. And the Pannal knew that he was upon a Trial for his Life: Nor can the Incompetencie of that Judicatorie be here alledged, ſince as the Seſſion is a Judicatorie meerly Civil, ſo the Council is a Judicatorie above both, comprehending the Power of both. And being ſo far competent in the Cognition of Crymes, that they take Precognitions in criminal Cauſes; they modifie and qualifie the Sentences of the Criminal Court; they determine intricate Caſes remitted to them be the Juſtices in Point of Law. And the King, and the greateſt part of the Criminal Court being there; it were abſurd to think, that a Confeſſion emitted before them ſhould not prove. And if in a Precognition a Partie ſhould confeſs, and ſo the Trial there ceaſe, what could be more abſurd than to think that this Confeſſion ſhould not bind, eſpeciallie ſeeing Confeſſions emitted before the Lords of Seſſion in Caſes of Improbation, and Decreets following thereupon, are a ſole, a final, and plenarie Probation, before the Juſtice Court? Likeas that Principle in Law, That *Confeſſio coram Judice incompetente* does not hold, is, where, *Judex eſt incompetens tam ad inquiſitionem quam ad accuſationem*, as, *in forum penitentiæ*, ſuch as Kirk Seſſions, or *forum mere civile*. Neither of which can be ſaid in this Caſe where the Judge before whom the Confeſſion was emitted is the ordinary Judge of Inquiſition, and Trial in Criminal Cauſes, & *Judex non ſolum Juriſdictionis prerogabilis*; but a Judge who originallie and generally examines all the Pannals of *Scotland*. Likeas this Confeſſion was made in Preſence of his Majeſty's Privie Council and the King's Commiſſioner, in whom all the Judicatories of the Kingdom doe eminentlie reſide. And who might have ſent the Pannal to the Scaffold without any Aſſyſe, ſeeing *in confitentem nullæ ſunt partes Judicis*.

Whatever favour may be allowed to Retractation of Confeſſions *facta ex Incontinenti, ubi poteſt docere de errore*: yet what Reaſon can there be where a Pannal denies without ſhewing of Proofs of his Innocencie? And therefore *Boſſius, tit. de Confeſſis, Num.* 64. concludes, *Eſt etiam neceſſarium allegare errorem cæterum ſi ſimpliciter revocaverit Confeſſus non eſt audiendus*. And *Num.* 70. he adds, *Quia fateor quod quis non auditur ſimpliciter dicendo poſt confeſſionem: Non eſt verum quod confeſſus fui, tamen ſi per teſtes conſtare poteſt de innocentia majus attenditur veritas quam confeſſio*. And ſince Minors in Law are oblieged *docere de errore*, when they revock, it were abſurd to think that the Law would be ſo ridiculous, that a Man confeſſing before a grave Judicatorie ſhould have Libertie to retract without ſhewing any Reaſon of his Retractation: And the Guilt rather grows *per inficiationem*, and by that impudent Lye, than is leſſened by the Retractation.

In the Caſe likeways where Debates are concerning the Validity of a Confeſſion, Lawyers conſider whether what was confeſt was or can be adminiculat by other collateral Probation, *Argumenta & indicia*, and whether the Probation be *veri ſimilis*; whereas here this Confeſſion is adminiculat by many other Circumſtances, ſuch as Perſons who ſaw him run away, by his owning of the Principle ſince, by his fleeing, &c. So that here neither can he inſtruct why he retracts, and the thing confeſt is *adminiculate & circumſtantiis & indiciis*. As to the Objection founded upon the Act of Parliament, that the Probation muſt be in Preſence of the Aſſyſe: It is replyed, that the whole Frame of that Act is groſslie miſtaken; for the Deſign of that Act was to correct a barbarous Cuſtom, whereby Accuſers were allowed to foliſt and to produce to them ſuch Wrytt and Witneſſes as they pleaſed for Probation of the Cryme, to preclude the Pannal of what he could ſay againſt the ſame, ſince falſe Papers might be thrown in as Confeſſions and Proofs: But that cannot reach in this Caſe, where a Confeſſion is produced before a Pannal and his Proctors, and they heard to object againſt the ſame. Nor can it be urged from this Act that no Paper can be relevant but what is owned by the Pannal in Preſence of the Aſſyſe; for we daylie ſee that Letters produced under the Pannal's Hand, though he ſhould deny his Subſcription, will be ſuſtained: And it will be ſufficient to prove by Witneſſes, that he did ſubſcryve, or by compariſon of Letters. Likeas this Act of Parliament does not exclude that Confeſſions before the Lords of Seſſion in Matters of Falſhood, and Decrees following thereupon, may not probative before the Juſtices. Like as Confeſſions taken before the Juſtices, tho' no Aſſyſe be preſent, do without all Controverſie and Debate prove the Cryme: Yet neither can the Juſtices condemn without ane Aſſyſe, nor does that Act of Parliament militate more againſt that Caſe than againſt this. And in the Caſe of *Finlay Mac Gilbon*, a Confeſſion taken in the *Tolbooth* without a fenced Court, and before one Judge, was found ſufficient to inferr the pain of Death both by the Council and Juſtices. And it is admired how it can be thought that Preſumptions can be ſuſtained as the Foundation of a criminal Sentence, as we dayly ſee; and that Witneſſes which in effect are but preſumptive, and a Man's own Confeſſion emitted ſeriouſlie and in cold Blood, ſhould not be ſufficient. And as there could be nothing more dangerous to the Common-wealth, than that Crymes ſhould be thus rendered unſearchable; ſo what Hazard can there be to the People on the other hand, or the Pannal, when they are made their own Judges? And to take off all poſſibilitie of Danger, it ſhall be allowed to them to prove Error, Force, Innocence, or Miſtake. And this Probation has been in all Ages and Nations ſuſtained as uncontraverted, as, *David* ordained the Perſon who ſaid he had killed *Saul* immediatlie to be execute without further Inquirie, giving as the undoubted Reaſon, that he had condemned himſelf out of his own Mouth; and which is regiſtrate in Scripture, to ſecure the Image of God againſt thoſe who would deface it. And if ſuch Confeſſions ſhould be ſuſtained in any Caſe, much more in this, where the Nature of the Cryme is atrocious, and the manner of the Diſcovery extraordinarly difficult. And if either Atrocitie or Difficultie prevails with Lawyers to remitt ſomething of its ordinarie Rigor in exacting clear Probation, as we ſee *in criminibus exceptis & criminibus domeſticis*, much more where both theſe concur, ought a Man's own Confeſſion to be admitted. And whereas ordinarily Pannals are penitent firſt when examined, the Horror of the Crymes ſoftning their Hearts; that their Confeſſions then ſhould not prove, is very ſtrange: And it were impoſſible and fruitleſs to expect, that after they are impriſoned amongſt a Company of other Malefactors, and after they have a kind of Men towards the Law to teach them the Art of Retractation, and that their Conſcience turns Callus, and acquainted with the Idea of their own Cryme, a ſincere Confeſſion may be then expected from them.

My Lord Advocat declares, he does not inſiſt againſt the Pannal for converſing with Rebels at this tyme, and upon the ſhooting at a Biſhop or Miniſter, before the late Act of Parliament, *Anno* 1670, to inferre ane Arbitrary Puniſhment: And inſiſts upon Mutilation as Capital upon the Act of Parliament anent Demembration, which is *reddere membrum inutile*. And a Man is as much diſmembred when he has ane uſeleſs Hand, as if he had no Hand; and inſiſts upon the 28 Act Parl.

Parl. 3 *James* IV. wherein Slaughter and Mutilation upon forethought Fellonie are equiparate, and the Pannal declared to be puniſhed by Death in both theſe Caſes, but refers the Puniſhment of Mutilation to be qualified by the Juſtices, according to what ſhall be found here proven, and to what has been the Cuſtome of the Juſtice Court formerlie in ſuch Caſes.

Sir *George Lockhart* duplyes, That the Lybell is no ways relevant, as founded upon the fourth Act 16. Parl. King *Ja.* VI. And the Defence is no ways eleided by the Alleadgances, contained in the Reply. For, *Primo*, The Lords of Juſticiarie would be pleaſed to take notice, that there is no Specialitie in the Caſe of this Act of Parliament, as to Privie Counſellours; but that it extends to all his Majeſties Officers, and conſequently the meanſt Officer being invaded in the Terms and under the Qualification contained in the Act of Parliament, might plead the Benefite thereof. And if the Lybell ſhould be ſuſtained in general Terms without the expreſs Qualification in the Act of Parliament, the ſimple Act of Invaſion of a Lyon Herauld, though neither Death nor Wound followed on it, would infer the pain of Death; but that no ſuch thing is the meaning, nor can ſubſiſt with the Act of Parliament, is ſo clear and evident, as it was impoſſible for the Witt of Man to expreſs the Qualification to be lybelled and poſitively proven in more plain and direct Terms than is ſett down in the ſaid Act. In ſua far as the Act of Parliament requires be way of Proviſion and Condition in the Statutory part thereof in thir Termes; it being verifyed and proven, that any of the ſaids Counſellours, Seſſioners, and Officers, was purſued and invaded for doing of his Highneſs Service, ſhall be puniſhed to the Death. And there is great Reaſon and Neceſſitie for this Qualification, becauſe the Act of Parliament intending contrary to the general Cuſtom of Nations, and of this Kingdom, in all other Crymes that *Conatus & attentatum*, which is only relevant in the Cryme of Treaſon, ſhould be reputed *Crimen conſummatum* in caſe of Invaſion of any of his Majeſty's Officers. Therefore the Law requires this Qualification in Matter of Fact, That it be verified that the Perſon invaded was doing his Majeſty's Service; in which Caſe the Cryme had a reſpect in the Conſtruction of Law, as done againſt his Majeſty's Authoritie, which he was then executing. And this Qualification in Matter of Fact, that it was for doing of his Majeſty's Service, is not here ſo much as lybelled. And in the common Opinion of all Lawyers, as may appear by *Julius Clarus*, §. *Aſſaſinum*, *Num.* 2. *Ubi agitur de imponenda pœna alicujus Conſtitutionis ſpecialis requiritur quod concurrent omnes qualificationes de quibus in ipſa Conſtitutione.* And *Queſt.* 85. *Num.* 9. he has the ſame Words, *Ubi agitur ad imponenda pœna alicujus ſpecialis Conſtitutionis opportet quod in eo caſu verificentur omnes qualitates in ipſa Conſtitutione expreſſas, alias pœna non committitur, & hæc* (ſays he) *eſt doctrina communiter ab omnibus recepta*, and moſt eſpeciallie when it is not ane intrinſick Qualitie and Aggravation, but where it is a Qualification required by Law it ſelf as *intrigans delicti*, and as *Gomeſ.* ſayes, it is *alterativum pœne*, and therefore it muſt be *totidem verbis* lybelled and poſitively proven.

And as to that Pretence that it is preſumed and inferred from the Circumſtances, and the Way and Manner of the committing of the Fact it ſelf, and that *Propoſitum* and Deſign cannot be otherwiſe proven *niſi per indicias & conjecturas:* It is duplyed, That the Qualification required by the Act of Parliament is *toto cœlo* different from the Deſign: For, if a Perſon did invade any of his Majeſty's Officers in doing of his Majeſty's Service, and would pretend that he had no Deſign to invade, certainly the Pretence were abſurd. And in that Caſe the Deſign *preſumitur ex natura attentati:* But the diſcharging of his Majeſty's Service is not a Deſign, but a Matter of Fact, which conſiſts in ane extrinſick Action, and muſt be proven, and may and does often occur. As for Inſtance, If a Magiſtrat ſhould be invaded in the actual Execution of his Majeſty's Authoritie, or if the Invader ſhould be ſo tranſported with Rage, as when he invades a Judge, to tell him, that it was becauſe he has unjuſtlie decerned: Theſe and the like Caſes are indeed the Terms of the Act of Parliament. And there ſimple Invaſion, though no Wounds followed, being directlie levelled againſt his Majeſty's Authority, *Nudus conatus & effectus delinquendi reputatur pro effectu.* And as this is clear from the expreſs Words of the Act of Parliament, and which being *in materia correctoria & criminale*, is ſtrictly to be interpret; ſo it is unanſwerable evidenced from the Act of Parl. K. *Ch.* I. of bleſſed Memorie, by which it is provyded, that the Invaſion and Violence done to Miniſters is puniſhable, conform to the Act of Parliament 1587, to which it relates, which is Confiſcation of Moveables, and declares that the ſaid Act is to be extended to Archbiſhops and Biſhops, from which the Pannal's Proctors argue thus, If by the Poſterior Act of Parliament in *Anno* 1633, the Invaſion and Violence done to Archbiſhops and Biſhops is not puniſhable with the Pain of Death, but only ane Arbitrary Puniſhment, how is it poſſible that the 4 Act Parl. 16 *Ja.* VI. ſhould inferr the pain of Death upon the Invaſion, as it is circumſtantiat and lybelled, wherein nothing is lybelled, but that the Archbiſhop was invaded, who was a Privie Counſellour, and not the Qualification that is required by the Act of Parliament, that it was for doing of his Majeſty's Service?

As to that Alleadgance, That the Pannal cannot condeſcend upon any private Ground of Quarrel or other Reaſon why he did invade the Archbiſhop: It is anſwered, if this Alleadgance were ſuſtained, it were contrar to the Act of Parliament lybelled upon, which does not require the Pannal to prove, but ſays that it muſt be tryed and verified, that the Invaſion was for doing of his Majeſties Service; and ſo his Majeſties Advocate muſt prove the ſamen by a clear and poſitive Probation, as a Point in Matter of Fact.

As to that Pretence that the Pannal did glorie that he had committed the Fact and Invaſion lybelled, and indeavoured to juſtifie the ſame, and perſwade others that it was lawful: It is duplyed, That as the ſaids Qualifications are altogether diſowned, ſo they are no ways the Qualifications in Matter of Fact required by the Act of Parliament, *viz.* That the Invaſion and Violence was for doing of his Majeſties Service, which is indiſpenſibly required upon the Reaſons abovementioned, otherways the Act of Parliament ſhould have ſaid no more, but that all Invaſions of his Majeſties Privie Counſellours, or other Officers, ſhould be puniſhed with the pain of Death; whereas the Act of Parliament thought it fit, neceſſar and juſt for all Mens Securitie, that a ſingle Act of Invaſion of any of his Majeſties Officers, however it might be puniſhed *pœna arbitraria*, yet ſhould not import or inferr the pain of Death.

In ſua far as the Dittay is founded upon the Common Law, and that it is *Aſſaſinum*, in which *Conatus & attentatum habentur pro crimine conſummato:* It is anſwered, the Dittay is no ways relevant, becauſe it is not founded upon any Law or Act of Parliament of this Kingdom. And the Common *Roman* Law cannot be the Foundation of criminal Dittays, whereby to draw in Hazard the Lives of any of his Majeſties Subjects. Likeas there is clear, expreſs and poſitive Acts of Parliament to the contrar, as the 48 Act of Parl. 3 *Ja.* Act 79 Parl. 9 *Ja.* 4. Declaring that the Laws of no other Realm are to be regarded, eſpeciallie whereupon to found Criminal Indytments. And albeit by the Common Law *Conatus in homicidio* eſpeciallie where it was *homicidium delictum*, and deſigned to be committed *proditorie & per inſidias* was puniſhed as *Crimen Conſummatum*; yet all Lawyers agree, as may appear by *Julius Clarus*, Queſt. 102, *Farm.* Queſt. 80. and by the Authorities by them cited, That by the general Cuſtom of all Nations, *in omni genere homicidii affectus conatus & attentatum* is not puniſhable *pœna ordinaria delicti*, and ſo cannot inferr a capital Puniſhment or pain of Death, as is concluded in this Indytment. As to that Pretence that the Cryme lybelled is the Cryme of Aſſaſination, in which *Nudus conatus* is ſufficient, eſpeciallie *ſi devenerit ad actum proximum:* It is anſwered, *Primo*, That all Lawyers agree in this, that *crimen Aſſaſinii* is only where a Perſon does hyre or conduce another to commit the ſame *interveniente pretio.* And for which *Julius Clarus*, § *Aſſaſinium*, where he ſo deſcryves the Cryme. And *Matheus de Criminibus* does ſo deſcryve the ſame, and does expreſslie aſſert that unleſs Money or Reward interveen, the Cryme of Aſſaſination cannot be committed, where the Words are, *Credideram tamen niſi merce certa & ſceleri propoſita & conſtituta fuerit ſive in ſpecie ſeu corpore ſive in pecunia numerata non poſſe enim videri aſſaſinium.* And there is no Lawyer extant did ever otherways deſcryve the Cryme; and there is great Reaſon why Money or Reward ſhould be conſidered in the Conſtitution of this Cryme, becauſe the Law did conſider the Cryme with Reſpect to the Hazard; and the Hazard lay where Perſons were hyred or conduced by Infidels giving Money or other Reward to kill Chriſtians. And albeit even in the proper Cryme of Aſſaſination it ſelf in ſome particular Nations, where the ſaid Cryme was too frequent, as in *Italie*, *Conatus* is puniſhable: Yet *Julius Clarus* in the ſame §. and others does maintaine, that by the general Cuſtome of moſt Nations, in the preciſe Cryme of Aſſaſination, *Conatus ſeu attentatum* is not puniſhable with the Pain of Death. But the Pannal has no Reaſon to inſiſt upon this; the Matter of Fact lybelled being no ways the Cryme of Aſſaſination, but only that which Lawyers call a Deſign to commit Murder *proditorie & per inſidias.* In which all agree, that by the Cuſtom of all Nations *Conatus faciendi non reputatur pro facto.*

As to that Point of the *Dittay* founded upon the Mutilation of the deceaſt Biſhop of *Orkney*, conform to the 28 Act Parl. 3 *James* IV. It is anſwered, that denying that the deceaſt Biſhop of *Orkney* was mutilate ſo, albeit it could be proven, it cannot inferr the pain of Death; *Firſt*, becauſe it is clear by the ſaid Act of Parliament, that it is not in the Caſe of Mutilation, but Demembration. And it were a ſtrange Imagination to think that if a Partie were mutilate, or loſt a Finger, that the pain of Death could be inferred. And there is a great difference betwixt Mutilation and Demembration: Mutilation being onlie ane Inabilitie or Privation of the Uſe; whereas Demembration is the intire Loſs of the Member. And it is a Principle in Law, that Acts of Parliament, eſpeciallie *in caſu criminale & capitale*, cannot be extended *de caſu in caſum etiam ex veritate vel paritate rationis*; and that *Cortici verborum adherendum eſt & Caſus omiſſus habetur pro omiſſa.* And here there is no Paritie of Reaſon, both the Prejudice and Deformitie being far greater in Demembration than Mutilation.

And whereas it is pretended, That though the Pannal's Confeſſion had been *elicite ſub ſpe impunitatis*, that yet it is not ſufficient whereupon to liberate from capital Puniſhment, becauſe a Judge cannot remitt a Cryme: And that *Boſſius* and others are clear, That notwithſtanding of any ſuch Confeſſion upon Promiſe of Impunitie, yet a Judge might and ought to condemn *ad pœnam ordinariam delicti*; it is anſwered, The Pretence does not eleid the Defence, becauſe, ſuppoſing it ſhould be proven that the Confeſſion was *elicite ſub ſpe veniæ*, and upon Aſſurance of Lyfe: Such a Confeſſion ſo elicite, cannot be a Ground whereupon to violate the Faith and Impunity given; and far leſs can ſuch a Confeſſion (though any could be proven) being retracted be conſidered as a Confeſſion: And as to which Law and Lawyers are very clear and poſitive. The Law is, *Lex.* 3. *Cod. de Cuſtode reorum*, and Lawyers, as may appear by *Matheus de Criminibus*, *Queſt.* 16. where his expreſs Words are, *Quærunt an Confeſſio promiſſa Impunitate & ſpe veniæ elicita ſufficiet ad condemnandum? Reſpondendum, Non ſufficiere, tametſi enim in Judiciis poteſtate non ſit promittere impunitatem adeoque ex promiſſione non obligatur, tamen dolo extorta eſt, & per hanc fraudem etiam Innocentes illaqueari poſſunt.* And *Boſſius* in that Title *De Confeſſis*, after he has ſtated the Caſe, reſolves it thus, *Tutius tamen eſt ut dicamus requirere perſeverantiam & eſt ex mente Doctorum & cum ratione quin negari non poteſt quin talis Confeſſio ſit obumbrata*, and ſays, it were againſt Humanitie it ſelf to condemn *ad pœnam ordinariam delicti* in ſuch a Caſe. And *Julius Clarus*, cited be his Majeſties Advocate, ſayes, *Ego non condemnarem ad mortem*, and which is indeed the conſtant and irrefragable Opinion of all Lawyers, and Practice of all Criminal Tribunals. And whereas it is pretended, that *Julius Clarus* ſubjoins theſe Words, *Niſi aliis indiciis ſit gravatus*, and his Majeſties Advocat condeſcends upon ſeveral Preſumptions: It is anſwered, that if his Majeſties Advocat will lay aſide the Confeſſion, and adduce ſuch a preſumptive Probation, whereupon the Pannal may be condemned, then he may plead the Benefite of that Qualification: But the Preſumptions condeſcended upon any remote Conjectures, and no ways concluding;

cluding; and the Pannal after the alleadged committing of the Fact, did return and live peaceablie for several Years, and denys the Fact, and cannot otherways be convict thereof. And if any pretended Confession should be made use of, either *per se*, or in *modum adminiculi*, it cannot be divided from the Qualitie under which it was granted, which the Pannal offers to prove, was upon expres Assurance. And whereas it is pretended, that the granting of ane Assurance and Impunitie is upon the Matter a Remission which no Inferior Judge can grant, but that notwithstanding he may and ought to condemn; it is answered, *Primo*, it will appear by the Probation of what Character and Qualitie the Granter of the Assurance was.

2*do*. Lawyers do not consider whether a Judge *poteſt veniam concedere*, or remitt a Cryme: But a Confession being *elicite ſub ſpe veniæ*, is not a full and absolute Confession, but a qualified, and cannot be made use of, and the Qualitie not performed and made good. And it were a Prejudice to Publick Interest, and a way to preclude the Ingenuitie of all Confessors, if notwithstanding of the Interposition of Publick Faith and the granting of Assurances, and the eliciting of Confessions *ſub ſpe veniæ*, these Confessions might be made use of, and the Qualitie and Condition upon which it was emitted altogether neglected, which is downright inconsistent with the Opinion of Lawyers and the Practices and Customs of Criminal Judicatories.

As to what is pretended, that though this Confession be not emitted before the Lords of Justiciarie, yet it was not extrajudicial or revocable, because it was deliberatlie given, and before a Committee, who had Authoritie from the Lords of his Majesties Privie Council: It is answered, this Point is of extraordinarie Importance and Consequence, as to the Lives and Fortunes of his Majesties Subjects, and as to the Lords of Justiciarie and the Procedure of the Inquest, who are Judges to the Probation; and therefore it is represented in behalf of the Pannal, That admitting any pretended Confession should be produced, yet if it was not emmitted before the Lords of Justiciarie, it is not a judicial, but ane extrajudicial Confession, *& ſidem non facit*, as to the Probation of the Cryme. As to which, *Primo*, There is an universal Concord in the Opinion of all Lawyers, and in the Practice and Customs of Criminal Judicatories, and as to which the Lords of Justiciarie are desyred to cast their Eye upon all who have written upon this Point. And as *Clarus* says, *Non invenies diſſentientem in Mundo*; and it is strange that all Lawyers and the Custom of all Nations should have hallucinat in this Point. For which the Pannal's Proctors cites *Julius Clarus*, *Queſt.* 55. *Farin. Queſt.* 81. and many others.

2*do*. Lawyers are likeways clear, that Confessions emitted *Coram Judice competente ſed non ſedente pro Tribunali* is but ane extrajudicial Confession, and much more where it is *Confeſſio emiſſa coram Judice incompetente*. And when the Question is, who is to be repute *Judex incompetens*; it is positivelie resolved, That *omnis Judex* is *incompetens* who could not proceed *ad Condemnandum*, as to the Cryme anent which the Confession is emmitted. And certainly though any Confession were produced emmitted before a Committee of the Lords of Privie Council, they have no criminal Jurisdiction so as to proceed *ad condemnandum in crimine capitale*; that being clear by *Craig. dieg.* 8. that *ex eorum Statutis nec periculum vitæ, hæreditatis aut omnium fortunarum ſubire poſſe*. And whereas it is urged that the Lords of Privie Council have a mixed Jurisdiction, and may proceed be way of Precognition *& per modum Inquiſitionis*, and may resolve doubtful Cases and qualifie Sentences: It is answered, That it is not denyed but the Lords of Privie Council have and doe very well deserve that Jurisdiction; but as to criminal Jurisdiction in capital Crymes, it is only competent to the Lords of Justiciary: And the Precognitions, or previous Inquisitions, tend not *ad Condemnationem*, but only as to this, whether to stop or remit to the Lords of Justiciarie. And nothing is considered as a judicial Confession, but where there is *formatus proceſſus*, and where a Partie is called *coram Judice competente*, and is *ſub inſtante periculo vitæ*, and knows that the infallible Import of his Confession is to that very Effect for his Condemnation, none of which can be pretended where the Confession is emmitted *coram Judice incompetente ad Condemnandum*.

And whereas it is alleadged, That a Confession in the Opinion of Lawyers cannot be retracted, unless the Party could *docere de errore*, and purge his Innocencie, and did it *ex incontinenti*: It is answered, the Alleadgance is groundless; for though Confession were emmitted *coram Judice competente pro Tribunali*, it might be retracted *ex incontinenti* if he were able *docere de errore*: And there is no Lawyer ever required it in other Terms. But where the Confession is emmitted *coram Judice incompetente fidem non facit quoad probationem delicti*, and may be retracted either *ex incontinenti* or *ex intervallo*, and without shewing of any Error or purging of Innocence, such Confessions in Law amount not to any Probation, no more than as Lawyers argue if the Depositions of Witnesses taken in *uno Judicio* would *fidem facere* either in *Caſu civile aut criminale in alio Judicio*. And certainly there is less Reason for Confessions where Parties disown the same, and retracts them if emmitted; and much more here where the pretended Confession was *elicite ſub ſpe veniæ*, so far was the Pannal from thinking that the emmitting of this Confession was in order to Condemnation, speciallie seeing it neither is, nor can be proven, that the said pretended Confession was so much as judiciallie given in face of Privie Council, where his Grace the Duke of *Lauderdale*, being then his Majesties Commissioner, was present: And though it were, the Pannal's Proctors will not debate the Import of his Grace's Commission, but remitts the same to the Commission it self, in Case it be offered to be proven, that the Confession was emmitted before him and the Lords of Privie-Council.

And whereas it is alleadged that the Act, 9 Parl. King *James* VI. ordaining all Probation to be led in Presence of the Assyse does not concern the Case, and is misunderstood, seeing here the Confession will be produced in Presence of the Assyse: It is answered, The Act of Parliament is clear to the Contrar, and can admit of such Interp etation. For albeit the Narrative of the Act of Parliament was onlie *cauſa impulſiva*, and the Statutorie Part of the Act of Parliament is clear and positive, that all Probation should be adduced in presence of the Assyse, who are Judges of the Probation. And of all other Probation there is the greatest Reason that the verie Act of Confession should be in presence of the Assyse, who are Judges to the Probation, and who are to proceed upon Oath, and whose Consciences are to be satisfied and instructed as to the Way, Manner, Conditions and Terms whereupon such Confessions were elicite; all which are concealed where there is nothing produced to them but a Confession taken without their Presence, especiallie seeing the Pannal alleadges and offers to prove that several Points of Fact and other Particulars, were condescended upon and declared, none of which are mentioned in this pretended Confession; all which should have been insert, and could not be divided, as being in *Articulo connexo*.

And whereas it is pretended that Decreets pronounced before Lords of Session, is *Probatio probata*; whereupon Assysers may and ought to condemn: It is answered, the Argument is *in materia diſparata*, and does not concern the Matter of Confession, and is only in the special Case of Falshood, and that upon a special Reason, becaus the Investigation of Falshood depended upon a Tryall and Concourse of many and violent Presumptions, which may require a long Tract of Tyme and Examination of Parties and Witnesses. It were impossible that such Tryalls could be adduced before ane Inquest; these depending several Years many tymes before the Session before they can be brought to a close: And therefore Law and Custom in that Case has sustained a Decreet of the Lords of Session as a Probation *in Judicio criminali*; but it is absolutlie denyed that it would in any other Cryme. And certainlie if the Cryme of Theft were persued civillie before the Lords of Session *ad damnum et intereſſe*, though the Theft should be proven or confest before the Lords of Session, it would not *fidem facere in Judicio criminale*, as is evident by the Authoritie of Lawyers who agree, that *acta probatoria in uno proceſſu fidem non facit in alio*: Nay, which is more, *acta probatoria in uno proceſſu fidem non facit in alio proceſſu coram eodem Judice*. And as to the Instance of the *Practiq*; of *Mac Nabb*, the Pannal oppones the same, wherein there were Depositions of Witnesses; and though many tymes in the Adjournal-Bookes, the Cases of Confessions emitted has been obtruded, yet it cannot be instanced that ever the Lords of Justiciarie did by Interloquitor sustaine the same as Probation; but on the contrar it does appear in the Case of *Fraſer*, in the Year 1641, That Sir *Thomas Hope* being then his Majesty's Advocate, declared, that a Confession emitted before a Shirref Depute, who has a Criminal Jurisdiction in some Cases in the Terms allowed by Law, and who beyond all doubt is Judge competent *per modum Inquiſitionis*; yet so convinced was he, that it was ane extrajudicial Confession, that he only insisted therein *in modum adminiculi*, and joyned it with the other Probation mentioned in that *Practiq*; which was *per ſe* convincing and sufficient: As also since his Majesty's happy Restauration in the Case of one *Robertſone*, allthough the Confession was emitted before one of the Lords of Justiciarie and his Majesty's Advocate for the tyme; yet he was so convinced of the Insufficiencie of the same, that after it was produced *per modum probationis*, he took up the samen even in that State of the Proces when the Assyse was sworn. And as to the Instance of Divinitie in *David*'s Practice, it does not concern the Point of Law, and cannot be made appear that the Partie retracted his Confession; and it is a *Practiq*; that either *nimium* or *nihil probat*. In respect whereof, *&c.*

The Lords Commissioners of Justiciarie continue the advising of this Debate till the Nynth Day of this Instant, at two a Clock in the Afternoon; and ordaines Assysers and Witnesses to attend ilk Person under the Pain of ane hundreth Merks.

The said Day *John Grahame* Post-master, *Patrick Grahame* his Brother, ——— *Keith* of *Ludguharne*, *Matthew Colvill* Writer in *Edinburgh*, *Alexander Levingſtoune* Ensigne to Captain *Wynrhame*, *Walter Kennoway* Merchant in *Edinburgh*, *James Fletcher* of *New Cranſtoun*, *John Achmoutie* Ensigne to the Castle of *Edinburgh*, being ofttymes called to have compeared before the Lords Commissioners of Justiciarie this Day and Place in the Hour of Cause to have past upon Mr. *James Mitchel*'s Assyse, as they who were lawfully cited to have made their Appearance for the Effect foresaid, lawfull tyme of Day bidden, and they nor none of them enterand nor appeirand; The Lords Commissioners and Justiciarie therefore, be the Mouth of *Gibert Mair*, Macer of Court, decerned and adjudged, the forenamed Persons, and ilk ane of them, to be in ane Unlaw and Amerciament of ane hundreth Merks *Scots*, which was pronounced for Doom.

Curia Juſticiariæ S. D. N. *Regis tenta in Prætorio Burgi de* Edenburgi, *Nono die Menſis* Januarii, 1678, *Per honorabiles viros Dominos* Archibaldum Primrose *de* Caringtoun *Juſticiarium Generalem*, Jacobum Fouclis *de* Colintoun, Robertum Nairn *de* Strathurd, Joannem Lockhart *de* Castle-hill, Davidem Balfour *de* Ferret, & Thomam Murray *de* Glendoick, *Commiſſionarios Juſticiariæ dicti* S. D. N. *Regis*.

Curia legittime affirmata.

Intran' Mr. James Mitchel Prisoner.

INDYTED and Accused for the Crymes of Assasination, invading of Privy Counsellours, Ministers and others, *ut in die precedente*.

Pursuer,	Proctors in Defence,
Sir *George Mac Kenzie* of *Roſehaugh*, our Soveraign Lord's Advocate.	Sir *George Lockhart*. Mr. *John Elcis*. Mr. *John Stewart*.

The Lords Commissioners of Justiciarie having considered the *Dittay* and Debate relating thereto, find that Article of the *Dittay* founded upon

upon the fourth Act, 16 Parl. King *James* VI. bearing the Pannal's invading by ſhooting and fyring of a Piſtol at his Grace the Archbiſhop of St. *Andrews*, a Privie Counſellour, for doing of his Majeſty's Service, relevantlie lybelled, his Majeſty's Advocate proveing the Preſumption in his Replye, *viz.* That the Pannal ſaid that he did make the ſame Attempt and Invaſion becauſe of the Archbiſhop his perſecuting thoſe that were in the Rebellion at *Pentland*, or ſome Words to that purpoſe, relevant to inferr the Paine contained in the forſaid Act of Parliament, and remitt the ſame to the Knowledge of ane Aſſyſe.

And likewiſe find that part of the *Dittay* anent the invading of Biſhops and Miniſters, relevant to inferr ane arbitrary Puniſhment, and remitt the ſamen to the Knowledge of an Aſſyſe.

And ſiclike that Article of the *Dittay* anent the invading, wounding and mutilating of the Biſhop of *Orkney*, relevant to inferr ane arbitrary Puniſhment, and remitt the ſamen to the Knowledge of ane Aſſyſe.

And alſo having conſidered that part of the Debate anent the Pannal's Confeſſion made and emitted before ane Committee appointed be Authoritie of Council to receive it, and thereafter adhered to and renewed in Preſence of his Majeſty's high Commiſſioner and Lords of Privie Council conveened in Council, find it is Judicial and cannot be retracted.

And alſo having conſidered the Debate and Defence againſt the ſaid Confeſſion, *viz.* That the ſame was emitted upon Promiſe or Aſſurance of Impunitie of Lyfe and Limb, find the ſamen relevant to ſecure the Pannal as to Lyfe and Limb, reſerving to the Commiſſioners of Juſticiary to inflict ſuch arbitrary Puniſhment as they ſhall think fit, in caſe the Defence ſhall be proven, and remitts the ſamen to the Knowledge of ane Aſſyſe.

A S S I S A.

——*Gordon* of *Cairneborrowe.*
David Burnet, Merchant in *Edinburgh.*
James Wood at the *Colledge Port*, Chan.
David Forſyth, Taylor.
Robert Campbel, Apothecary.
Captain *Andrew Dick.*
David Bruce, Gentleman.
John Hay of *Baro.*
Thomas Comlie, Vintner.
Mr. *Alexander Achmoutie*, Enſigne.
Capt. *John Binning*, Vintner.
Alexander Levingſtone, Enſigne.
William Steinſon younger, Merchant.
Charles Scot of *Bonnietoun.*
Peter Wiſhart, Lieutenant.

The Aſſyſe lawfullie ſworn, no Objection in the contrar.

His Majeſty's Advocate for Probation adduced the Pannal's own Confeſſion, with the Witneſſes after deponing; of the whilk Confeſſion, the Tenor followes.

Edinburgh, 10 February 1674. *In Preſence of the Lord Chancellor, Lord Regiſter, Lord Advocate, and Theſaurer Depute, Mr.* James Mitchel, *Priſoner, being called, did freelie confeſs he was the Perſon who ſhot the Piſtol at the Archbiſhop of St.* Andrews, *when the Biſhop of* Orkney *was hurt thereby, in the Year* 1668, *and depones upon Oath, that no living Creature did perſwade him to it, or was upon the Knowledge of it.* Sic ſubſcribitur,

James Mitchel. John Niſbet.
Rothes. Ch. Maitland.
A. Primroſe.

Maſter *William Paterſon*, Advocate, purged of partial Counſel, and ſolemnly ſworn, depon's, he met a Man with a Piſtol in his Hand in *Black-frier Wynd*, immediatlie after the Piſtol was ſhot at the Archbiſhop, but knows not the Pannal, nor if he was the Perſon that ſhot. And this is the Truth, as he ſhall anſwer to God.

Will. Paterſon, A. Primroſe, J. p. d.

Patrick Vanſe, Keeper of the *Tolbuith* of *Edinburgh*, purged of partial Counſel, and ſolemnly ſworn, depon's, That a Day or two before or after the Pannal was examined be the Council, he confeſt to the Deponent, that he ſhot a Piſtol at the Archbiſhop of Saint *Andrews*, and eſcaped down *Black-frier Wynd*, and went up the *Cowe-gate* and into Mr. *Robert Ferguſon*'s Houſe, and patt on a Pirivick, and then came to the Street and ſearched for the Man that ſhot the Piſtol. Being demanded if he heard Mr. *James Mitchel* juſtify the Deed; he depon's, he remembers it not. *Sic ſubſcribitur,*

P. Vanſe, A. Primroſe, J. p. d.

Mr. *John Vanſe*, Son to the Keeper of the *Tolbuith*, purged and ſworn: Being interrogate, if he heard the Pannal acknowledge the Deed of ſhooting at the Biſhop, or defend it, depon's, That being in Conference with the Pannal in the Priſon-houſe, he inquired at him how he or any Man could be acceſſorie to ſo impious ane Act, as to kill a Man in cold Blood who had not wronged him; he ſaid it was not in cold Blood; for the Blood of the Saints was reiking at the Croſs of *Edinburgh. Sic ſubſcribitur,* *John Vanſe, A. Primroſe*, J. p. d. Com.

John Biſhop of *Galloway*, being purged of partial Counſel, ſworn and examined, depon's, That the firſt tyme he ſaw the Pannal was in Sir *William Sharp*'s outter Roume, where he ſaw a Piſtol, which was ſaid to be taken from him, out of which (as he ſuppoſes) there were three Balls taken; and that the Piſtol was like to the Piſtol produced. Depon's, that at that tyme the Pannal did not confeſs any Guilt, but ſeemed to be in a great Conſternation, and fell a trembling. And that the Deponer hearing that he had made a Confeſſion, went to Priſon to ſpeak to him about it, who acknowledged to the Deponent, that he had made Confeſſion of that Attempt againſt the Archbiſhop before the Chancellor, and ſome others of the Council; and that he had hopes of Lyfe, and deſired the Deponent to interceed for him. And the Deponer having aſked him how he could do ſuch a Deed againſt ane innocent Man: He anſwered, that he thought him ane Enemy to the Godlie, and that they could not be in Securitie ſo long as he was alive. And the Deponer having inquired of him if he was ſorry for it; he did not ſay he was ſorry for it, but if it were to doe again he would not do it. And this is the Truth, as he ſhall anſwer to God. *Sic ſubſcribitur,*

Jo. Gallovidien, A. Primroſe, J. p. d.

Doctor *Chriſtopher Irvin*, purged of partial Counſel, and ſolemnly ſworn, depon's, That he was the firſt Chirurgeon that came to the Biſhop of *Orkney* after he receaved the Shot, and that he did ſee a Ball fall out of his Sleeve, ſo that he knew that it was with a Shot, and that the Bones were fractured, and that they cured him ſo as he was able to lift his Hand towards his Head; but there was ſtill Scales coming out of the Orifice of the Wound. Depon's, the Biſhop ſaid he got the Wound when he was laying his Hand upon the Archbiſhop's Coach. *Sic ſubſcribitur,*

Irvin, A. Primroſe, J. p. d.

John Joſſie, Chirurgeon, purged, ſworn and examined, depon's, That he was called to the Biſhop of *Orkney*'s Cure, and that he had a Wound betwixt the Wreſt and the Elbow, which did caſt out ſeveral ſmall Bones at the two ſmall Orifices; and that the Biſhop was not able to lift his Hand towards his Head. *Sic ſubſcribitur,*

Joſſie, A. Primroſe, J. p. d.

William Borthwick, Chirurgeon, purged of partial Counſel, ſolemnly ſworn and examined, depon's, conformis to *John Joſſie* in all things. *Sic ſubſcribitur,* *Will. Borthwick.*

John Earle of *Rothes*, Lord High Chancellor of *Scotland*, being ſworn, and the Confeſſion under Maſter *James Mitchel*'s Hand being ſhown to him, depon's, he was preſent and ſaw Mr. *James Mitchel* ſubſcryve that Paper; and depones that he heard him make the Confeſſion contained therein, and that he thereafter heard him ratify the ſame at the Council-Bar, in preſence of the King's Commiſſioner and Lords of Privie Council ſitting in Council, and that his Lordſhip ſubſcryved the ſaid Confeſſion. Depones, that his Lordſhip the Advocate, and Theſaurer Depute, were appointed by the Privie Council to examine Mr. *James Mitchel.* And being interrogate, if after they had removed the Pannal to the Council-Chamber, whether or not his Lordſhip did offer to the Pannal upon his Confeſſion to ſecure his Lyfe in theſe Words, Upon his Lordſhip's Lyfe, Honour and Reputation: Depones, that he did not at all give any Aſſurance to the Pannal for his Lyfe; and that the Pannal never ſought any ſuch Aſſurance from him: And his Lordſhip does not remember that there was any Warrand given be the Council to his Lordſhip for that effect; and if there be any Expreſſions in any Paper which may ſeem to inferr any thing to the contrary, his Lordſhip conceaves it has been inſert upon ſome Miſtake. *Sic ſubſcribitur,* *Rothes, A. Primroſe*, J. p. d.

* *Charles Maitland* of *Hatton*, Lord Theſaurer Depute, being ſworn, and the Confeſſion under Mr. *James Mitchel*'s Hand being ſhewen unto his Lordſhip, depon's he was preſent when Mr. *James Mitchel* made that Confeſſion, and his Lordſhip firſt heard him make it verballie, and then he ſaw him ſubſcryve it; and that his Lordſhip ſubſcryved it alſo, and at that tyme there was nothing ſpoken of any Aſſurance: But when the Pannal was aſked by ſome of the Committee, upon what Account he committed that Fact; he ſeemed at firſt unwilling to anſwer, but thereafter ſaid, it was becauſe the Archbiſhop is ane Enemie to the good People or Godlie People in the Weſt. Depon's, that within few Days thereafter, at a Meeting of the Council, where the Duke *Lauderdale* then his Majeſty's Commiſſioner was preſent, the Pannal being brought to the Bar, and the Confeſſion produced being ſhewen to him, he acknowledged the ſame to be his Hand Wrytt; adhered unto and renewed the ſame in preſence of his Majeſty's Commiſſioner and Council: And depones that he did not hear the Pannal either ſeek Aſſurance of his Lyfe, or any other Perſon offer the ſame to him. *Sic ſubſcribitur,*

Ch. Maitland, A. Primroſe, J. p. d.

John Duke of *Lauderdale*, being ſworn, depon's, That his Grace was preſent, as the King's Commiſſioner in Council, when Mr. *James Mitchel* was brought to the Bar. Depon's his Grace ſaw the Pannal's former Confeſſion made at the Committee of Council ſhewen to him, and he acknowledged it to be his Confeſſion, and that he did adhere thereto and renew the ſamen in preſence of his Grace and the Council. His Grace heard no Aſſurance given to him, and that his Grace did not give him any Aſſurance, nor gave Commiſſion to any others to give him any Aſſurance, and could not do it, having no particular Warrand from his Majeſty for that effect. *Sic ſubſcribitur,*

Lauderdale, A. Primroſe, J. p. d.

James Archbiſhop of Saint *Andrews*, being ſworn, depon's, That that Day that the Pannal did fire a Piſtol at his Grace, he had a View of him paſſing from the Coach and croſſing the Street, which had ſuch Impreſſion upon his Grace, that upon the firſt ſight he ſaw of him after he was taken, he knew him to be the Perſon who ſhot the Shot. Depon's, his Grace ſaw him at the Council-Bar in preſence of his Majeſty's Commiſſioner and the Council acknowledge his Confeſſion made before the Committee, and heard him adhere thereto and renew the ſamen; and that there was no Aſſurance of Lyfe given him, nor any ſought be him there. Depon's, that his Grace himſelf did never give him any Aſſurance, nor give Warrand to any others to do it; only he promiſed at his firſt taking, that if he would freelie confeſs the Fault, and expreſs his Repentance for the ſame at that tyme, without farder troubling Judicatories therein, his Grace would uſe his beſt Indeavour to favour him, or elſe leave him to Juſtice: But that he either gave him Aſſurance, or gave Warrand to any to give it, it is a falſe and malicious Calumny; and that his Grace made no Promiſe to *Nicoll Somervel* other than that it was beſt to make a free Confeſſion. And this is the Truth, as he ſhall anſwer to God. *Sic ſubſcribitur,*

St. *Andrews, A. Primroſe*, J. p. d. Com.

The Pannal, Mr. *James Mitchel*, after ſwearing of the Aſſyſe, produced ane Copie of ane pretended Act of Council, and craved that the

* *See* State-Trials, Vol. VIII. p. 430.

Regiſter of Council containing the ſaid Act might be produced. And after the Examination and Depoſitions of the Witneſſes upon the *Dittay* and Exculpation, the Pannal and his Proctors farder urged, that the Regiſter of Council might be produced. Seeing the Pannal produced ane Inſtrument againſt Mr. *Thomas Hay*, one of the Clerks of Council, for giving ane Extract thereof; and the Pannal and his Proctors alledged, that the Regiſter of Council containing the ſaid Act was produced in Court the Day before, and that the ſaid Act was read by ſeveral Members of Court; and being once produced, and ane Inſtrument taken againſt one of the Clerks of Council, who with the other Clerk were cited as Witneſſes be his Majeſty's Advocate, the Clerks ought to be ordained either to give ane Extract or produce the Regiſter containing the forſaid Act; and the Pannal and his Proctors deſyre to be heard in Wrytt upon the ſaid Act of Council.

His Majeſty's Advocate anſwers, That he was not obleidged to produce a Regiſter for the Pannal; and if any ſuch pretended Act was, he ſhould have uſed a Diligence and cited the Clerks of Council for producing of the Regiſters, or giving ane Extract; which the Pannal not having done, he cannot be allowed a Diligence in this State of the Proceſs. And if any ſuch Act of Council was, it was unwarrantable and could not be made uſe of, after the Lord Chancellor, the Duke of *Lauderdale*, the Lord Theſaurer Depute, and other Lords of Council had deponed that there was no ſuch Aſſurance given, as is either pretended by the Exculpation, or inſinuate by the pretended Act of Council. And be the Copie produced it is evident, That the Deſigne thereof is to take from the Pannal any pretended Favour he pleads; and if the Act be founded one, it cannot be divided; ſo that ane meer Narrative muſt prove, and the Statutorie Words ſhould not prove; eſpeciallie ſeeing there is nothing more notour and ordinary, than for the Council not to conſider a Narrative if the Statutory Words be Right. And as the Pannal pretends that his Confeſſion cannot be divided from the Aſſurance given, but that it muſt be taken with the Qualitie; ſo much leſs muſt this Act be divided. And the pretended Act is long poſterior to the Pannal's Confeſſion, and even poſterior to a former Dyet in the Juſtice Court appointed for the Pannal's Trial for the ſaid Cryme. And farder, no ſuch Aſſurance could have been granted, ſeeing none but his Majeſty can grant Remiſſions.

The Pannal and his Proctors deſyred the Copie produced to be read.

His Majeſty's Advocate conſents to the Reading of the pretended Copie of the Act of Council, and which being publicklie read, is of the Tenor following.

Edinburgh, 12 *March*, 1674.

'THE Lord Commiſſioner his Grace, and the Lords of his Majeſty's Privie Council having appointed a Committee of Council to examine Mr. *James Mitchel*, Priſoner in the *Tolbuith* of *Edinburgh*; the ſaid Mr. *James* being brought before the ſaid Committee, did make a free and voluntarie Confeſſion of his Acceſſion to the Rebellion, and riſing in Arms in the Weſt; and that after he had Notice of the ſame, he went from *Edinburgh* with Colonel *Wallace* and others, and joyned with the Rebels there, and from thence came along, and was with them until the Night before the Fight at *Pentland-hills*; and that at the Deſyre of Captain *Arnot*, he came then to *Edinburgh* to ſpeak to ſome Perſons there concerning them. And being examined upon the Attempt made upon the Perſon of the Archbiſhop of St. *Andrews*, and who ſhot the Piſtol at the ſaid Archbiſhop, when the Biſhop of *Orkney* was hurt in the Moneth of *July* 1668, he did declare that at that tyme, and the Day that the ſaid Attempt was made he was in the Town of *Edinburgh*; and that he had bought the Piſtol, which was about him charged with three Balls when he was apprehended, about that tyme when the Biſhop was ſhot, from *Alexander Logan*, Dager-maker in *Leithwynd*: But refuſed that he was the Perſon that made the ſaid Attempt, until having retired a pace with one of the ſaid Committee, he did confeſs upon his Knees that he was the Perſon, upon Aſſurance given him by one of the Committee, as to his Lyfe, who had Warrand from the Lord Commiſſioner and the Council to grant the ſame. And did thereafter confeſs freelie, before all the Lords that was upon the ſaid Committee, That he ſhot the forſaid Piſtol at the ſaid Archbiſhop, and did ſubſcryve his Confeſſion in Preſence of the ſaid Committee, which is alſo ſubſcryved by them. And thereafter the ſaid Mr. *James* in preſence of the Commiſſioner his Grace and Council, did renew and adhere to the ſaid Confeſſion, both as to the Acceſſion to the Rebellion and the Attempt forſaid; and acknowledged he made the ſaid Attempt becauſe he thought that the ſaid Archbiſhop had ane Hand in troubling and perſecuting theſe that were in the Rebellion. And nevertheleſs, being brought before the Lords Commiſſioners of the Juſticiarie, and aſked if he did own the Confeſſion forſaid, he did altogether refuſe to anſwer and adhere to his ſaids Confeſſions, notwithſtanding he was told by the Lords Commiſſioners of Juſticiarie and his Majeſty's Advocate, that if he would adhere to his ſaids Confeſſions, he ſhould have the Benefite of the ſaid Aſſurance; and if otherways, that he ſhould loſe the ſame. Therefore the Lord Commiſſioner his Grace, and the Lords of his Majeſty's Privie Council, do declare, That they are free, and that the ſaid Mr. *James* ought not to have the Benefite of any ſuch Promiſe or Aſſurance, and that the ſame is altogether void; and that the Lords of the Juſticiarie and the Aſſyſe ought to proceed without any Reſpect to the ſame. And farder do declare, That the ſaid Mr. *James Mitchel* is the Perſon intended and meaned in the Proclamation in the Years 1666 and 1667, diſcharging any Intercomoning with the Rebels therein mentioned, and excepting the ſaid Mr. *James*, and the other Perſons therein, from his Majeſty's Favour and Indempnitie, and no other under the Name of Mr. *James Mitchel*, though there had been any other of that Name involved in the ſaid Rebellion.'

The Pannal and his Proctors renew their Deſyre, and crave to be heard to debate upon the Act of Council in Wrytt.

The Lords Commiſſioners of Juſticiarie conſidering that the Copie of the pretended Act of Council produced was never urged, nor made uſe of, nor any Diligence craved for producing the Regiſters of Council, until this Afternoon that the Aſſyſe was ſworne, after which no Diligence can be allowed nor granted in this State of the Proceſs be the Law of the Kingdom, and Practique of this Court; eſpeciallie ſeeing it appears be the ſaid Copie, that the Deſigne was to take away any Aſſurance that the Pannal could have pleaded; and that the Truth of the Narrative of the Copie founded upon inſinuating that there was ane Aſſurance, is cancel'd be the Depoſitions of the Duke of *Lauderdale*, then his Majeſty's Commiſſioner, the Lord Chancellor, and other Members of the Committee and Council: The ſaids Lords therefore ordaine the Aſſyſe to incloſe and return their Verdict to Morrow at Two a Clock in the Afternoon.

Curia Juſticiariæ S. D. N. *Regis tenta in Prætorio Burgi de* Edenburgo, *Decimo die Menſis* Januarii, 1678, *Per honorabiles viros Dominos* Archibaldum Primroſe *de* Carringtoun *Juſticiarium Generalem*, Jacobum Foulis *de* Colintoun, Robertum Nairn *de* Strathurd, Joannem Lockhart *de* Caſtle-hill, Davidem Balfour *de* Ferret, & Thomam Murray *de* Glendoick, *Commiſſionarios Juſticiariæ dicti* S. D. N. *Regis*.

Curia legittime affirmata.

The ſaid Day the Perſons who paſt upon the Aſſyſe of Maſter *James Mitchel*, returned their Verdict in preſence of the ſaids Lords: Whereof the Tenor followes.

As to the firſt part of the Lybell, founded upon the 4 Act, 16 Parl. King *James* VI. The Chancellor and whole Aſſyſe, with one Voice, find it proven conform to the Lords Interloquitor.

As to the Invading of Biſhops and Miniſters, and Wounding the Biſhop of *Orkney*, ſiclike proven with one Voice.

As to the third part of the Lords Interloquitor concerning his Confeſſion, firſt before a Committee, and thereafter before his Majeſty's High Commiſſioner and Council, the whole Aſſyſe with one Voice find it proven conform to the Lords Interloquitor.

As to the fourth and laſt part of the Interloquitor concerning the Exculpation, the whole Aſſyſe with one Voice find it no ways proven. And furder concerning the Exculpation, when the Pannal was preſſing it ſtronglie upon my Lord Chancellor, the whole Aſſyſe heard his own Confeſſion and Acknowledgment of the Fact. *Sic ſubſcribitur*,

Jo. Hay, Chancellour.

After opening and reading of the whilk Verdict of Aſſyſe, the Lords Commiſſioners of Juſticiarie, by the Mouth of *Adam Auld*, Dempſter of Court, Decerned and Adjudged the ſaid Mr. *James Mitchel* to be taken to the *Graſs Mercat* of *Edinburgh*, upon *Fryday* the Eighteenth Day of *January* Inſtant, betwixt Two and Four a-Clock in the Afternoon, and there to be Hanged on ane Gibbet till he be Dead, and all his Moveable Goods and Gear to be Eſcheat and inbrought to his Majeſty's Uſe; which was pronounced for Doom. Upon which Day he was Executed according to the Sentence.

He had prepared a Speech, which he intended to have delivered, but being interrupted by the beating of Drums he threw it over the Scaffold; it was as follows.

Chriſtian People,

IT being rumoured abroad immediately after I had received my Sentence, that I would not get liberty to ſpeak in this Place, therefore I have not prepared a formal Diſcourſe and account of theſe pretended crimes, for which I was accuſed and ſentenced, neither did I think it very neceſſary, the fame of your proceſs having gone ſo much abroad, what by a former enditement given me near four Years ſince, the dyet whereof was ſuffered to deſert in reſpect the late Advocat could not find a juſt way to reach me, with that extrajudicial confeſſion they opponed unto me. All know he was zealous in it, yet my charity is ſuch unto him, that he would not ſuffer unwarrantable zeal ſo far to blind him, as to overſtretch all Lawes of the Land beyond their due limits, in prejudice of the life of any natural Subject, and next by an extreame enquiry of torture, and then by exiling me to the Baſs, and after all, giving me a new enditement at the inſtance of the new Advocat, who before was one of mine, when I received the firſt enditement, to which new enditement and debate in that proceſs I remit you, and particularly to theſe two defences of extrajudicial confeſſion, and to the promiſe of Life given to me thereupon by my Lord Chancellor, upon his own, and the publick faith of the Kingdome, upon the verity whereof I am ready to die, and conſent to lay down my Life. And I hope, your Charity will be ſuch to me (a dying Man) as not to miſconſtruct me therein, eſpecially when it is ſo notourly adminiculat by an Act of the Secret Council, and yet denyed upon Oath by the Principal Officers of State, preſent in Council at the making of the ſaid Act, and which the Act bears to have been preſent thereat; the Duke of *Lauderdale* being then his Majeſty's Commiſſioner, and which Act of Council was by the Lords of Juſticiary their Interloquitor moſt illegally repelled; but I ſhall have charity to ſome of theſe Lords, whom I knew would have given Law and Juſtice place, even as to my juſt abſolution, if they had not been overpowered by the plurality of Votes of thoſe who were over-awed and dared by the Lords of the Secret Council. But that will not abſolve their Conſciences at the laſt Day. As to my Advocats and Lawyers, I ingenuouſly acknowledge their Care, Fidelity and Zeal in my Defence, and which, I hope, ſhall be ſome ſtanding Fame to them for this, and all future Generations. So thus

thus much as a ſhort account of that Affair, for which I am brought unjuſtly to this Place. But I acknowledge my particular and private Sins have been ſuch, as have merited a worſe death unto me: But I die in the hope of the Merits of Jeſus Chriſt to be freed from thoſe eternal Puniſhments due to me for Sin; yet I am confident, God doth not plead with me in this for my private and particular Sins; but I am brought here, that the work of God may be made manifeſt, and for the Trial of Faith, *Joh.* ix. ver. 3. and 1 *Pet.* i. ver. 7. and that I may be a witneſs for his deſpiſed Truth and Intereſt in this Land, who am called to ſeal the ſame with my Blood. And I wiſh heartily that this my poor Life may put an end to the Perſecution of the true Members of Chriſt in this Kingdom, ſo much cheated by theſe perfidious Prelates, and in oppoſition to whom, and in teſtimony of the cauſe of Chriſt, I at this time willingly lay down my Life. And I thank God, that he hath thought me ſo worthy as to do the ſame for his Glory and Intereſt. Finally, conceiving it a Chriſtian Duty in a ſingular and extraordinary caſe anent my particular Judgment concerning both Church and State, it is evidently declared and manifeſted more fully elſewhere. So farewel all earthly enjoyments, and welcome Father, Son, and Holy Spirit, into whoſe Hands I commit my Spirit.

JAMES MITCHEL.

LXXIII. *The Trial of* Philip *Earl of* Pembroke *and* Montgomery, *at* Weſtminſter, *for the* Murder *of* Nathanael Cony, *the 4th of* April, 1678. 30 Car. II.

ABOUT Nine of the Clock the Priſoner with his Guard came from the Tower, with the Ax before him, and went into the Room appointed for him. Between the Hours of Eleven and Twelve at Noon, the Lords, Judges, and Aſſiſtants of the Houſe, came in Order, two and two, from the Houſe of Lords, to the Court erected in *Weſtminſter*-Hall, with four Maces before them, and before the Lord High-Steward four more, beſides his own Serjeant and Purſe-bearer, with Garter King at Arms, and the Deputy Black-rod bearing the White Staff. After Obeiſance made to the Throne, each Lord, and the others, took their places, the Serjeants, with their Maces erect, kneeling, four on each ſide of the Throne.

Then the Clerk of the Crown in Chancery on the right hand, and the Clerk of the Crown in the King's-Bench on the left hand, making three Reverences to the Lord High-Steward, came up to his Seat, and there both kneeling, the Clerk of the Crown in Chancery delivered the Commiſſion for the Office of High-Steward (*pro hac vice*) to his Grace, who delivered it to the Clerk of the Crown in the King's Bench to read, and then they both in the ſame manner went back to their Seats at the Table.

Then the Clerk of the Crown in the King's-Bench ſaid as followeth:

Clerk of the Crown. Serjeant at Arms, make Proclamation.

Serjeant at Arms. O yes, O yes, O yes! My Lord High-Steward of *England* ſtraitly chargeth and commandeth all manner of Perſons here aſſembled, to keep ſilence, and give ear to his Majeſty's Commiſſion, unto my Lord High-Steward his Grace directed, upon Pain of Impriſonment.

Then all the Peers and Aſſiſtants ſtanding up, and uncovered, he read the Commiſſion in *hæc verba.*

Clerk of the Crown. Carolus, &c.

Serjeant. God ſave the King.

Then Garter and the Uſher that held the Staff, making three Reverences to his Grace, Garter on his Knees preſented him the White Staff, which his Grace delivered to the Uſher, who likewiſe kneeled to hold the ſame, during the reſt of the Ceremony.

Clerk of the Crown. Serjeant at Arms, make Proclamation.

Serjeant. My Lord High-Steward of *England* his Grace ſtraitly chargeth and commandeth all manner of Perſons here preſent, to be uncovered, upon pain and peril ſhall fall thereon.

Then the Clerk read the *Certiorari* to the Commiſſioners, before whom the Indictment was found, to return the ſame into the Houſe of Lords with the Return in *hæc verba.*

Clerk of the Crown. Carolus, &c. *Virtute*, &c. Serjeant at Arms, make Proclamation.

Serjeant. O yes! Conſtable of the Tower of *London*, return thy Precept and Writ to thee directed, and bring forth thy Priſoner *Philip* Earl of *Pembroke* and *Montgommery*, on pain and peril ſhall fall thereon.

The Conſtable of the Tower of *London* being a Peer, by Sir *John Robinſon* his Lieutenant returned his Precept, and with the Ax borne on his left hand, the edge from him, the Earl of *Pembroke* was brought to the Bar: the Lord High-Steward of *England* having then ordered the Judges to be covered, ſpake to the Priſoner as followeth:

† *Earl of* Nottingham.

† *Lord High Steward.* My Lord of *Pembroke*, Your Lordſhip is now brought before this Great Aſſembly in order to your Trial, wherein you have to maintain all that can concern you in this World, your Eſtate, your Honour, and your Life itſelf. There is no leſs a Crime charged on you, than the Murder of one of the King's Subjects; and this is not charged on you by common Voice and Fame, nor by the growing Rumour of the Multitude, but by the Grand Inqueſt of this County, which was made up of Gentlemen of good Quality and Conſideration. Though all this amount to no more than a bare Accuſation, (for God forbid that they who neither did nor could hear the Evidence on both ſides, ſhould any way prejudge your Trial by their partial Examination) yet hath produced the Preſentment of ſuch a Crime, as is attended with extraordinary and unuſual Circumſtances.

And now for this Fact your Lordſhip is to be tried in full Parliament, and your Arraignment is to be made as full and as ſolemnly as is poſſible. The King (who will have a ſtrict account of the Blood of the meaneſt of his Subjects, by whomſoever it is ſhed) hath for this purpoſe appointed an High-Steward: and now your Lordſhip is to be tried not by a ſelect number of Lords, but by the whole Houſe of Peers, who are met together to make Inquiſition for this Blood.

Doubtleſs the ſhame of being made a Spectacle to ſuch an Aſſembly as this, and the having a Man's Faults and Weakneſſes expoſed to the notice and obſervation of ſuch a Preſence as this is, to a generous Mind muſt needs be a Penance worſe than Death itſelf; for he that outlives his own Honour, can have very little joy in whatſoever elſe he lives to poſſeſs.

In ſuch a ſtate and condition as this is, it will be very fit for your Lordſhip to recollect yourſelf with all the care and caution you can; it will be neceſſary for you to make uſe of the beſt temper, and the beſt thoughts you have, when you come to make your defence; let not the diſgrace of ſtanding as a Felon at the Bar, too much deject you; no man's credit can fall ſo low, but that if he bear his Shame as he ſhould do, and profit by it as he ought to do, it is in his own power to redeem his reputation. Therefore let no man deſpair, that deſires and endeavours to recover himſelf again, much leſs let the terrors of Juſtice affright you; for though your Lordſhip have great cauſe to fear, yet whatever may be lawfully hoped for, your Lordſhip may expect from the Peers.

It is indeed juſt cauſe of dreadful apprehenſions, when you conſider how ſtrict and impartial the Judicature is which you ſtand before, and how impoſſible it is that any Conſideration of your Lordſhip's Relation or Family, ſhall have any kind of Ingredience into their Lordſhips' Judgment; nay, you have cauſe to fear all this will make againſt you, when you conſider how the Quality of the Offender doth aggravate the Crime.

You have reaſon to fear and be diſmayed again, when you conſider how ſevere, and how inexorable the Rule of Law is, in the Caſe of Blood; and how certain it is that the Lords will make that Rule of Law the meaſure of your Life or Death: But yet, my Lord, there are other Conſiderations that may ſupport you.

Your Lordſhip may be ſure that they will receive no proof againſt you, but direct and poſitive Evidence; it will not be left to any proof, but ſuch Proof as by th emaniſeſt plainneſs of it deſerves to be called Evidence. In the next place, your Lordſhip ſhall ſuffer no prejudice for want of Counſel, for where there are any advantages that the Law can give you, this Court takes itſelf obliged in Honour to put you in mind of it; nor can your Lordſhip ſuffer an Inconvenience, by having Counſel to plead againſt you, for no Arguments nor Skill can pervert their Lordſhips' Juſtice; you ſhall not fall by the charms of Eloquence; nothing ſhall load or preſs you but your own Crime; and even that burden may be alleviated, if there be any room for an Abatement, ſo far as it doth not contradict what they owe to the King, to themſelves, to the Law, and to the Juſtice of the Kingdom.

Hearken therefore (my Lord) to your indictment with patience and attention, give no Interruption to the Counſel or Witneſſes that ſpeak againſt you, and reſerve what you have to ſay for yourſelf 'till the time come, when your Witneſſes ſhall be examined, and you make your Defence, of which I will give you notice. And this you may rely upon, that when you do come to ſpeak for yourſelf, you ſhall be heard with as much favour and candor as the matter will bear; and when my Lords have heard all that can be ſaid on both ſides, doubtleſs their Lordſhips will give ſuch a Judgment in the Caſe, as is fit for you to receive, ſuch a Judgment as becomes this great Court, and ſuch a Judgment as is ſuitable to that known Equity, which their Lordſhips do always obſerve in all their Proceedings.

Lord High-Steward. Read the Indictment to my Lord.

Clerk of the Crown. Philip Earl of *Pembroke* and *Montgomery*, hold up your Hand.

Which he obeyed by holding up his Right Hand.

Cl. of Cr. *You ſtand indicted by the Name of* Philip *Earl of* Pembroke *and* Montgomery, *late of the Pariſh of St.* Martin's in the Fields, *in the County of* Middleſex, *for that you not having the Fear of God before your Eyes, but being moved and ſeduced by the Inſtigation of the Devil, the 4th of* February, *in the 30th Year of the Reign of our Sovereign Lord* Charles *the Second, by the Grace of God, of* England, Scotland, France, *and* Ireland, *King, Defender of the Faith*, &c. *with Force and Arms, at the Pariſh aforeſaid, in the County aforeſaid, in and upon one* Nathanael Cony, *Gent. in the Peace of God, and of our ſaid Sovereign Lord the King, then and there being, feloniouſly, voluntarily, and of your Malice forethought, did make an Aſſault; and that you the ſaid* Philip *Earl of* Pembroke *and* Montgomery, *with the Right Fiſt of you the ſaid* Philip, &c. *the ſaid* Nathanael Cony, *in and upon the left Part of the Head of the ſaid* Nathanael Cony, *then and there feloniouſly, wilfully, and of your Malice aforethought, did ſtrike and bruiſe him the ſaid* Nathanael Cony, *with your Right Fiſt aforeſaid, did beat and throw down to the Ground; and that you the ſaid* Philip, &c. *the ſaid* Nathanael Cony *ſo lying upon the Ground, in and upon the Head, Neck, Breaſt, Belly, Sides and Back, of him the ſaid* Nathanael Cony, *then and there feloniouſly, wilfully, and of your Malice before-thought did ſtrike and kick, by reaſon of which ſaid kicking and bruiſing of the ſaid* Nathanael Cony *on the ſaid Left part of the Head of the ſaid* Nathanael Cony *with the ſaid Fiſt of you the ſaid* Philip, &c. *and of the beating and throwing him*

to the Ground aforesaid; and also by reason of kicking of the said Nathanael Cony, *with the said Feet of you the said* Philip, *&c. on the Head, Neck, Breast, Belly, Sides and Back of the said* Nathanael, *he the said* Nathanael Cony, *from the aforesaid 4th Day of* February *in the aforesaid Year, to the 10th of the same Month of* February; *in the Parish aforesaid, did languish, and languishing did live; on which said 10th Day of* February *in the Year aforesaid, he the said* Nathanael Cony, *of the striking and bruising, beating and kicking died; and so you the said* Philip, *&c. the said* Nathanael Cony, *at the Parish aforesaid, in the County aforesaid, in manner and form aforesaid, feloniously, voluntarily, and of your Malice forethought, did Kill and Murder, against the Peace of our said Sovereign Lord the King, his Crown and Dignity. How say you,* Philip *Earl of* Pembroke *and* Montgomery, *Are you guilty of this Felony and Murder whereof you stand indicted, or Not Guilty?*

E. of Pemb. Not Guilty.

Cl. of Cr. Culprit, How will you be tried?

E. of Pemb. By my Peers.

Cl. of Cr. God send you a good Deliverance. Serjeant at Arms, make Proclamation.

Serj. O yes, if any one will give Evidence for our Sovereign Lord the King against *Philip* Earl of *Pembroke* and *Montgomery*, the Prisoner at the Bar, let them come forth and they shall be heard, for the Prisoner stands at the Bar upon his Deliverance.

Then Sir *William Dolben*, Knt. the King's Serjeant at Law, Recorder of the City of *London*, opened the Indictment thus:

Sir *William Dolben.* May it please your Grace my Lord High-Steward of *England*, and the rest of my Noble Lords.

Philip Earl of *Pembroke* and *Montgomery* stands indicted, for that he, the 4th Day of *February* last, in the Parish of St. *Martin's in the Fields*, in the County of *Middlesex*, of his malice forethought did make an Assault upon one *Nathanael Cony*, in God and the King's peace there being; and that he the said *Philip* Earl, *&c.* with his right Fist, on the left part of the Head of the said *Nathanael*, then and there feloniously did strike and bruise, and with his right Fist aforesaid him did cast and throw down to the Ground, and being so on the Ground, with his Feet did kick and strike, of which said striking, bruising and kicking, the said *Nathanael Cony*, from the said 4th of *February* to the 10th of *February* following, did languish and then died; and so the Jurors do upon their Oaths say, That the said *Philip* Earl of *Pembroke*, &c. the said *Nathanael Cony*, at the Parish and County aforesaid, feloniously, wilfully, and of his malice forethought, did murder, against the King's Peace, his Crown and Dignity. To this Indictment the Earl of *Pembroke* hath pleaded Not Guilty, and put himself upon his Peers for his Trial: We who are of Counsel for the King, shall produce our Evidence to confirm this Accusation: with what it is, and of what nature, his Majesty's Attorney-General will acquaint your Grace, and the rest of you my Noble Lords.

Then Sir *William Jones*, Attorney-General (who being called by Writ, as Assistant to the House, was within the Bar), opened the Evidence to this effect.

Att. Gen. May it please your Grace my Lord High Steward of *England*, and the rest of my Noble Lords; *Philip* Earl of *Pembroke* and *Montgomery* stands here Indicted for the Murder of *Nathanael Cony*: That my Lord of *Pembroke* was the cause of his death, I humbly conceive, will need very little question before your Lordships, for we have such proof that it was his hand threw him down, and his feet that trod upon him and kicked him, which was the cause of his death, that it cannot be denied: But whether or no this killing amount to Murder, may be a matter of further controversie; and I hold it my duty to acquaint your Grace and my Lords, what the proof is, and then what we have to offer to prove it to be an offence even of this nature.

My Lords, I know to maintain an Indictment of Murder, there must be a proof of Malice; but the Law is plain (your Lordships know, and my Lords the Judges will tell it you) that there are two sorts of Malice; the one is Malice express'd, and that is when a Man can be proved to have borne before-hand an ill-will and hatred to the person he killed; this sort of Malice we pretend not to be in this case: But there is another sort of Malice, which also in Law gives the denomination of Murder to the killing of a Man, which is Malice implied, when any one shall without any provocation given by the Party slain, bring another by violence to his Death: For our Law supposeth, and that upon good Ground, that no Man without a provocation would kill his Brother, unless he had Malice to him before-hand; and that is the Malice that falls out to be the Ingredient of this case, for the poor unfortunate Gentleman that was killed, did not for ought that did appear to me (and I have had all the proof given at the Coroner's Inquest under my Examination), give the least provocation to this noble Lord. Some have thought that a person might be guilty of malicious Murder, though the party killed had given the Murderer a blow; but I shall not contend for so strict a construction of a Provocation, for there was not in this case a blow struck, no nor an angry word given: All that I can find came from Mr. *Cony* was, to complain that a friend of his that came into the Company with him, was turned out of doors; and sure such a thing will never be taken to be a Provocation, at leastwise such a one as will take away Malice implied. I shall now (my Lord) give your Lordships an account of the nature of our Evidence, as to the Fact, and that (my Lords) in short; for as I shall not use any aggravation above what the Cause requires, so I shall not tire your Grace and my Lords with any long Speech, but barely open the Evidence, and tell you in short what will come in proof before you.

It was on *Sunday* the 3d of *February*, that my Lord of *Pembroke* and his Company were drinking at the House of one *Long* in the *Hay-Market*, (I am sorry to hear the Day was no better employed by them) and it was the misfortune of this poor Gentleman, together with one Mr. *Goring*, to come into this House to drink a Bottle of Wine; my Lord of *Pembroke* saw them coming in, and knowing Mr. *Cony*, was very importunate with him to join Company: He at first refused, because of his Friend, and told his Lordship they had Business together; but no denial he would take, and so at last they did go into my Lord's Room. After some distance of time, when it was near twelve of the Clock at Night, there fell out a difference between my Lord and Mr. *Goring* (the Gentleman that came in with Mr. *Cony*), who (it seems) gave my Lord of *Pembroke* some Words which provoked him to express his distaste of them, by throwing a glass of Wine in his Face; which injury Mr. *Goring* so far resented, as that he was about to draw his Sword, but was prevented by some of the Company, and put out of the Room to avoid further mischief. This Gentleman Mr. *Cony* that was killed, was not at all concerned in the matter of the difference, but only desired to go out of the Room, that he might look after his Friend, who was thrust out of doors, he knew not why (without any Provocation, as you will hear by and by). My Lord of *Pembroke* falls upon him, strikes him with one blow to the Ground, and when he was there trod upon him on his Back, on his Belly, on his Side, and kicked him so that the poor Gentleman fell into a Swoon, and was after some time with some difficulty brought to himself again: After they had perceived there was Life in him, they lifted him up, and laid him down on some Chairs that were in the Room, and thinking too much had been done by them already, they take their leaves of him, and commit him to the care of the Drawer. He was not (as it should seem) so carefully attended by the Drawer, whose ignorance could not look after him as his condition required, and so fell down off the Chairs again divers times. After some time, early in the morning he was carried away in a Sedan to his own Lodging, and being there put to Bed, as he grew a little more and more recovered out of his stupefaction, so he grew more and more in pain, and sent for Doctors and Chirurgeons to consult with, by whom he had all the means used that was possible to have saved his Life; but it proved there was so much Blood forced out of his Veins, and gathered into one Place of his Body, by those Blows and Bruises, that he could not be recovered, and so after a Week's time passed in intolerable pain, died: But yet all the time of his dying, and even constantly to his death, he did complain that it was my Lord's Bruises brought him into that condition. It will also be prov'd, that after his death, upon view of the Body by the Coroner and his Jury, there was the appearances of those Blows and Abuses, by broad Bruises in several parts of the Body, and this some of the Jury will testify. This in short is the matter of the Evidence, which we shall briefly prove, and then submit it all to your Lordships Judgment.

L. H. St. Call the Witnesses together, and speak out, Mr. Attorney.

At. Gen. Those we shall call first are Mr. *Henry Goring*, Mr. *Richard Savage*, Mr. *John Shelly*, and Capt. *Fitz-Patrick*.

Cl. of Cr. The Evidence which you and every one of you shall give for our Sovereign Lord the King, against *Philip* Earl of *Pembroke* and *Montgomery*, the Prisoner at the Bar, shall be the truth, the whole truth, and nothing but the truth: So help you God.

L. H. St. Mr. Attorney, whom do you begin with?

At. Gen. Mr. *Henry Goring*.

L. H. St. Stand forward, *Goring*.

At. Gen. Pray, Sir, acquaint my Lords of the manner of your coming with Mr. *Cony* to Mr. *Long*'s, and what happened there.

L. H. St. Sir, you must speak so loud that I may hear.

Goring. May it please your Grace, Mr. *Cony* and I did on *Sunday*, the 3d of *February* last, dine in the City, we staid very late there, and I must ingenuously confess, we had drank more than was fit for us to have done; after that (if it please your Grace) I offered to set down Mr. *Cony* at his Lodgings, but he was so very ceremonious, that he would see me at home; it seems *Long*'s House, the Tavern in the *Hay-Market*, was in the way, and Mr. *Cony* would needs have us drink another Bottle of Wine ere we parted: It was late, and the door shut, but we knocking pretty hard for admittance, did get it opened, and as soon as the door was opened, Mr. *Cony* went towards the Bar, and made some noise, being in drink; my Lord of *Pembroke* was then in a low room in the House, and knowing Mr. *Cony* (as I thought), came and asked him if he would come in and drink with him; he replied, My Lord, I am with a Friend, and we have some Business together: At length my Lord asked me very civilly to come in, and we did after some time come in; and when we were in, my Lord drank to me, as I remember, and we stood round the Table a while, and at last sat down in some Chairs, for we were not so much ourselves as to be able to stand all the while; then there was, it seems, some Dispute between my Lord of *Pembroke* and me, wherein my Lord did conceive I had done him some injury, and threw a Glass of Wine in my Face.

Att. Gen. What kind of Discourse was that, pray, Sir?

Goring. Truly (may it please your Grace) I cannot remember all the Discourse, because I was so much in drink at that time; they say, it was about Families and Play, I cannot positively say what it was; but after my Lord of *Pembroke* rose up to draw his Sword, and I laid my hand on mine.

Att. Gen. Well, Sir; and what followed then?

Goring. Captain *Savage* stept in between my Lord and me, and the Drawer came bustling about, and took me and shoved me out of the room; while I was thrusting out I heard a noise behind me, and I saw my Lord make somewhat towards Mr. *Cony*; but more I cannot say what was done, because Mr. *Savage* was between my Lord and me. When I was out of the room, I found my Sword gone, and my Hat and Periwig; I then made a noise at the door, and would not go away 'till I had recovered my things; the Man of the House (who was in bed, it seems, for he was then undrest and in his Night-gown) came and asked me what was the matter? I told him, I had been in that room with my Lord of *Pembroke*, where I had received some ill usage, and had lost my Hat and Periwig; and they had broken a piece of my Sword, and taken it from me, which I desired to have again; and (said I) Mr. *Cony*, I doubt, is in danger, for there is quarrelling within, and I desired to come in to see what they did with him.

Att. Gen. Well, Sir, when you came in, what then?

Goring. Upon this, the Master of the House did desire me to go into a room, and a Gentlewoman (his Sister, as I after understood) did also press me to go into another room, and promised they would bring Mr. *Cony* to me; upon which I went into a Room there by, but it was something long before I heard from them; and being under some Impatience, they at last came and told me, Now, Sir, you may go in, if

you

you pleaſe: When I came in, I found a Gentleman lying along upon the Chairs, and no Body elſe in the Room; I began to be ſuſpicious (for I was then, as I thought, ſomewhat ſoberer) that he had ſome Wound, and took the Candle and walked about him, and would fain have awakened him, but could not by all my Endeavours; the Drawer told me, he was only dead-drunk, and would in a little time come to himſelf; upon which I deſired them to lay ſome Blankets upon him, and ſome Pillows under him, and ſet ſome more Chairs, to make the Place broader, that he might not fall down, and I ordered the Drawer to be ſure to watch with him till he awaked, and make a good Fire, which he promiſed to do.

The next Day Mr. *Cony* ſent to my Lodging to come and ſee him; but I did not that Day, becauſe I did go out early, and did not return till late; but the very next Day after (being *Tueſday*), when I came to him, *Harry* (ſaid he), I was very much abuſed the other Night in my Lord's Company; I am ſorry for that (ſaid I) with all my Heart; and I aſked him, how he came to be abuſed; My Lord of *Pembroke* (ſaid he) threw me down, and there ſome Body trod upon me and kicked me, and he ſhall know that he has abuſed me, and that I expect Satisfaction for it. I hope you will let him know ſo much, and carry him a Challenge from me: Mr. *Cony* (ſaid I), who did tread upon you? I know not (ſaid he), for I was in a Swoon; either my Lord of *Pembroke*, or ſome of his Creatures for him. I never had the Honour to know my Lord of *Pembroke* before, nor above one or two of the Gentlemen that were with him then in the Company.

Att. Gen. Sir, had you any Diſcourſe with him afterwards?

Goring. Yes, every Day till *Thurſday* at Night.

Att. Gen. Did he complain of much Pain?

Goring. Yes, conſtantly in his Belly, his Sides, and his Shoulders.

Att. Gen. What did he tell you was the Cauſe of his Death?

Goring. He ſaid it was my Lord of *Pembroke* that had done him the Injury in throwing him down; who trod on him, or kicked him, he could not tell, but ſaid, my Lord ſhould anſwer for it to him.

Att. Gen. Do you remember what Part he complained of moſt?

Goring. His Belly.

Att. Gen. And what elſe?

Goring. I think his Sides and Shoulders.

Att. Gen. What Diſtance of Time was it between your being thruſt out of the Room, and your coming in, and finding him upon the Chairs?

Goring. About Half an Hour.

L. H. St. Mr. *Goring*, you ſay you ſaw no Stroke given by my Lord of *Pembroke* to Mr. *Cony*?

Goring. No, truly, may it pleaſe your Grace; I ſaw my Lord make towards him, but Mr. *Savage* was between my Lord and me, and I was put out of the Room.

L. H. St. You did not hear Mr. *Cony* charge my Lord with kicking him, or ſtamping on him?

Goring. He did not in my Hearing charge him with ſtamping on him, but that he threw him down, and that then ſome one did kick him.

Att. Gen. My Lords, we have done with this Witneſs.

L. H. St. My Lord of *Pembroke*, will your Lordſhip pleaſe to aſk that Witneſs that ſpoke laſt any Queſtions, for now is your time?

E. of P. No, my Lord.

Att. Gen. Then we deſire Mr. *Savage* may be examined: Mr. *Savage*, pray do you acquaint his Grace and my Lords what you know of this Buſineſs.

Savage. May it pleaſe your Grace, I was in Company with my Lord of *Pembroke* at Mr. *Long*'s Houſe in the *Hay-Market*, when Mr. *Cony* came in, and making a great Noiſe at the Bar, my Lord of *Pembroke* being in a lower Room, looked out at the Door, and ſeeing who it was, my Lord ſaluted him very kindly, and told him he was glad to ſee him, and deſired him to walk into his Room. Mr. *Cony* told him he had a Friend at Door, and deſired his Lordſhip to admit him, which my Lord embraced very kindly: And then Mr. *Cony* goes to the Door and calls Mr. *Goring*, deſiring him to come in, and they came together into the Room; my Lord deſired them to ſit down and drink a Glaſs of Wine, which they did, and after ſome time falling into Diſcourſe, Mr. *Goring* began to make uſe of ſome impertinent Language to my Lord, and amongſt the reſt told him he was as good, or a better Gentleman than he was.

Att. Gen. *Goring* did?

Savage. Yes, *Goring* did; upon which my Lord threw a Glaſs of Wine in his Face, and immediately ſtept back and drew his Sword: Mr. *Goring* was going to draw, but I came up to him, and took his Sword from him, and broke a Piece of it, and upon my Perſuaſion my Lord put up his Sword again; but for Fear there might be more Words, I took Mr. *Goring* in My Arms, and ſhoved him out of the Room: And whilſt I was thruſting him out of Doors, I heard a Noiſe of a Buſtle behind me, and leaving the Drawer to keep Mr. *Goring* out, I ſaw my Lord of *Pembroke* ſtrike *Cony* with his right Hand, who immediately fell down, and then gave him a Kick; and ſo upon that, finding him not ſtir, I took Mr. *Cony*, being on the Ground (I and my Lord together, for I was not ſtrong enough to do it myſelf), and laid him on the Chairs, and covered him up warm, and ſo left him.

Att. Gen. You ſay, my Lord ſtruck him a Blow?

Savage. Yes, he did ſtrike him.

Att. Gen. On what Part?

Savage. I ſuppoſe on the Face.

Att. Gen. You ſay, Sir, my Lord of *Pembroke* did kick him when he was upon the Ground?

Savage. Yes.

Att. Gen. Did he kick him once, or oftener?

Savage. But once, that I ſaw.

Att. Gen. Pray, Sir, on what Part was it?

Savage. Somewhere on the Body, but I cannot tell what Part.

Att. Gen. With what Force did his Leg move?

Savage. Not with a very great Force.

Att. Gen. How high was his Leg lifted up?

Savage. He puſhed his Leg with a quick Motion forward.

Att. Gen. When you took him up he was ſenſeleſs, you ſay? Pray, Sir, how long was it ere he was brought to Life again?

Savage. Two or three Minutes.

Att. Gen. What Means did you uſe to bring him to himſelf?

Savage. We chafed him over the Temples, and ſuch things.

Att. Gen. When he came to Life again, did he ſpeak?

Savage. He did open his Eyes, but did not ſpeak.

Att. Gen. What followed then?

Savage. We laid him upon ſome Chairs gently, for his Pulſe was almoſt gone, that we could feel.

Att. Gen. Did his Eyes continue open after he was revived?

Savage. Not long; for I aſked him if he knew me, he ſeemed to ſhake his Head, as if he did, and then cloſed his Eyes again.

Att. Gen. Before that Accident, what Condition was he in? Was he able to talk?

Savage. He was very drunk, but he did ſay ſomething.

Att. Gen. What Diſcourſe had he before he was ſtruck down?

Savage. I cannot well remember, but I think he propoſed Play to my Lord.

Att. Gen. Why did my Lord ſtrike *Cony*?

Savage. I cannot tell, I was then putting *Goring* out of the Room, and hearing the Noiſe of my Lord's Motion towards *Cony*, I looked back and ſaw my Lord ſtrike him.

Att. Gen. What Language did he uſe to my Lord, to provoke him to it?

Savage. I cannot tell any at all.

Att. Gen. Did you ſee Mr. *Cony* after that time, and what did he then ſay to you?

Savage. I went two Days afterwards to ſee Mr. *Cony*, who told me he was then in a pretty good Condition. He aſked me whether my Lord had ſtruck him? I told him, Yes. Truly, ſaid he, I did not know that my Lord had ſtruck me, but finding myſelf ſo much in Pain, I thought I had fallen, partly through my Drink, and partly through my Fits I uſed to have.

Att. Gen. We (my Lord) have now done with this Witneſs.

L. H. St. My Lord of *Pembroke*, will you aſk Mr. *Savage* any Queſtions?

E. of P. No, My Lord.

L. H. St. Mr. *Savage*, I think you ſay you ſaw my Lord of *Pembroke* kick him once; in your Judgment, was that Kick of ſuch Force as to give any great Bruiſe?

Savage. I did (my Lord) ſee him kick him once, but not with any great Force, as I conceive.

L. H. St. You did not hear Mr. *Cony* complain my Lord had kicked him?

Savage. No; for, as I told your Lordſhip, when I was to ſee him two Days after, he aſked me the Queſtion, and he ſaid he did not know it before.

L. H. St. Mr. Attorney, pray go on with your Witneſſes.

Att. Gen. We ſhall next call Mr. *John Shelly*: Mr. *Shelly*, pray tell his Grace and my Lords your Knowledge in this untoward Accident.

Shelly. May it pleaſe your Grace, I was in the Room at *Long*'s, when Mr. *Cony* and Mr. *Goring* came in; they were both very far in Drink, in ſo much that *Goring* could hardly ſtand, but deſired he might have Leave to ſit down, which he had: Mr. *Goring* in a little time propoſeth Play to my Lord, and my Lord told him, he would throw with him for 500*l.* and was ſending away for the Money; but then Mr. *Goring* would not play: I believe (ſaid my Lord to him) you are an idle Fellow, that you will propoſe theſe things and not purſue them: Upon that Mr. *Goring* tells my Lord, his Name was a better Name than his Lordſhip's, and he a better Gentleman than my Lord: Then my Lord takes ſome Wine, and threw in his Face; hereupon Mr. *Goring* ſteps back, and drew his Sword, and my Lord did the ſame: Captain *Savage* ſteps in between them, and keeps my Lord, while *Goring* was put out of the Room: My Lord then deſired Mr. *Cony* to go out with his Friend: Said he, I do not know upon what Account my Friend is ſent out; whereupon my Lord hit *Cony* a Box on the Ear, and that threw him down.

Att. Gen. Pray, Sir, before my Lord ſtruck him, did not *Cony* give my Lord ſome ill Language?

Shelly. He only ſaid, as I told you before, I know not upon what Account my Friend is turned out of Doors.

Att. Gen. Did you ſee my Lord ſtrike him?

Shelly. Yes.

Att. Gen. Whereabouts?

Shelly. On the Head, with his Fiſt, or his Hand.

Att. Gen. Did he fall at the firſt Blow?

Shelly. Yes.

Att. Gen. Did he afterwards ſay any thing?

Shelly. No.

Att. Gen. Did you ſee my Lord kick him?

Shelly. No.

Att. Gen. Did you ſee my Lord hold up his Foot to do it?

Shelly. Yes.

Att. Gen. How high?

Shelly. A pretty Height.

Att. Gen. Pray what became of the Gentleman afterwards?

Shelly. They took him up in their Arms, and laid him upon ſome Chairs.

Att. Gen. Did you ſee him laid there?

Shelly. Yes.

Att. Gen. Was he ſenſeleſs when he was taken up?

Shelly. Yes.

Att. Gen. What was the Reaſon, do you think, that he did not open his Eyes, and keep them open?

Shelly. Truly, I believe his Drink, as well as the Blows.

Att. Gen. The one as well as the other?

Shelly. Yes.

Att. Gen. What then did they do with him?

Shelly. They laid Blankets upon him, and Pillows under him, and laid him upon the Chairs.

Att. Gen. How many Chairs?

Shelly. As many as reached his Length.

Att. Gen. Who did you leave him in Charge withal?

Shelly. With the Drawer.

Att. Gen. Did he ſpeak between the time of his firſt Fall, and your going away?

Shelly. No.

Att. Gen. Did you see him after?

Shelly. Yes, three Days after.

Att. Gen. What did he then say to you?

Shelly. That he had a Fit, but was pretty well recovered.

Att. Gen. When was it you saw him after that?

Shelly. On the *Saturday* after, and then he told me the same again.

L. H. St. Did he impute any thing to my Lord of *Pembroke?*

Shelly. He said nothing at all to me of the Ground of his Illness, but that which I have told your Grace.

L. H. St. My Lord of *Pembroke*, will your Lordship ask this Witness any Questions?

E. of P. No, my Lord.

Att. Gen. Then We for the King desire to examine Mr. *Fitz-Patrick.* Captain *Fitz-Patrick*, pray tell my Lord High-Steward, and my Lords the Peers, what you know.

Fitz-Pat. My Lord, I was in the Room at *Long*'s with my Lord of *Pembroke*, and my Lord was walking about the Room, and he hears a Noise without, and steps to the Door, where opening the Door half, he saw Mr. *Cony* at the Bar, who was just come in, and seeing my Lord, comes to salute him; my Lord returning into the Room, said to him, Will you come in and join Company? Mr. *Cony* answered, I have my Friend here, my Lord; and brings Mr. *Goring* to my Lord, who saluted him kindly, and desired them both to walk in: Upon which all we that were in the Room stood up, and the Drawer gave them Chairs; after the drinking about of a Glass or two, Mr. *Goring* (both being drunk) said, amongst other Discourse, I will drink, I will play, I will fight with any Man. Who is this Gentleman, said my Lord of *Pembroke*, that I should never hear of, or know him? How, said *Goring*, ('Sblood) not hear of me? My Name is *Goring*, a Name and Family as good as any Gentleman's in *England*. There is no body doubts it, said my Lord. Your Betters, said *Goring*; and then my Lord threw the Wine in his Face; and *Goring* going to draw, was put out of the Room by Mr. *Savage*, and my Lord, upon some Words from *Cony*, struck him down with his Hand.

Att. Gen. What words were those?

Fitz-Pat. When I asked my Lord the Reason why he struck *Cony*, he told me, it was because *Cony* had told him *Goring* should not go out of the Room till he knew the Reason of it.

L. H. St. Did you hear him say so?

Fitz-Pat. No, not I; but my Lord, upon my asking, gave that for the Reason.

L. H. St. What was the Reason?

Fitz-Pat. Because Mr. *Cony* told him, *Goring* should not go out of the Room, till he knew some Reason for it: After my Lord had struck him, I was on the other Side of the Table, and could not see whether my Lord did stamp on him, or kick him; but I saw my Lord's Knee stir, and if he did kick him, he kickt him but once, for we ran in and took him up to lay him upon the Chairs, and taking his Handkerchief out of his Pocket to wipe his Face, we pluckt out of his Pocket with it some false Dice, which we afterwards put into the Hands of Mr. *Long*, to prove that they intended and proposed Play; and after we had laid him on the Chairs, and wrapt him up warm, we left him.

Att. Gen. How was he after he was taken up?

Fitz-Pat. He open'd his Eyes, but being very drunk before, could not keep them open, but shut them again; and we made a Bed for him on the Chairs; and having wrapp'd him up warm, we left him, and ordered the Drawer to make him a Fire.

L. H. St. Did you hear him speak after he was up?

Fitz-Pat. No, my Lord: Mr. *Savage* spoke to him, and asked him, if he knew him; he only lookt on him, and by a turn of his Head seemed to answer him Yes.

L. H. St. On the Oath you have taken, did you hear him speak to my Lord of *Pembroke* at any time before he was struck?

Fitz-Pat. Yes, my Lord, he had spoken before, and I saw his Lips make a Motion towards my Lord, but what he said, I know no otherwise than as I said before.

L. H. St. My Lord of *Pembroke*, Will your Lordship ask this Witness any Questions?

E. of P. No, my Lord.

Att. Gen. We have now, my Lord, done with the Witnesses that were by when the Fact was committed; by all whom your Lordships hear, the Blows were all given by my Lord of *Pembroke*, and in their Company; they are all Gentlemen of Quality, and therefore, I believe, speak the Truth: We will now call some Witnesses that were with the unfortunate Gentleman in his Sickness, whereof one was his Physician, another his Nurse, and others, who were often with him, and after his Death had a View of the Body. These will give your Grace and my Lords an Account, that he died of those Wounds and Bruises he then received; they are these four, Dr. *David Bruce*, Mr. *Thomas Hemes*, Mr. *Charles Jackson*, and *Alice Avery*.

Cl. of Cr. Hearken to me, you four. The Evidence that you and every of you shall give for our Sovereign Lord the King, against *Philip* Earl of *Pembroke*, shall be the Truth, the whole Truth, and nothing but the Truth: So help you God.

L. H. St. Whom do you call first, Mr. Attorney?

Att. Gen. Dr. *Bruce*, my Lord: Pray, Sir, acquaint my Lord High-Steward his Grace, and my Lords the Peers, what you know of Mr. *Cony*'s Sickness, and the Cause of his Death, as you apprehend.

Dr. *Bruce.* May it please your Grace, all that I can evidence in particular of Mr. *Cony*'s Sickness is this: On *Monday* Morning after his being in company of the Earl of *Pembroke*, I was sent for to come to Mr. *Cony*'s Lodgings, and about Ten of the Clock I came; he was then in Extremity of Pain in both Shoulders, so that he could not move, and his Pains were so acute, that he could not admit of touching: Upon the abating of those Pains by my Application the next Day, he then began to complain of Pains in his Belly, but those not so extreme as those in his Shoulders; after some Applications thereto, he complain'd of both, but in a little time was so eased, that he kept well all Night, and till Nine or Ten the next Morning. The next Day, which was *Wednesday*, when I came to see him, I told him of the common Report of his being kickt; he seemed displeased that such a thing should be reported, and throwing down the Bed-clothes, shewed me his Belly, but I could not see any Blemish upon it then, either by discolouring or bruising; I found him indeed very backward in receiving Remedies, but left him then in a hopeful way of Recovery; but I saw him not after, because being sick my self, I could not attend him.

Att. Gen. Did he complain of any Hurt about him then?

Bruce. Only in his Belly.

Att. Gen. Did you then see his Belly?

Bruce. Yes, Sir, for he threw away the Clothes.

Att. Gen. Did you see upon his Breast, or any where else?

Bruce. He did not complain of any Ail there, so I lookt not for any thing.

Att. Gen. What did he complain of when you came first to him?

Bruce. Only his Shoulders.

Att. Gen. And after his Belly?

Bruce. Yes.

L. H. St. Hark you, Doctor, what Day was that you came to look on his Belly, whether he had any Bruises or no?

Bruce. *Wednesday* Morning, my Lord.

L. H. St. And then you say upon your Oath, you saw there no Swelling or Discolouring?

Bruce. None at all, my Lord; I gave it in upon my Oath before the Coroner, and the same I say now.

Att. Gen. We have done with the Doctor, my Lord.

L. H. St. My Lord of *Pembroke*, will your Lordship examine him to any thing?

E. of P. No, my Lord.

Att. Gen. Then there is Mr. *Hemes*; pray, Sir, acquaint my Lords what you know of this Gentleman, Mr. *Cony*, and first pray you tell his Grace when you came to him first.

Hemes. It was on *Monday* Morning after this Accident, about Eight of the Clock.

Att. Gen. Did he send for you?

Hemes. Yes, Sir.

Att. Gen. How did you find him when you came?

Hemes. In great Extremity of Pain, and very sore, complaining of Pains over all his Body, especially on his Shoulders and Buttocks. Then the Doctor, who came in soon after, did apply Plaisters to him, and when he anointed him he was so sore, that he could not endure any one to touch him, nor could we tell how to turn him in his Bed, or how to place him so as to apply the Ointment, but were fain to get a Sheep-skin to wrap him in, and by Pillows, and a broad Joint-stool, raise him up by degrees: I did then look upon his Body, but saw no Swelling or Bruise there.

L. H. St. Did you see his Belly?

Hemes. No, my Lord, but he did complain of an inward Grief there.

Att. Gen. When did he first complain of that?

Hemes. The first Morning when I came.

Att. Gen. What Words did he then use? Tell the very Words he used, if you can remember them.

Hemes. No, Sir, I cannot; but he complained of a great Soreness in his Belly, and an inward Soreness.

Att. Gen. Where, in what part of his Body?

Hemes. In his Belly, I say.

Att. Gen. Well, now go on; How long did you continue with him? How many Days did you come to him?

Hemes. I came to him every Day all along.

Att. Gen. Were you with him till the Day he died?

Hemes. Yes; there was indeed a new Physician sent for, but I saw him all along usually once a Day.

Att. Gen. Did he complain more than once of his Belly?

Hemes. Yes, all along from the first Morning.

L. H. St. Did you see him opened after he was dead?

Hemes. Yes, my Lord.

L. H. St. What can you say as to what you saw on him then?

Hemes. When he was opened, in the lower part of his Belly there was a great deal of Blood gathered together on both the *Hypocondria's*, which is not usual; I cannot tell the Meaning of it, the Physician knows that best.

Att. Gen. Was it congealed black Blood?

Hemes. It was of an ugly Colour.

Att. Gen. What Colour?

Hemes. Of a blackish livid Colour.

Att. Gen. Have you observed it often so in others? Have you used to see People opened at other times?

Hemes. No indeed, not I, but very seldom.

Att. Gen. Well, then, stand down you, for we have done with you.

L. H. St. My Lord of *Pembroke*, have you any thing to say to him?

E. of P. No, my Lord.

L. H. St. Then call your next Witness.

Att. Gen. That is Mr. *Jackson.* Pray you, Sir, tell my Lords what you know of this Business: When were you sent for to Mr. *Cony?*

Jackson. On *Wednesday.*

Att. Gen. What Acquaintance had you with him?

Jackson. I had a very particular Acquaintance with him, and I lookt upon him as a Person of a strong, healthy Constitution, and not subject to any dangerous Distemper; my Acquaintance with him was of twelve Years standing, and therefore I must needs know him pretty well. Upon the *Wednesday*, after this Accident, hearing he was very weak, I went to visit him, and when I came, he told me, he had been troubled with very unusual Swooning, and then fell into one of them, but with some Cordials we revived him again, when we thought all of us he had been dead. The *Friday* and *Saturday* before he died, I was with him all Day; he complained of great Griefs in his Belly; he said, he had great Torment there, and believed he had received some ill Usage lately, which occasioned these Pains.

Att. Gen. From whom had he received it?

Jackson. He was very sparing in telling whom it came from.

Att. Gen. Who did he name?

Jackſon. He ſaid, he was a-drinking with my Lord of *Pembroke*; but he was in ſuch Pains, that I could not aſk him many Queſtions which he would anſwer.

Att. Gen. Where were his Pains?

Jackſon. In his lower Belly, and he had ſometimes ſtrange fainting Fits.

Att. Gen. When did he firſt complain of his Fits to you?

Jackſon. On the *Wedneſday*.

Att. Gen. When did he die?

Jackſon. On *Monday* following.

Att. Gen. Did he complain on *Saturday* of his Belly?

Jackſon. Yes.

L. H. St. What diſcourſe had you further with him?

Jackſon. None but what I tell your Lordſhip, that I can remember.

L. H. St. My Lord of *Pembroke*, have you any thing to ſay to him?

E. of P. No, my Lord.

L. H. St. Who's next then, Mr. Attorney?

Att. Gen. *Alice Avery*, my Lord, who was his Nurſe——Were you attending upon Mr. *Cony* in the time of his Sickneſs?

Avery. Yes, I was.

Att. Gen. Pray tell my Lord your whole Knowledge.

Avery. When he came in on the *Monday* Morning, I found he was very ill, and could not well ſtand: Sir, ſaid I to him, Sure you are very much in Beer; No, ſaid he, I am very ſore, and full of pain: Sir, ſaid I, I believe you have been in ſome bad Company: Yes, ſaid he, I have been in ſome Company, where I have received a great deal of wrong, I am not able to go nor ſtand, I have been beaten and kickt more than ordinary, I was never ſo abuſed in all my Life; and upon his dying Bed he wiſhed to God, he had never been in my Lord *Pembroke*'s Company, for he did think in his Conſcience my Lord had been the death of him.

Att. Gen. Speak that again.

Avery. He wiſhed to God he had never been in my Lord *Pembroke*'s Company, for he did think in his Conſcience that he had been the Death of him.

L. H. St. How long before he died was that?

Avery. About two or three Hours before he died.

Att. Gen. Did he continue ſenſible to the time that he died?

Avery. Yes, to the laſt Minute.

Att. Gen. How often did he complain of his Pain?

Avery. All along from the time he came out of my Lord *Pembroke*'s Company.

Att. Gen. What time did he come home?

Avery. About ſeven or eight of the Clock on *Monday* Morning.

Att. Gen. Where and what part did he complain of then?

Avery. His Sides and all parts about him.

Att. Gen. How often did you diſcourſe with him about his pain?

Avery. Every day divers times, from the time he came home till he died.

Att. Gen. And he ſpoke thoſe Words a little before he died?

Avery. Yes, and often complained of his being abuſed.

L. H. St. My Lord of *Pembroke*, will you aſk this Woman any Queſtions?

E. of P. No, my Lord.

L. H. St. Have you any more Witneſſes, Mr. Attorney?

Att. Gen. Now, my Lord, we ſhall call three more that had a view of the Body after his death, upon the Coroner's Inqueſt, who will give your Grace an Account what appearings of Murder were there viſible; and they are, *Richard Wheeler*, *William Brown*, *Thomas Roberts*.

Cl. of Cr. Lay your Hands on the Book: The Evidence, *&c.*

Att. Gen. Which is Mr. *Brown?* Did you ſee the Body of Mr. *Cony* after he was dead?

Brown. Yes, my Lord, I was one of the Coroner's Inqueſt, which after view of the Body went into another Houſe; but ſome of us ſeeing the Body ſwelled at that rate as it was, and being unſatisfied of the Cauſe, went back again to look upon it, and there I ſaw upon his right Breaſt a great black Bruiſe; and I looked upon the Caul, which was all waſted away; and on his left Side again a great black Spot, and in the bottom of his Belly a quantity of very ill-lookt Blood.

Att. Gen. When was this you ſaw it? what day? how long after his death?

Brown. The day after he died.

Att. Gen. Where did you obſerve any Hurt and Bruiſe upon him beſides?

Brown. As he lay before he was opened, we ſaw him all over ſwelled at a prodigious rate, and black and blue in divers places; ſo that I was unſatisfied till I had ſeen the inward parts, and therefore went up and ſaw what I ſaid before.

L. H. St. Did you know the Gentleman before?

Brown. No, my Lord.

L. H. St. My Lord of *Pembroke*, do you deſire to aſk him any thing?

E. of P. No, my Lord.

L. H. St. Then go on, Sir.

Att. Gen. *Richard Wheeler*, pray tell my Lord what you know.

Wheeler. My Lord, I was ſummoned upon the Jury by the Coroner, and according to my duty I made ſuch an inſpection as I could into the Body; I did obſerve upon his right Breaſt a very black and great Bruiſe, and on the left ſide of his Belly a very black and great Bruiſe, which was indeed of another-guiſe colour than that of ſettled Blood, for I have of my own knowledge had a ſad experience of that kind.

Att. Gen. Did you know the Gentleman before?

Wheeler. Yes, I knew the Gentleman very well, and I had not known him to be the ſame perſon then, but by their deſcription that were about him, for all the parts of his Body were moſt violently ſwelled.

Att. Gen. Did you ſee the ſettled Blood at the bottom of his Belly?

Wheeler. Yes; and as I was informed, that was occaſioned by his being forced to lie on his Back continually, becauſe his pain would not ſuffer him to move: that on the Side, and Ribs, was a perfect Bruiſe.

Att. Gen. Where is Mr. *Roberts?* Did you ſee this Gentleman's Body after his Death?

Roberts. I ſaw the Body after it was opened, and viewed the inward lower parts of the Belly, where there was a quantity of Blood gathered together.

Att. Gen. Was it more black in that part than in others?

Roberts. It was black congealed Blood.

Att. Gen. How broad were the Spots?

Roberts. About the breadth of my hand.

L. H. St. Mr. *Roberts*, did you ſee the left ſide of the Belly bruiſed?

Roberts. Yes, my Lord; and (as I ſaid) in the lower inward parts black congealed Blood.

L. H. St. Was there any ſwelling?

Roberts. Yes, my Lord, very much.

L. H. St. The Doctor that was examined before, ſaid there was no ſwelling nor diſcolouring.

Att. Gen. He did ſo, my Lord; but this was ſeveral Days after that.

L. H. St. My Lord of *Pembroke*, will you examine theſe Men?

E. of P. No, my Lord.

Att. Gen. My Lord, we have but one Witneſs more for the King, and that is Mr. *Charles Cony*, who is Brother of the Gentleman that died, who will give you an account what he ſaid in his Sickneſs; and the Sayings of a dying Man in ſuch circumſtances are remarkable.

Cl. of Cr. *Charles Cony*, hearken to your Oath. The Evidence, *&c.*

Att. Gen. Now, Mr. *Cony*, tell his Grace and my Lords the occaſion of your Brother's Sickneſs and Death.

Cony. May it pleaſe your Grace, on *Monday* the 4th of *February* I was ſent for by my Brother, about nine of the Clock in the morning, to come to ſpeak with him, but not believing his buſineſs to be urgent, deferred my going; the Meſſenger immediately comes back again, and tells me my Brother was exceeding ill: As ſoon as I came, I found him almoſt dying, his Eyes ſet, and he extremely ill, but we recovered him in a little time: whilſt he complained of great pain, I examined what might be the cauſe, and where he had been laſt night (for I underſtood he came not home till morning) and in what company. And when I was told of my Lord of *Pembroke*'s company, who had ſtruck him down with a box of the Ear, both he and I quickly concluded how his Ill came: But to be ſatisfied, (he telling me he could not remember what he did) we ſent for the Drawer, to know the truth of the matter: but in the mean time, to comfort him, I told him I hoped it was only a fainting Fit, which would be over again in a while. The Drawer came, and did aſſure me that my Lord did never ſtrike him; which upon aſſurance I did believe, eſpecially when he came again in the Afternoon, and told me the ſame Story. All the while he was in the horrideſt pain that could be, and could not be touched, but was forced to lie upon his Back. The Doctor told us, for application to eaſe his pain, the beſt thing to wrap him in was a whole Weather's Skin; which we did at two of the Clock in the Afternoon, by the help of a Chirurgeon, raiſed him up, and put on him. On *Tueſday* Morning I ſent to know how he did, being neceſſitated to go another way; he ſent word back, he was pretty well at eaſe, and had reſted pretty well. On *Wedneſday* he roſe, and ſat up; on *Thurſday* he was ſo well, that he would have ſome Friends to Dine with him in his Chamber; on *Friday* he was a little ill again, but on *Saturday* he was ſo well, that he would have gone abroad, and truly we did never (I'm ſure I did not) believe he would have died, till about two hours before he died. One day when Dr. *Conqueſt* came out of his Chamber, he ſeemed to be in a Huff, and ſaid, he was only kept there to do the Drudgery; and when I aſk'd him what he thought of my Brother? he anſwered me ſhort, *I cannot tell whether it be a* Pembroke-*kick or no.* And when I, upon the report of my Lord's having abuſed him, (which yet upon the Drawer's anſwer I believed not) ſpoke to him about it, he would ſeem diſpleaſed any ſhould mention it: He once indeed told me, he had ſomething elſe to reveal to the Doctor, but what it was I cannot tell.

Att. Gen. Did you apprehend him to be ſo ill as he was?

Cony. No, I never believed it, till an hour before he died; and this is all that I can ſay, my Lord.

L. H. St. Will you, my Lord of *Pembroke*, aſk Mr. *Cony* any queſtion?

E. of P. I deſire your Grace to aſk him what Chirurgeons they were that did view the Body after dead.

L. H. St. Mr. *Cony*, come forward. My Lord of *Pembroke* deſires to know what Chirurgeons viewed the Body.

Cony. Mr. *Snell* the Chirurgeon, I think, my Lord.

E. of P. I deſire your Grace he may be examined.

L. H. St. If the King's Counſel have done, then your Lordſhip may examine whom you pleaſe: What would your Lordſhip examine into?

E. of P. To give your Grace an account what might be the cauſe of the Blood found in Mr. *Cony*'s Body.

Att. Gen. Becauſe we did omit to examine *Jackſon* to that matter, we deſire for the King we may call him to that point now.

L. H. St. You ſhould have examined all your Witneſſes fully at firſt.

Att. Gen. We acknowledge it, my Lord; but ſince we did forget it, we humbly crave leave to do it now.

L. H. St. Here is Mr. *Jackſon*, what do you aſk him?

Att. Gen. Mr. *Jackſon*, were you preſent at the opening of Mr. *Cony*'s Body?

Jackſon. Yes, Sir.

Att. Gen. What did you ſee there?

Jackſon. There was an extraordinary quantity of extravaſated Blood in the lower part of his Belly.

L. H. St. Extravaſated Blood?

Jackſon. Yes, my Lord.

Att. Gen. How might that come? Might it not proceed from a natural cauſe?

Jackſon. I believe it came from ſome Bruiſes given him, and from ſome Violences that were done to him.

Att. Gen. In the Belly was it?

Jackſon. Yes, in the Belly.

Att. Gen. You ſaw then: Did you ſee any Swelling there?

Jackſon. Yes, and the *Diaphragma* bruiſed, *&c.*

Att. Gen. Now, my Lord, We have done with our Evidence for the King.

L. H. St. My Lord of *Pembroke*, if your Lordſhip have any Witneſs to call, or will ſay any thing for your ſelf, now is the time.

E. of P. I deſire your Grace that Dr. *Lower*, and Dr. *Conqueſt*, and one Mr. *Raven*, may be examined for me.

L. H. St. Call Dr. *Lower*, Dr. *Conqueſt*, and Mr. *Raven*.

Cl. of Cr. Here they are, make room for them.

L. H. St. My Lord of *Pembroke*, who will your Lordſhip begin with?

E. of P. Dr. *Conqueſt*, my Lord.

L. H. St. Doctor, you are not upon your Oath, but you muſt have a ſtrict care what you ſay, for there will be a good account to be taken of it at another Place, and it being a Teſtimony before a Court of Judicature, the Obligation upon you to ſpeak the Truth is as great, as if you did ſwear.

Dr. *Conqueſt.* The Account I now give, my Lord, is that Account which I gave upon my Oath before the Coroner.

L. H. St. You muſt give it again *viva voce*; we muſt not read your Examination before the Court.

Conqueſt. The firſt occaſion I had to ſee Mr. *Cony* as a Phyſician, was about three Months before this unhappy Accident; he was then in a fainting Fit at the *Roſe*-Tavern, *&c.* where I was ſent for to him: He had for half an Hour lain quite dead, as they thought, but with their rubbing him, and giving him ſome mull'd Sack, he was come to himſelf juſt as I came, but he had no Pulſe, and was relapſing into his Fit: I gave him ſome Drops and Cordials, and ſent him home pretty well again. We went from thence, and the next Morning his Man came to call me, and told me his Maſter was dying, which was (as I take it) the 6th of *December* laſt. When I came thither, I found his Man ſitting by the Fire; and aſking for his Maſter, he told me he was aſleep; I was ſomething vext at the Fellow for troubling of me ſo, and while I was ſpeaking to him, Mr. *Cony* at laſt heard my Voice, and calling me to him, deſired me I would come again in the Afternoon, for he had a mind to reſt this Morning: I came at One of the Clock again, where I found him very ill, and very melancholy; he wept, and ſent his Man down ſtairs, and when the Man was gone, I aſked him what was the occaſion? He told me, he found ſo great an Oppreſſion at his Heart, that he could hardly ſpeak: I deſired he would take ſome advice, and ſend for another Phyſician; but he would have none elſe, but would needs go abroad that Afternoon: I deſired him all I could; but not prevailing with him, I gave him ſome Cordial Drops, and deſired him to return home betimes; but he did not, but, as I heard, drank very hard, and returned not till very late. In ſhort, in the ſpace of two Months, I have been called out of my Bed above twenty times, to give him advice, and to recover him out of his Fits; but he would take no advice, do whatever I could. After this was his meeting with my Lord of *Pembroke*, which he thus gave me Relation of: He told me, he had been with Mr. *Goring* in the City that day drinking hard, and when he came to *Long*'s, he was ſo extremely drunk, that he could not remember any thing that was done there, but finding himſelf much in pain the next day; he was ſo ignorant of the Tranſactions there, that he only thought he had had ſeveral Falls off the Chairs near the Fire; he ſaid indeed, he afterwards ſent to enquire what had paſſed in his Company that Night, and he heard my Lord of *Pembroke* ſhould give him a Box on the Ear, but he remembred it not. Two or three days after he ſent for me, and told me, now he would take advice of me, and enter into a courſe of Phyſick; but knowing his condition to be ſo bad, I would not venture upon it alone, and deſired that he would join ſome one elſe with me in conſultation: He aſked me, what Phyſician he ſhould ſend for? I deſired him to name any one whom he had a mind to; he ſaid he knew none, and therefore would have me take whom I would, and then named Dr. *Lower*, and obtained his conſent to have his advice, whom I brought with me to his Lodgings. And the *Saturday* before he died, as we were coming in the Coach, I told Dr. *Lower* what I had known of his Diſtemper before, and what might be the occaſion of it, which (when we came thither) I repeated again in Mr. *Cony*'s preſence, who did confeſs the whole to be as I ſaid, that he had been a very hard Drinker of Wine, and ſtrong Waters upon it, which had (he believed) cauſed a Stagnation of Blood in his Body, which might be the occaſion of his fainting Fits. We conſulted the whole cauſe; he owned no Blow or Kick that he had received, neither did I believe his Intrails had received any ſuch prejudice, becauſe I ſaw him my ſelf take two or three Gliſters, as particularly that Evening: Yet he would not be regular, but that Night drank three whole Tankards of cold ſmall Beer, which did put him into a very violent Fit of the Gripes. He ſent for me, and having left him pretty well I wondered what alteration could cauſe ſo violent a Diſtemper in him ſo ſuddenly: He fell a-vomiting, and vomited all Night; and when I came and found him in a dying Fit, I gave him ſome Drops I had about me, and fetcht him to Life again; but ſtill he was very bad, and he had a Gliſter for the Gripes; he would fain have had ſome more ſmall Beer, which I diſſuaded him from, and adviſed him rather to White-Wine-Poſſet-drink, but he ſwore a great Oath he would have ſmall Beer. Dr. *Lower*, I ſuppoſe, ſaw him that Morning. An hour before he died I came again, and thought fit to Blood, and ſo he was; he bled about eight Ounces, and was a little better, ſo I left him: An hour after I came again, and found he was dead; but for his complaining of any Bruiſe or Hurt that way received, I remember not.

L. H. St. Did you ſee him after he was dead, and when he was opened?

Conqueſt. Yes, my Lord, I did ſee him opened.

L. H. St. What was your Judgment then?

Conqueſt. My Lord, There was clotted Blood among the Bowels, that was extravaſated. My Lord, The breaking out of which, I did attribute to the great quantity of ſmall Beer he had drank, and the Gripings that followed upon it; but the Bowels were none of them touched, and he himſelf attributed his Fits to that.

L. H. St. Mr. Attorney, Will you aſk him any croſs Queſtion?

Att. Gen. No, my Lord.

L. H. St. Then, Dr. *Lower*, pray ſpeak your Knowledge.

Lower. All the Account, my Lord, that I can give is, That the Day before Mr. *Cony* died, Dr. *Conqueſt* did come to me to deſire me to go with him, and by the way (as he related) told me the manner of his Fits, and what he thought was the Occaſion of them; and in that Diſcourſe we continued till we came to his Lodgings, where we found him in his Bed; and when he was up Dr. *Conqueſt* repeated what he had told me before, and he acknowledged all that to be true: I my ſelf aſked him many Queſtions how he found himſelf; he ſaid, thoſe Fits came upon him ſuddenly by Sickneſs upon his Stomach; but there was not any Diſcourſe in my Hearing, of any Bruiſe or Hurt that way, nor had I any reaſon to ſuſpect any ſuch thing ſhould be the Cauſe of his Illneſs, for he had no Symptom of a Fever upon him, either in Tongue, Pulſe, or Urine, which would have been, had he owed his Diſtemper to any thing of that kind. The next Day I was ſent for to him early, but my neceſſary Attendance on other Patients would not let me come quickly to him: when I came I found him dying, and ſeeing no Hopes of his Recovery, left him; I was deſired to be preſent at the Diſſection, but becauſe of the Rumour of this Buſineſs, I ſaid it would be a troubleſome Matter, and therefore would purpoſely avoid it.

L. H. St. So you did not ſee him diſſected?

Lower. No, my Lord, I did fear being troubled, and would have avoided it, but could not, it ſeems, for I am come here to teſtify this.

L. H. St. Did he uſe any Words to you whilſt he was ſick, complaining of any Abuſe or Wrong offered him by beating or kicking?

Lower. No, my Lord.

L. H. St. How long was it before he died that you ſaw him?

Lower. It was on *Saturday* at Four of the Clock in the Afternoon, and he died on *Sunday* at Noon.

L. H. St. And when you came to ſee him again, you found him dying?

Lower. Yes, my Lord.

L. H. St. But you ſay, all the time you were with him, you ſaw no Symptom of a Fever on him?

Lower. No, none at all, my Lord.

L. H. St. I then aſk you this Queſtion, Doctor, Can any man be mortally hurt and bruiſed, whereof he may languiſh, and not have a Fever?

Lower. According to my Knowledge and Experience, my Lord, uſually and moſt commonly upon a Mortal Bruiſe, an Inflammation follows, and that Inflammation cauſes a Fever, which will be evident in the Patient's Pulſe, or Tongue, or Water; but none of theſe I found ſo affected with Mr. *Cony*.

L. H. St. Have you any thing to ſay to this Gentleman, Mr. Attorney?

Att. Gen. No, my Lord.

L. H. St. Where then are the reſt of your Witneſſes? My Lord of *Pembroke*, Will you call any more Evidence?

E. of P. Yes, my Lord, Mr. *Raven*.

L. H. St. Dr. *Conqueſt*, pray, before you go; you ſay you told Dr. *Lower* of Mr. *Cony*'s Fits before, were they the ſame with thoſe he had in his laſt Sickneſs?

Conqueſt. Yes, my Lord, the ſame Fainting Fits.

L. H. St. And you imputed them to the ſame Cauſe?

Conqueſt. Yes, my Lord, to his hard drinking Wine and Strong-waters, and then great Quantities of Small-Beer; I told his Landlady often it would kill him, but I could never get him to be regular, nor take any Advice.

L. H. St. Hath your Lordſhip any more Witneſſes?

E. of P. Mr. *Raven*, my Lord.

L. H. St. Come forward, Mr. *Raven*, and ſpeak out.

Raven. I viewed the Body (my Lord) before and when it was opened, and it was reported to me that there was a Bruiſe in each Side of the Belly, of which thereupon I took a ſtricter View, and could find no Blackneſs nor Blueneſs, nor Marks of Bruiſes; upon which the Body was opened, and there iſſued thence clotted Blood; then I looked upon the Caul, which was withered and conſumed, and the Heart was as looſe as a Rag, and his Lungs ſtuck to each ſide of his Ribs; and as to the Matter of the Blood, that was not an extraordinary thing, for it is known to Phyſicians, that in all Natural Deaths there muſt be extravaſated Blood in the lower Belly.

L. H. St. How did you think there came to be that Quantity of Blood there?

Raven. This Blood, I think (my Lord) muſt be extravaſated by the Violence of his Gripes, for it is proved he drank a great Quantity of Claret, and afterwards of Small-Beer, which ſet the Blood upon a Fermentation, that ſet him a Vomiting; by the Violence thereby uſed to Nature this Blood was thrown down into the Belly; but in all Natural Deaths, if there be not ſo great a Conſumption of the Blood that there is none left, there muſt be ſome extravaſated; it is a clear Caſe.

L. H. St. My Lord of *Pembroke*, hath your Lordſhip any more Witneſſes?

E. of P. Yes, my Lord, two more, *Benjamin Long* and *William Viner*.

L. H. St. Who does your Lordſhip begin with?

E. of P. Long.

L. H. St. Do you hear, *Long*, you muſt have as great a Care what you ſay, as if you were upon your Oath.

Long. A little before this Buſineſs happen'd, Mr. *Cony* comes into my Houſe at *Covent-Garden*, and ſaid he was very ill; he was juſt going to ſit down, and miſs'd the Chair, and had like to have fallen down, being almoſt in a Swoon; whereupon he ſaid, Send for Dr. *Conqueſt* preſently, or elſe I ſhall die: ſo I ſent my Servant to call him, who found him at the Coffee-houſe: When he came in, ſaid he, Sir, how do you? I am glad you are come, ſaid Mr. *Cony*, for I am very ill; and there were two Gentlemen came in with the Doctor, that were then going to the Play-houſe: ſaid Mr. *Cony*, I am taken with the Fainting Fits, and fear they will kill me; upon that Dr. *Conqueſt* bid him have a care of Drinking, for it would ruin him.

L. H. St. When was this?

Long. A little before *Chriſtmas*, my Lord.

L. H. St. How long before he died?

Long.

Long. It was before he was hurt?

L. H. St. How long?

Long. Five or ſix Weeks, my Lord, as I remember; I cannot tell exactly.

L. H. St. Well, and what followed?

Long. Dr. *Conqueſt* would have him go home to his Bed, which I know not whether he did or no, but he went away from our Houſe, and the Doctor ſaid he would ſend him a Gliſter, and ſome other things the next Morning: And this is all I can ſay.

L. H. St. Is that all you can ſay?

Long. Yes, my Lord.

L. H. St. Why, was not this Accident done at your Houſe?

Long. No, my Lord, it was at my Brother's in the *Hay-Market*.

L. H. St. Then call next *Viner*; what ſay you?

Viner. May it pleaſe your Grace, I am Drawer at Mr. *Long*'s in the *Hay-Market*, I did ſee my Lord ſtrike him with his Hand, and that is all; I came in juſt as he ſtruck the Blow, and Captain *Savage* bid me keep out Mr. *Goring*; which while I was doing I knew not what was done more; but after they had laid him upon the Chairs, they charged me to make a Fire, and look after him, and left him: He fell down divers times off the Chairs; and when he came to himſelf a little, I aſked him how he did? He told me he was very ſick, and I got him ſtill up again upon the Chairs: And then he had ſeveral fainting Fits in the Room; and about Seven of the Clock in the Morning, we ſent him home in a Chair to his Lodging. The ſame Day at One of the Clock he ſent for me, to know what had happened, for his own Memory would not ſerve him to tell: I did not think fit then to tell him my Lord had ſtruck him, but told him he had had many falls in the Room: 'Tis Fits, ſaid he, that I have had not long ſince, and it comes with my hard Drinking, and not looking to myſelf.

L. H. St. He ſuppoſed it to be ſo?

Viner. Yes, my Lord, he himſelf did.

L. H. St. Did you ſee my Lord of *Pembroke* tread upon him?

Viner. No, my Lord, I only ſaw the Blow of his Hand, for I was getting Mr. *Goring* out of the Room.

L. H. St. Did he ſay my Lord of *Pembroke* did tread upon him?

Viner. No, he could not tell any thing that my Lord had done to him; he was drunk that Night, and therefore ſent for me to know how it was.

L. H. St. My Lord of *Pembroke*, hath your Lordſhip any more Witneſſes?

E. of P. No, my Lord.

L. H. St. Did not your Lordſhip ſpeak of one *Snell*, my Lord, a Chirurgeon, at firſt?

E. of P. I did expect, my Lord, they ſhould have brought the Perſon your Grace ſpeaks of.

L. H. St. Why, my Lord?

E. of P. Becauſe he was their Chirurgeon.

L. H. St. What ſay you now of the King's Counſel, to my Lord's Defence?

Sol. Gen. If my Lord hath done, we are ready to go on for the King.

L. H. St. Will your Lordſhip ſay any thing more for yourſelf?

E. of P. I have nothing more to ſay, my Lord.

Mr. Sol. Gen.* May it pleaſe your Grace my Lord High-Steward of *England*, and my Noble Lords, that are now Judges of this Cauſe of Blood; I ſhall with all Faithfulneſs endeavour to diſcharge my Duty in this great Court, and confine myſelf ſolely to the Evidence that hath been given, and I hope I ſhall not do this Noble Lord, the Priſoner at the Bar, any Injury by Miſrepetition. The Evidence, my Lords, that hath been produced for the King to make it out, that the Priſoner at the Bar is guilty of Murder, doth (may it pleaſe your Grace) conſiſt of three Parts.

1. In the firſt are contained thoſe Matters of Fact, which did ariſe at the time when the poor unfortunate Gentleman came into my Lord *Pembroke*'s Company, and what happen'd before my Lord of *Pembroke* did depart from that Place.

2. The ſecond Part of the Evidence conſiſts of Matters that did ariſe by Confeſſion of the Party, and his diſcourſing with Perſons who came to viſit him, or were with him during the time of his Sickneſs.

3. The third Part doth conſiſt of Matters ariſing after his Death, upon the View of the Body. Under theſe three Heads are comprehended all the King's Evidence, and with humble Submiſſion, I humbly conceive, that the Evidence doth reach the Indictment, which is for the Crime of wilful Murder. But when I have humbly ſtated the Fact, I muſt ſubmit it to the Judgment of my Noble Lords and Peers.

But to take a due Method, I ſhall begin with a Word or two of what Mr. Attorney-General was pleaſed to hint, when he opened the Cauſe, that is, to ſhew what Murder is, and wherein we conceive the Evidence comes up to the Indictment. Murder in our Law is, when one Man kills another upon Malice fore-thought; now that Malice is comprehended under two Particulars: The one is expreſt a former Grudge, Diſcontent, and Hatred to a Man, to lye in wait to ſlay him: The other is Malice imply'd, and that is when a Perſon will come and fall upon another, and kill him with Violence, without any Provocation; and that I take to be the Caſe now before your Grace, and theſe Noble Lords; whether this Noble Lord, the Priſoner at the Bar, be guilty of Murder, under the Head of Malice imply'd, having killed a Man, without any Provocation given; for if it ſhould be made appear, as I humbly conceive it hath, with Submiſſion, that Mr. *Cony* did receive his Wound, whereby his Death came from the Earl of *Pembroke*, it is with our Law Murder.

That my Lord of *Pembroke* did invite him into his Company is ſworn by four Witneſſes; for when they came into the Houſe they did not ſo much as enquire whether my Lord was there or no; and when my Lord aſked him to come into the Room, Mr. *Cony* did excuſe it, in a manner, by having his Friend with him; Pray bring your Friend in with you, ſaid my Lord: After a little while it was ſaid, there were ſeveral Diſcourſes paſs'd between my Lord and Mr. *Goring* concerning Play, and their Families; but the third Witneſs doth ſwear, that when they were ſpeaking of playing for 500 *l.* Mr. *Goring* declined; my Lord of *Pembroke* firſt called him idle Fellow, and that occaſioned Mr. *Goring* to give that Language, which was not ſo fit for him to give to a Noble Lord of his Quality. But, may it pleaſe your Grace, let the Diſcourſe between Mr. *Goring* and my Lord of *Pembroke* be what it will, the Queſtion will be, Whether or no the Party that was killed gave my Lord of *Pembroke* any Provocation, or Cauſe of Diſcontent, which might make him give him that Blow? or whether or no the Striking or Kicking was the Cauſe of his Death? That comes in the laſt Place, for I am now under that Head; there was no Provocation given by Mr. *Cony* to my Lord to ſtrike him, and four Witneſſes there were to that, the Perſons by at the Time when it was given, who all, as to the Subſtance, ſwear the ſame Thing, only one or two Circumſtances come from ſome of them, that do not come from all. Mr. *Savage*, a Man of Quality, and an Honourable Family, ſwears, That at the Time when Mr. *Goring* was put out of the Room, he ſaw the Earl of *Pembroke* (turning his Face) give *Cony* a Blow on the Head, and one Kick when he was down. The Queſtion was aſked him, Whether he kicked him upon the Belly; but that he could not anſwer to: He likewiſe doth particularly ſay, after the Blow was given by the Earl of *Pembroke*, that ſtruck him down to the Ground, he ſaw his Knee lifted up to kick him, higher than the Motion of uſual walking, ſo that ſome Violence was uſed as to that. Mr. *Fitz-Patrick*, though they all agree in Subſtance, yet he hath one Particular differing from the reſt; he ſaith, That when my Lord of *Pembroke* was aſked why he ſtruck Mr. *Cony*, he anſwered, Becauſe he ſaid Mr. *Goring* ſhould not go out of the Room, without his knowing ſome Reaſon for it; this he ſwears the Earl did ſay, but whether it was ſo or no is the Queſtion. *Shelly* ſays, No ſuch Word paſſed, nor doth *Savage* ſpeak of it: But be that Circumſtance true or not (for all the Witneſſes agree in Subſtance, and may not be able to agree in all Circumſtances) yet under Submiſſion, I muſt leave it to the Judgment of my Lords the Peers, whether that be Provocation ſufficient to lay violent Hands on a Man. *Shelly*, indeed, ſays the Words were, I know not why my Friend is turn'd out of Doors; now whether theſe are a Provocation, ſuch as in Judgment of Law can be deemed ſufficient to lay violent Hands on a Man to kill him, is the Queſtion; we ſuppoſe it is not, but ſuch a Stroke is given without a Provocation, in which the Law implies Malice. This (may it pleaſe your Grace) is the Sum of that which I humbly take the Boldneſs to remember your Lordſhip of, as to the firſt Part of the Evidence.

2dly. The ſecond Part is upon what ariſeth after the Blow was given. My Lord of *Pembroke* at that time was certainly apprehenſive he had done the Gentleman ſome Wrong, and that is evident by his Care of him after; for his own Witneſs, *Viner*, doth ſay, that my Lord bid him make a Fire and watch with him; ſurely if my Lord had not been conſcious to himſelf, that he had done ſomething extraordinary to the Perſon of that Gentleman, that Caution had not been given to the Man: But beſides (my Lord) there are little Circumſtances, which are always allowed for Evidence in ſuch Caſes, where Men receive any Wounds to aſk them Queſtions while they are ill, about it, who hurt them. Now as to this there are four Witneſſes alſo, Dr. *Bruce*, Mr. *Hemes*, Mr. *Jackſon*, and *Alice Avery*.

Dr. *Bruce* ſwears, That when he came on the *Monday* to enquire of Mr. *Cony* what his Illneſs was, he did complain of Soreneſs about his Shoulders, but did not make Mention of the lower Part of his Belly, or any diſcolouring there.

But *Hemes* the Apothecary ſays, he not only complained of extreme Pains in his Shoulders, but alſo of extreme inward Soreneſs in the lower Part of his Belly, and this Perſon was frequently with him, and the ſame Complaints came from him, till he expired his laſt Breath.

Jackſon, He did know him for a Long time before; he ſaid indeed, He had about two or three Months before a fainting Fit or two, but to this time he looked upon him as a healthy Man, and he continued with him off and on till he died, and to him he did declare he had received Injury from the Earl of *Pembroke*, though he was very loth to ſay what: And he alſo tells your Lordſhips, that he ſaw the Blood in his Belly after the Diſſection, which he imputed to ſome Hurt he had received. Indeed, there is a Chirurgeon that tells your Lordſhips, that it is an ordinary thing, and that it is ſo in all natural Deaths, and it might be occaſioned by his drinking the Beer, which made him vomit, and concluded with theſe Words (I noted them), 'Tis a clear Caſe; but the Man not being upon his Oath, and giving it in as his ſingle Opinion, I hope will not bear ſo much Weight with your Lordſhips.

The Nurſe that was continually with him to the laſt Moment, ſwears, He did continually complain after he came into the Houſe, of Pains all over his Body, and (as ſhe ſaith) continued in his Senſes, and the right Uſe of his Underſtanding, till his laſt Breath, but principally complained of Soreneſs in his Shoulder, his Side, and his Belly, and did likewiſe often mention my Lord of *Pembroke*'s Unkindneſs to him, declaring about two Hours before he died, that he thought in his Conſcience the Earl of *Pembroke* was the Cauſe of his Death.

Theſe four Witneſſes ſwear what I have truly repeated, for I would be very unwilling in a Cauſe of Blood, to miſrepeat the Evidence, either to the Prejudice of a juſt Cauſe for the Dead, or to preſs for unjuſt Vengeance upon the Living, it being my Duty only to recollect what is ſworn, and leave it all to your Lordſhips Judgment.

3dly. We have that which is Evidence in Law, upon the View of the Body after his Death. It was viewed legally by a Jury of indifferent Perſons, ſummoned by the Coroner, three of them being produced to ſwear, that there were a great many viſible Bruiſes upon the Body, and Swellings all about: And for the diſcolouring of the Parts bruiſed, *Roberts* ſwears, the Patch was about the Breadth of his Hand: *Brown* likewiſe ſwears, that he was black and blue up and down the Body in broad Patches: Theſe are Jury-men, diſintereſted Perſons. It is true, Mr. *Cony*'s Brother, the laſt Witneſs for the King, ſaith, He knew nothing of the Buſineſs, for his Brother would never acknowledge any thing to him; but ſomething that he ſpeaks is very material, That Dr. *Conqueſt*, my Lord's Witneſs, coming out of the Chamber one Day, ſeemed angry, and to have taken ſome Diſtaſte, as if he were neglected, and uſed an Expreſſion, which your Lordſhip may remember, upon Mr. *Cony*'s aſking him what ailed his

* *Sir* Francis Winnington.

Brother,

Brother, he could not tell, he ſaid, it might be *A Pembroke-Kick*. And this is the Sum of the Evidence for the King.

For the Evidence on the other Side, I think the Subſtance of it is only, That this Gentleman was uſed to have fainting Fits, and thoſe occaſioned, as they think, by his hard Drinking, and that might bring his Death upon him; but they offer no Counter-proof of the Fact.

But the Queſtion is now, Whether or no this Man came to his Death by other Means; for it is no Argument to ſay, becauſe a Man is ſick, it is lawful to kill him: But we are to enquire, whether he came to his Death by thoſe Blows given him by the Priſoner at the Bar? If then it be admitted that the Blow was the Cauſe of his Death, and the Kicks withal, I humbly then ſubmit to your Lordſhips Conſideration, whether the King's Evidence hath not reach'd up to the Indictment: Here is Murder with Malice implied by the Law, for there is no Colour of pleading a Provocation of the Blow, to be the Cauſe of his Death. Now whether or no it be ſo, I humbly offer theſe Reaſons for the Affirmation; this Man was not look'd upon to be a Man in that Condition as to be a dying Man, before the Blow.

Obj. But he was a great Drinker; that brought him to thoſe Fits, and that haſtened his End.

Anſ. Though he was ſo, yet from the Inſtant that he did receive the Blow, he never had any Eaſe till he died, inſomuch that Mr. *Savage* tells your Lordſhips, he took him up immediately after my Lord kicked him, and he was ſome Minutes before he could get him to Life again, and then he could not keep himſelf from fainting again: So that upon the Circumſtances of what the Witneſſes for the Priſoner have ſaid, and the Evidence offered in behalf of the King, if this were the Cauſe of his Death, we leave it to your Lordſhips Conſideration, whether it be not Murder in this Noble Lord the Priſoner at the Bar: To that Determination we ſubmit the Cauſe; and whatever Opinion your Lordſhips ſhall be of in the Cauſe, I have no more to ſay, but that the King's Juſtice, in this Proſecution, was ſuitable to the Law given by the Almighty in the Infancy of the World, *That whoſoever ſheddeth Man's Blood, by Man ſhall his Blood be ſhed.*

L. H. St. Will your Lordſhips pleaſe to withdraw to conſider of the Evidence?

Then the Lords went back in the ſame Order they came in, and went into the Houſe of Lords; and from thence, after two Hours Debate, they returned into the Court, and Proclamation was made as followeth:

Cl. of Cr. Serjeant at Arms, make Proclamation.

Serj. O Yes! my Lord High-Steward of *England* his Grace ſtraitly chargeth and commandeth all manner of Perſons here preſent, to keep Silence upon pain of Impriſonment.

Then his Grace ſpake to the Peers.

L. H. St. Your Lordſhips have heard the Evidence againſt the Priſoner, and for him, on both Sides; and the Solemnity in this Caſe is, that your Opinions are to be delivered ſeverally, in the Abſence of the Priſoner, who is to hear all that is by the Witneſs or Counſel ſaid againſt him, but is to have his Judgment from the High Steward.

Upon the whole Matter the Queſtion is this; Whether my Lord of *Pembroke* be guilty of the Felony whereof he ſtands indicted, for the Murder of Mr. *Cony*, or Not guilty?

The Order of your Opinions being delivered, is to begin with the Puiſne Baron, and ſo upwards.

I deſire Time to take your Lordſhips Judgments diſtinctly, and I deſire each of your Lordſhips to ſpeak out, that I may hear it.

L. H. St. My Lord *Butler*, what is your Opinion? Is *Philip* Earl of *Pembroke* and *Montgomery* Guilty of the Felony and Murder whereof he ſtands Indicted, or Not guilty:

L. Butler. Not Guilty of Murder, but Guilty of Manſlaughter.

The ſame Queſtion to the reſt.

The Lord High Steward counted their Numbers.

L. H. St. Six of my Lords find him Guilty: Eighteen find him Not Guilty: Forty find him Guilty of Manſlaughter. Call for the Priſoner to the Bar.

Cl. of Cr. Serjeant at Arms, make Proclamation.

Serj. O Yes! Conſtable of the Tower of *London*, bring forth the Body of thy Priſoner *Philip* Earl of *Pembroke* and *Montgomery*, on Pain and Peril ſhall fall thereon.

Then the Priſoner came in, with the Edge of the Ax ſtill from him, and his Grace ſpake to him as followeth:

L. H. St. My Lord of *Pembroke*, You have been indicted for the Murder of *Nathanael Cony*, and upon your Arraignment you have pleaded *Not Guilty*, and have put yourſelf upon the Judgment of your Peers; and your Peers have conſidered what hath been ſaid for you, and againſt you, and the Judgment of my Lords is this, That you are Guilty of Manſlaughter for killing of *Nathanael Cony*: What can you ſay for yourſelf, why Judgment ſhould not paſs upon you to die according to the Law?

E. of P. I claim the Privilege of the Statute made in that Caſe, my Lord.

L. H. St. You muſt have it, my Lord, it cannot be denied you; for by the Act of Parliament, where *Clergy* is allowed to a Common Perſon, by Reading, and Burning in the Hand, *a Peer convicted* of ſuch Felony is to be delivered without either, therefore we cannot deny it you: But your Lordſhip muſt give me leave to tell you, that no Man can have the Benefit of that Statute but once, and ſo I would have your Lordſhip take notice of it as a Caution to you for the future.

Your Lordſhip is now to be diſcharged, paying your Fees.

Then the Priſoner went from the Bar, and his Grace by Proclamation thus diſſolved his Commiſſion.

Cl. of Cr. Serjeant at Arms, make Proclamation.

Serj. O yes, O yes, O yes! My Lord High Steward of *England* willeth and commandeth all Perſons here aſſembled, to depart in God's Peace and the King's from this Place, for his Grace doth now diſſolve his Commiſſion.

God ſave the King.

Then his Grace concluded the Ceremony, by breaking his Staff.

LXXIV. *The Trial of* William Stayley *, *Goldſmith, at the* King's Bench, *for* High-Treaſon, November 21, 1678, Mich. 30 Car. II.

MR. *STAYLEY* being accuſed of High-Treaſon, was on the 20th Day of *November*, 1678, brought from *Newgate*, and arraigned at the *King's-Bench* Bar, and the next Day was brought to the ſame Place to receive his Trial; where being come, and the Jury Impannelled, the Court told the Priſoner, that if he would Challenge any of the Jury, he muſt ſpeak unto them as they came to the Book to be ſworn, and before they were ſworn; the Priſoner Challenging none, the Jury were ſworn, *&c.*

JURY.

Sir *Philip Matthews*,	Sir *Richard Blake*,	*Henry Johnſon*, Eſq;
Sir *Reginald Foſter*,	*John Biſield*, Eſq;	*Charles Umfrevil*, Eſq;
Sir *John Kirke*,	*Simon Middleton*, Eſq;	*Thomas Egglesfield*, Eſq;
Sir *John Cutler*,	*Thomas Croſs*, Eſq;	*William Bohee*, Eſq;

The Indictment Read.

You ſtand Indicted by the Name of William Stayley, *&c.*

Crier. If any can give Evidence on the behalf of our Sovereign Lord the King againſt *William Stayley*, let him come forth, and he ſhall be heard.

Sir *Creſwell Levinz.* The Priſoner ſtands indicted as not having the Fear of God before his Eyes, being led by the Inſtigation of the Devil, not minding his Allegiance, but Traiterouſly endeavouring the Death and Deſtruction of our Sovereign Lord the King, he did on *November* the 14th, in the Thirtieth Year of the King, falſly, wickedly, and traiterouſly Compaſs, Imagine, Deviſe, and Invent the Killing the King; that he did malicioufly contrive (I ſay) the Death of our Lord the King of *England*.

To this he hath pleaded *Not Guilty*. You are to try whether he be Guilty or not.

King's Serjeant, Maynard. The Offence is as great as can be, and will be proved as clear as can be. Call the Witneſſes to prove the Offence.

Sir William Jones, Att. Gen. It would be fitting, before we enter upon the Evidence, to give ſome Account, why (among ſo many Offenders, ſome of them of greater Quality than *William Stayley*) we choſe firſt to bring this Man to Trial. It is not unknown to any Man that lives in *England*, what Diſcoveries there have been of horrid and damnable Deſigns againſt the King's Perſon and the Proteſtant Religion. There are a ſort of Men in the World, that endeavour what they can to cry down this Diſcovery, as that it was altogether Suppoſititious, and a Fable. It is true, ſome are ſo charitable as to think the *Roman Catholicks* in *England* do promote the *Roman Catholick* Religion, but the Deſign againſt the King's Perſon is a Fiction. But they ſhall do well to take warning by the Trial of this Man, and Impriſonment of ſo many Offenders, as that even ſince this Diſcovery made, ſome have had this Treaſonable Mind, and Traiterous Attempt againſt the King, and ſaid thoſe Words for which in the Indictment he is charged with. This Priſoner, by Religion, is a *Roman Catholick*, he calls himſelf ſo; in plain *Engliſh* he is a *Papiſt*; and finding that ſince this Plot was diſcovered, his Trading decay'd, (being one that dealt in Monies) he was one of their Party, he grew enraged their Money was called ſo faſt for, being in the Company of one *Fromante*, a Foreigner, at a Cook's Shop, and were conſidering of Matters of Trade, this Man was complaining his Money was ſo faſt called in for. Taking notice of the Diſcovery of the Plot, (being a very great Well-wiſher to it) entered into a great Paſſion, and ſpake theſe Words of the King: *That he was the greateſt Heretick in the World, that he was a great Rogue*; for his Part, holding up his Hand, clapp'd it then upon his Heart, and ſaid, *I will with this Hand kill him.* Theſe Words were heard by the Gentlemen that were preſent ſpoken in *French.*

William Caſtars, a Witneſs.

Att. Gen. Acquaint the Court and Jury what you know of any Words ſpoken by the Priſoner about killing the King.

Witneſs. So far as I know, or can give an Account, it was about Eleven of the Clock in the Day, on the Fourteenth Day of this Month; he

* Burnet's *Hiſt. Own Times*, Vol. I. p. 433.

he call'd for a Pot of Ale, and a Slice of Roaſt Beef, which when it was called for, his Landlord ſaid it ſhould be brought him; there was another *Frenchman* with *Stayley*, a Stranger to me: they diſcourſed together in *French*, and *Stayley* then ſaid twice over, *The King was a grand Heretick*, making this Demonſtration with his Hand upon his Breaſt, and ſtampt five or ſix times with his Foot in great Fury. The old Man *Fromante*, his Friend, ſaid, *That the King of* England *was a Tormenter of the People of God*; and he anſwered again in a great Fury, *He is a great Heretick, and the greateſt Rogue in the World; there's the Heart, and here's the Hand that would kill him; and the King and Parliament think all is over, but the Rogues are miſtaken.*

Sir *William Scroggs*, *L. C. J.* Did you know *Stayley?*

Witneſs. No, my Lord, I had never ſeen him before.

L. C. J. What did you do upon this?

Witneſs. I did not know what to do, being ignorant of the Laws of the Country. I thought it was a great Matter, and being ſenſible that *Stayley* was gone out, I cauſed one to attend him, and came to his Father's Shop, and looked up and down, and the next Day I apprehended him.

L. C. J. Are you ſure (looking upon the Priſoner) that was the Man?

Witneſs. Yes.

L. C. J. Did you ſee him when he ſpake the Words?

Witneſs. Yes, I ſaw him; there was no more Diſtance betwixt the two Doors, but juſt as far as that Gentleman and me; his Face was ſtraight towards us.

L. C. J. Were you in the ſame Room?

Witneſs. No, but juſt over-againſt it; the Doors were open.

L. C. J. How near were you to him?

Witneſs. Seven or Eight Foot from the Place where I was and where he was. He was ſtanding at one Door, and I at the other. In *French* the Words were ſpoken, he making a Demonſtration, ſtamping with his Foot, *I would kill him my ſelf* (which the Priſoner would have evaded by ſaying, the Words ſignify *I would kill myſelf.*) The Priſoner farther ſaid, that the King and Parliament thought all was over, but the Rogues were beguiled and deceived.

Alexander Southerland, Witneſs.

Mr. *Southerland*, tell what you heard the Priſoner at the Bar ſay. Were you there?

Witneſs. Yes.

L. C. J. Which was neareſt to him, he or you?

Witneſs. He was neareſt to him, and I juſt by the Gentleman. He ſaid afterwards when a Word or two paſt betwixt them, *the Rogues are deceived, they think the Buſineſs is done, but they are deceived.* The old Man ſaid, *That the King of* England *was a Tormenter of the People of God*; the Priſoner anſwered, *the King of* England *is the greateſt Heretick, and the greateſt Rogue in the World, and the King and Parliament think their Buſineſs is done, but the Rogues are miſtaken.*

Priſoner. I ſaid (replied the Priſoner) I would kill my ſelf.

L. C. J. Would you kill your ſelf becauſe you ſaid the King was a Heretick? You acknowledge your ſelf to be a *Roman Catholick.*

Priſ. And in that Faith I intend to die.

Att. Gen. Here the Priſoner doth not deny but he ſaid, *the King of* England *was a great Heretick*; and can we imagine him to be in ſuch a Paſſion, that he would *kill himſelf?* Whether that be a natural Concluſion from the Premiſes, I muſt ſubmit to———

L. C. J. Did you ſee Mr. *Stayley* perfectly? Was the Door open?

Witneſs. I ſaw him perfectly.

L. C. J. Did you know him before?

Wit. I never ſaw his Face before.

L. C. J. Did you write the Words preſently?

Wit. I writ them down preſently, as God ſhall be my Witneſs.

L. C. J. Look upon the Writing, is it your Hand?

Wit. It is; and it was written the 14th of *November*, 1678. About Eleven o'Clock they came to the *Black-Lion* in *King-Street*, and call'd for a Quart of Ale, and a Slice of Roaſt Beef, and it was anſwered, it ſhould preſently be had. *William Stayley* ſaid, having ſtruck on his Breaſt, and ſtamping with his Foot five or ſix times, *I my ſelf would do it.*

L. C. J. Did you write all that is in the Paper at that time?

Wit. I writ the Words in *French*, as I heard them from him, then formed it as to the Perſon and Time, afterwards, when I was gone.

L. C. J. Who told you it was *Stayley* the Goldſmith?

Wit. We aſked the Man of the Houſe; and we found he went to his Father's Houſe in *Covent-Garden*; we aſked his Father's Name, and his Name; and that's the very Man.

L. C. J. He confeſſeth he was in this Place at that time with the old Man. He acknowledged that he ſpoke ſome Words, but denied he ſpake thoſe: That he was the Man he doth not deny.

Att. Gen. The third Man is a Gentleman that doth not underſtand the *French* Tongue, he was in the Company of thoſe two Men at that time; we do not call him to prove the Words, becauſe he doth not underſtand the Language.

L. C. J. There is no Miſtake of the Perſon, the Priſoner doth not deny he was there. Call the third Perſon to know what he hath to ſay.

Philip Garret, third Witneſs.

Wit. All that I can ſay is this: My Captain, *William Caſtars*, came to me in a great Paſſion, and ſaid, I cannot ſuffer this, I will run upon him, I cannot be quiet.

L. C. J. What are thoſe Words he charged upon him?

Wit. That he would kill the King himſelf: It is impoſſible to ſuffer it, I will run out for a Conſtable preſently, this cannot be ſuffered. I went to enquire for his Name; the Anſwer was, he was a Goldſmith, and that his Name was *Stayley*. That's the very Man (looking upon him) I ſaw there, and heard him ſpeak.

L. C. J. What were the firſt Words?

Wit. [The *French* Words were ſpoken twice, in *Engliſh* thus] *The King is a grand Heretick.* [*French* again] *Here's the Hand, here's the Heart, I would kill him my ſelf.*

L. C. J. What can you ſay to this?

Priſoner. My Lord, the Matter of Fact happened thus: This Gentleman, Mr. *Southerland*, comes over to me in the Morning when I was in the Shop, and ſaid, Sir, I would have a red Button like this; I ſaid I had none of that nature, you had better go to the Exchange. I would have one of a true Stone. You muſt (I reply'd) go to the Jewellers, I have none of theſe. Upon that I diſmiſs'd him; he went over, and preſently comes, in a quarter of an Hour after, and tells me, that an Honourable Perſon would ſpeak with me: I went over; this Gentleman makes a great many Ceremonies to me, and reads me this Paper; he tells me, you ſee what the Gentleman reads, I would adviſe you to look to it, then taking me aſide by the Window. I ſaid, I do not underſtand you, I am innocent, you muſt not put any Bubble upon me; with that the Captain runs out in a fury, and fetcheth a Conſtable, and carrieth me to the *Gate-houſe*. I was in my Shop the Day before, which very Day I did intend to go out with a Friend into the Country, and prepared my ſelf accordingly; and Mr. *Fromante*, the old Man that was the Friend of mine, comes, ſaying to me, the Conſtable would have ſomething, I know not what it is, come and aſſiſt me; I went to the place, the Conſtable told me, that I was to appear by Ten of the Clock; with that comes the old Man out. I owed him a little Money, I went and paid him the Money which I owed him. I came back, and ſat down by the Window out of ſight, the old Man ſat at the right Hand, ſo we ſat and diſcourſed as innocently, as I thought, and (before God) as ever I ſpake in my Life.

L. C. J. What Diſcourſe had you?

Priſ. Our chief Diſcourſe was about the Materials of our Buſineſs, and it was about the King of *France* his Uſurpation over his Subjects, and the Happineſs of our little People, the Commonalty of *England*, that was indeed uſually our Diſcourſe when we met together.

L. C. J. Did you ſay you would kill the King of *France?* and that he was a great Heretick? Do you believe the King of *France* is an Heretick?

Priſoner. I know not what his Opinion is, that's to his own Conſcience.

L. C. J. Did you name the word *Heretick?*

Priſoner. Not to my Knowledge, upon my Soul, not of the King of *England*; we might have diſcourſed of the happineſs and of the difference of their Governments. I have been thought a Perſon of ſome Intelligence, and of ſome Underſtanding in the World, and not to expoſe my ſelf to ſpeak in a publick large Room, the Door being open, with ſo high a Voice that theſe Gentlemen being in the next Room ſhould hear me in *French*, and in a Street where almoſt all are *Frenchmen*, to ſpeak theſe blaſphemous Words, Words that I abhor. I have been a great Admirer of my Prince.

Court. Read the Statute of *Decimo tertio*, &c.

L. C. J. Speak the words in *Engliſh* about killing the King; ſpeak them all.

Witneſs. That the Priſoner's Companion did ſay, *The King was a Tormenter and Perſecutor of the People of God.* The Priſoner's words were again, *The King of* England *is the greateſt Heretick, and the greateſt Rogue in the world; here's the Heart, and here's the Hand that would kill him; I my ſelf.*

Priſ. Here's the Hand, and here's the Heart which would kill my ſelf: Not, would kill Him my ſelf.

L. C. J. What Jeſuit taught you this Trick? It is like one of them. It is the Art and Intereſt of a Jeſuit ſo to do.

The Statute read.

L. C. J. Have you any thing more to ſay for your ſelf than what you have already ſaid?

Court. Sir *John Kirk*, do you underſtand *French?*

One of the Jury. I do, my Lord; the words have been interpreted all right.

L. C. J. Let me aſk you one Queſtion: When you ſaid the King was *a great Heretick and a Rogue, and here's the Heart, and here's the Arm that would kill him my ſelf*; was it not the King you would kill?

Priſoner. I have this to ſay in Juſtification of my ſelf, and Allegiance to my Prince and King, that I never thought, nor imagined or contrived any way, but have been a true Subject to the King upon all occaſions; I am ſorry it proves ſo, God's will be done, my Soul depends upon it; I am a dying Man by the Statute; never with Intention, or any Thought or Ill-will, ſpake any word about this matter.

L. C. J. Out of the abundance of the Heart the Mouth ſpeaks; the Statute hath been read, which hath made it criminal.

Call a Witneſs for the Priſoner.

Witneſs for the Priſoner. One *Anſelm* ſpake.

They came to my Houſe, where I live at the *Croſs-keys* in *Covent-Garden*, about Eight o'Clock in the Morning, theſe two Gentlemen; the Day they took him away, was the Day after theſe words were ſpoke, and he was kept Priſoner from Eight till Eleven of the Clock without any Conſtable; they had five Bottles of Wine, and beſpake Meat, but they did not ſtay to eat the Meat.

L. C. J. How came you to ſtay ſo long?

Wit. I was two Hours in looking for a Conſtable; they would not come with me, without a Warrant from a Juſtice of Peace.

L. C. J. Who told you you had beſt take it up?

Priſ. The middlemoſt Man, the firſt Witneſs.

Wit. We were about three long Hours, I ſent out this Gentleman for a Conſtable, in the mean time the Priſoner's Father ſent his Maid for him to come Home; I told him he ſhould not go, if he deſired to eat we would eat there. I ſent to *White-Hall* and deſired a Guard, the Officer of the Guard told the Meſſenger it was a Conſtable's part.

Court. Call another Witneſs for the Priſoner.

Witneſs for the Priſoner.

I have heard him often declare as much Loyalty to his Prince as any Perſon. One Day we fell into a diſcourſe of theſe affairs, the buſineſs of the Jeſuits, which are a People he did as much condemn as any; for in *Padua* he ſaw ſo many Cheats, that he forſook the Jeſuitical Religion,

and if he knew any of the Persons concerned in this Plot, he would be the Executioner himself, and whoever comes to Reign afterwards, they shall never enjoy so much Peace as now; and I heard him often say he would lose his Blood for the King, and heard him speak as Loyally as I ever heard any Man speak in my Life.

L. C. J. That is when he spoke to a Protestant.

Court. Have you any thing else to say for your self, or have you any more Witnesses that you would have examined on your behalf?

Prisoner. No.

Lord Chief Justice's Speech.

'THE Statute hath been read, which was made since the King came in, for the preservation of his Person, and during his Life: The Parliament thought it reasonable, even to make desperate words to be Treason, although there was no other thing but words, that is, such words, as if the thing had been done would be Treason, the speaking it is Treason. When we come to observe the manner of this speaking, methinks there is no great difficulty to satisfy the Jury that they were spoke advisedly and maliciously. They were in a Publick House, and by accident heard: They concealed them not a Moment, and not from the Man that did not understand *French*. To hear a Man say in a great Passion, that his King was a Heretick, and the greatest Rogue in the World, and that he would kill him, to write down the Words presently, they slept not upon it, they found out who he was, the next Day they came to attach him; they kept him, for what? Till they could get a Constable. So that here is nothing doubtful either in the Circumstance or Substance of his Case: So that you cannot have a plainer proof in the World than there is in this. For my own part, when it is in the Case of a Man's Life, I would not have any Compliance with the rumors or disorder of times, that should be an Evidence against him, but would have a Verdict depend upon the Witnesses that swear the Fact downright upon him. You and we all are sensible of the great difficulties and hazards that is now both against the King's Person, and against all Protestants, and our Religion too, which will hardly maintain it self, when they have destroyed the Men; but let 'em know, that many Thousands will lose their Religion with their Lives, for we will not be Papists, let the Jesuits press what they will (who are the foundations of all this Mischief) in making Proselytes, by telling them, Do what wickedness you will it's no sin, but we can save you, and if you omit what we command, we can damn you. This they will not own when it comes to be an objection and penal upon them, but they will never get the Pope of *Rome* to declare he hath not a power to Excommunicate what he calls a heretick King, and if he does, that the Subject is not discharged from his Obedience; they would do great service to their Papist Friends, if they could obtain such an Edict. They Print, Preach, Dispute, and Maintain otherwise, and thereby lead People to their own destruction and the destruction of others. Excuse me if I am a little warm, when Perils are so many, their Murders so secret, that we cannot discover the Murder of that Gentleman, whom we all knew so well, when things are transacted so closely, and our King in so great danger, and Religion at stake. 'Tis better to be warm here than in *Smithfield*. But that the Man might have justice done him, he hath had his Witnesses, and might have had this old Man, if he had named him to Mr. *Richardson:* and to shew what fair play he has had, Mr. Attorney tells you the old Man hath been examined upon Oath, and offers him the Copy of his Examination to use, but he thinks not fit to use it for his defence, therefore nothing is smothered. The Offence you have heard in words plain enough, unless the sense is perverted by Jesuitical cunning and equivocation, the best part of their learning and honesty. They swear it expressly, *That the King was a Heretick, and the greatest Rogue in the World, and here's the Heart and Hand, that he would kill him himself*; and hath and can have no other signification. The Statute saith *Advisedly* and *Maliciously*. The manner of speaking, and the words spoke, prove both. When a Papist once hath made a Man a Heretick, there is no scruple to murder him. Whoever is not of their Persuasion are Hereticks, and whoever are Hereticks may be murdered, if the Pope commands it, for which they may become Saints in Heaven; this is that they have practised. If there had been nothing of this in this Kingdom, or other parts of the World, it would be a hard thing to impose it upon them; but they ought not to complain, when so many Instances are against them. Therefore discharge your Consciences as you ought to do; if guilty let him take the Reward of his Crime, and you shall do well to begin with this Man, for perchance it may be a Terror to the rest. Unless they think they can be saved by dying in the Roman Faith, tho' with such pernicious and traiterous words and designs as these are; let such go to Heaven by themselves. I hope, I shall never go to that Heaven, where Men are made Saints for killing Kings.'

William Stayley, Hold up your Hand.

Cl. of Cr. Is *William Stayley* guilty of the High-Treason whereof he hath been Indicted?

Jury. Guilty.

Cl. of Cr. What Goods, Chattels, Lands or Tenements?

Jury. None.

L. C. J. Now you may die a Roman Catholick, and when you come to die, I doubt you will be found a Priest too.

K. Coun. I pray Judgment according to the Verdict.

Cl. of Cr. You have been Indicted of High-Treason, you have put your self upon your Country, which Country have found you guilty, what have you to say for your self, wherefore the Court should not proceed to Judgment against you?

Pris. I have nothing to say.

L. C. J. I pronounce Judgment upon you. You are here found guilty by the Jury of High-Treason, for saying you would kill the King, with other irreverent words; but the Matter which makes you a Traitor is proved upon you by most apparent Evidence. The matter, manner, and all the circumstances of it make it plain; you may harden your Heart as much as you will, and lift up your Eyes, but you seem instead of being sorrowful, to be obstinate; between God and your Conscience be it, I have nothing to do with it, my duty is to pronounce Judgment upon you according to Law, which is this:

The SENTENCE.

You shall return to the Prison, from thence shall be drawn to the place of Execution, where you shall be hanged by the Neck, cut down alive, your Quarters shall be severed and be disposed of as the King shall think fit, and your Bowels burnt, and so the Lord have mercy upon your Soul.

November the 26th he was executed at *Tyburn*, according to the Sentence.

See the Account of the Digging up of the Quarters of William Stayley, in State Trials, *Vol.* 8. *p.* 433, 434.

LXXV. *The Trial of* Edward Coleman*, *at the* King's-Bench, *for* High-Treason, *the 27th of* November, 1678. Mich. 30 Car. II.

ON *Wednesday* the Twenty Seventh day of *November*, 1678, Mr. *Coleman* (having been Arraigned the *Saturday* before for High-Treason) was brought to the *King's-Bench* Bar, to receive his Trial, and the Court proceeded thereupon, as followeth.

Cl. of Cr. Crier, make Proclamation.

Proclamation for Silence.

Crier. O yes! Our Sovereign Lord the King does strictly Charge and Command all manner of Persons to keep Silence upon pain of Imprisonment.

If any one can inform our Sovereign Lord the King, the King's Serjeant, or the King's Attorney-General, or this Inquest now to be taken, of any Treason, Murder, Felony, or any other Misdemeanour committed or done by the Prisoner at the Bar, let them come forth, and they shall be heard, for the Prisoner stands at the Bar upon his Deliverance.

Cl. of Cr. Crier, make an O yes.

Crier. O yes! You Good Men that are impannelled to enquire between our Sovereign Lord the King, and *Edward Coleman* Prisoner at the Bar, answer to your Names.

Cl. of Cr. Edward Coleman, Hold up thy Hand.

These Good Men that are now called, and here appear, are those which are to pass between you and our Sovereign Lord the King, upon your Life or Death; if you challenge any of them, you must speak as they come to the Book to be sworn, and before they are sworn.

The Prisoner challenging none, the Court proceeded, and the Jury were sworn, *viz.*

JURY.

Sir *Reginald Forster*, Bart.	*Joshua Galliard*, Esq;	*Charles Umfreville*, Esq;
Sir *Charles Lee.*	*John Bisield*, Esq;	*Thomas Johnson*, Esq;
Edward Wilford, Esq;	*Simon Middleton*, Esq;	*Thomas Eaglesfield*, Esq;
John Bathurst, Esq;	*Henry Johnson*, Esq;	*William Bohee*, Esq;

Cl. of Cr. Crier, make an O yes.

Crier. O yes! Our Sovereign Lord the King does strictly charge and command all manner of Persons to keep Silence upon pain of Imprisonment.

Cl. of Cr. Edward Coleman, Hold up thy Hand.

You Gentlemen of the Jury that are now sworn, look upon the Prisoner, and hearken to his Charge.

You shall understand, that the Prisoner stands indicted by the Name of *Edward Coleman*, late of the Parish of St. *Margaret's Westminster* in the County of *Middlesex*, Gent. for that he as a false Traitor against our most Illustrious, Serene, and most Excellent Prince *Charles*, by the Grace of God of *England*, *Scotland*, *France*, and *Ireland* King, Defender of the Faith, *&c.* and his Natural Lord; having not the Fear of God in his Heart, nor duly weighing his Allegiance, but being moved and seduced by the Instigation of the Devil, his cordial Love and true Duty, and natural Obedience, (which true and lawful Subjects of our said Lord the King ought to bear towards him, and by Law ought to have) altogether withdrawing, and devising, and with all his strength intending, the Peace and common Tranquillity of this Kingdom of *England* to Disturb, and the true Worship of God within the Kingdom of *England* practised, and by Law Established, to overthrow, and Sedition and Rebellion within this Realm of *England* to move, stir up and procure; and the cordial Love and true Duty and Allegiance, which true and lawful Subjects of our Sovereign Lord the King towards their Sovereign bear, and by Law ought to have, altogether to Withdraw, Forsake, and Extinguish; and our said Sovereign Lord the King to Death and final Destruction to bring and put, the Twenty Ninth Day of *September* in the Seven and Twentieth Year of the Reign of our said Sovereign Lord *Charles* the Second, of *England*, *Scotland*, *France* and *Ireland* King, Defender of the Faith, *&c.* at the Parish of St *Margaret's Westminster* aforesaid, in the County aforesaid, Falsly, Maliciously, and Traiterously

* Burn. *Hist. own Times*, Vol. I. p. 368. 394. 426. 436.

Proposed,

Propoſed, Compaſſed, Imagined and Intended, to ſtir up, and raiſe Sedition and Rebellion within the Kingdom of *England*, and to procure and cauſe a miſerable Deſtruction among the Subjects of our ſaid Lord the King, and wholly to Deprive, Depoſe, Deject, and Diſinherit our ſaid Sovereign Lord the King, of his Royal State, Title, Power, and Rule of his Kingdom of *England*, and to bring and put our ſaid Sovereign Lord the King to final Death and Deſtruction, and to overthrow and change the Government of the Kingdom of *England*, and to alter the ſincere and true Religion of God, in this Kingdom by Law eſtabliſhed; and wholly to ſubvert and deſtroy the State of the whole Kingdom, being in the univerſal parts thereof well Eſtabliſhed and Ordained, and to levy War againſt our ſaid Sovereign Lord the King, within his Realm of *England:* And to accompliſh and fulfil theſe his moſt wicked Treaſons, and Traiterous Deſigns and Imaginations aforeſaid, the ſaid *Edward Coleman* afterwards, that is to ſay, the Nine and twentieth Day of *September* in the Twenty ſeventh Year of the Reign of our ſaid Lord the King, at the Pariſh of St *Margaret*'s *Weſtminſter* aforeſaid, in the County of *Middleſex* aforeſaid, Falſly, Deceitfully, and Traiterouſly Compoſed, Contrived, and Writ two Letters, to be ſent to one *Monſieur le Chaiſe*, then Servant and Confeſſor of *Lewis* the *French* King, to Deſire, Procure, and Obtain, for the ſaid *Edward Coleman*, and other Falſe Traitors againſt our ſaid Sovereign Lord the King, the Aid, Aſſiſtance, and Adherence of the ſaid *French* King, to alter the true Religion in this Kingdom Eſtabliſhed, to the Superſtition of the Church of *Rome*, and to ſubvert the Government of this Kingdom of *England:* And afterwards, (that is to ſay) the ſaid Nine and twentieth Day of *September* in the Year aforeſaid, at the Pariſh of St *Margaret*'s *Weſtminſter* in the County of *Middleſex* aforeſaid, the ſaid *Edward Coleman* Falſly, Traiterouſly, and Maliciouſly Compoſed and Writ two other Letters, to be ſent to the ſaid *Monſieur le Chaiſe*, then Servant and Confeſſor to the ſaid *French* King, to the Intent that he the ſaid *Monſieur le Chaiſe* ſhould Intreat, Procure, and Obtain for the ſaid *Edward Coleman* and other Falſe Traitors againſt our Sovereign Lord the King, Aid, Aſſiſtance, and Adherence of the ſaid *French* King, to alter the true Religion in this Kingdom of *England* Eſtabliſhed, to the Superſtition of the Church of *Rome*, and to ſubvert the Government of this Kingdom of *England:* And that the ſaid *Edward Coleman*, in further Proſecution of his Treaſon and Traiterous Imaginations and Intentions, as aforeſaid, afterwards, *viz.* the Twenty Ninth Day of *September*, in the Seven and twentieth Year of the Reign of our ſaid Sovereign Lord King *Charles*, of *England*, *&c.* the ſaid ſeveral Letters, from the ſaid Pariſh of St. *Margaret*'s *Weſtminſter*, in the County of *Middleſex* aforeſaid, Falſly, Maliciouſly and Traiterouſly, did ſend to the ſaid *Monſieur le Chaiſe*, into Parts beyond the Seas, there to be delivered to him: And that the ſaid *Edward Coleman*, afterward, *viz.* the Firſt Day of *December*, in the Seven and twentieth Year of our ſaid Sovereign Lord the King, at the ſaid Pariſh of St. *Margaret*'s *Weſtminſter*, in the County of *Middleſex* aforeſaid, did receive from the ſaid *Monſieur le Chaiſe* one Letter, in Anſwer to one of the ſaid Letters firſt mentioned, and Written by him the ſaid *Edward Coleman* to the ſaid *Monſieur le Chaiſe*; which ſaid Letter in Anſwer as aforeſaid, Falſly, Maliciouſly, and Traiterouſly received, the Day and Year aforeſaid, at the Pariſh of St. *Margaret*'s *Weſtminſter* aforeſaid, the ſaid *Edward Coleman* did falſly, traiterouſly, and maliciouſly read over and peruſe; And that the ſaid *Edward Coleman*, the Letter ſo as aforeſaid, by him in Anſwer to the ſaid Letter received into his Cuſtody and Poſſeſſion, the Day and Year laſt mentioned, at the Pariſh of St. *Margaret*'s *Weſtminſter* aforeſaid, in the County of *Middleſex* aforeſaid, did Falſly, Maliciouſly, and Traiterouſly Detain, Conceal and Keep. By which Letter the ſaid *Monſieur le Chaiſe*, the Day and Year laſt mentioned, at the Pariſh of St *Margaret*'s *Weſtminſter* in the County of *Middleſex* aforeſaid, did ſignify and promiſe to the ſaid *Edward Coleman*, to obtain for the ſaid *Edward Coleman*, and other falſe Traitors againſt our Sovereign Lord the King, Aid, Aſſiſtance and Adherence from the ſaid *French* King: And that the ſaid *Edward Coleman* afterward, *viz.* the tenth day of *December* in the ſeven and twentieth Year of the Reign of our ſaid Sovereign Lord the King, at the Pariſh of St. *Margaret*'s *Weſtminſter*, in the County of *Middleſex* aforeſaid, his wicked Treaſons and Traiterous Deſigns and Propoſals as aforeſaid did tell and declare to one *Monſieur Ravigni*, Envoy-extraordinary from the *French* King to our moſt Serene and Sovereign Lord King *Charles*, &c. in the County aforeſaid reſiding, and did falſly, maliciouſly, and traiterouſly move and excite the ſaid Envoy-extraordinary to partake in his Treaſon; and the ſooner to fulfil and compleat his Traiterous Deſigns, and wicked Imaginations and Intentions, the ſaid *Edward Coleman* afterward, *viz.* the tenth day of *December* in the ſeven and twentieth year of the Reign of our Sovereign Lord King *Charles* the Second of *England*, &c. aforeſaid, at the Pariſh of St *Margaret*'s *Weſtminſter*, in the County of *Middleſex* aforeſaid, did adviſedly, maliciouſly, deceitfully, and traiterouſly compoſe and write three other Letters to be ſent to one Sir *William Throckmorton* Kt. then a Subject of our ſaid Sovereign Lord the King of this Kingdom of *England*, and reſiding in *France*, in parts beyond the Seas, *viz.* at the Pariſh of St. *Margaret*'s *Weſtminſter*, in the County of *Middleſex* aforeſaid, to ſolicite the ſaid *Monſieur le Chaiſe* to procure and obtain of the ſaid *French* King, Aid, Aſſiſtance, and Adherence, as aforeſaid, and the ſaid Letters laſt mention'd, afterward, *viz.* the day and year laſt named as aforeſaid, from the ſaid Pariſh of St. *Margaret*'s *Weſtminſter*, in the County of *Middleſex* aforeſaid, did falſly and traiterouſly ſend, and cauſe to be delivered to the ſaid Sir *William Throckmorton* in *France* aforeſaid, againſt his true Allegiance, and againſt the Peace of our Sovereign Lord the King that now is, his Crown and Dignity, and againſt the Form of the Statute in that Caſe made and provided.

Cl. of Cr. Upon this Indictment he hath been arraigned, and hath pleaded thereunto Not guilty; and for his Trial he puts himſelf upon God and his Country: Which Country you are.

Your Charge is to enquire, whether he be guilty of the High Treaſon whereof he ſtands indicted, or not guilty. If you find him guilty, you are to enquire what Goods and Chattels, Lands and Tenements he had at the time when the High-Treaſon was committed, or at any time ſince: If you find him not guilty, you are to ſay ſo, and no more, and hear your Evidence.

Crier. If any one will give Evidence on the behalf of our Sovereign Lord the King, againſt *Edward Coleman* the Priſoner at the Bar, let him come forth, and he ſhall be heard; for the Priſoner now ſtands at the Bar upon his Deliverance.

Mr. *Recorder*, Sir *George Jefferies.* May it pleaſe you, my Lord, and you Gentlemen of the Jury; Mr. *Edward Coleman*, now the Priſoner at the Bar, ſtands indicted for High-Treaſon, and the Indictment ſets forth that the ſaid *Edward Coleman*, endeavouring to ſubvert the Proteſtant Religion, and to change and alter the ſame; and likewiſe to ſtir up Rebellion and Sedition amongſt the King's Liege People, and alſo to kill the King; did on the 29th of *September* in the twenty ſeventh year of the Reign of our Sovereign Lord the King, at the Pariſh of St. *Margaret*'s *Weſtminſter* in this County, compoſe and write two ſeveral Letters to one *Monſieur le Chaiſe*, that was then Servant and Confeſſor to the *French* King, and this was to procure the *French* King's aid and aſſiſtance to him and other Traitors, to alter the Religion practiſed, and by Law eſtabliſhed here in *England*, to the *Romiſh* Superſtition. The Indictment ſets forth likewiſe, That on the ſame day he did write and compoſe two other Letters to the ſame Gentleman, that was Servant and Confeſſor to the ſaid King, to prevail with him to procure the *French* King's aſſiſtance to alter the Religion in this Kingdom eſtabliſhed to the *Romiſh* Religion. The Indictment ſets further forth, that he cauſed theſe two Letters to be ſent beyond the Seas. And it alſo ſets forth, that on the tenth of *December*, the ſame Month, he did receive a Letter from the Gentleman that was the Confeſſor, in anſwer to one of the former Letters, and in that Letter aid and aſſiſtance from the *French* King was promiſed; and that he did traiterouſly conceal that Letter. My Lord, the Indictment ſets out further, that on the tenth day of the ſame Month, he did reveal his Treaſons and Traiterous Conſpiracies to one *Monſieur Ravigni*, who was Envoy from the *French* King to his Majeſty of *Great Britain.* And his Indictment declares, he afterwards did write three Letters more to Sir *William Throckmerton*, then reſiding in *France*, to procure the *French* King's aſſiſtance to the alteration of the Religion practiſed here in *England.* Of theſe ſeveral Offences he ſtands here indicted.

To this he hath pleaded Not guilty. If we prove theſe, or either of them in the Indictment, you ought to find him guilty.

Serj. Maynard. May it pleaſe your Lordſhip, and you Gentlemen of the Jury; This is a Cauſe of great Concernment. Gentlemen, the Priſoner at the Bar ſtands indicted for no leſs than for an intention and endeavour to Murder the King; for an endeavour and attempt to change the Government of the Nation, ſo well ſettled and inſtituted, and to bring us all to ruin and ſlaughter of one another; and for an endeavour to alter the Proteſtant Religion, and to introduce inſtead of it the *Romiſh* Superſtition, and Popery.

This is the Charge (in general) of the Indictment. We will proceed unto Particulars, whereby it may appear, and whereupon he endeavoureth to accompliſh his ends. One or two Letters written to *Monſieur le Chaiſe* (he is a Foreigner, and we have nothing to ſay to him, being Confeſſor to the *French* King) it was to excite and ſtir him up to procure Aid and Aſſiſtance (and you know what Aid and Aſſiſtance means) from a Foreign Prince, Arms, and other Levies. We charge him with it, that he did receive this Letter, ay, and received an anſwer with a promiſe, that he ſhould have Aſſiſtance. He writ other Letters to Sir *William Throckmorton*, who traiterouſly conſpired with him, and had intelligence from time to time from him. This is the Charge in the Indictment; To which he hath pleaded, Not guilty. We will go on in our Evidence: I ſhall, but more generally, open our method, that we intend to take. For it may ſeem ſtrange, and is not reaſonably to be imagined, that a private Gentleman, as the Priſoner at the Bar is, ſhould have ſuch vaſt and great deſigns as this, to alter Religion, deſtroy the Government, ay, and deſtroy the Subjects too in a great meaſure. But 'tis not himſelf alone, but he employs himſelf for Foreign Aſſiſtance, great Confederacies and Combinations with the Subjects of that King, many of whom he did pervert.

In the courſe of the Evidence I ſhall not open the particulars: (Mr. Attorney, I think, will do that by and by) thoſe that we have occaſion to ſpeak of, and ſhall in proof mention to you, will be theſe.

Le Chaiſe, the *French* King's preſent Confeſſor, we have mentioned: before him there was one Father *Ferryer*, with whom he held Correſpondence. That *Ferryer* being removed by death, the Priſoner had an employment here amongſt us, by which he gave *Le Chaiſe* inſtructions how to proceed. This Gentleman is the great Contriver and Plotter, which gives him inſtructions how to proceed. He doth give him an account by way of Narrative, how all things had ſtood upon former Treaties and Negotiations, how Buſineſſes were contrived, and how far they were gone; this he diligently and accurately gives an account of. This (my Lord) doth diſcover and delineate what hath been done before until 1674. My Lord, there was likewiſe Sir *William Throckmorton* and ſome others, that are *Engliſhmen* too, there are none of them but what were firſt Proteſtants; but when they once renounced their Religion, no wonder they ſhould renounce their Nation, and their Prince too. He was gone beyond the Seas, ſeveral Letters paſt between them, and all to promote, and encourage, and accompliſh this Deſign. My Lord, there is likewiſe a conſult of Jeſuits uſed too, where, in expreſs words, they deſigned to murder the King, or contrived and adviſed upon it.

My Lord, there were four *Iriſh* Men (I open but the Heads of things) ſent to *Windſor* to murder the King: This Gentleman received and diſburſed Money about this buſineſs, and one *Aſhby* a Jeſuit here had Inſtructions from him to proſecute the Deſign, and to treat with a Phyſician

a Phyſician to poiſon the King. This the Priſoner approved of, and contributed to it. There were Commiſſions (as I take it) delivered from *Ferryer*, or by his Hand, that came from Foreign Powers. Sir *Henry Titchbourne* was another that received and delivered Commiſſions. *Pompone* the *French* Gentleman, he maintains Intelligence with him about this buſineſs, the Titular Archbiſhop of *Dublin*.

There's Cardinal *Norfolk*, by him he had acceſſion to the Pope.

There was likewiſe the Pope's *Nuncio* (I do not open the Tranſactions of theſe Inſtructions); theſe particulars will be made out, not only by Witneſs *Viva Voce*, and not ſingle only, but by Letters of this Mr. *Coleman*'s own writing. But I offer that to the conſideration of the Jury.

Mr. *Oates* was the firſt Man, that we hear of, that diſcovered this Treaſon; he was the ſingle Man that diſcovered ſo many active Agents in ſo great a Treaſon as this was, and it needed to be well ſeconded; but he being found to be but ſingle, the Boldneſs and Courage of theſe Complotters in it grew great thereupon. We know what followed; the Damnable Murder of that Gentleman, in Execution of his Office, ſo Helliſhly contrived, and the Endeavours that were uſed to hide it, every body knows: How many Stories were told to hide that abominable Murder, how many Lies there were about it, but it could not be ſuppreſt. The Nation is awaken'd out of ſleep, and it concerns us now to look about us. But all this while Mr. *Coleman* thought himſelf ſafe, walked in the Fields, goes abroad, Jealouſy increaſing, and he himſelf ſtill ſecure.

The Letters that are produced go but to ſome part of the Year 75: from 75 unto 78 all lies in the dark, we have no certain Proof of it; but we apprehend he had Intelligence until 78; That there were the ſame Perſons continuing here, and his Company increaſing here: But this I ſpeak but as probable, (but very exceeding probable) that there was other paſſages of Intelligence between this Perſon and other Confederates.

It ſeems (my Lord) that this *Coleman* was aware that he was concerned: but God blinded and infatuated him, and took away his Reaſon. It's no queſtion but he carried away ſome of thoſe Papers; thoſe that were left behind, and are produced, he forgot and neglected; and by that (my Lord) thoſe which are produced, are Evidence againſt him at this time. Surely he thought we were in ſuch a condition, that had Eyes and could not ſee, and Ears that could not hear, and Underſtandings without underſtanding: for he was bold, and walked abroad, and that until this Proſecution was made upon him, he endeavoured to murder the King, change the Government, make an alteration of Religion, and Deſtruction of Proteſtants, as well as the Proteſtant Religion; and it will be proved by ſome Letters, when they were rejected by the Duke, that he ſent them in the Duke's Name. And by this no Man will doubt but he is a great Traitor.

Attorn. Gen. Sir *William Jones*. May it pleaſe your Lordſhip, and you Gentlemen of the Jury, The King's Serjeant hath opened the general parts of our Evidence; and we have reaſon to foreſee that our Evidence will be very long, and will take up much of your time; and therefore I ſhall ſpend no more time in opening of it than is juſt neceſſary. And indeed (my Lord) Mr. *Coleman* himſelf hath ſaved me much of the labour, which otherwiſe I ſhould have beſtowed; for he hath left ſuch elegant and copious Narratives of the whole Deſign under his own Hand, that the reading of them will be better than any new one I can make.

But (my Lord) ſome ſhort Account I ſhall give you, ſuch as may ſhew you the courſe of our Evidence, and will make our Evidence, when it comes to be given, to be more intelligible.

My Lord, It will appear, that there hath been for many Years laſt paſt a more than ordinary Deſign and Induſtry to bring in the Popiſh, and extirpate the Proteſtant Religion.

I doubt not but this Deſign, in ſome meaſure, hath been contriving ever ſince the Reformation, by the Jeſuits, or ſome of their Emiſſaries, but hath often received interruption; ſo that they have proceeded ſometimes more coldly, ſometimes more hotly: And I do think, at no time ſince the Reformation, that ever this Deſign was carried on with greater Induſtry, nor with fairer hopes of Succeſs, than for theſe laſt Years.

My Lord, You will hear from our Witneſſes, that the firſt Onſet, which was to be made upon us, was by whole Troops of Jeſuits and Prieſts, who were ſent hither from the Seminaries Abroad, where they had been trained up in all the Subtilty and Skill that was fit to work upon the People.

My Lord, you will hear how active they have been, and what Inſinuations they uſed for the perverting of particular Perſons. After ſome time ſpent in ſuch Attempts, they quickly grew weary of that courſe; though they got ſome Proſelytes, they were but few. Some Bodies, in whom there was a prediſpoſition of humors, were infected, but their Numbers were not great. They at laſt reſolve to take a more expeditious way; for in truth, (my Lord) they could not far prevail by the former. And I wiſh with all my heart, that the Bodies of Proteſtants may be as much out of danger of the Violence of their Hands, as their Underſtandings will be of the force of their Arguments. But (my Lord) when this way would not take, they began then to conſider they muſt throw at all at once. No doubt but they would have been glad, that the People of *England* had had but one Neck; but they knew the People of *England* had but one Head, and therefore they were reſolved to ſtrike at that.

My Lord, you will find, that there was a Summons of the principal Jeſuits, of the moſt able Head-pieces, who were to meet in *April* or *May* laſt, to conſult of very great things, of a moſt Diabolical Nature, no leſs than how to take away the Life of the King our Sovereign.

My Lord, you will find (as is uſually practiſed in ſuch horrid Conſpiracies), to make all ſecure, that there was an Oath of Secrecy taken, and that upon the Sacrament. You will find Agreements made, that this moſt Wicked and Horrible Deſign ſhould be attempted. You will find two Villains were found among them, who undertook to do this execrable work; and you will hear of the Rewards they were to have: Money in caſe they did ſucceed, and Maſſes good ſtore in caſe they periſhed; ſo that their Bodies were provided for in caſe they ſurvived, and their Souls if they died. My Lord, What was the reaſon they did not effect their Deſign, but either that theſe Villains wanted Opportunity, or their Hearts failed them when they came to put in execution this Wicked Deſign? Or, perhaps (which is moſt probable) it was the Providence of God, which over-rul'd them, that this Bloody Deſign did not take its effect.

But theſe Gentlemen were not content with one Eſſay, they quickly thought of another; and there were four *Iriſh-Men* prepared (Men of very mean Fortunes, and deſperate Conditions), and they were to make the Attempt no longer ſince, than when the King was laſt at *Windſor*.

My Lord, I perceive by the Proofs, that theſe laſt Aſſaſſinates went down thither; but it came to paſs (for ſome of the Reaſons aforeſaid) that that Attempt failed likewiſe.

My Lord, Theſe Gentlemen, thoſe wiſe Heads, who had met here in Conſultation, did then, and long before, conſider with themſelves, that ſo great a Cauſe as this was not to be put upon the hazard of ſome few Hands; they therefore propoſed Forces, Aids, and Aſſiſtances, both at Home and Abroad, to ſecond this Wicked Deſign, if it had ſucceeded as to the Perſon of the King; and if that fail'd, then by their Foreign and Domeſtick Aids and Aſſiſtances, to begin and accompliſh the whole Work of ſubverting our Government and Religion. And here we muſt needs confeſs, as to the former part of this Plot, which we have mentioned, I mean the attempt upon the King's Perſon, Mr. *Coleman* was not the Contriver, nor to be the Executioner: But yet your Lordſhip knows, in all Treaſons there is no Acceſſory, but every Man is a Principal. And thus much we have againſt him, even as to this part of the Deſign, which will involve him in the whole guilt of it, that Mr. *Coleman* conſented to it, though his Hand were not to do it. Mr. *Coleman* encouraged a Meſſenger to carry Money down as a Reward of theſe Murderers, that were at *Windſor*; of this we have proof againſt him, which is ſufficient. My Lord, Mr. *Coleman*, as a Man of greater Abilities, is reſerved for greater Employments, and ſuch wherein, I confeſs, all his Abilities were little enough. There were Negotiations to be made with Men Abroad, Money to be procured, partly at home from Friends here, and partly abroad from thoſe that wiſh'd them well: And in all theſe Negotiations Mr. *Coleman* had a mighty Hand; and you will perceive by and by what a great progreſs he made in them. This Conſpiracy went ſo far, as you will hear it proved, That there were general Officers named and appointed, that ſhould Command their new Catholick Army, and many were Engaged, if not Liſted. There were not only in *England*, but in *Ireland* likewiſe, where Arms and all other Neceſſaries were provided, and whither great Sums of Money were returned to ſerve upon occaſion. But one thing there is, my Lord, that comes neareſt Mr. *Coleman*: As there were Military Officers named, ſo likewiſe the great Civil Places and Offices of the Kingdom were to be diſpoſed of; I will not name to whom at this time, more than what is pertinent to the preſent buſineſs.

This Gentleman, ſuch were his great Abilities, the truſt and reliance that his Party had upon him, that no leſs an Office would ſerve his turn than that of Principal Secretary of State; and he had a Commiſſion, that came to him from the Superiors of the Jeſuits, to enable him to execute that great Office. My Lord, it ſeems ſtrange, that ſo great an Office ſhould be conferred by no greater a Man than the Superior of the Jeſuits. But if the Pope can depoſe Kings, and diſpoſe of Kingdoms, no wonder if the Superior of the Jeſuits can by a power delegated from him make Secretaries. It is not certain what the Date of this Commiſſion was, nor the very time when he received it: but I believe he was ſo earneſt and forward in this Plot, that he began to execute his Office long before he had his Commiſſion for it; for I find by his Letters, which are of a more early Date, that he had proceeded ſo far as to treat with Father *Ferryer*, who was the *French* King's Confeſſor, before he had actually received this Commiſſion. You will underſtand by the Letters, which we ſhall produce, what he had to do with him, and what with the other Confeſſor that ſucceeded, Father *Le Chaiſe*. There were two ſmall matters they treated of, no leſs than the Diſſolving the Parliament; and the Extirpation of the Proteſtant Religion. Nay, you will find, and you will hear enough, when the Letters come to be read, that Mr. *Coleman* made many ſtrokes at the Parliament, he had no good opinion of them. And we cannot blame him; for without all peradventure they had made, and I hope ever will make, ſtrong reſiſtance againſt ſuch Deſigns as theſe. But a great mind he had to be rid of them; and he had hopes of great Sums of Money from abroad, if it had been to be done that way. And it is very remarkable (and ſhews the Vanity of the Man), he had ſuch an opinion of the ſucceſs of theſe Negotiations, that he had penn'd a Declaration prepared by him, and writ with his own hand, to be publiſhed in Print, upon the Diſſolution of the Parliament, to juſtify that Action with many ſpecious and plauſible Reaſons. As he did this without any Direction, ſo he takes upon him to write a Declaration, as in the Name of the King, without the leaſt ſhadow of any command to do it, ſo he prepares a Letter alſo in the Name of the Duke; and I would not affirm, unleſs I could prove it, and that from his own Confeſſion, (being examined before the Lords upon Oath) that he had no manner of Authority from the Duke to prepare ſuch a Letter; and when it was written and brought to the Duke, it was rejected, and the Writer juſtly blamed for his preſumption. By this you will perceive the forwardneſs of this Man. And you muſt of neceſſity take notice, that in his Letters he took upon himſelf to manage Affairs, as authorized by the greateſt Perſons in the Kingdom, yet without the leaſt ſhadow of proof that he was by them impowered to do it.

My Lord, you ſhall find, Mr. *Coleman* thought himſelf above all; and ſuch was his own over-weening Opinion of his Wit and Policy, that he thought himſelf the ſole and ſupreme Director of all the Affairs of the Catholicks. You will likewiſe perceive that he held Intelligence

with Cardinal *Norfolk*, with Father *Sheldon*, and the Pope's Internuntio at *Bruſſels*. And I cannot but obſerve out of the Proofs, that as we ſhall find Mr. *Coleman* very ambitious and forward in all great Affairs; ſo he had a little too much Eye to the Reward; he looked too much a-ſquint upon the matter of Money: His great endeavours were not ſo much out of Conſcience, or out of Zeal to his Religion, as out of temporal Intereſt; to him Gain was inſtead of Godlineſs. And by his Letters to the *French* Confeſſor *Monſieur Le Chaiſe*, it will be proved, that he got much Money from the Catholicks here, and ſome from abroad, but ſtill he wanted Money. What do do? (I do not mean the greater ſum of two hundred thouſand Pounds to procure the Diſſolution of the Parliament, but ſome twenty thouſand Pounds only) To be expended by him in ſecret Service. I do not know what account he would have given of it, if he had been intruſted with it. But that he earneſtly thirſted after Money, appeareth by moſt of his Letters.

My Lord, you will obſerve, beſides his Intelligences, that he had with Father *Le Chaiſe*, and ſeveral others, one that deſerves to be named, and that is his Negotiation with Sir *William Frogmorton*, who was ſent over into *France*, and there reſided a long time to promote theſe Deſigns. He is dead; therefore I will not ſay ſo much of him, as I would ſay againſt him, if he was here to be tried. But, my Lord, I find in his Letters ſuch Treaſonable, ſuch Impious Expreſſions againſt the King, ſuch undutiful Characters of him, that no good Subject would write, and no good Subject would receive and conceal, as Mr. *Coleman* hath done. My Lord, it may paſs for a wonder, how we came to be Maſters of all theſe Papers; it has in part been told you already.

There was an Information given of the general Deſign, nay of ſome of the particulars againſt the King's Life. And without all peradventure, Mr. *Coleman* knew of this Diſcovery; and he knew that he had Papers that could ſpeak too much, and he had time and opportunity enough to have made them away, and I make no Queſtion but he did make many away. We are not able to prove the continuance of his Correſpondence, ſo as to make it clearly out; but we ſuppoſe that continued until the day he was ſeized. And there is this to be proved, that Letters came for him, though we cannot ſay any were delivered to him, after he was in Priſon. But without all peradventure, the Man had too much to do, too many Papers to conceal: Then, you'll ſay, he might have burnt them all (for many would burn as well as a few): But then he had loſt much of the Honour of a great States-man; many a fine Sentence, and many a deep Intrigue had been loſt to all Poſterity. I believe that we owe this Diſcovery to ſomething of Mr. *Coleman*'s Vanity: he would not loſe the Glory of managing theſe important Negotiations about ſo great a Deſign: He thought 'twas no ſmall Reputation to be intruſted with the Secrets of Foreign Miniſters. If this was not his reaſon, God (I believe) took away from him that clearneſs of Judgment, and ſtrength of Memory, which he had upon other Occaſions.

My Lord, I ſhall no longer detain you from reading the Papers themſelves. But I cannot but account this Kingdom happy, that theſe Papers are preſerved. For (my Lord) we are to deal with a ſort of Men, that have that prodigious confidence, that their Words and Deeds (though proved by never ſo unſuſpected Teſtimony) they will ſtill deny. But (my Lord) no denial of this Plot will prevail, for Mr. *Coleman* himſelf hath, with his own hand, recorded this Conſpiracy; and we can prove his hand, not only by his own Servants, and Relations, but by his own Confeſſion. So that (my Lord) I doubt not, that if there be any of their own Party that hear this Trial, they themſelves will be ſatisfy'd with the truth of theſe things. And I believe we have an advantage in this caſe, which they will not allow us, in another matter; namely, that we ſhall be for this once permitted to believe our own Senſes. Our Evidence conſiſteth of two parts: one is, Witneſſes *Viva Voce*, which we deſire (with the favour of the Court) to begin with; and when that is done, we ſhall read ſeveral Letters, or Negotiations, in writing, and ſo ſubmit the whole to your Lordſhip's direction.

Priſ. I beg leave that a poor ignorant Man, that is ſo heavily charged, that it ſeems a little unequal to conſider the reaſon, why a Priſoner, in ſuch a caſe as this is, is not allowed Counſel; but your Lordſhip is ſuppoſed to be Counſel for him. But I think it very hard I cannot be admitted Counſel; and I humbly hope your Lordſhip will not ſuffer me to be loſt by things that my ſelf cannot anſwer. I deny the Concluſion, but the Premiſſes are too ſtrong and artificial.

Sir *William Scroggs*, * *L. C. J.* You cannot deny the Premiſſes, but that you have done theſe things; but you deny the Concluſion, that you are a Traitor?

Priſ. I can ſafely and honeſtly.

L. C. J. You would make a better Secretary of State, than a Logician; for they never deny the Concluſion.

Priſ. I grant it your Lordſhip: You ſee the advantage great Men have of me, that do not pretend to Logick.

L. C. J. The labour lies upon their Hands; the Proof belongs to them to make out theſe Intrigues of yours; therefore you need not have Counſel, becauſe the Proof muſt be plain upon you, and then it will be in vain to deny the Concluſion.

Priſ. I hope (my Lord) if there be any Point of Law that I am not ſkill'd in, that your Lordſhip will be pleaſed not to take the advantage over me. Another thing ſeems moſt dreadful, that is, the violent Prejudice that ſeems to be againſt every Man in *England*, that is confeſs'd to be a Roman Catholick. It is poſſible that a Roman Catholick may be very innocent of theſe Crimes. If one of thoſe Innocent Roman Catholicks ſhould come to this Bar, he lies under ſuch Diſadvantages already, and his Prejudices ſo greatly biaſſeth humane Nature, that unleſs your Lordſhip will lean extremely much on the other ſide, Juſtice will hardly ſtand upright, and lie upon a Level. But to ſatisfy your Lordſhip, I do not think it any ſervice to deſtroy any of the King's Subjects, unleſs it be in a very plain caſe.

L. C. J. You need not make any preparations for us in this matter, you ſhall have a fair, Juſt, and legal Trial; if Condemned, it will be apparent you ought to be ſo; and without a fair Proof, there ſhall be no Condemnation. Therefore you ſhall find, we will not do to you, as you do to us, blow up at adventure, kill people becauſe they are not of your perſuaſion; our Religion teacheth us another Doctrine, and you ſhall find it clearly to your advantage. We ſeek no Man's Blood, but our own Safety. But you are brought here from the neceſſity of things, which your ſelves have made; and from your own Actions you ſhall be condemned or acquitted.

Priſ. It is ſuppoſed upon Evidence, that the Examinations that have been of me in Priſon, are like to be Evidence againſt me now; I have nothing to ſay againſt it: But give me leave to ſay at this time, that when I was in Priſon, I was upon my Ingenuity charged; I promiſed I would confeſs all I knew. And I only ſay this, That what I ſaid in Priſon is true, and am ready at any time to Swear and Evidence, that that is all the Truth.

L. C. J. It is all true that you ſay; but did you tell all that was true?

Priſ. I know no more, than what I declared to the Two Houſes.

L. C. J. Mr. *Coleman*, I'll tell you when you will be apt to gain credit in this matter: You ſay, that you told all things that you knew, the Truth, and the whole Truth. Can Mankind be perſuaded, that you, that had this Negotiation in 74 and 75, left off juſt then, at that time when your Letters were found according to their Dates? Do you believe, there was no Negotiation after 75, becauſe we have not found them? Have you ſpoke one Word to that? Have you confeſſed, or produced thoſe Papers and Weekly Intelligence? When you anſwer that, you may have credit; without that, it is impoſſible: For I cannot give credit to one Word you ſay, unleſs you give an account of the ſubſequent Negotiation.

Priſ. After that time (as I ſaid to the Houſe of Commons) I did give over Correſponding. I did offer to take all Oaths and Teſts in the World, that I never had one Letter for at leaſt two Years; yea, (that I may keep myſelf within compaſs) I think it was for three or four. Now I have acknowledged to the Houſe of Commons, I have had a curſory Correſpondence, which I never regarded or valued; but as the Letters came, I burnt them, or made uſe of them as common Paper. I ſay, that for the general Correſpondence I have had for two or three Years, they have had every one of them Letters, that I know of.

Att. Gen. Whether you had or no, you ſhall have the faireſt Trial that can be. And we cannot blame the Gentleman, for he is more uſed to greater Affairs, than theſe Matters or Forms of Law. But (my Lord) I deſire to go unto Evidence, and when that is done, he ſhall be heard, as long as he pleaſeth, without any Interruption. If he deſire it, before I give my Evidence, let him have Pen, Ink, and Paper (with your Lordſhip's leave).

L. C. J. Help him to Pen, Ink, and Paper.

Record. Then we deſire to go on in our Evidence. We deſire that Mr. *Oates* may not be interrupted.

Court. He ſhall not be interrupted.

Att. Gen. The firſt thing we will inquire, what account he gan give of the Priſoner at the Bar, whether he was any way privy to the Murder of the King?

L. C. J. Mr. *Oates*, we leave it to your ſelf to take your own way, and your own method: Only this we ſay, here's a Gentleman ſtands at the Bar for his Life; and on the other ſide, the King is concerned for his Life: You are to ſpeak the Truth and the whole Truth; for there is no reaſon in the World that you ſhould add any one thing that is falſe. I would not have a tittle added for any advantage, or conſequences that may fall, when a Man's Blood and Life lieth at ſtake: Let him be Condemned by Truth; You have taken an Oath, and you being a Miniſter, know the great regard you ought to have of the Sacredneſs of an Oath; and that to take a Man's Life away by a falſe Oath is Murder, I need not teach you that. But that Mr. *Coleman* may be ſatisfied in the Trial, and all People elſe be ſatisfied, there is nothing required or expected, but downright plain Truth, and without any Arts either to conceal, or expatiate, to make things larger than in truth they are; he muſt be condemned by plain Evidence of Fact.

Mr. Oates. My Lord, Mr. *Coleman*, in the Month of *November* laſt, did entertain in his own Houſe *John Keins*, which *John Keins* was a Father-Confeſſor to certain Perſons that were Converted, amongſt which I was one. My Lord, I went and viſited this *John Keins* at Mr. *Coleman*'s Houſe then in *Stable-yard*. Mr. *Coleman* inquiring of *John Keins* who I was? He ſaid, I was one that deſigned to go over upon buſineſs to St. *Omers*. My Lord, Mr. *Coleman* told me then he ſhould trouble me with a Letter or two to St. *Omers*, but he told me he would leave them with one *Fenwick*, that was Procurator for the Society of Jeſuits in *London*. I went on *Monday* Morning and took Coach, went to *Dover*, and had his Pacquet with me, which Pacquet when I came to St. *Omers* I opened. The outſide Sheet of this Paper was a Letter of News which was called Mr. *Coleman*'s Letter, and at the bottom of this Letter there was this Recommendation, Pray recommend me to my Kinſman *Playford*. In this Letter of News there were expreſſions of the King, calling him Tyrant, and that the Marriage between the Prince of *Orange* and the Lady *Mary* the Duke of *York*'s Eldeſt Daughter would prove the Traitor's and Tyrant's ruin.

L. C. J. In what Language was it written?

Mr. Oates. In plain *Engliſh* Words at length.

L. C. J. Directed to whom?

Mr. Oates. It was directed to the Rector of St. *Omers*, to give him Intelligence how affairs went in *England*.

L. C. J. Did you break it open?

Mr. Oates. I was at the opening of it, and ſaw it and read it. There was a Letter to Father *Le Chaiſe*, which was ſuperſcribed by the ſame hand that the treaſonable Letter of News was written, and the ſame hand that the recommendation to *Playford* was written in. When this Letter was open there was a Seal fixt, a flying Seal, and no Man's Name to it.

L. C. J. What was the Contents of that Letter to *Le Chaiſe?*

Mr. Oates. My Lord, to give you an account of the import of this Letter, it was writ in *Latin*, and in it there were thanks given to Father *Le Chaiſe* for the Ten Thouſand Pounds which was given for the propagation

* *See the Character of this Chief Juſtice in* Burn. Hiſt. own Times, Vol. I. p. 448. *And what Opinion the Houſe of Commons had of him by their Votes*, Dec. 25, 1680.

of the Catholick Religion, and that it ſhould be employed for no other intent and purpoſe but that for which it was ſent, now that was to cut off the King of *England*; thoſe Words were not in that Letter, but *Le Chaiſe* Letter, to which this was an Anſwer, I ſaw and read. It was dated the Month of *Auguſt*, and as near as I remember there was this Inſtruction in it, That the Ten Thouſand Pound ſhould be employed for no other intent and purpoſe but to cut off the King of *England*. I do not ſwear the Words, but that's the ſenſe and ſubſtance; I believe I may ſwear the Words.

L. C. J. To whom was that directed?

Mr. Oates. To one *Strange*, that was then Provincial of the Society in *London*, which Mr. *Coleman* anſwered.

L. C. Juſt. How came Mr. *Coleman* to anſwer it?

Mr. Oates. Strange having run a Reed into his Finger, had wounded his Hand, and Secretary *Mico* was ill, ſo he got Mr. *Coleman* to write an Anſwer unto it.

L. C. J. Did he write it as from himſelf?

Mr. Oates. Yes, by order of the Provincial.

L. C. J. What was the ſubſtance of that Anſwer?

Mr. Oates. That thanks was given to him in the Name of the whole Society for the Ten Thouſand Pound which was paid and received here, and that it ſhould be employed to the intent for which it was received. It was ſuperſcribed from Mr. *Coleman*.

L. C. J. Was it ſubſcribed *Coleman?*

Mr. Oates. It was not ſubſcribed; I did not ſee him write it, but I really believe it was by the ſame hand. I went and delivered this Letter.

L. C. J. I underſtood you becauſe of the accident of his Hand he had employed Mr. *Coleman* to write this for him.

Mr. Oates. He did write this Letter then, the Body of the Letter was written by Mr. *Coleman*. I did not ſee him write it, but I ſhall give an account how I can prove he wrote it. I delivered this Letter to *Le Chaiſe* his own Hand. When I opened the Letter he aſked me how a Gentleman (naming a French name) did do.

L. C. J. When you carried this Letter, you carried it to *Le Chaiſe*, and delivered it to him; then he aſked you of the Gentleman of the French name, whom meant he by that name?

Mr. Oates. I underſtood it to be Mr. *Coleman*.

L. C. J. Did he know him by ſome French name? What ſaid you?

Mr. Oates. I could ſay little to this.

L. C. J. Could you gueſs whom he meant?

Mr. Oates. He told me he was ſome time Secretary to the Dutcheſs of *York*, which I underſtood to be Mr. *Coleman*. I ſtuck at it, and when he ſaid he was ſome time Secretary to the Dutcheſs of *York*, I ſpoke in Latin to him, and aſked whether he meant Mr. *Coleman*, and his Anſwer I cannot remember. He ſends an Anſwer to this Letter. I brought it to St. *Omers*, and there it was incloſed in the Letter from the Society to *Coleman*; wherein the Society expreſly told him this Letter was delivered and acknowledged. I ſaw the Letter at St. *Omers*, and the Letter was ſent to him. Mr. *Coleman* did acknowledge the Receipt of this Letter from *Le Chaiſe* in the ſame hand with that of the News Letter, and ſo it was underſtood by all. I ſaw it.

L. C. J. How came you to ſee it?

Mr. Oates. I by a Patent from them was of the Conſult.

L. C. J. You ſaw the Letter of the ſame hand which the News Letter was of with Mr. *Coleman*'s Name ſubſcribed?

Mr. Oates. The Contents of the Letter did own the Letter from *Le Chaiſe* was received; this Letter was preſumed to be the Hand-writing of Mr. *Coleman*, and it was underſtood to be Mr. *Coleman*'s Letter.

L. C. J. You ſay the Letter was thanks for the Ten Thouſand Pound; what was the other Contents?

Mr. Oates. That all Endeavours ſhould be uſed to cut off the Proteſtant Religion Root and Branch.

L. C. J. You ſay you delivered this Letter, from whom had you it?

Mr. Oates. From *Fenwick*, it was left in his Hand, and he accompanied me from *Groves* to the Coach, and gave it to me.

L. C. J. Did you hear him ſpeak to Mr. *Coleman* to write for him?

Mr. Oates. Strange told me he had ſpoke to him.

L. C. J. He doth ſuppoſe it was Mr. *Coleman*'s hand becauſe it was juſt the ſame hand that the News Letter was. Are you ſure the Letter was of his hand?

Mr. Oates. It was taken for his hand.

Juſt. Wild. Had he ſuch a Kinſman there?

Mr. Oates. Yes, he hath confeſſed it.

Att. Gen. We deſire your Lordſhip he may give an account of the Conſult here in *May* laſt, and how far Mr. *Coleman* was privy to the murdering of the King.

Mr. Oates. In the Month of *April* Old-Stile, in the Month of *May* New-Stile, there was a Conſult held, it was begun at the *White-Horſe Tavern*, it did not continue there. After that there they had conſulted to ſend one Father *Cary* to be Agent and Procurator to *Rome*, they did adjourn themſelves to ſeveral Clubs in Companies; ſome met at *Wild-Houſe*, and ſome at *Harcourt*'s Lodging in *Duke-Street*; ſome met at *Ireland*'s Lodging in *Ruſſel-Street*; and ſome in *Fenwick*'s Lodging in *Drury-Lane*. They were ordered to meet by virtue of a Brief from *Rome*, ſent by the Father General of the Society: They went on to theſe Reſolves, That *Pickering* and *Groves* ſhould go on and continue in attempting to Aſſaſſinate the King's Perſon by Shooting, or other means. *Groves* was to have Fifteen Hundred Pounds. *Pickering* being a Religious Man was to have Thirty Thouſand Maſſes, which at Twelve Pence a Maſs amounted much what to that Money. This Reſolve of the Jeſuits was communicated to Mr. *Coleman* in my hearing at *Wild-Houſe*. My Lord, this was not only ſo, but in ſeveral Letters he did mention it; and in one Letter (I think I was gone a few Miles out of *London*) he ſent to me by a Meſſenger, and did deſire the Duke might be trepan'd into this Plot to Murder the King.

L. C. J. How did he deſire it?

Mr. Oates. In a Letter, that all means ſhould be uſed for the drawing in the Duke. This Letter was written to one *Ireland*. I ſaw the Letter and read it.

L. C. J. How do you know it was his Letter?

Mr. Oates. Becauſe of the Inſtructions, which I ſaw Mr. *Coleman* take a Copy of and write, which was the ſame Hand with the News Letter, and what elſe I have mentioned, the Subſcription was, *Recommend me to Father Le Chaiſe*, and it was the ſame Hand whereof I now ſpeak.

L. C. J. What was the ſubſtance of the Letter?

Mr. Oates. Nothing but Compliment, and Recommendation, and that all means might be uſed for the trepanning the Duke of *York* (as near as I can remember that was the word).

Juſt. Wild. You did ſay poſitively that Mr. *Coleman* did conſent and agree to what was conſulted by the Jeſuits, which was to kill the King, and *Pickering* and *Groves* were the two Perſons deſigned to do it. Did you hear him conſent to it?

Mr. Oates. I heard him ſay at *Wild-Houſe*, he thought it was well contrived.

Record. Do the Gentlemen of the Jury hear what he ſaith?

L. C. J. Gentlemen of the Jury, do you hear what he ſaith?

Jury. Yes.

Att. Gen. What do you know of any Rebellion to have been raiſed in *Ireland?* and what was to be done with the Duke of *Ormond?*

Mr. Oates. In the Month of *Auguſt* there was a Conſult with the Jeſuits, and with the Benedictine Monks at the *Savoy*. In this Month of *Auguſt* there was a Letter writ from Archbiſhop *Talbot*, the Titular Archbiſhop of *Dublin*; wherein he gave an account of a Legate from the Pope, an *Italian* Biſhop, (the Biſhop of *Caſſay* I think) who aſſerted the Pope's Right to the Kingdom of *Ireland*. In this Letter (to mention in ſpecial) there were Four Jeſuits had contrived to diſpatch the Duke of *Ormond* (theſe were his words) To find the moſt expedient way for his Death, and *Fogarthy* was to be ſent to do it by Poiſon, if theſe Four good Fathers did not hit of their Deſign. My Lord, *Fogarthy* was preſent. And when the Conſult was almoſt at a period, Mr. *Coleman* came to the *Savoy* to the Conſult, and was mighty forward to have Father *Fogarthy* ſent to *Ireland* to diſpatch the Duke by Poiſon. This Letter did ſpecify they were there ready to riſe in Rebellion againſt the King for the Pope.

Att. Gen. Do you know any thing of Arms?

Mr. Oates. There were 40000 Black Bills, I am not ſo ſkilful in Arms to know what they meant (Military Men know what they are) that were provided to be ſent into *Ireland*; but they were ready for the uſe of the Catholick Party.

L. C. J. Who were they provided by?

Mr. Oates. I do not know.

L. C. J. How do you know they were provided?

Mr. Oates. That Letter doth not mention who they were provided by, but another Letter mentioned they were provided by thoſe that were Commiſſion Officers for the aid and help of the Pope; the Popiſh Commiſſioners they were provided by, and they had them ready in *Ireland*.

L. C. J. Who wrote this Letter?

Mr. Oates. It came from *Talbot*, I might forget the day of the Month becauſe my Information is ſo large, but it was the former part of the Year, I think either *January* or *February*, (77) (78) laſt *January* or *February*.

L. C. J. Was this Conſult but in *Auguſt* laſt?

Mr. Oates. I am forced to run back from that Conſult to this; Mr. *Coleman* was privy, and was the main Agent, and did in the Month of *Auguſt* laſt paſt ſay to *Fenwick*, he had found a way to tranſmit the 200000*l.* for the carrying on of this Rebellion in *Ireland*.

L. C. J. Did you hear him ſay ſo?

Mr. Oates. I did, a Week before.

L. C. J. You ſay he was very forward to ſend *Fogarthy* into *Ireland* to kill the Duke of *Ormond?*

Mr. Oates. Yes, that I ſay; and that he had found a way to tranſmit 200000*l.* to carry on the Rebellion in *Ireland*.

Court. Who was by beſides *Fenwick?*

Mr. Oates. My ſelf and no Body elſe.

Court. Where was it ſaid?

Mr. Oates. In *Fenwick*'s Chamber in *Drury-lane*.

Att. Gen. Do you know any thing of tranſmitting the Money to *Windſor*, or perſuading any to be ſent thither, and the time when?

Mr. Oates. In the Month of *Auguſt* there were four Ruffians procured by Dr. *Fogarthy*. Theſe Four were not nominated in the Conſult with the Benedictine Convent, but (my Lord) theſe four Ruffians without Names were accepted of by them.

Court. Who propoſed them?

Mr. Oates. Fogarthy. Theſe four *Iriſh-Men* were ſent that Night to *Windſor*. How they went I know not, but the next Day there was a proviſion of 80*l.* ordered to them by the Rector of *London*, which is a Jeſuit, one *Will. Harcourt* in the Name of the Provincial, becauſe he acted in his Name and Authority, the Provincial being then beyond the Seas, viſiting his Colleges in *Flanders*.

L. C. J. Did he order the 80*l?*

Mr. Oates. Mr. *Coleman* came to this *Harcourt*'s Houſe, then lying in *Duke-Street*, and *Harcourt* was not within; but he was directed to come to *Wild-Houſe*, and at *Wild-Houſe* he found *Harcourt*.

L. C. J. How do you know that?

Mr. Oates. He ſaid he had been at his Houſe, and was not within; finding him at *Wild-Houſe*, he aſked what care was taken for thoſe four Gentlemen that went laſt Night to *Windſor?* He ſaid there was 80*l.* ordered.

L. C. J. Who ſaid ſo?

Mr. Oates. Harcourt. And there was the Meſſenger that was to carry it. I think the moſt part of this 80*l.* was in Guineas: Mr. *Coleman* gave the Meſſenger a Guinea to be nimble, and to expedite his Journey.

L. C. J. How know you they were Guineas?

Mr. Oates. I ſaw the Money upon the Table before *Harcourt*, not in his Hand.

L. C. J. Were the four *Iriſh-Men* there?

Mr. Oates. No, they were gone before I came.

L. C. J. Who was to carry it after them, what was his Name?

Mr. Oates. I never ſaw him before or ſince. The Money was upon the Table: When Mr. *Coleman* came in, he gave the Meſſenger a Guinea to expedite the Buſineſs.

Recorder. You ſay Mr. *Coleman* inquired what Care was taken for thoſe Ruffians that were to Aſſaſſinate the King; pray, Mr. *Oates*, tell my Lord, and the Jury, what you can ſay concerning Mr. *Coleman*'s Diſcourſe with one *Aſhby*.

Mr.

Mr. Oates. In the Month of *July*, one *Afhby*, who was ſome time Rector of St. *Omers*, being ill of the Gout was ordered to go to the *Bath*; this *Afhby* being in *London*, Mr. *Coleman* came to attend him; this *Afhby* brought with him Treaſonable Inſtructions, in order to diſpatch the King by Poiſon, provided *Pickering* and *Groves* did not do the Work: Ten Thouſand Pound ſhould be propoſed to Sir *George Wakeman* to Poiſon the King, in caſe Piſtol and Stab did not take effect, and Opportunity was to be taken at the King's taking Phyſick. I could give other Evidence, but will not, becauſe of other things which are not fit to be known yet.

L. C. J. Who wrote this Letter?

Mr. Oates. It was under the Hand of *White* the Provincial beyond the Seas, whom *Afhby* left; it was in the Name of Memorials to impower *Afhby* and the reſt of the Conſulters at *London* to propound Ten Thouſand Pound to Sir *George Wakeman* to take the Opportunity to Poiſon the King. Theſe Inſtructions were ſeen and read by Mr. *Coleman*, by him copied out, and tranſmitted to ſeveral Conſpirators of the King's Death, in this Kingdom of *England*, that were privy to this Plot.

Recorder. Know you of any Commiſſion? We have hitherto ſpoken altogether of the Work of others; now we come to his own Work a little nearer.

L. C. J. Who ſaw Mr. *Coleman* read theſe Inſtructions? What ſaid he?

Mr. Oates. He ſaid he thought it was too little, I heard him ſay ſo.

L. C. J. Did you ſee him take a Copy of theſe Inſtructions?

Mr. Oates. Yes, and he ſaid he did believe Sir *George Wakeman* would ſcarce take it, and thought it neceſſary the other Five Thouſand Pound ſhould be added to it, that they might be ſure to have it done.

L. C. J. Where was it he ſaid this?

Mr. Oates. It was in the Provincial's Chamber, which *Afhby* had taken for his Convenience at *London*, until he went down to the *Bath*; it was at *Wild-Houſe*, at Mr. *Sanderſon*'s Houſe.

L. C. J. Afhby was employed by his Inſtructions to acquaint the Conſult of the Jeſuits, that there ſhould be Ten Thouſand Pound advanced, if Dr. *Wakeman* would Poiſon the King, now *Afhby* comes and acquaints him with it. Why ſhould *Coleman* take Copies?

Mr. Oates. Becauſe he was to ſend Copies to ſeveral Conſpirators in the Kingdom of *England*.

L. C. J. To what purpoſe ſhould Mr. *Coleman* take a Copy of theſe Inſtructions?

Mr. Oates. The Reaſon is plain; they were then a-gathering a Contribution about the Kingdom, and theſe Inſtructions were ſent that they might be encouraged, becauſe they ſaw there was Encouragement from beyond Seas to aſſiſt them. And another Reaſon was, becauſe now they were aſſured by this, their Buſineſs would quickly be diſpatched, and by this means ſome thouſands of Pounds were gathered in the Kingdom of *England*.

L. C. J. To whom was Mr. *Coleman* to ſend them?

Mr. Oates. I know not any of the Perſons, but Mr. *Coleman* did ſay he had ſent his Suffrages (which was a Canting Word for Inſtructions) to the Principal Gentry of the Catholicks of the Kingdom of *England*.

L. C. J. How know you this, that Mr. *Coleman* did take a Copy of theſe Inſtructions for that purpoſe, as you ſay?

Mr. Oates. Becauſe he ſaid ſo.

L. C. J. Did any Body aſk him why he took them?

Mr. Oates. Saith *Afhby*, You had beſt make haſte and communicate theſe things. Mr. *Coleman* anſwered, I will make haſte with my Copies, that I may diſpatch them away this Night.

Recorder. Was he not to be one of the Principal Secretaries of State?

Mr. Oates. In the Month of *May* laſt New Stile, *April* Old Stile, I think within a Day after our Conſult, I was at Mr. *Langhorn*'s Chamber, he had ſeveral Commiſſions, which he called Patents: Among his Commiſſions I ſaw one from the General of the Society of *Jeſus*, *Joannes Paulus D'Oliva*, by virtue of a Brief from the Pope, by whom he was enabled.

L. C. J. Did you know his Hand?

Mr. Oates. I believe I have ſeen it Forty times, I have ſeen Forty things under his Hand, and this agreed with them, but I never did ſee him write in my Life; we all took it to be his Hand, and we all knew the Hand and Seal.

L. C. J. What Inſcription was upon the Seal?

Mr. Oates. I. H. Σ with a Croſs, in *Engliſh* it had the Characters of I. H S. This Commiſſion to Mr. *Coleman* in the Month of *July*, I ſaw in *Fenwick*'s Preſence, and at his Chamber in *Drury-Lane*, where then Mr. *Coleman* did acknowledge the Receipt of this Patent, opened it, and ſaid, It was a very good Exchange.

L. C. J. What was the Commiſſion for?

Mr. Oates. It was to be Secretary of State. I ſaw the Commiſſion, and heard him own the Receipt of it.

Juſtice Wild. What other Commiſſions were there at Mr. *Langhorn*'s Chamber?

Mr. Oates. A great many, I cannot remember, there was a Commiſſion for my Lord *Arundel* of *Wardr*, the Lord *Powis*, and ſeveral other Perſons. But this belongs not to the Priſoner at the Bar: I mention his Commiſſion.

L. C. J. Were you acquainted with Mr. *Langhorn?*

Mr. Oates. Yes, I'll tell your Lordſhip how I was acquainted. I was in *Spain*, he had there two Sons; to ſhew them ſpecial Favour and Kindneſs (being mere Strangers at the College) I did uſe to tranſmit ſome Letters for them to the Kingdom of *England* in my Pacquet. When I came out of *Spain*, I did receive Recommendations from them to their Father, and in great Civility he received me. This was in *November* that I came to his Houſe. He lived in *Shear-Lane*, or thereabouts. I underſtood that his Wife was a zealous Proteſtant; therefore he deſired me not to come any more to his Houſe, but for the future to come to his Chamber in the *Temple*.

L. C. J. Had you ever ſeen Mr. *Langhorn* in *London* before?

Mr. Oates. I never ſaw him till *Nov.* (77.) to my Knowledge. I was ſeveral times in his Company at his Chamber, and he brought me there to ſhew me ſome Kindneſs upon the Account of his Sons. It was at the *Temple*, for his Wife being a Proteſtant, was not willing any Jeſuits ſhould come to the Houſe. I was to carry him a ſummary of all the Reſults and Particulars of the Conſult at the *White-Horſe* and *Wild-Houſe*. The Provincial ordered me to do it, he knowing me, being in that Affair often employed.

L. C. J. Was it the ſecond time you ſaw him, that you ſaw the Commiſſions?

Mr. Oates. I ſaw him ſeveral times in the Month of *November*.

L. C. J. When did you ſee the Commiſſions?

Mr. Oates. In the Month of *April*, Old Stile; *May*, New Stile.

L. C. J. How came he to ſhew you the Commiſſions?

Mr. Oates. I hearing of their being come had a Curioſity to ſee them, and he knew me to be privy to the Concerns.

L. C. J. How did you know he had the Commiſſions?

Mr. Oates. By Letters.

L. C. J. From whom?

Mr. Oates. From thoſe of the Society at *Rome*, wherein one *Harcourt*, one of the Fathers, was certified, that the Commiſſions were come to *Langhorn*, and were in his Hand; I ſaw the Letters at St. *Omers*, before they came to *Harcourt*, we read the Letters there before they came to *England*. I had Power to open them.

L. C. J. Did you open the Letters?

Mr. Oates. Yes.

L. C. J. When ſaw you the Letters at St. *Omers?*

Mr. Oates. I ſaw the Letters at St. *Omers* in the Month of *January*; then they came from *Rome*, and after I received Summons to be at this Conſult in the Month of *April*; and accordingly we came over.

L. C. J. What time did you come over?

Mr. Oates. In the Month of *April*.

L. C J. What time went you to *Langhorn*'s Chamber? I cannot reconcile the Months together.

Juſt. Dolben. Did you not ſay you came to *Langhorn* in *November?*

Mr. Oates. Yes, before I went to St. *Omers*.

Juſt. Wild. How many came over with you?

Mr. Oates. I cannot tell how many came over together; there were Nine of us, all Jeſuits.

L. C. J. Did not you ſay you went to *Langhorn* in *November?*

Mr. Oates. That was before I went to St. *Omers*.

Att. Gen. Tell how many Prieſts or Jeſuits were lately in *England*, that you know of, at one time?

Mr. Oates. There was, and have been to my Knowledge in the Kingdom of *England*, Secular Prieſts Eightſcore, and Jeſuits Fourſcore, and by Name in the Catalogue, I think Three hundred and odd.

L. C. J. How long had you been in *England* before you were at Mr. *Langhorn*'s Chamber?

Mr. Oates. Not long; becauſe I had Letters in my Pacquet from his Sons, aſſoon as I had reſted a little, I went to him.

L. C. J. What ſaid Mr. *Langhorn* to you about the Commiſſions in his Chamber?

Mr. Oates. Not a Word; but ſeem'd glad.

L. C. J. Did you ſee them open upon his Table? or did you aſk to ſee them?

Mr. Oates. They did not lie open upon the Table, but the Commiſſions were before him; I aſked to ſee them. Mr. *Langhorn* (ſaid I) I hear you have received the Commiſſions from *Rome*; he ſaid, he had. Shall I have the Honour to ſee ſome of them? He ſaid I might; he thought he might truſt me; and ſo he might, becauſe that very Day I gave him an Account of the Conſult.

L. C. J. When was it you gave him an Account of the Conſult?

Mr. Oates. In the Morning.

L. C. J. You ſay you were twice there that Day.

Mr. Oates. I was there the whole Forenoon.

L. C. J. That Day you ſaw the Commiſſions?

Mr. Oates. I had been there ſeveral times the ſame Day, and meeting him at laſt, he aſked me how often I was there before, I ſaid twice or thrice; but that Day was the laſt time I ever ſaw him; I have not ſeen him ſince, to my Knowledge.

L. C. J. Was that the firſt time that you ſaw him after you came from *Spain?*

Mr. Oates. I ſaw him thrice in *November*, then I went to St. *Omers*; the firſt time I ſaw him after I came from thence, I ſaw the Commiſſions.

Att. Gen. What were the Names of thoſe Men that came over from St. *Omers* beſides yourſelf?

Mr. Oates. As near as I can remember, the Rector of *Liege* was one; Father *Warren*; Sir *Thomas Preſton*; the Rector of *Watton*; one *Francis Williams*; Sir *John Warner*, Baronet; one Father *Charges*; one *Pool*, a Monk; I think I made the Ninth.

Att. Gen. If the Priſoner at the Bar be minded, he may aſk him any Queſtion.

Priſ. I am mighty glad to ſee that Gentleman Sir *Thomas Dolman* in the Court, for I think he was upon my Examination before the Council, and this Man that gives now in Evidence againſt me, there told the King, he never ſaw me before; and he is extremely well acquainted with me now, and hath a World of Intimacy. Mr. *Oates* at that time gave ſuch an Account of my Concern in this Matter, that I had Orders to go to *Newgate*, I never ſaw Mr. *Oates* ſince I was born, but at that time.

L. C. J. You ſhall have as fair a Search and Examination in this Matter for your Life as can be, therefore, Mr. *Oates*, anſwer to what Mr. *Coleman* ſaith.

Mr. Oates. My Lord, when Mr. *Coleman* was upon his Examination before the Council-board, he ſaith, I ſaid there that I never ſaw him before in my Life: I then ſaid I would not ſwear that I had ſeen him before in my Life, becauſe my Sight was bad by Candle-light, and Candle-light alters the Sight much, but when I heard him ſpeak I could have ſworn it was he, but it was not then my Buſineſs. I cannot ſee a great way by Candle-light.

L. C. J. The Streſs of the Objection lieth not upon ſeeing ſo much, but how come you that you laid no more to Mr. *Coleman*'s Charge at that time?

Mr. Oates. I did deſign to lay no more to his Charge then, than was Matter for Information. For Priſoners may ſupplant Evidence when they know it, and bring Perſons to ſuch Circumſtances, as Time and Place. My Lord, I was not bound to give in more than a general Information againſt Mr. *Coleman*; Mr. *Coleman* did deny he had Correſpondence with Father *Le Chaiſe* at any time, I did then ſay he had given

him an Account of ſeveral Tranſactions. And (my Lord) then was I ſo weak, being up two Nights, and having been taking Priſoners, upon my Salvation, I could ſcarce ſtand upon my Legs.

L. C. J. What was the Information you gave at that time to the Council againſt Mr. *Coleman?*

Mr. Oates. The Information I gave at that time (as near as I can remember, but I would not truſt to my Memory) was for writing of News-Letters, in which I did then excuſe the Treaſonable Reflections, and called them Baſe Reflections at the Council-Board; the King was ſenſible, and ſo was the Council. I was ſo wearied and tired (being all that Afternoon before the Council, and *Sunday* Night, and ſitting up Night after Night) that the King was willing to diſcharge me. But if I had been urged I ſhould have made a larger Information.

L. C. J. The thing you accuſed him of was his own Letter.

Priſ. He doth not believe it was my Letter.

L. C. J. You here charge Mr. *Coleman* to be the Man that gave a Guinea to expedite the Buſineſs at *Windſor*, *&c.* At the time when you were examined at the Council-Table, you gave a particular Account of attempting to take away the King's Life at *Windſor*, and raiſing Twenty Thouſand Pounds, and all thoſe great Tranſactions; why did you not charge Mr. *Coleman* to be the Man that gave the Guinea to the Meſſenger to expedite the Buſineſs, when the 80 Pounds was ſent? That he found out a way of Tranſmitting 200,000 Pounds, to carry on the Deſign? He conſulted the killing the King, and approved of it very well. And of the Inſtructions for 10000 Pounds, he ſaid it was too little for to Poiſon the King. When you were to give an Account to the Council of the particular Contrivance of the Murder of the King at *Windſor*, with a Reward, you did mention one Reward of 10000 Pounds to Dr. *Wakeman*, and would you omit the Guinea to expedite the Meſſenger, and that he ſaid that 10000 Pounds was too little; would you omit all this?

Mr. Oates. I being ſo tired and weak that I was not able to ſtand upon my Legs, and I remember the Council apprehended me to be ſo weak that one of the Lords of the Council ſaid, that if there were any Occaſion further to examine Mr. *Coleman*, that Mr. *Oates* ſhould be ready again, and bid me retire.

L. C. J. You was by when the Council were ready to let Mr. *Coleman* go almoſt at large?

Mr. Oates. No; I never apprehended that, for if I did, I ſhould have given a further Account.

L. C. J. What was done to Mr. *Coleman* at that time? Was he ſent away Priſoner?

Mr. Oates. Yes, at that time to the Meſſenger's Houſe, and within two Days after he was ſent to *Newgate*, and his Papers were ſeized.

L. C. J. Why did you not name *Coleman* at that time?

Mr. Oates. Becauſe I had ſpent a great deal of time in accuſing other Jeſuits.

Juſt. Wild. What time was there betwixt the firſt time you were at the Council, before you told of this Matter concerning the King?

Mr. Oates. When I was firſt at the Board (which was on *Saturday* Night) I made Information, which began between Six and Seven, and laſted almoſt to Ten. I did then give a general Account of the Affairs to the Council without the King. Then I went and took Priſoners, and before *Sunday* Night, I ſaid, I thought if Mr. *Coleman*'s Papers were ſearched into, they would find Matter enough againſt him in thoſe Papers to hang him: I ſpake thoſe Words, or Words to the like Purpoſe. After that Mr. *Coleman*'s Papers were ſearched, Mr. *Coleman* was not to be found; but he ſurrendered himſelf the next Day. So that on *Sunday* I was commanded to give his Majeſty a general Information, as I had given to the Council on *Saturday*; and the next Day again, I took Priſoners that Night five, and next Night four.

Juſt. Wild. How long was it betwixt the time that you were examined, and ſpoke only as to the Letters, to that time you told to the King and Council, or both of them, concerning this Matter you ſwear now?

Mr. Oates. My Lord, I never told it to the King and Council, but I told it to the Houſes of Parliament.

L. C. J. How long was it between the one and the other?

Mr. Oates. I cannot tell exactly the time; it was when the Parliament firſt ſat.

L. C. J. How came you (Mr. *Coleman being ſo deſperate a Man as he was, endeavouring the killing of the King*) to omit your *Information* of it to the Council and to the King at both times?

Mr. Oates. I ſpoke little of the Perſons till the Perſons came Face to Face.

L. C. J. Why did you not accuſe all thoſe Jeſuits by Name?

Mr. Oates. We took a Catalogue of their Names, but thoſe I did accuſe poſitively and expreſly we took up.

L. C. J. Did you not accuſe Sir *George Wakeman* by Name, and that he accepted his Reward?

Mr. Oates. Yes, then I did accuſe him by Name.

L. C. J. Why did you not accuſe Mr. *Coleman* by Name?

Mr. Oates. For want of Memory; being diſturbed and wearied in ſitting up two Nights, I could not give that good Account of Mr. *Coleman*, which I did afterwards, when I conſulted my Papers; and when I ſaw Mr. *Coleman* was ſecured, I had no need to give a farther Account.

L. C. J. How long was it between the firſt charging Mr. *Coleman*, and your acquainting the Parliament with it?

Mr. Oates. From *Monday* the 30th of *September*, until the Parliament ſat.

L. C. J. Mr. *Coleman*, will you aſk him any thing?

Priſ. Pray aſk Mr. *Oates*, whether he was not as near to me as this Gentleman is, becauſe he ſpeaks of his Eyes being bad?

Mr. Oates. I had the Diſadvantage of a Candle upon my Eyes; Mr. *Coleman* ſtood more in the Dark.

Priſ. He names ſeveral times that he met with me; in this Place and that Place, a third and fourth Place about Buſineſs.

Mr. Oates. He was altered much by his Periwig in ſeveral Meetings, and had ſeveral Periwigs, and a Periwig doth diſguiſe a Man very much; but when I heard him ſpeak, then I knew him to be Mr. *Coleman*.

L. C. J. Did you hear him ſpeak? How were the Queſtions aſked? Were they thus? Was that the Perſon? Or, how often had you ſeen Mr. *Coleman?*

Mr. Oates. When the Queſtion was aſked by my Lord Chancellor, Mr. *Coleman*, when were you laſt in *France?* He ſaid, At ſuch a time. Did you ſee Father *le Chaiſe?* He ſaid he gave him an accidental Viſit. My Lord Chancellor aſked him whether or no he had a Paſs? He ſaid, No. Then he told him, that was a Fault for going out of the Kingdom without a Paſs. Have you a Kinſman whoſe Name is *Playford*, at St. *Omers?* He ſaid he had one Ten Years old, (who is in truth Sixteen) That Queſtion I deſired might be aſked. Then the King bade me go on.

L. C. J. Did the King, or Council, or Lord Chancellor aſk you whether you knew Mr. *Coleman*, or no?

Mr. Oates. They did not aſk me.

L. C. J. Mr. *Oates*, Anſwer the Queſtion in ſhort, and without confounding it with length. Were you demanded if you knew Mr. *Coleman?*

Mr. Oates. Not to my Knowledge.

L. C. J. Did you ever ſee him, or how often?

Priſ. He ſaid, he did not know me.

L. C. J. You ſeemed, when I aſked you before, to admit, as if you had been aſked this Queſtion, how often you had ſeen him, and gave me no Anſwer, becauſe you were doubtful whether it was the Man, by reaſon of the Inconveniency of the Light, and your bad Sight.

Mr. Oates. I muſt leave it to the King what Anſwer I made Mr. *Coleman*; he wonders I ſhould give an Account of ſo many Intimacies, when I ſaid I did not know him at the Council-Table.

Priſ. It is very ſtrange Mr. *Oates* ſhould ſwear now, that he was ſo well acquainted with me, and had been ſo often in my Company, when upon his Accuſation at the Council-Table, he ſaid nothing of me more than the ſending of one Letter, which he thought was my Hand.

Mr. Oates. I did not ſay that.

Priſ. And he did ſeem to ſay there, he never ſaw me before in his Life.

L. C. J. Was he aſked whether he was acquainted with you? (for thoſe Words are to the ſame purpoſe.)

Priſ. I cannot anſwer directly, I do not ſay he was aſked if he was acquainted with me, but I ſay this, that he did declare he did not know me.

L. C. J. Can you prove that?

Priſ. I appeal to Sir *Thomas Dolman*, who is now in Court, and was then preſent at the Council-Table.

L. C. J. Sir *Thomas*, you are not upon your Oath, but are to ſpeak on the behalf of the Priſoner: What did he ſay?

Sir *Tho. Dolman.* That he did not well know him.

L. C. J. Did he add, that he did not well know him by the Candle-light? But Mr. *Oates*, when you heard his Voice, you ſaid you knew him; why did you not come then, and ſay you did well know him?

Mr. Oates. Becauſe I was not aſked.

L. C. J. But, Sir *Thomas*, did he ſay he did not well know him after Mr. *Coleman* ſpake? Was Mr. *Coleman* examined before Mr. *Oates* ſpake?

Sir *Tho. Dolman.* Yes.

L. C. J. Mr. *Oates*, you ſay you were with him at the *Savoy* and *Wild-Houſe*, pray, Sir *Thomas*, did he ſay he did not know him, or had ſeen Mr. *Coleman* there?

Sir *Tho. Dolman.* He did not know him as he ſtood there.

L. C. J. Knowing, or not knowing is not the preſent Queſtion; but did he make an Anſwer to the knowing or not knowing him?

Juſt. Dolbin. Did he ſay he did not well know Mr. *Coleman*, or that he did not well know that Man?

Sir *Tho. Dolman.* He ſaid he had no Acquaintance with that Man (to the beſt of my Remembrance).

L. C. J. Sir *Robert Southwell*, you were preſent at Mr. *Oates* his Examination before the Council; in what manner did he accuſe Mr. *Coleman* then?

Sir *Robert Southwell.* The Queſtion is ſo particular, I cannot give the Court Satisfaction; but other material things then ſaid are now omitted by Mr. *Oates*; for he did declare againſt Sir *George Wakeman*, that Five Thouſand Pounds was added, in all Fifteen Thouſand Pounds, and that Mr. *Coleman* paid Five of the Fifteen to Sir *George* in Hand.

L. C. J. This anſwers much of the Objection upon him. The Court has aſked Mr. *Oates* how he ſhould come now to charge you with all theſe Matters of Poiſoning and Killing the King, and yet he mentioned you ſo ſlightly at the Council-Table; but it is ſaid by Sir *Robert Southwell* he did charge you with Five Thouſand Pounds (for poiſoning the King) to be added to the Ten Thouſand Pounds, and he charged you expreſly with it at the Council-Table.

Priſ. The Charge was ſo ſlight againſt me by Mr. *Oates*, that the Council were not of his Opinion: For the firſt Order was to go to *Newgate*, and Sir *Robert Southwell* came with Directions to the Meſſenger not to execute the Order. I humbly aſk whether it was a reaſonable thing to conceive that the Council ſhould extenuate the Puniſhment, if Mr. *Oates* came with ſuch an amazing Account to the Council.

Sir *Rob. South.* Mr. *Oates* gave ſo large and general an Information to the Council, that it could not eaſily be fixed. Mr. *Coleman* came voluntarily in upon *Monday* Morning. The Warrant was ſent out on *Sunday* Night for Mr. *Coleman* and his Papers: His Papers were found and ſeized, but Mr. *Coleman* was not found at that time, nor all Night, but came on *Monday* Morning voluntarily, and offered himſelf at Sir *Joſeph Williamſon*'s Houſe, hearing there was a Warrant againſt him: By reaſon of ſo many Priſoners that were then under Examination, he was not heard till the Afternoon, and then he did with great Indignation and Contempt hear theſe vile things, as thinking himſelf innocent.

Priſ. If I thought my ſelf Guilty, I ſhould have charged my ſelf: I hope his Majeſty upon what hath been ſaid, will be ſo far ſatisfied as to diſcharge me.

Sir

Sir *Rob. South.* Mr. *Coleman* then made ſo good a diſcourſe for himſelf, that though the Lords had filled up a blank Warrant to ſend him to *Newgate*, that was reſpited, and he was only committed to a Meſſenger. I did ſay to the Meſſenger, Be very civil to Mr. *Coleman*, for things are under Examination, but you muſt keep him ſafely. Saith the Meſſenger, Pray let me have a ſpecial Warrant, that doth diſpenſe with the Warrant I had to carry him to *Newgate*, and ſuch a Warrant he had. The King went away on *Tueſday* Morning to *New-market*, and appointed a particular Committee to examine the Papers brought of Mr. *Coleman* and others.

His Papers were found in a Deal Box, and ſeveral of theſe Papers and Declarations founded ſo ſtrange to the Lords, that they were amazed; and preſently they ſigned a Warrant for Mr. *Coleman*'s going to *Newgate*.

L. C. J. Did Mr. *Oates* give a round Charge againſt Mr. *Coleman?*

Sir *Rob. South.* He had a great deal to do, he was to repeat in the Afternoon on *Sunday* when the King was preſent, all he had ſaid to the Lords on *Saturday*.

He did ſay of Mr. *Coleman*, that he had correſponded very wickedly and baſely with the *French* King's Confeſſor, and did believe if Mr. *Coleman*'s Papers were ſearched, there would be found in them that which would coſt him his Neck. And did declare that the Fifteen Thouſand Pounds was accepted for the Murder of the King, and that Five Thouſand Pounds was actually paid by Mr. *Coleman* to Sir *George Wakeman*. But Mr. *Oates* at the ſame time did alſo declare that he did not ſee the Money paid, he did not ſee this particular action of Sir *George Wakeman*, becauſe at that time he had the Stone, and could not be preſent.

Mr. *Oates.* I was not preſent at that Conſult, where the Fifteen Thouſand Pounds was accepted, but I had an account of it from thoſe that were preſent.

L. C. J. It appears plainly by this Teſtimony, that he did charge you Mr. *Coleman* home, that Fifteen Thouſand Pounds was to be paid for poiſoning the King; and that it was generally ſaid among them (though he did not ſee it paid) that it came by your hands, *viz.* Five Thouſand Pounds of it; which anſwers your objection as if he had not charged you, when you ſee he did charge you home then for being one of the Conſpirators, in having a Hand in paying of Money for poiſoning the King: He charges you now no otherwiſe than in that manner: He doth not charge you now as if there were new things ſtarted, but with the very Conſpiracy of having a hand in paying the Money for murdering the King.

What Conſultation was that you had at the *Savoy*, in the Month of *Auguſt?*

Mr. *Oates.* It was about the buſineſs of the four *Iriſh* Ruffians propoſed to the Conſult.

The End of Mr. Oates's *Examination.*

Mr. *Bedlow.*

Sir *Francis Winnington*, *Sol. Gen.* We will call him to give an account what he knows of the Priſoner's being privy to the Conſpiracy of murdering the King (particularly to that). Mr. *Bedlow*, pray acquaint my Lord and the Jury what you know, I deſire to know particularly as it concerns Mr. *Coleman*, and nothing but Mr. *Coleman*.

L. C. J. Mr. Attorney, pray keep to that Queſtion cloſe.

Att. Gen. I have two ſhort Queſtions to aſk him: The firſt is, what he hath ſeen or heard touching any Commiſſion to Mr. *Coleman*, what ſay you?

Mr. *Bedlow.* In particular I know not of any Commiſſion directed to Mr. *Coleman*, I do not know any thing of it but what Sir *Henry Titchbourn* told me, that he had a Commiſſion, and he brought a Commiſſion for Mr. *Coleman* and the reſt of the Lords, from the principal Jeſuits at *Rome*, by Order of the Pope.

Att. Gen. A Commiſſion for what?

Mr. *Bedlow.* To be Principal Secretary of State: The Title of it I do not know becauſe I did not ſee it, but to be Principal Secretary of State, that was the Effect.

Att. Gen. I deſire to know what Diſcourſe you had with Mr. *Coleman* about that Deſign.

Mr. *Bedlow.* If your Lordſhip pleaſe, I ſhall be ſhort in the Narrative.

L. C. J. Make uſe of your Notes to help your Memory, but let not your Teſtimony be merely to read them.

Mr. *Bedlow.* I carried over to *Monſieur le Chaiſe* (the *French* King's Confeſſor) a large Pacquet of Letters, *April* (75) from Mr. *Coleman*, which Letters I ſaw Mr. *Coleman* deliver to Father *Harcourt*, at his Houſe in *Duke-Street*.

Council. And *Harcourt* gave them to you?

Mr. *Bedlow.* Yes; which Letters were directed to be delivered to *Monſieur le Chaiſe*, and I did carry them to *le Chaiſe*, and brought him an Anſwer from *le Chaiſe*, and other *Engliſh* Monks at *Paris*: I did not underſtand what was in it, becauſe it was a Language I do not well underſtand; it was about carrying on the Plot; at a Conſultation there were preſent two *French* Abbots and ſeveral *Engliſh* Monks at *Paris*; what I heard them ſay, was about carrying on the Plot to ſubvert the Government of *England*, to deſtroy the King and the Lords of the Council. The King was principally to be deſtroyed, and the Government ſubverted as well as the Proteſtant Religion.

Court. When was this? when you were to receive the Anſwer?

Mr. *Bedlow.* It was upon the Conſultation: There was a Pacquet of Letters from Mr. *Coleman*, they did not know I underſtood *French*, or if they did, they had tried me ſo long I believe they would have truſted me.

L. C. J. The Letter that *le Chaiſe* wrote, to whom was it directed?

Mr. *Bedlow.* It was directed to Mr. *Coleman*, the Pacquet was directed to *Harcourt*, and within that *le Chaiſe* wrote an Anſwer and directed it to Mr. *Coleman*, particularly to Mr. *Coleman*.

L. C. J. How do you know?

Mr. *Bedlow.* The Superſcription was this [in *French*, *A Monſieur Coleman*], To Mr. *Coleman*; with other Letters directed to Father *Harcourt*.

L. C. J. He ſaith plainly the Letter was yours. You gave *Harcourt* a Pacquet of Letters to be delivered to *le Chaiſe*, *Harcourt* delivered them to him, and he did carry them to *le Chaiſe*, and heard them talk about this Plot: That *le Chaiſe* wrote a Letter to you (particularly by Name) incloſed in a Letter to *Harcourt*; that Anſwer he brought back.

Recorder. Do you know any thing concerning any Money Mr. *Coleman* ſaid he had received? the Sums, and for what?

Mr. *Bedlow.* It was to carry on the Deſign to ſubvert the Government of *England*, to free *England* from Damnation and Ignorance, and free all Catholicks from hard Tyranny and Oppreſſion of Hereticks.

Att. Gen. What words did you hear Mr. *Coleman* expreſs, what he would do for the Catholick Cauſe?

Mr. *Bedlow.* *May* 24, or 25, (77) I was at Mr. *Coleman*'s with Mr. *Harcourt*, and received another Pacquet from Mr. *Harcourt*, and he had it from Mr. *Coleman*.

L. C. J. You ſay, Mr. *Coleman* did give this Pacquet to *Harcourt?*

Mr. *Bedlow.* Yes, and *Harcourt* delivered it to me to carry it to *Paris* to the *Engliſh* Monks. I was to go by *Doway* to ſee if they were not gone to *Paris* before me.

L. C. J. And what did they ſay when you delivered the Letters to the *Engliſh* Monks?

Mr. *Bedlow.* They told me how much Reward I deſerved from the Pope and the Church, both here and in the World to come. I overtook three, and that Night I went to *Paris* with them; and upon the Conſultation (1677) I believe they ſent the Biſhop of *Tornes* the ſubſtance of thoſe Letters; and not having a final Anſwer what aſſiſtance the Catholick Party in *England* might expect from them, they were reſolved to neglect their Deſign no longer than that Summer, having all things ready to begin in *England*.

Recorder. What did you hear Mr. *Coleman* ſay?

Mr. *Bedlow.* That he would adventure any thing to bring in the Popiſh Religion: After the Conſultation, I delivered the Letters to *le Faire*, and he brought them to *Harcourt*, he delivered the Pacquet of Letters to *Harcourt*, who was not well, but yet went and delivered them to Mr. *Coleman*, and I went as far as Mr. *Coleman*'s Houſe, but did not go in, but ſtayed over the way; but *Harcourt* went in, and after he had ſpoke with Mr. *Coleman*, he gave me a beck to come to him; and I heard Mr. *Coleman* ſay, if he had a hundred Lives, and a Sea of Blood to carry on the Cauſe, he would ſpend it all to further the Cauſe of the Church of *Rome*, and to eſtabliſh the Church of *Rome* in *England*: And if there was an hundred Heretical Kings to be depoſed, he would ſee them all deſtroyed.

L. C. J. Where was this?

Mr. *Bedlow.* At his own Houſe.

L. C. J. Where?

Mr. *Bedlow.* Behind *Weſtminſter* Abby.

L. C. J. In what Room?

Mr. *Bedlow.* At the Foot of the Stair-caſe.

L. C. J. Where were you then?

Mr. *Bedlow.* There, I was called in by *Harcourt*, and was as near to him as to my Lord *Duras*. [*My Lord being heard by Mr.* Bedlow *in Court.*]

Priſ. Did I ever ſee you in my Life?

Mr. *Bedlow.* You may aſk that Queſtion; but in the Stone-Gallery in *Somerſet-Houſe*, when you came from a Conſult, where were great Perſons, which I am not to Name here; that would make the bottom of your Plot tremble: You ſaw me then.

Att. Gen. We did before acquaint you with ſomething of the Subſtance of the Letters; we ſhall now acquaint you with ſomething of the manner of finding them. Your Lordſhip hath heard, Mr. *Oates* hath been examined before the Council, and there it was ſaid, Mr. *Coleman*'s Papers would make ſuch a diſcovery (if they were looked into) as would be enough to hang him. I remember he ſaid the Lords of the Council were pleaſed to order the Papers to be ſeized; the execution of their Warrant they committed to one *Bradly*, who was a Meſſenger that attended the King and Council; and I deſire he may be called: He did find and ſeize as many Papers as Mr. *Coleman* was pleaſed to leave, and they are thoſe Papers which we now bring before you. The Papers ſeized he had put in a Deal Box, and four or five ſeveral Bags, and brings them to the Council; the Clerks of the Council are here attending the Court: They will tell you theſe Papers now produced were Papers found in thoſe Bags: Mr. *Bradly* will tell you, the Papers ſeized in the Bags and Box were brought to them, and they will ſwear they were the Papers and Bags that were brought.

Record. Mr. *Bradly*, give my Lord and the Jury an Account whether you went to Mr. *Coleman*, whether you ſeized his Papers, and what Papers you ſaw, and how you diſpoſed of them after they were ſeized.

Mr. *Bradly.* The 29th of *September* being *Sunday* Evening at Six of the Clock, I received a Warrant from the Council-Board to apprehend Mr. *Coleman*, and to ſeize his Papers, and to bring them to the Council-Board: He being not at home, I ſpoke with his Wife, and told her I came to ſearch her Houſe, I had a Warrant ſo to do. She told me I was welcome; I deſired her to ſend for her Huſband: I found in ſeveral parts of the Houſe a great many Papers; I put them up in ſeveral Bags: I found ſome in a private corner in a Deal Box.

L. C. J. What kind of Corner?

Mr. *Bradly.* In Mr. *Coleman*'s Chamber, not in his own Study, but in another place behind the Chimney; the Box was tack'd together with a Nail: I lifted it up, and ſaw they were Letters, I put it down again as it was, and gave it into the cuſtody of one that was with me, to look into it: Then I came to his own Study, where his 'Scrutore was, and put up all I could find in ſeveral Bags, and Sealed them, and brought them to the Council-Chamber.

Att. Gen. Did you put up any other Papers among them than what you found at Mr. *Coleman*'s Houſe?

Mr. *Bradly.* I did not, (upon my Oath) I had them all at Mr. *Coleman*'s Houſe.

Att. Gen. Did you bring them all to the Clerks of the Council?

Mr. *Bradly.* Yes. Before I came out I tied them all up, and ſealed them with my own Seal, and was conſtantly with them.

Att. Gen. Now we will give your Lordſhip an account how theſe things were received, that were there found. Sir *Robert Southwell*, look up-

on the large Letter, and tell my Lord and the Jury whether that were among the Papers brought by this Messenger.

Sir *Robert Southwell.* My Lord, I did not see this Letter in several days after the Papers brought me from *Bradly*; when he came in with Three great Bags, and a Box of Letters on *Sunday* Night, said I, which are Mr. *Coleman*'s principal Papers? Said he, those that are in the large speckled Cloth-Bag; for these we took first in the 'Scrutore: These I took, and meddled not with the other. I presume other Clerks of the Council can give a particular Account where this Paper was found.

Att. Gen. Sir *Thomas Dolman*, look upon the Letter, whether you can remember any thing of it.

Sir *Thomas Dolman.* I remember I found it in a Deal Box among Mr. *Coleman*'s Papers, those that *Bradly* brought.

Court. That's plain enough.

Att. Gen. That we may not often prove what we shall often make use of, I would prove it fully once for all, that all these Papers were of his Hand-writing; this we can prove by two sorts of Evidences; his own Confession, and the Witness of Two Persons; one that was his Servant; and the other a Sub-Secretary, that did write very many things for him. Mr. *Boatman*, look upon these Papers: Tell my Lord and the Jury whose Hand it is: Are you acquainted with Mr. *Coleman*'s Hand? What relation had you to him?

Boatman. I was his Gentleman that waited on him in his Chamber Five Years: This is very like his Hand.

L. C. J. Do you believe it is his Hand?

Boatman. I believe it is.

L. C. J. Little proof will serve the turn, because they were taken in his possession.

Att. Gen. I desire to prove it fully; look upon all the Papers, turn all the Leaves, see if they be not all one Hand, and whether you believe all to be Mr. *Coleman*'s Hand-writing or not?

Boatman. I believe it to be all his Hand.

L. C. J. Do you know when the last Pacquet of Letters came up, that were sent to Mr. *Coleman*, from beyond the Seas?

Boatman. Two or three days after he was taken Prisoner.

L. C. J. Do you know where they are bestowed? Did you receive *Monsieur le Chaise*'s Letters for Mr. *Coleman?*

Boatman. Yes.

L. C. J. Did you ever write any for him to *le Chaise?*

Boatman. No.

Att. Gen. Inform the Court whether he kept any Book to make Entry of Letters he sent or received?

Boatman. Yes, there was a large Book my Master did enter his Letters in, and his News.

Att. Gen. What is become of that Book?

Boatman. I know not.

Att. Gen. When did you see that Book last, upon your Oath?

Boatman. On *Saturday.*

Att. Gen. How long before he was sent to Prison?

Boatman. Two Days, because the next Day was *Sunday*, when he did not make use of it: On *Monday* my Master was in Prison, and I did not mind the Book.

L. C. J. Were there any Entries of Letters in that Book within Two Years last past?

Boatman. I cannot be positive.

Att. Gen. Did he not usually write and receive Letters from beyond Sea? 'Till that time had he not Negotiation as usually?

Boatman. He had usually News every Post from beyond the Seas.

Pris. There's Letters from the *Hague*, *Brussels*, *France* and *Rome*; they are all with the Council, which were all the Letters I received.

Att. Gen. We have another Witness: *Cattaway*, are you acquainted with Mr. *Coleman*'s Hand-writing? Do you believe it to be his Hand-writing?

Witness. I believe it is, they are his Hand-writing.

Att. Gen. It will appear, if there were no other Proof in this Cause, his own Papers are as good as an hundred Witnesses to condemn him; Therefore I desire to prove them fully by his own Confession.

Sir *Phil. Lloyd*, a Witness. These are the Papers I received from Sir *Thomas Dolman*; I found them (as he saith) in a Deal Box: Among his Papers I found this Letter. Mr. *Coleman* hath owned this was his Hand-writing; it's all one Letter.

Att. Gen. 'Tis all the same Hand, and he acknowledged it to be his.

Mr. *Recorder.* I desire Mr. *Astrey* may read it so that the Jury may hear it.

Mr. Astrey, *Clerk of the Crown, reads the Letter.*

The 29*th* of *September* (1675.) It is subscribed thus; *Your most humble and most obedient Servant*, but no Name.

Mr. *COLEMAN*'s Long Letter.

SInce Father St. *German* has been so kind to me, as to recommend me to your Reverence so advantageously, as to encourage you to accept of my Correspondency; I will own to him, that he has done me a Favour without Consulting me, greater than I could have been capable of if he had advised with me; because I could not then have had the Confidence to have permitted him to ask it on my behalf. And I am so sensible of the Honour you are pleased to do me, that though I cannot deserve it, yet to shew at least the sense I have of it, I will deal as freely and openly with you this first time, as if I had had the honour of your Acquaintance all my Life; and shall make no Apology for so doing, but only tell you that I know your Character perfectly well, though I am not so happy as to know your Person; and that I have an Opportunity of putting this Letter into the hands of Father St. *German*'s Nephew (for whose Integrity and Prudence he has undertaken) without any sort of hazard.

In order then, Sir, to the Plainness I profess, I will tell you what has formerly passed between your Reverence's Predecessor, Father *Ferrier*, and my self. About three Years ago, when the King my Master sent a Troop of Horse-Guards into his most Christian Majesty's Service, under the Command of my Lord *Duras*, he sent with it an Officer called Sir *William Throckmorton*, with whom I had a particular Intimacy, and who had then very newly embrac'd the Catholick Religion: To him did I constantly write, and by him address my self to Father *Ferrier.* The first thing of great Importance I presumed to offer him (not to trouble you with lesser matters, or what passed here before, and immediately after the Fatal Revocation of the King's Declaration for Liberty of Conscience, to which we owe all our Miseries and Hazards,) was in *July*, *August*, and *September* 1673, when I constantly inculcated the great danger Catholick Religion and his most Christian Majesty's Interest would be in at our next Sessions of Parliament, which was then to be in *October* following; at which I plainly foresaw that the King my Master would be forced to something in prejudice to his Alliance with *France*, which I saw so evidently and particularly that we should make Peace with *Holland*; that I urged all the Arguments I could, which to me were Demonstrations, to convince your Court of that mischief; and press'd all I could to persuade his most Christian Majesty to use his utmost endeavour to prevent that Session of our Parliament, and proposed Expedients how to do it: But I was answered so often and so positively, that his most Christian Majesty was so well assured by his Ambassador here, our Ambassador there, the Lord *Arlington*, and even the King himself; that he had no such apprehensions at all, but was fully satisfied of the contrary, and lookt upon what I offered as a very zealous Mistake, that I was forced to give over arguing, though not believing as I did; but confidently appealed to time and success to prove who took their measures rightest. When it happened what I foresaw came to pass, the good Father was a little surprized, to see all the great Men mistaken, and a little one in the right; and was pleased by Sir *William Throckmorton* to desire the continuance of my Correspondence, which I was mighty willing to comply with, knowing the Interest of our King, and in a more particular manner of my more immediate Master the Duke, and his most Christian Majesty, to be so inseparably united, that it was impossible to divide them, without destroying them all: Upon this I shewed that our Parliament in the circumstances it was managed, by the timorous Counsels of our Ministers, who then govern'd, would never be useful either to *England*, *France*, or Catholick Religion, but that we should as certainly be forced from our Neutrality at their next meeting, as we had been from our Active Alliance with *France* the last Year: That a Peace in the Circumstances we were in, was much more to be desired than the continuance of the War; and that the Dissolution of our Parliament would certainly procure a Peace; for that the Confederates did more depend upon the Power they had in our Parliament, than upon any thing else in the World; and were more encouraged from them to the continuing of the War; so that if they were Dissolved, their measures would be all broken, and they consequently in a manner necessitated to a Peace.

The good Father minding this Discourse somewhat more than the Court of *France* thought fit to do my former, urg'd it so Home to the King, that his Majesty was pleased to give him Orders to signify to his R. H. my Master, that his Majesty was fully satisfied of his R. H's good intention towards him, and that he esteemed both their Interests but as one and the same; that my Lord *Arlington* and the Parliament were both to be lookt upon as very unuseful to their Interest: That if his R. H. would endeavour to dissolve this Parliament, his most Christian Majesty would assist him with his Power and Purse, to have a new one as should be for their Purpose. This, and a great many more expressions of kindness and confidence Father *Ferrier* was pleased to communicate to Sir *William Throckmorton*, and Commanded him to send them to his R. H. and withal to beg his R. H. to propose to his most Christian Majesty, what he thought necessary for his own concern, and the advantage of Religion, and his Majesty would certainly do all he could to advance both or either of them. This Sir *William Throckmorton* sent to me by an Express, who left *Paris* the 2d of *June* 1674, *Stilo novo:* I no sooner had it, but I communicated it to his R. H. To which his R. H. commanded me to answer, as I did on the 29th of the same Month: That his R. H. was very sensible of his most Christian Majesty's Friendship, and that he would labour to cultivate it with all the good Offices he was capable of doing for his Majesty; that he was fully convinced that their Interests were both one, that my Lord *Arlington* and the Parliament were not only unuseful, but very dangerous both to *England* and *France*; That therefore it was necessary that they should do all they could to Dissolve it. And that his R. H's opinion was, that if his most Christian Majesty would write his Thoughts freely to the King of *England* upon this Subject, and make the same Proffer to his Majesty of his Purse to Dissolve this Parliament, which he had made to his R. H. to call another, he did believe it very possible for him to succeed, with the assistance we should be able to give him here; and that if this Parliament were Dissolved, there would be no great difficuty of getting a new one, which would be more useful: The Constitutions of our Parliaments being such, that a new one can never hurt the Crown, nor an old one do it good.

His R. H. being pleased to own these Propositions, which were but only general, I thought it reasonable to be more particular, and come closer to the point, that we might go the faster about the work, and come to some resolution before the time was too far spent.

I laid this for my Maxim: The Dissolution of our Parliament will certainly procure a Peace; which Proposition was granted by every body I conversed withal, even by *Monsieur Rouvigny* himself, with whom I took liberty of discoursing so far, but durst not say any thing of the Intelligence I had with Father *Ferrier.* Next; that a sum of Money certain, would certainly procure a Dissolution; this some doubted, but I am sure I never did; for I knew perfectly well that the King had frequent Disputes with himself at that time, whether he should dissolve or continue them; and he several times declared that the Arguments were so strong on both sides, that he could not tell to which to incline, but was carried at last to the continuance of them by this one Argument: If I try them once more, they may possibly give me Money; if they do, I have gain'd my point: if they do not, I can dissolve them then, and be where I am now: so

that I have a possibility at least of getting Money for their Continuance, against nothing on the other side: But if we could have turn'd this Argument, and said; Sir, their Dissolution will certainly procure you Money, when you have only a bare possibility of getting any by their Continuance, and have shewn how far that bare possibility was from being a foundation to build any reasonable hope upon, which I am sure his Majesty was sensible of; and how much 300,000*l. Sterl.* certain (which was the Sum we propos'd) was better than a bare possibility (without any reason to hope that that could ever be compassed) of having half so much more (which was the most he designed to ask), upon some vile dishonourable terms, and a thousand other hazards, which he had great reason to be afraid of: If, I say, we had power to have argued this, I am most confidently assured we could have compassed it, for Logick in our Court built upon Money, has more powerful Charms than any other sort of reasoning. But to secure his most Christian Majesty from any hazard, as to that point, I propos'd his Majesty should offer that sum upon that condition, and if the condition were not performed, the Money should never be due; if it were, and that a Peace would certainly follow thereupon, (which no body doubted) his Majesty would gain his Ends, and save all the vast Expences of the next Campaign, by which he could not hope to better his Condition, or put himself into more advantageous Circumstances of Treaty than he was then in; but might very probably be in a much worse, considering the mighty opposition he was like to meet with, and the uncertain Chances of War. But admitting that his Majesty could by his great Strength and Conduct maintain himself in as good a Condition to Treat the next year as he was then in; (which was as much as could then reasonably be hoped for) he should have saved by this Proposal as much as all the Men he must needs lose, and all the charges he should be at in a year, would be valued to amount to more than 300,000*l. Sterl.* and so much more in case his Condition should decay, as it should be worse than it was when this was made; and the Condition of his R. H. and of the Catholick Religion here (which depends very much upon the success of His Most Christian Majesty,) delivered from a great many frights and real hazards. F. *Ferrier* seem'd to be very sensible of the Benefit all parties would gain by this Proposal; But yet it was unfortunately delay'd by an unhappy and tedious fit of sickness, which kept him so long from the King in the *Franche Compte*, and made him so unable to wait on his Majesty after he did return to *Paris:* But so soon as he could compass it, he was pleased to acquaint his Majesty with it, and wrote to the Duke himself; and did me the Honour to write unto me also on the 15th of *September* 1674, and sent his Letter by Sir *William Throckmorton*, who came express upon that Errand: In these Letters he gave his R. H. fresh assurance of his most Christian Majesty's friendship, and of his Zeal and Readiness to comply with every thing His R. H. had, or should think fit to propose in favour of *Religion*, or the business of *Money*; and that he had commanded *Monsieur Rouvigny* as to the latter, to Treat and deal with his R. H. and to receive and observe his Orders and Directions; but desired that he might not at all be concerned as to the former, but that his R. H. would cause what Proposition he should think fit to be made about Religion, to be offered either to Father *Ferrier*, or *Monsieur Pompone*.

These Letters came to us about the middle of *September*, and his R. H. expected daily when *Monsieur Rouvigny* should speak to him about the Subject of that Letter; but he took no notice at all of any thing till the 29th of *September*, the evening before the King and Duke went to *Newmarket* for a fortnight, and then only said, that he had Commands from his Master to give his R. H. the most firm assurance of his Friendship imaginable, or something to that purpose, making his R. H. a general Compliment, but made no mention of any particular Orders relating to Father *Ferrier*'s Letter. The Duke wondering at this proceeding, and being obliged to stay a good part of *October* at *Newmarket*; and soon after his coming back, hearing of the Death of Father *Ferrier*, he gave over all further prosecuting of the former Project. But I believe I saw *Monsieur Rouvigny*'s policy all along, who was willing to save his Master's Money, upon assurance that we would do all we could to stave off the Parliament for our own sakes, that we would struggle as hard without money as with it; and we having by that time, upon our own Interest, prevailed to get the Parliament prorogued to the 13th of *April*, he thought that Prorogation being to a Day so high in the Spring, would put the Confederates so far beyond their Measures, as that it might procure a Peace, and be as useful to *France* as a Dissolution: upon these Reasons I suppose he went. I had several discourses with him; and did open my self so far to him as to say, I could wish his Master would give us leave to offer to our Master 300,000*l.* for the Dissolution of the Parliament; and shewed him that a Peace would most certainly follow a Dissolution (which he agreed with me in), and that we desir'd not the Money from his Master to excite our wills, or to make us more industrious to use our utmost powers to procure a Dissolution, but to strengthen our Power and Credit with the King, and to render us more capable to succeed with his Majesty, as most certainly we should have done, had we been fortified with such an Argument.

To this Purpose I press'd *Monsieur Pompone* frequently by Sir *William Throckmorton*, who returned hence again into *France* on the 10th of *November*, the day our Parliament should have met, but was Prorogued. *Monsieur Pompone* (as I was informed by Sir *William*) did seem to approve the thing; but yet had Two Objections against it: First, That the Sum we proposed, was great; and could be very ill spared in the circumstances his *Most Christian Majesty* was in. To which we Answered, That if by his Expending that Sum, he could procure a Dissolution of our Parliament, and thereby a Peace, which every Body agreed would necessarily follow; his *Most Christian Majesty* would gain his Ends, and save Five or Ten Times a greater Sum, and so be a good Husband by his Expence; and if we did not procure a Dissolution, he should not be at that Expence at all; for that we desired him only to promise upon that Condition, which we were content to be Obliged to perform first. The Second Objection was, The Duke did not move, nor appear in it himself. To that we Answered, That he did not indeed to *Monsieur Pompone*, because he had found so ill an effect of the Negotiation with Father *Ferrier*, when it came into *Monsieur Rouvigny*'s hands; but that he had concerned himself in it to Father *Ferrier*.

Yet I continued to prosecute and press the Dissolution of the Parliament, detesting all Prorogations as only so much loss of time, and a means of strengthning all those who depend upon it in Opposition to the *Crown*, the Interest of *France* and *Catholick Religion*, in the Opinion they had taken. That our King durst not part with his Parliament; apprehending that another would be much Worse. Secondly, That he could not live long without a Parliament, therefore they must suddenly meet; and the longer he kept them off, the greater his Necessity would grow; and consequently their Power to make him do what they listed, would increase accordingly: And therefore, if they could but maintain themselves a while, the day would certainly come in a short time, in which they should be able to work their Wills. Such Discourses as these kept the *Confederates* and our *Male-Contents* in Heart, and made them weather on the War in spite of all our Prorogations: Therefore I press'd (as I have said) a Dissolution until *February* last, when our *Circumstances* were so totally *Changed*, that we were forced to change our *Counsels* too, and be as much for the Parliament's Sitting, as we were before against it.

Our *Change* was thus: Before that time, the Lord *Arlington* was the only Minister in Credit, who thought himself out of all danger of the Parliament; he having been Accused before them and Justified, and therefore was Zealous for their sitting; and to increase his Reputation with them, and to become a perfect Favourite, he sets himself all he could to persecute the *Catholick* Religion, and to oppose the *French:* To shew his zeal against the first, he revived some old dormant Orders for prohibiting *Roman Catholicks* to appear before the King, and put them in Execution at his first coming into his Office of Lord *Chamberlain:* And to make sure work with the second, as he thought; prevailed with the King to give him and the Earl of *Offory*, (who married two Sisters of *Myne Heere Odyke*'s) leave to go over into *Holland* with the said *Heere*, to make a Visit, as they pretended, to their Relations; But indeed, and in truth, to propose the Lady *Mary* (Eldest Daughter of his *R. H.*) as a Match for the Prince of *Orange*; not only without the consent, but against the good liking of his *R. H.:* Insomuch, that the Lord *Arlington*'s Creatures were forced to excuse him, with a Distinction, that the said Lady was not to be looked upon as the Duke's Daughter, but as the King's and a Child of the State was, and so the Duke's Consent not much to be considered in the disposal of her, but only the Interest of State. By this he intended to render himself the Darling of Parliament and Protestants, who look'd upon themselves as secured in their Religion by such an Alliance, and designed further to draw us into a close Conjunction with *Holland*, and the Enemies of *France*. The Lord *Arlington* set forth upon this Errand the 10th of *November* 1674, and returned not till the 6th of *January* following: During his absence, the L. *Treasurer*, L. *Keeper*, and the Duke of *Lauderdale*, who were the only *Ministers* of any *considerable Credit* with the *King*, and who all pretended to be entirely United to the Duke, declaimed Loudly, and with great Violence, against the said Lord, and his Actions in *Holland*; and did hope, in his absence, to have totally supplanted him, and to have routed him out of the King's Favour; and after that, thought they might easily enough have dealt with the Parliament. But none of them had Courage enough to speak against the Parliament, till they could get rid of him; for fear they should not succeed, and that the Parliament would Sit in spite of them, and come to hear that they had used their endeavours against it; which would have been so Unpardonable a Crime with our *Omnipotent Parliament*, that no Power could have been able to have saved them from *Punishment:* But they finding at his Return, that they could not prevail against him by such Means and Arts as they had then tried, resolved upon *New Counsels*; which were to outrun him in his own Course; which accordingly they undertook, and became as fierce Apostles, and as zealous for *Protestant Religion*, and against *Popery*, as ever my L. *Arlington* had been before them; and in pursuance thereof, persuaded the King to issue out those severe *Orders* and *Proclamations* against *Catholicks*, which came out in *February* last; by which, they did as much as in them lay to extirpate all *Catholicks*, and *Catholick Religion*, out of the Kingdom; which Counsels were in my poor opinion so Detestable, being levelled (as they must needs be) so directly against the *Duke*, by People which he had Advanced, and who had professed so much Duty and Service to him, that we were put upon new Thoughts how to save his *R. H.* now from the Deceits and Snares of those Men upon whom we formerly depended. We saw well enough, that their design was to make themselves as grateful as they could to the Parliament, if it must Sit; they thinking nothing so acceptable to them, as the persecution of *Popery*; and yet they were so obnoxious to the Parliament's displeasure in general, that they would have been glad of any Expedient to have kept it off; though they durst not engage against it openly themselves, but thought this Device of theirs might serve for their purposes, hoping the *Duke* would be so alarm'd at their proceedings, and by his being left by every Body, that he would be much more afraid of the Parliament than ever, and would use his utmost Power to prevent its Sitting: which they doubted not but he would endeavour; and they were ready enough to work underhand too for him (for their own sakes, not his), in order thereunto, but durst not appear openly; and to encourage the *Duke* the more to endeavour the *Dissolution* of the Parliament, their Creatures used to say up and down, That this Rigour against the *Catholicks* was in favour of the *Duke*, and to make a *Dissolution* of the Parliament more easy, (which they knew he coveted) by obviating one great *Objection* which was commonly made against it, which was, That if the Parliament should be *Dissolved*, it would be said, That it was done in favour of *Popery*; which Clamour they had prevented beforehand by the Severity they had used against it.

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As ſoon as we ſaw theſe Tricks put upon us we plainly ſaw what Men we had to deal withal, and what we had to truſt to, if we were wholly at their Mercy: But yet durſt not ſeem ſo diſſatisfied as we really were, but rather magnified the Contrivance, as a Device of great Cunning and Skill: All this we did purely to hold them in a belief, that we would endeavour to Diſſolve the Parliament, and that they might rely upon his *R. H.* for that which we knew they long'd for, and were afraid they might do ſome other way, if they diſcovered that we were reſolved we would not: At length when we ſaw the Seſſions ſecured, we declared, that we were for the Parliament's meeting; as indeed we were, from the moment we ſaw our ſelves handled by all the King's Miniſters at ſuch a rate that we had Reaſon to believe they would ſacrifice *France*, *Religion*, and his *R. H.* too, to their own Intereſt, if occaſion ſerved; and that they were led to believe, that that was the only way they had to ſave themſelves at that time: For we ſaw no Expedient fit to ſtop them in their Career of Perſecution, and thoſe other deſtructive Counſels, but the Parliament; which had ſet itſelf a long time to diſlike every thing the Miniſters had done, and had appeared violently againſt *Popery*, whilſt the Court ſeemed to favour it; and therefore we were confident, that the Miniſters having turn'd their Faces, the Parliament would do ſo too, and ſtill be againſt them; and be as little for Perſecution then, as they had been for *Popery* before. This I undertook to manage for the Duke and the King of *France*'s Intereſt; and aſſured *Monſieur Rouvigny* (which I am ſure he will teſtify, if occaſion ſerves) that that Seſſions ſhould do neither of them any hurt; for that I was ſure I had Power enough to prevent miſchief, though I durſt not engage for any good they would do; becauſe I had but very few Aſſiſtances to carry on the work, and wanted thoſe helps, which others had, of making Friends: The *Dutch* and *Spaniard* ſpared no pains or expence of Money to animate as many as they could againſt *France*; Our Lord *Treaſurer*, Lord *Keeper*, all the *Biſhops*, and ſuch as call'd themſelves *Old Cavaliers*, (who were all then as one Man) were not leſs induſtrious againſt *Popery*, and had the Purſe at their Girdle too; which is an Excellent Inſtrument to gain Friends with; and all united againſt the Duke, as Patron both of *France* and *Catholick* Religion. To deal with all this Force, we had no Money, but what came from a few private Hands; and thoſe ſo mean ones too, that I dare venture to ſay, that I ſpent more my particular ſelf out of my own Fortune, and upon my ſingle Credit, than all the whole Body of *Catholicks* in *England* beſides; which was ſo inconſiderable, in compariſon of what our Adverſaries commanded, and we verily believe did beſtow in making their Party, that it is not worth mentioning: Yet notwithſtanding all this, we ſaw that by the help of the Nonconformiſts, as *Preſbyterians*, *Independents*, and other *Sects*, (who were as much afraid of Perſecution as ourſelves) and of the Enemies of the Miniſters, and particularly of the *Treaſurer*; who by that time had ſupplanted the Earl of *Arlington*, and was grown ſole Manager of all Affairs himſelf, we ſhould be very able to prevent what they deſigned againſt us, and ſo render the Seſſions ineffectual to their Ends, though we might not be able to compaſs our own; which were, to make ſome briſk ſtep in Favour of his *R. H.* to ſhew the King, that his Majeſty's Affairs in Parliament were not Obſtructed, by reaſon of any Averſion they had to his *R. H*'s Perſon, or Apprehenſions they had of him, or his Religion; but from Faction and Ambition in ſome, and from a real Diſſatisfaction in others, that we have not had ſuch fruits and good effects of thoſe great ſums of Money which have been formerly given, as was expected. If we could then have made but one ſuch ſtep, the King would certainly have reſtored his *R. H.* to all his Commiſſions; upon which he would have been much greater than ever yet he was in his whole Life, or could probably ever have been by any other Courſe in the World, than what he had taken of becoming *Catholick*, *&c.* And we were ſo very near gaining this Point, that I did humbly beg his *R. H.* to give me leave to put the Parliament upon making an Addreſs to the King, that his Majeſty would be pleaſed to put the Fleet into the Hands of his *R. H.* as the only Perſon likely to have a good Account of ſo important a Charge as that was to the Kingdom; and ſhewed his *R. H.* ſuch Reaſons to perſuade him that we could carry it, that he agreed with me in it, that he believed we could. Yet others telling him how great a Damage it would be to him, if he ſhould miſs in ſuch an Undertaking (which for my part I could not then ſee, nor do I yet), he was prevailed upon not to venture, though he was perſuaded he could carry it. I did communicate this Deſign of mine to *Monſieur Rouvigny*, who agreed with me, that it would be the greateſt advantage imaginable to his Maſter, to have the *Duke*'s Power and Credit ſo far advanced as this would certainly do, if we could compaſs it: I ſhewed him all the Difficulty we were like to meet with, and what helps we ſhould have; but that we ſhould want one very material one, *Money*, to carry on the Work as we ought; and therefore I do confeſs, I did ſhamefully beg his Maſter's Help, and would willingly have been in everlaſting Diſgrace with all the World, if I had not with that Aſſiſtance of Twenty Thouſand Pound *Sterling* (which perhaps is not the tenth part of what was ſpent on the other ſide) made it evident to the *Duke*, that he could not have miſſed it. *Monſieur Rouvigny* uſed to tell me, That if he could be ſure of ſucceeding in that Deſign, his Maſter would give a very much larger Sum; but that he was not in a Condition to throw away Money upon Uncertainties. I anſwered, That nothing of that nature could be ſo infallibly ſure, as not to be ſubject to ſome Poſſibilities of failing; but that I durſt venture to undertake to make it evident, that there was as great an aſſurance of ſucceeding in it, as any Huſbandman can have of a Crop in Harveſt, who ſows his Ground in its due Seaſon; and yet it would be counted a very imprudent piece of warineſs in any body, to ſcruple the venturing ſo much Seed in its proper time, becauſe it is poſſible it may be totally loſt, and no benefit of it found in Harveſt; he that minds the Winds and the Rains at that rate, ſhall neither Sow nor Reap. I take our Caſe to be much the ſame as it was the laſt Seſſions: If we can advance the *Duke*'s Intereſt one ſtep forward, we ſhall put him out of the reach of Chance for ever; for he makes ſuch a Figure already, that Cautious Men do not care to act againſt him, nor always without him, becauſe they do not ſee that he is much outpowered by his Enemies; yet is he not at ſuch a Pitch, as to be quite out of danger, or free from Oppoſition: But if he could gain any conſiderable new addition of Power, all would come over to him as to the only ſteady Center of our Government, and no Body would contend with him further. Then would *Catholicks* be at Reſt, and his *Moſt Chriſtian Majeſty*'s Intereſt ſecured with us in *England* beyond all apprehenſions whatſoever.

In order to this, we have two great Deſigns to Attempt this next Seſſions. Firſt, that which we were about before, *viz.* To put the Parliament upon making it their humble Requeſt to the King, that the Fleet may be put into his *R. H*'s Care. *Secondly*, to get an Act for general Liberty of Conſcience. If we carry theſe two, or either of them, we ſhall in effect do what we liſt afterwards; and truly, we think we do not undertake theſe great Points very unreaſonably, but that we have good Cards for our Game; Not but that we expect great Oppoſition, and have great reaſon to beg all the Aſſiſtance we can poſſibly get; and therefore, if his *Moſt Chriſtian Majeſty* would ſtand by us a little in this *Conjuncture*, and help us with ſuch a ſum as 20,000 Pound *Sterling* (which is no very great matter to venture upon ſuch an undertaking as this), I would be content to be Sacrificed to the utmoſt Malice of my Enemies, if I did not Succeed. I have propoſed This ſeveral times to *Monſieur Rouvigny*, who ſeemed always of my Opinion; and has often told me, that he has writ into *France* upon this Subject, and has deſired me to do the like: But I know not whether he will be as Zealous in that point as a *Catholick* would be; becauſe our prevailing in theſe things would give the greateſt Blow to the *Proteſtant Religion* here, that ever it received ſince its Birth; which perhaps he would not be very glad to ſee; eſpecially when he believes there is another way of doing his Maſter's Buſineſs well enough without it; which is by a *Diſſolution* of the Parliament; upon which I know he mightily depends, and concludes, that if that come to be *Diſſolved*, it will be as much as he needs care for; proceeding perhaps upon the ſame manner of Diſcourſe which we had this time twelve Months. But with ſubmiſſion to his better Judgment, I do think that our Caſe is extremely much altered to what it was, in Relation to a *Diſſolution*; for then the Body of our Governing Miniſters (all but the Earl of *Arlington*) were entirely United to the *Duke*; and would have Governed his Way, if they had been free from all Fear and Controul, as they had been, if the Parliament had been Removed. But they having ſince that time Engaged in quite different Counſels, and Embarked themſelves and Intereſts upon other Bottoms, having declared themſelves againſt *Popery*, *&c.* To Diſſolve the Parliament ſimply, and without any other ſtep made, will be to leave them to Govern what way they liſt, which we have Reaſon to ſuſpect will be to the prejudice of *France* and *Catholick Religion*. And their late *Declarations* and *Actions* have Demonſtrated to us, that they take that for the moſt Popular way for themſelves, and likelieſt to keep them in abſolute Power; whereas, if the *Duke* ſhould once get above them (after the Tricks they have plaid with him) they are not ſure he will Totally forget the Uſage he has had at their hands: Therefore it Imports us now to advance our Intereſt a little further, by ſome ſuch Project as I have named, before we *Diſſolve* the Parliament; Or elſe, perhaps, we ſhall but Change Maſters (a *Parliament* for Miniſters), and continue ſtill in the ſame *Slavery* and *Bondage* as before. But one ſuch ſtep as I have propoſed, being well made, we may ſafely ſee them *Diſſolved*, and not fear the Miniſters; but ſhall be Eſtabliſhed, and ſtand Firm without any Oppoſition; for every Body will then come over to us, and worſhip the Riſing Sun.

I have here given you the Hiſtory of three Years, as ſhort as I could, though I am afraid it will ſeem very long and troubleſome to your *Reverence*, among the multitude of Affairs you are concern'd in: I have alſo ſhewn you the preſent State of our Caſe, which may (by God's Providence, and good Conduct) be made of ſuch advantage to God's Church; that for my part, I can ſcarce believe my ſelf awake, or the thing real, when I think on a *Prince* in ſuch an age as we live in, converted to ſuch a Degree of Zeal and Piety, as not to regard any thing in the World in Compariſon of God Almighty's Glory, the Salvation of his own Soul, and the Converſion of our poor Kingdom; which has been a long time oppreſt, and miſerably harraſs'd with *Hereſy* and *Schiſm*. I doubt not but your *Reverence* will conſider our Caſe, and take it to heart, and afford us what help you can; both with the King of Heaven, by your holy Prayers, and with his *Moſt Chriſtian Majeſty*, by that great Credit which you moſt juſtly have with him. And if ever his Majeſty's affairs (or your own) can want the Service of ſo inconſiderable a Creature as my ſelf, you ſhall never find any Body readier to obey your Commands, or faithfuller in the Execution of them, to the beſt of his Power, than

Your moſt Humble and

Obedient Servant.

Att. Gen. That I may make things clear, as much as poſſible; you ſee, Here's a Letter prepared to be ſent, writ with Mr. *Coleman*'s own hand, to *Monſieur Le Chaiſe:* This Letter bears date the twenty-ninth of *September*. We have an Anſwer to it from *Paris*, *October* twenty-third, whereby *Monſieur Le Chaiſe* owns the receipt of this; And in this Anſwer is expreſt Thanks to Mr. *Coleman* for his long Letter. Sir *Robert*, Pray tell how you came by this Letter.

Sir *Rob. Southwell.* I found this Letter in Mr. *Coleman*'s Canvas Bag; after we had once looked over the Letters, we found it: Sir *Philip Lloyd* Examined it; and we looked over thoſe Papers very exactly. Becauſe the Houſe of Commons were very much concern'd, and thought thoſe Papers were not thoroughly Examined, I reviewed them again. This Letter was found on *Sunday* following after the Papers were ſeized.

Att,

Att. Gen. Sir *Rob. Southwell*, I pray read the Letter in *French* firſt to the Court. Sir *Rob.* having read the Letter in *French*, Mr. *Attorney* deſired him to read it in *Engliſh*. Sir *Rob.* read it in *Engliſh*: The Letter was dated *Paris*, twenty-third *October* 1675. And ſubſcribed, *Your moſt humble and obedient Servant, D. L. C.* at the bottom.

The LETTER.

From *PARIS*, 23 *October* 1675.

SIR,

THE Letter which you gave yourſelf the trouble to write to me, came to my Hands but the laſt Night. I read it with great ſatisfaction; and I aſſure you, that its length did not make it ſeem tedious. I ſhould be very glad on my part to aſſiſt in ſeconding your good Intentions; I will conſider of the Means to effect it; and when I am better informed than I am as yet, I will give you an Account: To the end I may hold Intelligence with you, as you did with my Predeceſſor. I deſire you to believe that I will never fail as to my good Will, for the ſervice of your Maſter, whom I honour as much as he deſerves; and that it is with great truth that I am

Your moſt Humble and
moſt Obedient Servant,
D. L. C.

Att. Gen. We made mention of a Declaration: By his long Narrative it plainly appears, that Mr. *Coleman* would have had another Parliament. And the reaſon why he was pleaſed to publiſh a Declaration, was, thereby to ſhew the Reaſons for its Diſſolution. Sir *Philip Lloyd*, did you find this Writing among Mr. *Coleman*'s Papers?

Sir *P. L.* I did find it among his Papers.

Att. Gen. Pray read the Declaration.

Clerk of the Crown reads the Declaration.

The Declaration which Mr. Coleman *prepared, thereby ſhewing his Reaſons for the Diſſolution of the Parliament.*

WE having taken into our Serious Conſideration the heats and animoſities which have of late appeared among many of our very Loyal and Loving Subjects of this Kingdom, and the many fears and jealouſies which ſome of them ſeem to lie under, of having their Liberties and Properties invaded, or their Religion altered; and withal, carefully reflecting upon our own Government ſince our happy Reſtauration, and the end and aim of it, which has always been the eaſe and ſecurity of our People in all their Rights, and Advancement of the Beauty and Splendour of the true Proteſtant Religion eſtabliſhed in the Church of *England*; of both which we have given moſt ſignal Teſtimonies, even to the ſtripping our Self of many Royal Prerogatives which our Predeceſſors enjoyed, and were our undoubted due; as the Court of Wards, Purveyances, and other things of great value; and denying to our ſelf many advantages, which we might reaſonably and legally have taken by the Forfeitures made in the times of Rebellion, and the great Revenues due to the Church at our Return, which no particular Perſon had any right to: Inſtead of which, we conſented to an Act of Oblivion of all thoſe Barbarous Uſages which our Royal Father and our Self had met withal, much more full and gracious than almoſt any of our Subjects, who were generally become in ſome meaſure or other obnoxious to the Laws, had confidence to aſk; and freely renounced all our Title to the Profit which we might have made by the Church-Lands, in favour of our Biſhops and other Eccleſiaſtical Miniſters, out of our Zeal to the Glory of our Proteſtant Church; which Clemency towards all, and ſome even high Offenders, and Zeal for Religion, we have to this Day conſtantly continued to exerciſe. Conſidering all this, we cannot but be ſenſibly afflicted to ſee, that the frowardneſs of ſome few Tumultuous Heads ſhould be able to infect our Loyal and Good People with apprehenſions deſtructive of their own, and the general quiet of our Kingdom; and more eſpecially, their perverſeneſs ſhould be powerful enough to diſtract our very Parliament, and ſuch a Parliament, as has given us ſuch Teſtimonies of its Loyalty, Wiſdom, and Bounty, and to which we have given as many Marks of our Affection and Eſteem, ſo as to make them miſ-conſtrue all our endeavours for to preſerve our People in eaſe and proſperity, and againſt all reaſon and evidence to repreſent them to our Subjects as Arguments of fear and diſquiet; and under theſe ſpecious pretences of ſecuring Property and Religion, to demand unreaſonable things, manifeſtly deſtructive of what they would be thought to aim at; and from our frequent Condeſcenſions, out of our meer Grace, to grant them what we conceived might give them ſatisfaction, though to the actual prejudice of our Royal Prerogative, to make them preſume to propoſe to advance ſuch extravagancies into Laws, as they themſelves have formerly declared deteſtable; of which we cannot forbear to give our truly Loyal Subjects ſome inſtances, to undeceive our innocent and well minded People, who have many of them of late been too eaſily miſled, by the factious endeavours of ſome turbulent Spirits. For example, We having judged it neceſſary to declare War againſt the States of *Holland*, during a receſs of Parliament, which we could not defer longer, without loſing an advantage which then preſented itſelf, nor have done ſooner, without expoſing our Honour to a potent Enemy without due preparation, we thought it prudent to unite all our Subjects at home, and did believe a general Indulgence of tender Conſciences the moſt proper expedient to effect it; and therefore did by our Authority in Eccleſiaſticks, which we thought ſufficient to warrant what we did, ſuſpend penal Laws againſt Diſſenters in Religion, upon Conditions expreſſed in our Declaration, out of Reaſon of State, as well as to gratify our own nature, which always, we confeſs, abhorr'd rigour, eſpecially in Religion, when tenderneſs might be as uſeful. After we had engaged in the War, we Prorogued our Parliament from *April* to *October*, being confident we ſhould be able by that time to ſhew our People ſuch Succeſs of our Arms, as ſhould make them cheerfully contribute to our Charge: At *October* we could have ſhewn them Succeſs even beyond our own Hopes, or what they could poſſibly expect; our Enemies having loſt by that time, near 100 ſtrong Towns and Forts, taken in effect by us, we holding them buſy at Sea, whilſt our Allies poſſeſſed themſelves of their Lands, with little or no Reſiſtance; and of which, the great Advantage would moſt viſibly have been ours, had not the Feuds we now complain of, which have been ſince unhappily ſtarted, and factiouſly improved by ſome few, diſ-united our People, diſtracted our Councils, and render'd our late Endeavours vain and fruitleſs; ſo that we had no reaſon to doubt of our People's ready and liberal Concurrence to our Aſſiſtance in that Conjuncture. Yet our Enemies propoſing to us at that time a Treaty for Peace, which we were always ready to accept upon Honourable Terms; and conſidering with our Self, that in caſe that Treaty ſucceeded, a far leſs Sum of Money would ſerve our Occaſions, than otherwiſe would be neceſſary: We, out of our tender Regard to the Eaſe of our People, prorogued our Parliament again to *February*, to attend the Succeſs of our Treaty, rather than to demand ſo much Money in *October*, as would be fit to carry on the War. But we ſoon finding that our Enemies did not intend us any juſt Satisfaction, ſaw a Neceſſity of proſecuting the War, which we deſigned to do moſt vigorouſly; and in order to it, reſolv'd to preſs our Parliament to ſupply us as ſpeedily as may be, to enable us to put our Fleet to Sea early in the Spring, which would after their meeting grow on apace. And being informed that many Members were dead during the long Receſs, we Iſſued out our Writs for new Elections, that our Houſe of Commons might be full at the firſt Opening of the Seſſions, to prevent any Delay in our Publick Affairs, or Diſlike in our People, as might poſſibly have riſen from the want of ſo great a Number of their Repreſentatives, if anything of Moment ſhould be concluded before it had been ſupplied. Having govern'd our Actions all along with ſuch careful Reſpect to the Eaſe of our Subjects, we at the Meeting of our Parliament in *February*, 1672, expected from them ſome ſuitable Expreſſions of their Senſe of our Favours; but quite contrary, found our Self alarm'd with clamorous Complaints from ſeveral Cabals againſt all our Proceedings, frighting many of our good Subjects into ſtrange Conceits of what they muſt look for, by their ſeditious and falſe Conſtructions of what we had ſo candidly and ſincerely done for their Good; and ſurpriſed with a Vote of our Houſe of Commons, againſt our Writs of Elections, which we intended for their Satisfactions, againſt many Precedents of ours, or without any Colour of Law of their Side, denying our Power to iſſue out ſuch Writs, adreſſing to us to iſſue out others: Which we conſented to do at their Requeſt, chooſing rather to yield to our Subjects in that Point, than to be forced to ſubmit to our Enemies in others; hoping that our Parliament being ſenſibly touched with that our extraordinary Condeſcenſion, would go on to conſider the Publick Concern of the Kingdom, without any further to do: But we found another Uſe of our ſo eaſy Compliance, which ſerv'd to encourage them to aſk more; ſo that ſoon after we found our Declaration for Indulging tender Conſciences Arraigned, Voted Illegal; though we cannot to this Day underſtand the Conſiſtencies of that Vote, with our undoubted Supremacy in all Eccleſiaſticks, recognized by ſo many Acts of Parliament, and required to be Sworn to by all our Subjects, and Addreſſes made to us one after another to recal it, which we condeſcended to alſo; from hence they proceeded to Us to weaken our Self in an Actual War, and to render many of our Subjects, of whoſe Loyalty and Ability we were well ſatisfied, incapable to ſerve Us, when we wanted Officers and Soldiers, and had reaſon to invite as many experienced Men as we could to engage in our Arms, rather than to incapacitate or diſcourage any; yet this alſo we gratified them in, to gain their Aſſiſtance againſt our Enemies, who grew high by theſe our Differences, rather than expoſe our Country to their Power and Fury; hoping that in time our People would be confounded to ſee our Conceſſions, and be aſhamed of their Errors in making ſuch Demands. But finding the unfortunate Effects of our Diviſions the following Summer, We found our Parliament more extravagant at the next Meeting than ever, addreſſing to us to hinder the Conſummation of our Dear Brother's Marriage, contrary to the Law of God, which forbiddeth any to ſeparate any whom he hath joined, againſt our Faith and Honour engag'd in the Solemn Treaty, obſtinately perſiſting in that Addreſs, after we had acquainted them, That the Marriage was then actually ratified, and that we had acted in it by our Ambaſſador; ſo that we were forced to ſeparate them for a while, hoping they would bethink themſelves better at their meeting in *January*. Inſtead of being more moderate, or ready to conſider our Wants towards the War; they Voted, as they had done before, not to aſſiſt us ſtill, 'till their Religion were effectually ſecur'd againſt Popery, Aggrievances redreſſed, and all obnoxious Men removed from us; which we had reaſon to take for an abſolute Denial of all Aid; conſidering the Indefiniteneſs of what was to proceed, and the moral Impoſſibility of effecting it in their Senſes: For when will they ſay their Religion is effectually ſecured from Popery, if it were in danger then, by reaſon of the Inſolency of Papiſts; when our Houſe of Commons, which is made up of Members from every Corner of our Kingdom, with Invitations publickly Poſted up to all Men to accuſe them, has not yet in ſo many Years as they have complained of them, been able to charge one ſingle Member of that Communion, with ſo much as a Miſdemeanour? Or what Security could they poſſibly expect againſt that Body of Men, or their Religion, more than we had given them? Or how can we hope to live ſo perfectly, that Study and Pains may not make a Collection of Grievances, as conſiderable as that which was lately preſented to us, than which we could not havewiſh'd for a better Vindication of our Government? Or when ſhall we be ſure that all obnoxious Men are removed from us, when Common Fame thinks fit to call them ſo; which is to every Body, without any Proof, ſufficient to render any Man obnoxious, who is Popiſhly affect-

ed, or any thing elſe that is ill, though they have never ſo often or lately complied with their own Teſts, and Marks of Diſtinction and Diſcriminations? Finding our People thus unhappily diſordered, we ſaw it impoſſible to proſecute the War any longer; and therefore did by their Advice make a Peace upon ſuch Conditions as we could get; hoping that being gratified in that Darling Point, they would at leaſt have paid our Debts, and enabled us to have built ſome Ships for the future Security of our Honour, and their own Properties; but they being tranſported with their Succeſs in Aſking, were reſolved to go on ſtill that way, and would needs have us put upon the removing of our Judges from thoſe Charges, which they have always hitherto held at the Will and Pleaſure of the Crown, out of our Power to alter the ancient Laws of trying of Peers, and to make it a Premunire in our Subjects (in a Caſe ſuppoſed) not to fight againſt our Self; nay, ſome had the Heart to aſk, that the Hereditary Succeſſion of our Crown (which is the Foundation of all our Laws) ſhould be changed into a ſort of Election, they requiring the Heir to be qualified with certain Conditions, to make him capable of Succeeding; and out-doing that Popiſh Doctrine, which we have ſo long and ſo loudly with good reaſon decried, That Hereſy incapacitates Kings to Reign. They would have had, that the Heir of the Crown, marrying a Papiſt, though he continued never ſo Orthodox himſelf, ſhould forfeit his Right of Inheritance; not underſtanding this Paradoxical way of ſecuring Religion by deſtroying it, as this would have done that of the Church of *England*, which always taught Obedience to their Natural Kings, as an indiſpenſable Duty in all good Chriſtians, let the Religion or Deportment of their Prince be what it will; and not knowing how ſoon that Impediment, which was ſuppoſed as ſufficient to keep out an Heir, might be thought as fit to remove a Poſſeſſor: And comparing that Bill which would have it a Premunire in a Sheriff not to raiſe the *Poſſe Comitatus*, againſt our Commiſſion in a Caſe there ſuppoſed, though we our Self ſhould aſſiſt that our Commiſſion in our Perſon: For not being excepted is implied with the other made by this very Parliament in the 14th Year of our Reign, which all our Subjects, or at leaſt many of them, were obliged to Swear (*viz.* That the Doctrine of taking up Arms by the King's Authority, againſt his Perſon, was deteſtable); and we ſoon found that the Deſign was levelled againſt the good Proteſtant Religion of our good Church, which its Enemies had a mind to blemiſh, by ſliding in ſlily thoſe damnable Doctrines, by ſuch an Authority as that of our Parliament, into the Profeſſion of our Faith or Practices, and ſo expoſe our whole Religion to the Scorn and Reproach of themſelves, and all the World: We therefore thought it our Duty to be ſo watchful as to prevent the Enemies ſowing ſuch miſchievous Tares as theſe, in the wholſome Field of our Church of *England*, and to guard the unſpotted Spouſe of our bleſſed Lord from that foul Accuſation with which ſhe juſtly charges other Churches, of teaching their Children Loyalty, with ſo many Reſerves and Conditions, that they ſhall never want a Diſtinction to juſtify Rebellion; nor a Text of Scripture, as good as Curſe ye *Meroz*, to encourage them to be Traitors: Whereas our truly Reformed Church knows no ſuch Subtilties; but teaches according to the Simplicity of Chriſtianity, To ſubmit to every Ordinance of Man for God's Sake, according to the Natural Signification of the Words, without Equivocation or Artificial Turns. In order to which, having thought to diſſolve that Body, which we have theſe many years ſo tenderly cheriſhed, and which we are ſure conſiſts generally of moſt dutiful and loyal Members, we were forc'd to Prorogue our Parliament 'till *November* next, hoping thereby to cure thoſe Diſorders, which have been ſown among the Beſt and Loyalleſt Subjects by a few malicious Incendiaries. But underſtanding ſince, that ſuch who have ſowed that Seditious Seed, are as induſtriouſly careful to water it by their Cabals, and Emiſſaries, inſtructed on purpoſe to poiſon our People with diſcourſes in publick Places, in hopes of a great Crop of Confuſion, their beloved Fruit, the next Seſſions; we have found it abſolutely neceſſary to Diſſolve our Parliament, though with great Reluctancy and Violence to our Inclination: But remembring the days of our Royal Father, and the Progreſs of Affairs then, how from a Cry againſt Popery the People went on to complain of Grievances, and againſt Evil Counſellors and his Majeſty's Prerogative; until they advanc'd into a formal Rebellion, which brought forth the moſt direful and fatal Effects that ever were yet heard of amongſt any Men, Chriſtians or others; and withal, finding ſo great a Reſemblance between the Proceedings then and now, that they ſeem both Broth of the ſame Brains: And being confirmed in that Conceit, by obſerving the Actions of many now, who had a great Share in the Management of the Former Rebellion, and their Zeal for Religion, who by their Lives gave us too much reaſon to ſuſpect they have none at all; we thought it not ſafe to dally too long, as our Royal Father did, with Submiſſions and Condeſcenſions, endeavouring to cure Men infected, without removing them from the Air where they got the Diſeaſe, and in which it ſtill rages and increaſes daily. For fear of meeting with no better Succeſs than he found in ſuffering his Parliament to challenge Power they had nothing to do with, 'till they had bewitched the People into fond Deſires of ſuch things as quickly deſtroyed both King and Country, which in us would an intolerable Error, having been warn'd ſo lately by the moſt Execrable Murder of our Royal Father, and the inhumane Uſage which we our Self in our Royal Perſon and Family have ſuffered, and our Loyal Subjects have endured, by ſuch Practices: And leſt this our great Care of this our Kingdom's Quiet, and our own Honour and Safety ſhould, as our beſt Actions hitherto have been, be wreſted to ſome ſiniſter Senſe, and Arguments be made from it to ſcare our good People into any Apprehenſions of an Arbitrary Government either in Church or State: We do hereby ſolemnly declare and faithfully engage our Royal Word, that we will in no Caſe, either Eccleſiaſtical or Civil, violate or alter the known Laws of our Kingdom, or invade any Man's Property or Liberty, without due courſe of Law: But that we will with our utmoſt Endeavours preſerve the true Proteſtant Religion, and redreſs all ſuch things as ſhall indifferently, and without Paſſion, be judg'd Grievances by our next Parliament, which we do by God's Bleſſing intend to Call before the End of *February* next. In the mean time we do ſtrictly charge and command all manner of Perſons whatſoever, to forbear to talk ſeditiouſly, ſlightly or irreverently of our Diſſolving of the Parliament, of this our Declaration, or of our Perſon or Government, as they will anſwer it at their Perils; we being reſolv'd to proſecute all Offenders in that kind with the utmoſt Rigour and Severity of the Law. And to the end that ſuch licentious Perſons, if any ſhall be ſo impudent and obſtinate as to diſobey this our Royal Command, may be detected and brought to due Puniſhment, we have ordered our Lord Treaſurer to make ſpeedy Payment of Twenty Pounds to any Perſon or Perſons who ſhall diſcover or bring any ſuch ſeditious, ſlight or irreverent Talker before any of our Principal Secretaries of State.

Record. I would have the Jury ſhould know the Declaration ends, *To one of his Majeſty's Principal Secretaries of State*; whereof he hoped to be one.

Att. Gen. This is written in the Name of the King; for Mr. *Coleman* thought himſelf now Secretary of State, and he pens the Declaration, for the King to give an Account why the Parliament was Diſſolved.

Serj. Maynard. The long *Letter*, it appears, was to Diſſolve the Parliament; and to make it cock-ſure, he provides a *Declaration* to ſhew the Reaſon of it: it was done in order to bring in Popery; that may appear by the ſubſequent Proof.

Att. Gen. I have other Evidence to offer to your Lordſhip, which is, That Mr. *Coleman* was not only ſo bold as to prepare a *Declaration* for the King, but alſo out of his own further Ingenuity, prepares a *Letter* (contrary to the Duke's Knowledge) for the Duke, which before ſeveral Lords he confeſſed; and Sir *Philip Floyd* is here ready to juſtify it.

Sir *Philip Floyd.* I did attend a Committee of the Houſe of Lords to *Newgate*, who examined Mr. *Coleman*, and told him of the *Letter* Mr. Attorney mentioneth; he then confeſſed, That it was prepared without the Order and Privity of the Duke; and when he was ſo bold as to ſhew it the Duke, the Duke was very Angry, and rejected it.

L. C. J. He hath been a very forward Undertaker on the behalf of the Duke.

Mr. Att. Gen. I deſire the *Letter* may be read.

The Copy of the Letter *written to Monſieur* Le Chaiſe, *the* French *King's Confeſſor*; *which Mr.* Coleman *confeſſed he himſelf wrote and counterfeited in the Duke's Name.*

Clerk of the Crown reads the Letter.

'THE 2d of *June* laſt paſt, his moſt Chriſtian Majeſty offered me 'moſt generouſly his Friendſhip, and the Uſe of his Purſe, to the 'Aſſiſtance againſt the Deſigns of my Enemies and his; and proteſted 'unto me, That his Intereſt and mine were ſo clearly link'd together, 'that thoſe that oppoſed the one, ſhould be look'd upon as Enemies to 'the other; and told me moreover his Opinion of my Lord *Arlington*, 'and the Parliament; which is, That he is of Opinion that neither the 'one nor the other is in his Intereſt or mine: And thereupon he deſired 'me to make ſuch Propoſitions as I ſhould think fit in this Conjuncture.

'All was tranſacted by the Means of Father *Ferrier*, who made uſe 'of Sir *William Throckmorton*, who is an honeſt Man, and of Truth, 'who was then at *Paris*, and had held Correſpondence with *Coleman*, one 'of my Family, in whom I have great Confidence.

'I was much ſatisfied to ſee his moſt Chriſtian Majeſty altogether of 'my Opinion, ſo I made him Anſwer the 29th of *June*, by the ſame 'Means he made uſe of to write to me, that is, by *Coleman*, who ad'dreſs'd himſelf to Father *Ferrier* (by the forementioned Knight), and 'entirely agreed to his moſt Chriſtian Majeſty, as well to what had re'ſpect to the Union of our Intereſts, as the Unuſefulneſs of my Lord '*Arlington*, and the Parliament, in order to the Service of the King my 'Brother, and his moſt Chriſtian Majeſty; and that it was neceſſary to 'make uſe of our joint and utmoſt Credits, to prevent the Succeſs 'of thoſe evil Deſigns, reſolved on by the Lord *Arlington* and the 'Parliament, againſt his moſt Chriſtian Majeſty and my Self; which, 'of my Side, I promiſe really to perform; of which, ſince that time, 'I have given reaſonable good Proof.

'Moreover I made ſome Propoſals, which I thought neceſſary to bring 'to paſs what we were obliged to undertake, aſſuring him, That nothing 'could ſo firmly eſtabliſh our Intereſt with the King my Brother, as that 'very ſame Offer of the Help of his Purſe; by which means I had much 'reaſon to hope I ſhould be enabled to perſuade to the diſſolving of the 'Parliament, and to make void the Deſigns of my Lord *Arlington*, who 'works inceſſantly to advance the Intereſt of the Prince of *Orange* and 'the *Hollanders*, and to leſſen that of the King your Maſter, notwith'ſtanding all the Proteſtations he hath made to this Hour, to render him 'Service.

'But as that, which was propoſed, was at a Stand by reaſon of the 'Sickneſs of Father *Ferrier*, ſo our Affairs ſucceeded not according to 'our Deſigns; only Father *Ferrier* wrote to me, the 15th of the laſt 'Month. That he had communicated thoſe Propoſitions to his moſt 'Chriſtian Majeſty, and that they had been very well lik'd of; but as 'they contained things that had regard to the Catholick Religion, and 'to the Offer and Uſe of his Purſe, he gave me to underſtand, he did not 'deſire I ſhould treat with M. *Rouvigny* upon the Firſt, but as to the 'Laſt, and had the ſame time acquainted me, that M. *Rouvigny* had or'der to grant me whatſoever the Conjuncture of our Affairs did require; 'and have expected the Effects of it to this very Hour: But nothing being 'done in it, and ſeeing, on the other hand, that my Lord *Arlington* and 'ſeveral others endeavoured by a thouſand Deceits to break the good In'telligence which is between the King my Brother, his moſt Chriſtian 'Majeſty, and my Self, to the end they might deceive us all three; I have 'thought fit to advertiſe you of all that is paſt, and deſire of you your 'Aſſiſtance and Friendſhip to prevent the Rogueries of thoſe, who have 'no other Deſign than to betray the Concerns of *France* and *England* 'alſo, and who by their pretended Service are the occaſion they ſucceed 'not.

'As

'As to any thing more, I refer you to Sir *William Throckmorton*, and '*Coleman*, whom I have commanded to give an Account of the whole 'State of our Affair, and of the true Condition of *England*, with many 'others, and principally my Lord *Arlington*'s Endeavours, to repreſent 'to you quite otherwiſe than it is.

'The two firſt I mention to you are firm to my Intereſt, ſo that you 'may treat with them without any Apprehenſion.'

Serj. Maynard. Gentlemen of the Jury, pray obſerve that he takes upon him to prepare a Letter, and that in the Duke's Name, but contrary to the Duke's Knowledge or Privacy; for when he had ſo much Boldneſs as to tell him of it, the Duke was angry, and rejected it. But in it we may ſee what Kind of Paſſages there are, he takes very much upon him in this Matter. And Mr. *Coleman* muſt keep the Secret too.

Att. Gen. My Lord, I have but one Paper more to read, and I have kept it till the laſt; becauſe if we had proved nothing by Witneſſes, or not read any thing but this, this one Letter is ſufficient to maintain the Charge againſt him: It plainly appears to whom it was directed, and at what time. It begins thus (*I ſent your Reverence a tedious long Letter on our 29th of* September). I only mention this, to ſhew about what time it was ſent. There are ſome Clauſes in it will ſpeak better than I can. Sir *Tho. Doleman* and Sir *Philip Floyd* ſwear he hath confeſſed and owned it to be his Hand-writing. I deſire the Letter may be read.

Clerk of the Crown reads the Letter.

SIR,

I Sent your Reverence a tedious long Letter on our 29th of *September*, to inform you of the Progreſs of Affairs for theſe two or three laſt Years; I having now again the Opportunity of a very ſure Hand to convey this by, I have ſent you a Cypher, becauſe our Parliament now drawing on, I may poſſibly have Occaſion to ſend you ſomething which you may be willing enough to know, and may be neceſſary for us that you ſhould, when we may want the Conveniency of a Meſſenger. When any thing occurs of more Concern, other than which may not be fit to be truſted even to a Cypher alone, I will, to make ſuch a thing more ſecure, write in Lemmon between the Lines of a Letter, which ſhall have nothing in it viſible, but what I care not who ſees, but dried by a warm Fire, ſhall diſcover what is written; ſo that if the Letter comes to your Hands, and upon drying it any thing appears more than did before, you may be ſure no Body has ſeen it by the Way. I will not trouble you with that Way of Writing, but upon ſpecial Occaſions, and then I will give you a Hint to direct you to look for it, by concluding my viſible Letter with ſomething of Fire, or Burning, by which Mark you may pleaſe to know, that there is ſomething underneath, and how my Letter is to be uſed to find it out.

We have here a mighty Work upon our Hands, no leſs than the Converſion of three Kingdoms, and by that perhaps the utter ſubduing of a Peſtilent Hereſy, which has domineered over great Part of this Northern World a long time; there were never ſuch Hopes of Succeſs ſince the Death of our Queen Mary, *as now in our Days:* When God has given us a Prince, who is become (may I ſay a Miracle) zealous of being the Author and Inſtrument of ſo glorious a Work; but the Oppoſition we are ſure to meet with, is alſo like to be great: So that it imports us to get all the Aid and Aſſiſtance we can, for *the Harveſt is great, and the Labourers but few.* That which we rely upon moſt, next to God Almighty's Providence, and the Favour of my Maſter the Duke, is the mighty Mind of his moſt Chriſtian Majeſty, whoſe generous Soul inclines him to great Undertakings, which being managed by your Reverence's exemplary Piety and Prudence, will certainly make him look upon this as moſt ſuitable to himſelf, and beſt becoming his Power and Thoughts; ſo that I hope you will pardon me, if I be very troubleſome to you upon this Occaſion, from whom I expect the greateſt Help we can hope for. I muſt confeſs I think his Chriſtian Majeſty's Temporal Intereſt is ſo much attracted to that of his R. H. (which can never be conſiderable, but upon the Growth and Advancement of the Catholick Religion) that his Miniſters cannot give him better Advice, even in a Politick Senſe, abſtracting from the Conſiderations of the next World, that of our Bleſſed Lord, *to ſeek firſt the Kingdom of Heaven, and the Righteouſneſs thereof, that all other Things may be added unto him.* That I know his moſt Chriſtian Majeſty has more powerful Motives ſuggeſted to him by his own Devotion, and your Reverence's Zeal for God's Glory, to engage him to afford us the beſt Help he can in our preſent Circumſtances. But we are a little unhappy in this, that we cannot preſs his Majeſty by his preſent Miniſter here upon theſe latter Arguments (which are moſt ſtrong), but only upon the firſt, Mr. *Rouvigny*'s Senſe and ours differing very much upon them, though we agree perfectly upon the reſt: And, indeed, though he be a very able Man, as to his Maſter's Service, in things where Religion is not concerned; yet I believe it were much more happy (conſidering the Poſture he is now in), that his Temper were of ſuch a Sort, that we might deal clearly with him throughout, and not be forced to ſtop ſhort in a Diſcourſe of Conſequence, and leave the moſt material Part out, becauſe we know it would ſhock his particular Opinion, and ſo perhaps meet with Diſlike and Oppoſition, though never ſo neceſſary to the main Concern. I am afraid we ſhall find too much Reaſon for this Complaint in this next Seſſion of Parliament: For had we had one here from his moſt Chriſtian Majeſty, who had taken the whole Buſineſs to Heart, and who would have repreſented the State of our Caſe truly, as it is, to his Maſter, I do not doubt but his moſt Chriſtian Majeſty would have engaged himſelf further in the Affair than at preſent I fear he has done, and by his Approbation have given ſuch Counſels as have been offered to his R. H. by thoſe few Catholicks who have Acceſs to him, and who are bent to ſerve him and advance the Catholick Religion with all their Might, and might have more Credit with his R. H. than I fear they have found, and have aſſiſted them alſo with his Purſe as far as 10000 Crowns, or ſome ſuch Sum (which to him is very inconſiderable, but would have been to them of greater Uſe than can be imagined), towards gaining others to help them, or at leaſt not to oppoſe them. If we had been ſo happy as to have had his moſt Chriſtian Majeſty with us to this Degree, I would have anſwered with my Life for ſuch Succeſs this Seſſions, as would have put the Intereſt of the Catholick Religion, his R. H. and his moſt Chriſtian Majeſty, out of all Danger for the time to come. But wanting thoſe Helps of recommending thoſe neceſſary Counſels, which have been given his R. H. in ſuch Manner as to make him think them worth his accepting, and fit to govern himſelf by; and of thoſe Advantages, which a little Money, well managed, would have gained us; I am afraid we ſhall not be much better at the End of this Seſſions than we are now. I pray God we do not loſe Ground. By my next, which will be ere long, I ſhall be able to tell your Reverence more particularly, what we are like to expect. In the mean time I moſt humbly beg your Holy Prayers for all our Undertakings, and that you will be pleaſed to honour me ſo far as to eſteem me what I am entirely, and without any Reſerve,

Mon tres Reverend Pere, le votre R.

Le plus humble, plus obeiſant Serviteur.

[*Several other Letters were read, but becauſe of Prolixity they are omitted, theſe being moſt material*].

Att. Gen. I have done with my Evidence; we need no more Proof againſt him.

Priſ. My Lord, I would, if your Lordſhip pleaſe, very fain aſk of Mr. *Oates* (becauſe he was pleaſed to ſay he was preſent with me in *May* or *April*), whether he knows the particular Days of the Months.

[*Here Mr.* Oates *(who being tired, withdrew to reſt himſelf) was called, and the Priſoner was aſked, whether he would ſpeak with* Bedloe, *but he deſired not to ſpeak with him.*]

Mr. Oates. The Conſult that was held in *May* New-ſtile, is *April* Old-ſtile; it was within a Day, or two, or three of the Conſult.

Priſ. Where was the Conſult?

Mr. Oates. It was begun at the *White-Horſe* Tavern; then they did adjourn it to ſeveral Clubs and Companies, and you came two or three Days after the Conſult to the Provincial's Chamber, we then deſiring to go out of Town.

Priſ. Was you there, and who elſe?

Mr. Oates. There was the Provincial, and *Micho*, and *Strange* the old Provincial, and *Keins* your Companion.

Priſ. What Day of *Auguſt* was that at the *Savoy*?

Mr. Oates. I cannot ſwear the particular Day of the Month, I cannot ſo far charge my Memory.

The Reſult at the Conſult in *May* was, that *Pickering* and *Groves* ſhould go on in their Attempt to aſſaſſinate the Perſon of his Majeſty by Shooting or otherwiſe. Mr. *Coleman* knew of this, and ſaid, it was a good Deſign.

L. C. J. Who was there? Was Mr. *Coleman* with them at the Conſultation?

Mr. Oates. No, my Lord; but two or three Days after the Conſultation, he was at *Wild-Houſe*, and there he expreſſed that he approved of it.

L. C. J. Did he conſent to it?

Mr. Oates. He did conſent to it.

Juſt. Wild. Did he uſe no Words about it?

Mr. Oates. He did ſhew his Approbation of it. But in thoſe Inſtructions that were brought to *Aſhby*, he did ſay it was a very good Propoſition, but he thought the Reward was too little.

L. C. J. Did he uſe any Words to declare his Aſſent?

Mr. Oates. Two Things lie couched in the Queſtion, whether your Lordſhip means the Conſult, or the Inſtructions, he did approve of.

L. C. J. How long after the Conſultation was it that he approved of it?

Mr. Oates. It was two or three Days before he did give his Approbation.

Juſt. Wild. What Words did he ſay?

Mr. Oates. He did expreſs his Conſent; but to ſay the very Words, I cannot tell.

L. C. J. Will you aſk him any more?

Priſ. I would know the Day in *Auguſt*?

L. C. J. He ſaith he doth not remember the Day.

Mr. Oates. I believe, I will not be poſitive in it, it was about the 21ſt Day of *Auguſt*.

Juſt. Wild. and *Juſt. Jones.* Was it in *Auguſt* Old-ſtile?

Oates. Yes.

Priſ. I can prove I was in *Warwickſhire* at that time. That Day he gueſſeth, the 21ſt of *Auguſt*, I can make it appear I was Fourſcore Miles off.

L. C. J. You will do well to prove you was there when the Guinea was given. Will you aſk him any more?

Priſ. No.

L. C. J. You may ſay as you will, but Mr. *Oates* doth charge, that expreſly in *Auguſt* (according to the *Engliſh* Stile) you were at this *Wild-Houſe*, and that he ſaw Fourſcore Pounds prepared. You, Mr. *Coleman*, aſked the Queſtion, what Preparations were made for the Men going to *Windſor?* It was anſwered, Fourſcore Pounds are prepared: And yourſelf gave a Guinea for Expedition. It is a hard Matter to preſs a Man to tell the preciſe Day of the Month, but poſitively he doth ſay it was in *Auguſt*.

Priſ. I was Two and Twenty or Three and Twenty Days in *Auguſt* in *Warwickſhire*.

L. C. J. What have you now more to ſay?

Priſ. My Lord, I never ſaw Mr. *Oates* but in the Council-Chamber, I never ſaw him in *Rome*, in other Parts I never ſaw the Face of him, or knew him in my whole Life; nor did I ſee the other till now in Court, as I hope to be ſaved. And then, my Lord, as to their Teſtimony, neither of them ſwear the ſelf-ſame Fact.

L. C. J. No Man ſhall be guilty, if Denial ſhall make him innocent: They ſwear to the Fact of killing the King, both of them, and that's enough. If one ſaith you have a Plot to poiſon, that is killing the King; and the other ſwears a Plot to ſhoot, or ſtab him, that is to the killing of the King alſo: Then there's your own Undertaking, in your Letter, under your Hand.

Priſ. For Treaſon (with Submiſſion to your Lordſhip), I hope there's none in that, though there are very extravagant Expreſſions in it. I

hope

hope ſome Expreſſions explain it, that it was not my Deſign to kill the King.

L. C. J. No, your Deſign was for the Converſion of three Kingdoms, and ſubduing of that Hereſy that had reigned ſo long in this Northern Part of the World: And for effecting whereof, *there were never more Hopes ſince our Queen* Mary's *Time till now*, and therefore preſſing the King of *France* to uſe his Power, Aid, and Aſſiſtance; and does this ſignify nothing?

Priſ. Doth Aid and Aſſiſtance ſignify more than Money? The Word *Aid* in *French* is Power; they are promiſcuous Words.

L. C. J. You are charged to have had a Correſpondency and Agency with Foreign Power to ſubvert our Religion, and bring in Foreign Authority and Power upon us, which muſt be the neceſſary Conſequence: How can this be proved plainer than by your Letters, to preſs the *French* King that he would uſe his Power?

Priſ. Conſider the Contexture and Connexion of things, whether the whole Series be not to make the King and the Duke (as far as I thought in my Power) as great as could be.

L. C. J. How well or ill you excuſe the Fault, that's not the Queſtion; they relate to the Duke moſt of them, little to the King. You were carrying on ſuch a Deſign, that you intended to put the Duke in the Head of, in ſuch Method and Ways as the Duke himſelf would not approve, but rejected.

Priſ. Do not think I would throw any thing upon the Duke. Though I might (in the Beginning of it) poſſibly make uſe of the Duke's Name, it is poſſible (they ſay I did); but can any imagine the People will lay down Money 200,000*l.* or 20,000*l.* with me upon the Duke's Name, and not know whether the Duke be in it? And conſequently no Body will imagine the Duke would ever employ any Sum to this King's Prejudice or Diſſervice while he lived. I take it for granted (which ſure none in the World will deny), that the Law was ever made immediately ſubject to the King or Duke; and conſequently to the Duke, I cannot think this will ever be expounded by the Law of *England*, or the Jury, to be Treaſon.

L. C. J. What a Kind of Way and Talking is this? You have ſuch a ſwimming Way of melting Words, that it is a troubleſome thing for a Man to collect Matter out of them. You give yourſelf up to be a great Negotiator in the altering of Kingdoms, you would be great with mighty Men for that Purpoſe; and your long Diſcourſes and great Abilities might have been ſpared. The thing theſe Letters do ſeem to import, is this, That your Deſign was to bring in Popery into *England*, and to promote the Intereſt of the *French* King in this Place, for which you hoped to have a Penſion (that's plain). The Duke's Name is often mentioned, that's true; ſometimes it appears it is againſt his Will, and ſometimes he might know of it, and be told that the Conſequence was not great. Now ſay you theſe Sums of Money and all that was done, it did relate to the King or Duke, and it was to advance their Intereſt, and you thought it was the Way to do it. How can this advance them, unleſs it were done to do them Service? And if they do not conſent to it, and how can this be Treaſon, what Kind of Stuff is this? You do ſeem to be a mighty Agent, might not you for a Colour uſe the Duke of *York*'s Name to drive on the Catholick Cauſe, which you was driven to by the Prieſts mightily, and think to get 200,000*l.* Advance Money, and a Penſion for yourſelf, and make yourſelf ſomebody for the preſent, and Secretary of State for the future? If you will make any Defence for yourſelf, or call in Witneſſes, we will hear them: Say what you can; for theſe vain inconſequential Diſcourſes ſignify nothing.

Priſ. I have Witneſſes to prove I was in *Warwickſhire*.

L. C. J. (to Boatman a Witneſs). Where was Mr. *Coleman* in *Auguſt* laſt?

Boatm. In *Warwickſhire*.

L. C. J. How long?

Boatm. All *Auguſt*, to my beſt Remembrance.

L. C. J. Can you ſay that he was in *Warwickſhire* all *Auguſt?* that he was not at *London?*

Boatm. I am not certain what time of the Month he was in *London*.

L. C. J. That he was there in *Auguſt*, may be very true; I do not aſk how long he was in *Warwickſhire*, but was he no where elſe? (To which the Witneſs could make no poſitive Anſwer.)

Priſ. I was at the Lord *Denby*'s, and at Mr. *Francis Fiſher*'s; I was there at leaſt twenty Days.

L. C. J. Have you any more Witneſſes?

Priſ. Anſ. None.

L. C. J. If you have a mind to ſay any thing more, ſay what you can.

Priſ. I can ſay nothing more than what I have ſaid. Poſitively I ſay (and upon my Salvation), I never ſaw theſe Witneſſes, *Oates* but once, and *Bedlow* never before.

* Sir *Francis Winnington.* Mr. * *Sol. Gen.*

May it pleaſe your Lordſhip, and you Gentlemen of the Jury,

THE Cauſe before you (I dare adventure to ſay) is a Cauſe of as great a Nature, and includes as great Crimes, as ever came to this Bar.

It is not a Cauſe of a particular Treaſon, but 'tis a Treaſon that runs to the whole; the King, the Government, and the Proteſtant Religion, all are comprehended in it.

The Defence the Priſoner has made is ſo very ſhort, and of ſo ſlight a Nature, that I ſhall contract myſelf very much in what I had to ſay, and only ſtate to the Court, and Jury, the principal things I rely upon.

The firſt Crime laid in the Indictment, is the Deſign of killing and deſtroying the Royal Perſon of his Majeſty. The ſecond, the ſubverting of the Government, and in doing that, the Deſtruction of the Proteſtant Religion.

And theſe Treaſons have been punctually proved, as well by two Witneſſes, as by Letters under Mr. *Coleman*'s own Hand, whereby he correſponded with Monſieur *Le Chaiſe*, the *French* King's Confeſſor, as alſo by the Anſwers which were ſent by Monſieur *Le Chaiſe* to Mr. *Coleman*.

As to the Proofs made by the Witneſſes, the Subſtance of them is this: Mr. *Oates* ſwears, that in *April* laſt *Old Stile*, and *May New Stile*, there was a general Conſult or Meeting of the *Jeſuits*, at the *White-Horſe-Tavern* in the *Strand*; and afterwards they divided themſelves into ſeveral Companies, or Clubs; and in thoſe Conſults they conſpired the Death of the King; and contrived how to effect it. The Manner of it was thus (as Mr. *Oates* poſitively ſwears): That *Grove* and *Pickering* were employed to murder the King; and their Deſign was to piſtol him in St. *James*'s Park. *Grove* was to have Fifteen Hundred Pounds in Money, and *Pickering* (being a Prieſt) was to have Thirty Thouſand Maſſes, which was computed to be of equal Value to Fifteen Hundred Pounds, according to the uſual Price in the Church of *Rome*. And this Conſpiracy and Contrivance Mr. *Coleman* was privy to, and did well approve of the ſame, as Mr. *Oates* affirmeth upon his Oath. So that here is a plain Treaſon proved upon the Priſoner, by his aſſenting to the Fact to be done, the Law not allowing any Acceſſaries in Treaſon. And this in Law makes the Priſoner as guilty as any of the Aſſaſſinates, who deſigned to kill the King with their own Hands.

If this Deſign ſhould fail, Mr. *Oates* ſwears, that the Conſpirators intended a further Attempt upon the Royal Perſon of the King, when he ſhould be at *Windſor*; and four *Iriſh* Aſſaſſinates were provided by Doctor *Fogarthy*, whoſe Names he would not tell, and Fourſcore Guineas were provided by Father *Harcourt* (a *Jeſuit*) to maintain the Aſſaſſinates at *Windſor*, till they ſhould have effected their wicked Deſign.

While the Conſpiracy was thus in Agitation, Mr. *Coleman*, the Priſoner, went to viſit *Harcourt* the *Jeſuit* at his Houſe in Town; but finding him not at home, and being informed that he was at *Wild-Houſe*, Mr. *Coleman* went thither and found him there; and Mr. *Coleman* aſking what Proviſion *Harcourt* had made for the Gentlemen at *Windſor*; *Harcourt* replied, that there were Fourſcore Guineas, which then lay upon the Table, which were to be ſent to them; and ſaid, that the Perſon who was in the Room was to carry them; to which Mr. *Coleman* replied, he liked it very well; and gave a Guinea out of his own Pocket to the Meſſenger who was to carry the Money to *Windſor*, to encourage him to expedite the Buſineſs. But in caſe the Deſign of killing his Majeſty at *Windſor* ſhould be any ways prevented, then there was a further Conſpiracy to deſtroy the King by Poiſon. Mr. *Oates* ſwears, that in *July* laſt, *Aſhby* (a *Jeſuit*) brought Inſtructions to *London* from *Flanders*, that in caſe *Pickering* and *Grove* could not kill the King at *London*, nor the four *Iriſh* Aſſaſſinates at *Windſor*, then Ten Thouſand Pounds was to be propoſed to Sir *George Wakeman* to poiſon the King. But it did appear by the Letters that paſſed between *White* the Provincial (here in *London*) and *Aſhby*, that Mr. *Coleman* ſaid, he thought Ten Thouſand Pounds was too little; and therefore thought it neceſſary to offer Five Thouſand Pounds more, which afterwards was aſſented to by the *Jeſuits* abroad. And Mr. *Oates* ſwears, he ſaw Letters from the Provincial at *London* to the *Jeſuits* at St. *Omers*, ſignifying, that Sir *George Wakeman* had accepted of the Propoſition, and received Five Thouſand Pounds of the Money. By which Teſtimony of Mr. *Oates*, it plainly appears, that Mr. *Coleman*, the Priſoner at the Bar, was privy to the Conſpiracy, and aiding and abetting to the wicked and damnable Deſign of murdering the King.

The ſecond Witneſs is Mr. *Bedlow*, who ſwears, that he was employed by *Harcourt*, the *Jeſuit*, to carry Pacquets of Letters to Monſieur *Le Chaiſe*, the *French* King's Confeſſor; and further ſays, he was at a Conſult in *France*, where the Plot was diſcourſed on for killing the King; and did bring back an Anſwer from *Le Chaiſe* to *Harcourt* in *London*; and ſwears particularly, that on the 24th or 25th of *May*, 1677, he was at *Coleman*'s Houſe with Father *Harcourt* and ſome other Perſons, where Mr. *Coleman*, diſcourſing of the great Deſign in Hand, ſaid theſe Words following: *That if he had a Sea of Blood, and an hundred Lives, he would loſe them all to carry on the Deſign; and if to effect this, it were neceſſary to deſtroy an hundred Heretick Kings, he would do it.* So that here is another poſitive Oath to an Act of Treaſon committed by Mr. *Coleman*, in relation to the murdering the King.

The other Part of the Evidence conſiſts of Papers and Letters, which generally relate to prove the latter Part of the Indictment, to wit, The Extirpation of the Proteſtant Religion, and introducing of Popery, and the ſubverting of the Government. And this appears by a Letter written by Mr. *Coleman*, dated 29 *Septem.* 75, and ſent to Monſieur *Le Chaiſe*, the *French* King's Confeſſor; wherein he gives him an Account of the Tranſactions of ſeveral Years before, and of the Correſpondence between Mr. *Coleman* and Monſier *Ferrier*, Predeceſſor to *Le Chaiſe*; wherein he does alſo aſſert, that the true Way to carry on the Intereſt of *France*, and the promoting of the *Popiſh* Religion here in *England*, was to get this Parliament diſſolved; which (ſays he) had been long ſince effected, if three Hundred Thouſand Pounds could have been obtained from the *French* King; and that things yet were in ſuch a Poſture, that if he had but Twenty Thouſand Pounds ſent him from *France*, he would be content to be a Sacrifice to the utmoſt Malice of his Enemies, if the Proteſtant Religion did not receive ſuch a Blow as it could not ſubſiſt. And the Receipt of this Letter was acknowledged by Monſieur *Le Chaiſe*, in an Anſwer which he wrote to Mr. *Coleman*, dated from *Paris October* 23. 75. in which he gives him Thanks for his good Service, in order to the promoting the Popiſh Religion.

Several other Letters have been produced and read, which were written by Mr. *Coleman* to Monſieur *Ferrier* and others, and more particularly one Letter dated *Auguſt* 21, 74. written by *Coleman* to the Pope's Internuncio at *Bruſſels*; wherein he ſays, the Deſign proſpered ſo well, that he doubted not but in a little time the Buſineſs would be managed, to the utter Ruin of the Proteſtant Party.

And by other Letters he writes to the *French* King's Confeſſor, that the Aſſiſtance of his moſt Chriſtian Majeſty is neceſſary, and deſires Money from the *French* King to carry on the Deſign.

But there is one Letter, without Date, more bloody than all the reſt, which was written to Monſieur *Le Chaiſe* in ſome ſhort time after the long

long Letter of *September* 29, 1675, wherein, amongst many other things, *Coleman* expresses himself thus: *We have a mighty Work upon our Hands, no less than the Conversion of three Kingdoms, and the utter subduing of a Pestilent Heresy, which hath for some time dominer'd over this Northern part of the World; and we never had so great hopes of it since our Queen* Mary's *Days.* And in the Conclusion of the Letter he implores *Monsieur le Chaise* to get all the Aid and Assistance he can from *France*, and that next to God Almighty they did rely upon the mighty mind of his most Christian Majesty, and therefore did hope *le Chaise* would procure Money and Assistance from him.

Now any Man that considers the Contents of these Letters, must needs agree that the latter part of the Indictment, to wit, the Treason of endeavouring the Subverting the Government and the Protestant Religion, is fully proved upon Mr. *Coleman*, the Prisoner at the Bar; and that these Letters were written by him, and the Answers received, he does not deny. But all he has to say for himself, is, that it was to make the King of *England* great; whereas the contrary is most manifest, because the *Jesuits*, who love Force and Tyranny, always adhere to those Princes that are greatest in Strength and Power. For it appears in History, that when the House of *Austria* were in their Greatness, and like to arrive to the Universal Monarchy in these parts of the World, the *Jesuits* all adhered to that House: But since the *French* King hath grown more mighty in Power and Greatness, they declined the Interest of the *Austrian* Family, and do now promote the Counsels of *France*, thinking that now that King will become the Universal Monarch.

I shall therefore now conclude the Evidence, only observing to the Jury, that the several Treasons in the Indictment are fully proved. The first, as to the Destruction of the Royal Person of the King, by two Witnesses, Mr. *Oates* and Mr. *Bedlow*; the other part of it, *viz.* the Subversion of the Government, and Extirpation of the Protestant Religion, by the several Letters which have been before remembred, which have not been denied by the Prisoner to be his. Therefore I hope, Gentlemen, when you meet with Offenders that are guilty of such stupendous Crimes, you will do Justice upon them, which will be great Comfort and Satisfaction to the King and all his good Protestant Subjects.

Serj. Pemb. Gentlemen, you hear the Crime is of the highest Nature, it's the Subversion of three Kingdoms, and the subduing of that Religion which he defames by the Name of *Pestilent Heresy*. It concerns us all to look about us, and all the Kingdom, when there shall be a Design managed in this manner, to destroy our King, and to take away our Religion, and to enslave us all to the Pope, and make us all truckle to the Priests.

It is wonderful it is capable (at this Day) of so great Evidence, there is *Digitus Dei* in it, or else it would be impossible such a thing should be made so manifest: All the rest that is said in the Indictment are but Circumstances that declare it: There is a strong Evidence of many Matters of Fact in this Design, which declare the Intention hatched in his Breast for many Years together: Here hath been a Design to kill the King, and he doth not only consent to it, but commend it; what can be said to his giving the Money to him that was to pay the fourscore pieces of Gold to those *Ruffians* sent to *Windsor?* and adding 5000*l.* to the 10000*l.* for the Doctor that was to poison the King?. He denies all.

No question but a Man that hath had a Heart to design such Contrivances, will have the Face to deny it publickly: It's a thing to be acted in the dark. But there's both Mr. *Oates* and Mr. *Bedlow* plainly prove it upon him, that he consented to the acting the King's Death. What's the Sense of his Letters, but to shew his design, and to beg the Assistance of *France* to them in their necessities? The whole Current is to destroy our Religion. I think you Gentlemen of the Jury have had such Evidence as will satisfy any Man.

Pris. I deny all Mr. *Oates* his Testimony, for his saying to the Council he did not know me because he could not see me, when I was as near as the next Gentleman but one, but knew me when I spake, and I spoke to almost all the matters asked. He accuseth me of a thing in *August*, but names not the Day: Now if there be one Error in his Testimony, it weakens all the rest. I went out of Town on the 10th of *August*, it was the latter end I came home, about the middle of *Bartholomew* Fair, the last Day of *August*.

L. C. J. Have you any Witness to prove that?

Pris. I cannot say I have a Witness.

L. C. J. Then you say nothing.

Pris. People cannot speak to a day, to a thing they neither imagined or thought of.

L. C. J. I ask your Servant, do you know when Mr. *Coleman* went out of Town?

Coleman's Serv. In *August*; I cannot say particularly the day.

L. C. J. Do you know when he came home?

Serv. I cannot remember.

Just. Wyld. Where was you the last *Bartholomew day?*

Serv. I was in Town.

Just. Wyld. Where was your Master?

Serv. I do not remember.

L. C. J. You say you went out of Town the 10th, and came home the last of *August*; you say it is impossible that he should say right, but yet you do not prove it.

Pris. I have no more to say but I entered down all my Expences every day in a Book, which Book will shew where I was.

L. C. J. Where is your Book?

Pris. At my *Lodgings* in *Vere-Street* by *Covent-Garden*; in a Trunk that came by the Carrier, that will shew when they were sent.

L. C. J. If the Cause did turn upon that *matter*, I would be well content to sit until the Book was brought; but I doubt the Cause will not stand upon that Foot; but if that were the Case it would do you little good.

Observe what I say to the Jury.

My Lord Chief Justice his Speech to the Jury upon his summing up of the Evidence.

Gentlemen of the Jury; My Care at this time shall be to contract this very long Evidence, and to bring it within a short compass, that you may have nothing before you to consider of, as near as I can, but what is really material to the Acquitting or Condemning of Mr. *Coleman*.

The things he is Accused of are of two sorts; the one is, to subvert the Protestant Religion and to introduce Popery: the other was to destroy and kill the King. The Evidence likewise was of two sorts; The one by Letters of his own hand-writing, and the other by Witnesses *viva voce*. The former he seems to confess, the other totally to deny.

For that he confesseth, he does not seem to insist upon it, that the Letters were not his, he seems to admit they were; And he rather makes his Defence by expounding what the meaning of these Letters were, than by denying himself to be the Author.

I would have you take me right, when I say he doth admit; he doth not admit the Construction, that the King's Council here makes upon them; but he admits that these Letters were his. He admits it so far, that he does not deny them. So that you are to Examine what these Letters import in themselves, and what Consequences are naturally to be deduced from them.

That which is plainly intended, is to bring in the *Roman Catholick*, and to subvert the *Protestant Religion*. That which is by Consequence intended, was the Killing the King, as being the most likely means to introduce *That*, which, as 'tis apparent by his Letters, was designed to be brought in.

For the First part of the Evidence. All his Great long Letter that he wrote, was to give the present Confessor of the *French* King an Account of what had passed between him and his Predecessor; By which Agency, you may see that Mr. *Coleman* was In with the former Confessor.

And when he comes to give an Account of the three Years Transactions to this present Confessor, and to begin a Correspondence with him, About what is it? Why, the substance of the Heads of the long Letter comes to this. It was to bring in the *Catholick* as he call'd it, (that is) the *Romish Catholick* Religion, and to establish that here; and to advance an Interest for the *French* King, be that Interest what it will.

It's true his Letters do not express what sort of Interest, neither will I determine: but they say it was to promote the *French* King's Interest, which Mr. *Coleman* would expound in some such sort, as may consist with the King of *England's*, and the Duke of *York's* Interest. But this is certain, it was to subvert our Religion, as it is now by Law established. This was the great end thereof, it cannot be denied: To promote the Interest (I say) of the *French* King, and to gain to himself a Pension as a reward of his Service, is the Contents of his First long Letter, and one or two more concerning that Pension.

His last Letters expound more plainly what was meant by the *French* King's Interest. *We are* (saith he) *about a great work, no less than the Conversion of three Kingdoms, and the total and utter subversion and subduing of that pestilent Heresy* (that is the Protestant Religion) *which hath reigned so long in this Northern part of the World; and for the doing of which, there never was such great hopes since our Queen* Mary's *Days, as at this time.*

Now this plainly shews, that our Religion was to be subverted, Popery established, and the three Kingdoms to be converted; that is, indeed, to be brought to confusion.

For I say, that when our Religion is to be subverted, the Nation is to be subverted and destroyed, that is most apparent: For there could be no hope of subverting or destroying the Protestant Religion, but by a *Subversion* not *Conversion* of the three Kingdoms.

How was it to be done otherwise? Why, I would have brought this Religion in (says he) by dissolving of the Parliament. I would have brought it in by an Edict and Proclamation of Liberty of Conscience. In these ways I would have brought it in.

Mr. *Coleman* knows it is not fit for him to own the introducing of his Religion by the Murder of the King, or by a Foreign Force. The one was too *black* and the other too *bloody*, to be owned. And few People (especially the *English*) will be brought to save their Lives (as he may do his) by confession of so bloody and barbarous a thing, as an intention to Kill the King, or of Levying a War; which, though it be not a *Particular*, is a *General* Murder. I say, it was not convenient for Mr. *Coleman*, when he seems to speak something for himself, to give such an Account, how he would have done it; Therefore he tells us, he would have done it by the dissolving of the Parliament and by Toleration of Religion. Now I would very fain know of any Man in the World, whether this was not a very fine and artificial covering of his design for the Subversion of our Religion?

Pray, how can any Man think, that the Dissolving of the Parliament could have such a mighty influence to that purpose? It is true, he might imagine it might in some sort contribute towards it: Yet it is so doubtful, that he himself mistrusts it. For he is sometimes for the Dissolving of the Parliament, and other times not, as appears by his own Papers: For which we are not beholden to him, so much as for any one, more than what were found by accident, and produced to the King and Council. But in truth, why should Mr. *Coleman* believe that another Parliament (if this Parliament were Dissolved) should comply with Popery? That is to say, That there should be great hopes of bringing in of Popery by a new Parliament? Unless he can give me a good reason for this, I shall hold it as insignificant and as unlikely to have that effect, as his other way by a General Toleration.

And therefore next, Upon what ground does he presume this? I do assure you, that Man does not understand the Inclinations of the *English* People, or knows their Tempers, that thinks, if they were left to themselves and had their Liberty, they would turn Papists.

It's true, there are some amongst us that have so little Wit as to turn Fanaticks, but there is hardly any, but have much more Wit than to turn Papists. These are therefore the Counterfeit pretensions of Mr. *Coleman*.

Now if not by these means, In what way truly did he intend to bring in Popery? Why, his own Letters plainly convict him of one step towards it, in endeavouring with Foreign Powers to bring in that Religion, and to Subvert ours. And for the other way of doing it, by killing the King; I leave it to you whether there were any more probable way than that indeed to do it.

And could he think, that the *French* King would not have thought himself cozened of his Money, if he had not given him hopes that he would use the most probable Methods that he could, to effect his Design?

Therefore there must be more in it; for he that was so earnest for that Religion, would not have stuck at any Violence to bring it in; he would not have stuck at Blood. For we know their Doctrines and their Practices, and we know well, with what Zeal the Priests push them forward to venture their own Lives, and to take away other Mens, that differ from them, to bring in their Religion, and to set up themselves. For indeed in the Kingdoms and Countries where Popery reigns, the Priests have Dominion over Men's Consciences, and Power over their Purses. And they use all Arts imaginable of making Proselytes, and take special Care, that those in their Communion shall know no more than the Priests shall give them leave to understand. And for this Reason they prohibit the use of all Books without their Licence. This blind Obedience begets blind Ignorance, and this is a great subtilty of theirs to keep them in it, that they may perfectly submit to them.

What cannot they Command, when they have made others slaves in their Understandings, and that they must know no more, than what they give them leave to know? But in *England* it is not so, Mr. *Coleman*; and therein you would have found a great disappointment. For if Liberty of Conscience had been tolerated here, that the Consequence of it would have been Popery, I deny.

Nothing is more unlikely; for though in the short Reign of Queen *Mary*, Popery came in for some time, which was but for a little time, and then the People were not so well grounded in the Protestant Religion, nor in the Principles of it: But now they are, Insomuch, that scarce a Cobler but is able to baffle any *Roman* Priest that ever I saw or met with.

And Thanks be to God we have a Preaching Ministry, and the free use of the Scriptures allowed amongst us, which they are not permitted to have.

And after this I wonder, that a Man, who hath been bred up in the Protestant Religion (as I have Reason to believe that you Mr. *Coleman* have been), for (if I am not misinformed) your Father was a Minister in *Suffolk*; For such an one to depart from it, is an Evidence against you, to prove the Indictment. I must make a Difference between Us, and Those who have been always educated that way, and so are under the prepossession of their Education, which is a difficult thing to be overcome.

And I do assure you, there are but two things, that I know of, can make one do it, Interest, or gross Ignorance.

No Man of Understanding, but for By-ends, would have left his Religion to be a Papist. And for you, Mr. *Coleman*, who are a Man of Reason and Subtilty, I must tell you (to bring this to your self) upon this account, that it could not be Conscience, I cannot think it to be Conscience. Your Pension was your Conscience, and your Secretary's place your Bait.

For such Men (I say) as have been bred up in the Protestant Religion, and left it, I can hardly presume that they do it out of Conscience, unless they do it upon a mighty search, not leaning upon their own understanding and abilities, not hearing of one side alone.

Conscience is a tender thing, Conscience will tremble when it leaves the Religion it has been bred in, and its sincerity is shown by being fearful, lest it should be in the wrong. No Man may pretend to Conscience truly, that takes not all Courses imaginable to know the *Right*, before he lets his Religion slip from him.

Have we so soon forgot our Reverence to the late King, and the pious Advice he left us? A King that was truly A DEFENDER of the FAITH, not only by his Title, but by his Abilities and Writings. A King, who understood the Protestant Religion so well, that he was able to defend it against any of the Cardinals of *Rome*. And when he knew it so thoroughly, and died so eminently for it, I will leave this Characteristical Note, That whosoever after that departs from *His* Judgment, had need have a very good one of his own, to bear him out.

I do acknowledge, Many of the Popish Priests formerly were learned Men, and may be so still, beyond the Seas: but I could never yet meet with any here, that had other Learning or Ability but Artificial only, to delude *weak* Women, and *weaker* Men.

They have, indeed, ways of Conversion, and Conviction, by Enlightning our Understandings with a Faggot, and by the powerful and irresistible Arguments of a Dagger: But these are such wicked Solecisms in their Religion, that they seem to have left them neither *Natural Sense*, nor *Natural Conscience*. Not *Natural Sense*, by their Absurdity, in so unreasonable a belief, as of the Wine turned into Blood: Not *Natural Conscience*, by their Cruelty, who make the Protestants Blood as Wine, and these Priests thirst after it.

Tantum Religio potuit suadere malorum?

Mr. *Coleman*, in one of his Letters, speaks of routing out *our Religion, and our Party*; And he is in the Right, for they can never root out the Protestant Religion, but they must kill the Protestants. But let him and them know, if ever they shall endeavour to bring Popery in, by destroying of the King, they shall find, that the Papists will thereby bring destruction upon themselves, so that not a Man of them would escape—

Ne Catulus quidem relinquendus.

Our Execution shall be as quick as their Gunpowder, but more effectual. And so, Gentlemen, I shall leave it to you, to consider, what his Letters prove him guilty of directly, and what by Consequence; What he plainly would have done, and then, how he would have done it; And whether you think his *Fiery Zeal* had so much *Cold Blood* in it, as to spare any others?

For the other part of the Evidence, which is by the Testimony of the present Witnesses, You have heard them.——I will not detain you longer now, the Day is going out.

Mr. *J. Jones*. You must find the Prisoner Guilty, or bring in two Persons Perjured.

L. C. J. Gentlemen, If your Consultation shall be long, then you must lie by it all Night, and we'll take your Verdict to-morrow Morning. If it will not be long, I am content to stay a while.

Jury. My Lord, we shall be short.

J. Wyld. We do not speak to you to make more haste, or less, but to take a full Consultation, and your own time; There is the Death of a Man at the Stake, and make not too much haste. We do not speak it on that Account.

The Jury went from the Bar, and returned.

Court. Are you all agreed of your Verdict?

Jury. Yes.

Court. Who shall speak for you?

Jury. The Foreman.

Court. *Edward Coleman*, hold up thy Hand.

Court. Is *Edward Coleman* Guilty of the High Treason whereof he stands Indicted, or Not Guilty?

Jury. Guilty, my Lord.

Court. What Goods, Chattels, &c.

Prisoner. You were pleased to say to the Jury, that they must either bring me in Guilty, or two Persons Perjured: I am a Dying Man, and upon my Death, and expectation of Salvation, declare, That I never saw these two Gentlemen, excepting Mr. *Oates*, but once in all my Life, and that was at the Council Table.

L. C. J. Mr. *Coleman*, Your own Papers are enough to condemn you.

Court. Capt. *Richardson*, You must bring Mr. *Coleman* hither again to-morrow Morning to receive his Sentence.

The Day following, being November *the* 28*th*, *Mr.* Coleman *was brought to the Bar, to receive his Sentence, and the Court proceeded thereupon as followeth.*

L. C. J. ASK him what he can say for himself; Make Silence, Crier.

Cl. of C. Edward Coleman, Hold up thy Hand. Thou hast been Indicted of High Treason, thou hast thereunto Pleaded Not Guilty; thou hast put thy Self upon God and thy Country, which Country hath found thee Guilty; What canst thou say for thy Self, wherefore Judgment of Death should not be given against thee, and an Execution Awarded according to Law?

Mr. *Coleman.* May it please you, my Lord, I have this to say for my self; As for my Papers, I humbly hope, (setting aside Oral Testimony) that I should not have been found Guilty of any Crime in them, but what the Act of Grace would have pardoned; and I hope I shall have the Benefit of that: The Evidence against me, namely Oral, I do humbly beg that you would be pleased to give me a little time to shew you, how impossible it is that those Testimonies should be true; For that Testimony of Mr. *Oates* in *August*, my Man, that is now either in the Court or Hall, hath gotten a Book that is able to make it appear; that I was out of Town from the 15th of *August* to the 31st of *August* late at Night.

L. C. J. That will not do, Mr. *Coleman.*

Coleman. I do humbly offer this, for this Reason; because Mr. *Oates*, in all his other Evidences, was so punctual, as to distinguish between Old Stile and New, he never mist the Month, hardly the Week, and oftentimes put the very Day; for his Testimony that he gave against me, was, that it was the 21st of *August.*

L. C. J. He thought so, but he was not positive, but only as to the Month.

Coleman. He was certain it was the latter end of *August*, and that about *Bartholomew-tide.*

L. C. J. He conceived so, he thought so.

Coleman. Now if I was always out of Town from the 15th Day of *August*, to the 31st late at Night, it is then impossible, My Lord, That should be a true Testimony. Your Lordship was pleased to observe, that it would much enervate any Man's Testimony, to the whole, if he could be proved false in any one thing. I have further in this matter to say, besides my Man's Testimony, the King hath, since I have been seized on, seized on my Papers and my Book of Accounts, where I used punctually to set down where I spent my Money; and if it doth not appear by that Book that I was all those Days and Times, and several other Days in *August*, to be out of Town, I desire no favour. You cannot suppose, my Lord, nor the World believe, that I prepared that Book for this purpose in this matter; and I can make it appear by others, if I had time; but I only offer this to your Lordship, that seeing Mr. *Oates* did name so many Particulars and Circumstances, it's very strange, that he should fail in a particular of such Importance as about killing the King; and no Man living of common Sense would think or believe that I should speak about such a thing in Company that I did not well know, and this to be done frequently and oftentimes, as he asserts it; when *Oates* seem'd to the King and Council (and I believe the King himself remembers it) when I was examined, that he did not know me, that he knew nothing of me, so that here is two things against this Witness that can hardly happen again.

My Circumstances are extraordinary, and it is a great Providence, and I think your Lordship and the whole World will look upon it as such, if for any Crimes that are in my Papers, if there be any Mercy to be showed me by the King's Gracious Act of Pardon, I humbly beg that I may have it.

L. C. J. None.

Colem. If none, I do humbly submit; but I do humbly hope with submission, that those Papers would not have been found Treasonable Papers.

L. C. J. Those Letters of yours, Mr. *Coleman*, were since the Act of Pardon; your Papers bear date 1674, 1675, and there hath been no Act since. But as for what you say concerning Mr. *Oates*, you say it in vain now, Mr. *Coleman*, for the Jury hath given in their Verdict, and it is not now to be said, for after that Rate we shall have no End of any Man's Trial; but for your satisfaction, Mr. *Coleman*, to the best of my remembrance, Mr. *Oates* was positive only as to the Month of *August*, he thought it might be about the 21st Day, or about *Bartholomew* Fair time; but he was absolute in nothing but the Month.

Coleman.

Coleman. He was punctual in all his other Evidences, but in this he was not; and when I was examined at the Council Table, he said he knew little of me.

L. C. J. He charged you positively for having held Conspiracy to poison the King; and that there was Ten Thousand Pound to be paid for it, and afterwards there was Five Thousand Pound more to be added; and he positively charges you to be the Person that amongst all the Conspirators was reputed to pay the Five Thousand Pound.

Col. He said it after such a fashion.

L. C. J. He said it after such a fashion that Sir *Robert Southwell* and Sir *Thomas Doleman* satisfied us that he did the thing, and that plainly to his understanding; and what say you he said?

Col. That he did not know me.

L. C. J. Neither of them say so, that he said he did not know you, they deny it.

Col. He said so, upon my Death.

L. C. J. 'Tis in vain to dispute it further, there must be an End.

Crier, make *O yes!* Our Sovereign Lord the King doth straitly Charge and Command all Persons to keep Silence while Judgment is given upon the Prisoner Convict, upon pain of Imprisonment.

L. C. J. You are found Guilty, Mr. *Coleman*, of High-Treason, and the Crimes are several that you are found Guilty of. You are found Guilty of Conspiring the Death of the King; you are likewise found Guilty of endeavouring to subvert the Protestant Religion as it is by Law Established, and to bring in Popery, and this by the aid and assistance of Foreign Powers. And I would not have you, Mr. *Coleman*, in your last apprehension of things, to go out of the World with a Mistake, if I could help it; That is, I would not have you think, that though you only seem to disavow the matter of the Death of the King, that therefore you should think yourself an Innocent Man. You are not Innocent, I am sure; for it is apparent by that which cannot deceive, that you are guilty of Contriving and Conspiring the Destruction of the Protestant Religion, and to bring in Popery, and that by the aid and assistance of foreign Powers, and this no Man can free you in the least from. And know, that if it should be true, that you would disavow, that you had not an actual hand in the Contrivance of the King's Death (which two Witnesses have sworn positively against you): Yet he that will subvert the Protestant Religion here, and bring in consequently a Foreign Authority, does an Act in derogation of the Crown, and in Diminution of the King's Title and Sovereign Power, and endeavours to bring a Foreign Dominion both over our Consciences and Estates. And if any Man shall endeavour to subvert our Religion to bring in that, though he did not actually contrive to do it by the Death of the King, or it may be not by the Death of any one Man, yet whatsoever follows upon that Contrivance, he is Guilty of; Insomuch it is greatly to be fear'd, that though you meant only to bring it in by the way of Dissolving of Parliaments, or by Liberty of Conscience, and such kind of innocent ways as you thought; yet if so be those Means should not have proved Effectual, and worse should have been taken (though by others of your Confederates) for to go through with the work, as we have great reason to believe there would, you are Guilty of all that Blood that would have followed. But still you say you did not design that thing; but to tell you, he that doth a sinful and unlawful Act, must answer, and is liable both to God and Man, for all the Consequences that attend it, therefore I say you ought not to think your self innocent. 'Tis possible you may be penitent, and nothing remains but that. And as I think in your Church you allow of a thing called Attrition, if you cannot with our Church have Contrition, which is a Sorrow proceeding from Love, Pray make use of Attrition, which is a Sorrow arising from Fear. For you may assure your self, there are but a few Moments betwixt you and a vast Eternity, where will be no dallying, no arts to be used, therefore think on all the good you can do in this little space of time that is left you; all is little enough to wipe off (besides your private and secret offences) even your publick ones. I do know that Confession is very much owned in your Church, and you do well in it; but as your Offence is publick, so should your Confession be; and it will do you more service than all your Auricular Confessions. Were I in your case, there should be nothing at the bottom of my Heart that I would not disclose. Perchance you may be deluded with the fond hopes of having your Sentence respited. Trust not to it, Mr. *Coleman.* You may be flatter'd to stop your Mouth, till they have stopt your Breath, and I doubt you will find that to be the event. I think it becomes you as a Man, and as a Christian, to do all that is now in your Power, since you cannot be white, to make your self as clean as you can, and to fit your self for another World, where you will see how vain all resolutions of obstinacy of concealment, and all that sort of bravery which perhaps may be instill'd by some Men, will prove. They will not then serve to lessen, but they will add to your fault. It concerns Us no farther than for your own good, and do as God shall direct you; for the truth is, there are persuasions and inducements in your Church to such kind of Resolutions and such kind of Actions, which you are led into by false Principles and false Doctrines (and so you will find when you come once to experiment it, as shortly you will), that hardly the Religion of a *Turk* would own. But when Christians by any violent bloody Act attempt to propagate Religion, they abuse both their Disciples and Religion too, and change that way that Christ Himself taught us to follow him by. 'Twas not by Blood or Violence; by no single Man's undertaking to disturb and to alter Governments; to make hurly-burlies, and all the mischiefs that attend such things as these are.

For a Church to persuade Men even to the Committing of the highest Violences, under a pretence of doing God good service, looks not (in my Opinion) like Religion, but Design; like an Engine, not a Holy Institution; Artificial as a Clock, which follows not the Sun but the Setter; goes not according to the Bible, but the Priest, whose Interpretations serve their particular ends, and those private advantages which True Religion would scorn, and Natural Religion it self would not endure. I have, Mr. *Coleman*, said thus much to you as you are a Christian, and as I am one, and I do it out of great Charity and Compassion, and with great sense and sorrow that you should be misled to these great offences under pretence of Religion. But seeing you have but a little time, I would have you make use of it to your best advantage; for I tell you, that though Death may be talk'd of at a distance in a brave Heroick way, yet when a Man once comes to the Minute, Death is a very serious thing; then you will consider how trifling all Plots and Contrivances are, and to how little purpose is all your Concealments. I only offer these things to your thoughts, and perhaps they may better go down at such a time as this is than at another; and if they have no effect upon you, I hope they will have some as to my own particular, in that I have done my good-will. I do remember you once more, that in this matter you be not deluded with any fantastick hopes and expectations of a Pardon, for the Truth is, Mr. *Coleman*, you will be deceived; therefore set your Heart at Rest, for we are at this time in such Disorders, and the People so continually alarmed either with secret Murders, or some Outrages and Violences that are this day on foot, that though the King, who is full of Mercy almost to a fault, yet if he should be inclined that way, I verily believe both Houses would interpose between that and you. I speak this to shake off all vain hopes from you; for I tell you, I verily believe they would not you should have any Twig to hold by to deceive you: so that now you may look upon it, there is nothing will save you, for you will assuredly die as now you live, and that very suddenly. In which I having discharged my Conscience to you as a Christian, I will now proceed to pronounce Sentence against you, and do my Duty as a Judge.

You shall return to Prison, from thence to be drawn to the place of Execution, where you shall be hanged by the Neck, and be cut down alive, your Bowels burnt before your Face, and your Quarters sever'd, and your Body disposed of as the King thinks fit; and so the Lord have Mercy upon your Soul.

Coleman. My Lord, I humbly thank your Lordship, and I do admire your Charity, that you would be pleased to give me this admirable Counsel, and I will follow it as well as I can, and I beg your Lordship to hear me what I am going to say. Your Lordship, most Christianlike, hath observed wisely, that Confession is extremely necessary to a dying Man, and I do so too; but that Confession your Lordship I suppose means, is of a guilty evil Conscience in any of these points that I am condemn'd for, *Of maliciously contriving*, &c. If I thought I had any such Guilt, I should assuredly think my self damn'd now I am going out of the World by concealing them, in spite of all Pardons or Indulgences, or any Act that the Pope or the Church of *Rome* could do for me, as I believe any one Article of Faith. Therefore pray hear the words of a dying Man: I have made a Resolution, I thank God, not to tell a Lye, no not a single Lye, not to save my Life. I hope God will not so far leave me as to let me do it; and I do renounce all manner of Mercy that God can shew me, if I have not told the House of Commons, or offer'd it to the House of Commons, all that I know in my whole Heart toward this business; and I never in all my Life either made any Proposition, or received any Proposition, or knew or heard directly or indirectly of any Proposition towards the supplanting or invading the King's Life, Crown or Dignity, or to make any Invasion or Disturbance to introduce any New Government, or to bring in Popery by any Violence or Force in the World; if I have, my Lord, been mistaken in my method, as I will not say but I might have been; for if two Men differ, one must be mistaken; therefore possibly I might be of an Opinion, that Popery might come in if Liberty of Conscience had been granted; and perhaps all Christians are bound to wish all People of that Religion that they profess themselves, if they are in earnest: I will not dispute those Ills that your Lordship may imagine to be in the Church of *Rome*; if I thought there was any in them, I would be sure to be none of it. I have no design, my Lord, at all in Religion but to be Saved; and I had no manner of Invitation to invite me to the Church of *Rome*, no not one, but to be Saved; if I am out of the way, I am out of the way, as to the next World as well as this; I have nothing but a sincere Conscience, and I desire to follow it as I ought. I do confess I am guilty of many Crimes, and I am afraid all of us are guilty in some measure, of some Failings and Infirmities; but in matters of this nature that I now stand condemn'd for, though I do not at all complain of the Court; for I do confess I have had all the fair play imaginable, and I have nothing at all to say against it; but I say as to any one Act of mine, so far as Acts require Intention to make them Acts, as all humane Acts do, I am as Innocent of any Crime that I now stand charg'd as guilty of, as when I was first born.

L. C. J. That is not possible.

Coleman. With submission, I do not say Innocent as to any Crime in going against any Act of Parliament, then it is a Crime to hear Mass, or to do any Act that they prohibit; but for Intending and Endeavouring to bring in that Religion by the Aid and Assistance of the King of *France*, I never intended nor meant by that Aid and Assistance, any Force in the World, but such Aids and Assistances as might procure us Liberty of Conscience. My Lord, if in what I have said no body believes me, I must be content; if any do believe me, then I have wip'd off those scandalous Thoughts and abominable Crimes, that, &c. and then I have paid a little Debt to Truth.

L. C. J. *One word more, and I have done. I am sorry, Mr.* Coleman, *that I have not Charity enough to believe the words of a dying Man; for I will tell you what sticks with me very much: I cannot be persuaded, and no body can, but that your Correspondence and Negotiations did continue longer than the Letters that we have found, that is, after* 16-5. *Now if you had come and shown us your Books and Letters, which would have spoke for themselves, I should have thought then that you had dealt plainly and sincerely, and it would have been a mighty Motive to have believed the rest; for certainly your Correspondence held even to the time of your Apprehension, and you have not discovered so much as one Paper, but what was found unknown to you, and against your will.*

And

Coleman. Upon the words of a dying Man, and upon the expectation I have of Salvation, I tell your Lordſhip, that there is not a Book nor Paper in the World that I have laid aſide voluntarily.

L. C. J. *No, perhaps you have burnt them.*

Coleman. Not, by the Living God.

L. C. J. *I hope, Mr.* Coleman, *you will not ſay no manner of way.*

Coleman. For my Correſpondence theſe two laſt years paſt, I have given an account of every Letter; but thoſe that were common Letters, and thoſe Books that were in my Houſe, what became of them I know not; they were common Letters that I uſed to write every Day, a Common Journal what paſt at Home and Abroad. My Men they writ 'em out of that Book.

L. C. J. *What became of theſe Letters?*

Coleman. I had no Letters about this Buſineſs, but what I have declared to the Houſe of Commons, that is, Letters from St. *Germans*, which I owned to the Houſe of Commons; and I had no methodical Correſpondence, and I never valued them nor regarded them, but as they came I deſtroyed them.

L. C. J. *I remember the laſt Letter that is given in Evidence againſt you, diſcovers what mighty Hopes there was, that the time was now come wherein that peſtilent Hereſy, that hath domineer'd in this Northern part of the World, ſhould be Extirpated; and that there never was greater hopes of it ſince* OUR *Queen* Mary's *Reign. Pray, Mr.* Coleman, *was that the concluding Letter in this Affair?*

Coleman. Give me leave to ſay it upon the word of a dying Man, I have not one Letter, *&c.*

L. C. J. *What though you burnt your Letters, you may recollect the Contents.*

Coleman. I had none ſince—

L. C. J. *Between God and your Conſcience be it, I have other Apprehenſions; and you deſerve your Sentence upon you for your Offences, that viſibly appear out of your own Papers, that you do not, and cannot deny.*

Coleman. I am ſatisfied. But ſeeing my Time is but ſhort, may I not be permitted to have ſome immediate Friends, and my poor Wife to have her freedom to ſpeak with me, and ſtay with me that little time that I have, that I might ſpeak ſomething to her in order to her living and my dying?

L. C. J. *You ſay well, and it is a hard Caſe to deny it; but I tell you what hardens my Heart, the Inſolencies of your Party (the Roman Catholicks I mean) that they every Day offer, which is indeed a proof of their Plot, that they are ſo bold and impudent, and ſuch ſecret Murders Committed by them, as would harden any Man's Heart to do the common favours of Juſtice and Charity, that to Mankind are uſually done: They are ſo bold and inſolent, that I think it is not to be endured in a Proteſtant Kingdom; but for my own particular, I think it is a very hard thing for to deny a Man the company of his Wife, and his Friends, ſo it be done with Caution and Prudence. Remember that the Plot is on foot, and I do not know what Arts the Prieſts have, and what Tricks they uſe; and therefore have a care that no Papers, nor any ſuch thing, be ſent from him.*

Coleman. I do not deſign it, I am ſure.

L. C. J. *But for the Company of his Wife and his near Friends, or any thing in that kind, that may be for his Eternal Good, and as much for his preſent Satisfaction that he can receive now in the condition that he is in, let him have it; but do it with Care and Caution.*

Capt. *Richardſon.* What, for them to be private alone?

L. C. J. *His Wife, only ſhe, God forbid elſe. Nor ſhall you be deny'd any Proteſtant Miniſter.*

Coleman. But ſhall not my Couſin *Coleman* have Liberty to come to me?

L. C. J. *Yes, with Mr.* Richardſon.

Coleman. Or his Servant; becauſe it is a great Trouble for him to attend always.

L. C. J. *If it be his Servant, or any he ſhall appoint,* 'tis all one. *Mr.* Richardſon, *uſe him as Reaſonably as may be, conſidering the Condition he is in.*

Cler. Cr. Have a care of your Priſoner.

On *Tueſday* the 3d of *December* following, *Edward Coleman* was drawn on a Sledge from *Newgate* to *Tyburn*; and being come thither, he declared that he had been a Roman Catholick for many years, and that he thanked God he died in that Religion, and he did not think that Religion at all prejudicial to the King and Government.

The *Sheriff* told him, if he had any thing to ſay by way of Confeſſion or Contrition, he might proceed, otherwiſe it was not ſeaſonable for him to go on with ſuch like Expreſſions. Being aſked if he knew any thing of the Murder of Sir *Edmundbury Godfrey*, he declared upon the Words of a dying Man, he knew not any thing of it, for that he was a Priſoner at that time. Then after ſome private Prayers and Ejaculations to himſelf, the Sentence was executed.

He had been made to believe, that he ſhould have a Pardon, which he depended on with ſo much Aſſurance, that a little before he was turn'd off, finding himſelf deceived, he was heard to ſay, *There is no Faith in Man.*

LXXVI. *The Trial of* WILLIAM IRELAND, THOMAS PICKERING, *and* JOHN GROVE *, *at the* Old-Baily, *for* High-Treaſon, December 17, 1678. 30 Car. II.

ON *Tueſday* the Seventeenth day of *December*, One Thouſand Six Hundred Seventy and Eight, *Thomas White* alias *Whitebread*, *William Ireland*, *John Fenwick*, *Thomas Pickering*, and *John Grove* were brought from his Majeſty's Goal of *Newgate*, to the Seſſions-houſe at Juſtice-Hall in the *Old-Baily*, being there Indicted for High-Treaſon, for contriving and conſpiring to *Murder the King*, to receive their Trial; and the Court proceeded thereupon as followeth.

The Court being Set, Proclamation was made for Attendance, Thus:

Clerk of Crown. Crier, make Proclamation.

Crier. O yes, O yes, O yes! All manner of Perſons that have any thing to do at this General Seſſions of the Peace, Seſſions of Oyer and Terminer holden for the City of *London*, and Goal Delivery of *Newgate*, holden for the City of *London* and County of *Middleſex*, draw near and give your Attendance, for now the Court will proceed to the Pleas of the Crown for the ſame City and County. God ſave the King.

Clerk of Crown. Crier, make Proclamation.

Crier. O yes! All manner of Perſons are commanded to keep Silence upon pain of Impriſonment. Peace about the Court.

Clerk of Crown. Crier, make Proclamation.

Crier. O yes! You Good men of the County of *Middleſex* that are Summoned to appear here this Day, to Enquire between our Sovereign Lord the King and the Priſoners that are and ſhall be at the Bar, Anſwer to your Names as you ſhall be called, every one at the firſt Call, and ſave your Iſſues.

The Jurors being called and the Defaulters recorded, the Clerk of the Crown called for the Priſoners to the Bar, *viz. Thomas White* alias *Whitebread*, *William Ireland*, *John Fenwick*, *Thomas Pickering*, and *John Grove*, and Arraigned them thus.

Clerk of Crown. Thomas White alias *Whitebread*, hold up thy hand: Which he did.

William Ireland, hold up thy hand: Which he did.

John Fenwick, hold up thy hand: Which he did.

Thomas Pickering, hold up thy hand: Which he did.

John Grove, hold up thy hand: Which he did.

You ſtand Indicted by the Names of *Thomas White* alias *Whitebread*, late of the Pariſh of St. *Giles* in the Fields, in the County of *Middleſex*, Clerk: *William Ireland*, late of the ſame Pariſh and County, Clerk: *John Fenwick*, late of the ſame Pariſh and County, Clerk: *Thomas Pickering*, late of the ſame Pariſh and County, Clerk: and *John Grove*, late of the ſame Pariſh and County, Gent. For that you Five, as falſe Traitors, *&c.* againſt the Peace of our Sovereign Lord the King, his Crown and Dignity, and againſt the Form of the Statute in that Caſe made and provided. How ſay'ſt thou, *Thomas White* alias *Whitebread*, art thou Guilty of this High-Treaſon whereof thou ſtandeſt Indicted, or not Guilty?

Whitebread. Not Guilty.

Clerk of Crown. Culprit, how wilt thou be Tried?

Whitebread. By God and my Country.

Clerk of Crown. God ſend thee a good Deliverance. How ſay'ſt thou, *William Ireland*, art thou Guilty of the ſame High-Treaſon, or not Guilty?

Ireland. Not Guilty.

Clerk of Crown. Culprit, how wilt thou be Tried?

Ireland. By God and my Country.

Clerk of Crown. God ſend thee a good Deliverance. How ſay'ſt thou, *John Fenwick*, art thou Guilty of the ſame High-Treaſon, or not Guilty?

Fenwick. Not Guilty.

Cl. of Cr. Culp. how wilt thou be Tried?

Fenwick. By God and my Country.

Cl. of Cr. God ſend thee a good Deliverance. How ſay'ſt thou, *Thomas Pickering*, art thou Guilty of the ſame High-Treaſon, or not Guilty?

Pickering. Not Guilty.

Cl. of Cr. Culp. how wilt thou be Tried?

Pickering. By God and my Country.

Cl. of Cr. God ſend thee a good Deliverance. How ſay'ſt thou, *John Grove*, art thou Guilty of the ſame High-Treaſon, or not Guilty?

Grove. Not Guilty.

Cl. of Cr. Culp. how wilt thou be Tried?

Grove. By God and my Country.

Cl. of Cr. God ſend thee a good Deliverance. You the Priſoners at the Bar, thoſe Men that you ſhall hear called and do Perſonally appear, are to paſs between our Sovereign Lord the King and you, upon Trial of your ſeveral Lives and Deaths; if therefore you or any of you will Challenge them or any of them, your time is to ſpeak unto them as they come to the Book to be Sworn, before they be Sworn. Sir *Philip Matthews* to the Book.

Sir *Philip Matthews.* I deſire Sir *William Roberts* may be called firſt. Which was granted.

Cl. of Cr. Sir *William Roberts* to the Book. Look upon the Priſoners. You ſhall well and truly Try, and true Deliverance make between our Sovereign Lord the King and the Priſoners at the Bar, whom you ſhall have in your Charge, according to your Evidence. So help you God.

* Burn. *Hiſt. Own Times*, Vol. I. p. 443.

The

The ſame Oath was adminiſtered to the reſt, the Priſoners challenging none, and their Names in order were thus:

JURY.

Sir *William Roberts*, Bart.	*John Foſter*, Eſq;	*Thomas Johnſon*, Eſq;
Sir *Philip Matthews*, Bart.	*Joſhua Galliard*, Eſq;	*John Pulford*, Eſq;
Sir *Charles Lee*, Knight.	*John Byfield*, Eſquire.	*Thomas Earneſby*, Eſq;
Edward Wilford, Eſq;	*Thomas Eglesfield*, Eſq;	*Richard Wheeler*, Gent.

Cl. of Cr. Crier, count theſe. Sir *William Roberts*.

Crier, One, *&c.*

Cl. of Cr. Richard Wheeler.

Crier. Twelve Good Men and True, ſtand together and hear your Evidence.

Cl. of Cr. Crier, make Proclamation.

Crier. O yes! If any one can inform my Lords the King's Juſtices, the King's Serjeant, the King's Attorney, or this Inqueſt now to be taken between our Sovereign Lord the King and the Priſoners at the Bar, let them come forth and they ſhall be heard, for now the Priſoners ſtand at the Bar upon their Deliverance: and all others that are bound by Recognizance to give Evidence againſt any of the Priſoners at the Bar, let them come forth and give their Evidence, or elſe they forfeit their Recognizance. And all Jury-men of *Middleſex* that have been Summoned and have appeared, and are not Sworn, may depart the Court and take their Eaſe.

Cl. of Cr. Make Proclamation of Silence.

Crier. O yes! All manner of Perſons are commanded to keep Silence, upon pain of Impriſonment.

Cl. of Cr. Thomas White alias *Whitebread*, hold up thy Hand: Which he did, and ſo of the reſt. You that are Sworn, look upon the Priſoners, and hearken to their Cauſe:

You ſhall underſtand, that they ſtand Indicted by the Names of *Thomas White* otherwiſe *Whitebread*, late of the Pariſh of *St. Giles in the Fields* in the County of *Middleſex*, Clerk; *William Ireland*, late of the ſame Pariſh in the County aforeſaid, Clerk; *John Fenwick*, late of the ſame Pariſh in the County aforeſaid, Clerk; *Thomas Pickering*, late of the ſame Pariſh in the County aforeſaid, Clerk; and *John Grove*, late of the ſame Pariſh in the County aforeſaid, Gentleman: For that they as falſe Traitors of the moſt Illuſtrious, Serene, and moſt Excellent Prince, our Sovereign Lord *Charles* II. by the Grace of God of *England*, *Scotland*, *France*, and *Ireland*, King, Defender of the Faith, *&c.* their ſupreme and natural Lord, not having the Fear of God in their Hearts, nor the duty of their Allegiance any ways weighing, but being moved and ſeduced by the Inſtigation of the Devil, the cordial Love, and true, due, and natural Obedience, which true and faithful Subjects of our ſaid Sovereign Lord the King towards our ſaid Sovereign Lord the King ſhould and of right ought to bear, altogether withdrawing, and endeavouring, and with their whole ſtrength intending, the peace and common tranquillity of this Kingdom of *England* to diſturb, and the true Worſhip of God within this Kingdom of *England* uſed, and by Law eſtabliſhed, to overthrow; and to move, ſtir up, and procure Rebellion within this Kingdom of *England*, and the cordial Love, and true and due Obedience, which true and faithful Subjects of our ſaid Sovereign Lord the King toward our ſaid Sovereign Lord the King ſhould and of right ought to bear, wholly to withdraw, vanquiſh, and extinguiſh, and our ſaid Sovereign Lord the King to Death and final Deſtruction to bring and put, the four-and-twentieth Day of *April*, in the Year of the Reign of our ſaid Sovereign Lord *Charles* II. by the Grace of God of *England*, *Scotland*, *France*, and *Ireland*, King, Defender of the Faith, *&c.* the thirtieth, at the Pariſh of St. *Giles in the Fields* aforeſaid, in the County of *Middleſex* aforeſaid, falſly, maliciouſly, deceitfully, adviſedly, and traiterouſly, they did propoſe, compaſs, imagine, and intend to ſtir up, move, and procure Sedition and Rebellion within this Kingdom of *England*, and to procure and cauſe a miſerable Slaughter among the Subjects of our ſaid Sovereign Lord the King, and wholly to deprive, depoſe, throw down, and diſinherit our ſaid Sovereign Lord the King from his Royal State, Title, Power, and Government of this his Kingdom of *England*, and him our ſaid Sovereign Lord the King to put to Death, and utterly to deſtroy, and the Government of this Kingdom of *England*, and the ſincere Religion and Worſhip of God in the ſame Kingdom, rightly and by the Laws of the ſame Kingdom eſtabliſhed, for their will and pleaſure to change and alter, and wholly to ſubvert and deſtroy the ſtate of the whole Kingdom, being in all parts thereof well inſtituted and ordered, and to levy War againſt our ſaid Sovereign Lord the King within this his Realm of *England*: And to fulfil and bring to paſs theſe their moſt wicked Treaſons and Traiterous deſigns and purpoſes aforeſaid, they the ſaid *Thomas White* otherwiſe *Whitebread*, *William Ireland*, *John Fenwick*, *Thomas Pickering*, and *John Grove*, and other falſe Traitors unknown, the ſaid four-and-twentieth Day of *April*, in the ſaid thirtieth Year of the Reign of our ſaid Lord the King, with force and arms, *&c.* at the Pariſh of St. *Giles in the Fields* aforeſaid, in the County of *Middleſex* aforeſaid, falſly, maliciouſly, deceitfully, adviſedly, deviliſhly, and traiterouſly did aſſemble, unite, and gather themſelves together, and then and there falſly, maliciouſly, deceitfully, adviſedly, deviliſhly, and traiterouſly they did conſult and agree to put and bring our ſaid Sovereign Lord the King to Death and final Deſtruction, and to alter and change the Religion rightly and by the Laws of the ſame Kingdom eſtabliſhed, to the Superſtition of the *Church of Rome*; and the ſooner to bring to paſs and accompliſh the ſame their moſt wicked Treaſons and Traiterous imaginations and purpoſes aforeſaid, they the ſaid *Thomas White* otherwiſe *Whitebread*, *William Ireland*, *John Fenwick*, *Thomas Pickering*, *John Grove*, and other falſe Traitors of our ſaid Sovereign Lord the King unknown, afterwards (to wit) the ſaid four-and-twentieth Day of *April*, in the ſaid thirtieth year of the Reign of our ſaid Sovereign Lord the King, at the ſaid Pariſh of St. *Giles in the Fields*, in the County of *Middleſex* aforeſaid, falſly, deceitfully, adviſedly, maliciouſly, deviliſhly, and traiterouſly they did conſult and agree, that they the ſaid *Thomas Pickering* and *John Grove* ſhould kill and murder our ſaid Sovereign Lord the King: And that they the ſaid *Thomas White* otherwiſe *Whitebread*, *William Ireland*, *John Fenwick*, and other falſe Traitors unknown, ſhould therefore ſay, celebrate, and perform a certain number of Maſſes (then and there agreed on among them) for the good of the Soul of the ſaid *Thomas Pickering*; and ſhould therefore pay to the ſaid *John Grove* a certain ſum of Money (then and there alſo agreed on among them): And further, that the ſaid *Thomas Pickering* and *John Grove* upon the Agreement aforeſaid, then and there falſly, deceitfully, adviſedly, maliciouſly, deviliſhly, and traiterouſly did undertake, and to the ſaid *Thomas White* otherwiſe *Whitebread*, *William Ireland*, *John Fenwick*, and other falſe Traitors of our ſaid Sovereign Lord the King unknown, then and there falſly, deceitfully, adviſedly, maliciouſly, deviliſhly, and traiterouſly they did then and there promiſe, that they the ſaid *Thomas Pickering* and *John Grove* our ſaid Sovereign Lord the King would kill and murder: And further, that they the ſaid *Thomas White* otherwiſe *Whitebread*, *William Ireland*, *John Fenwick*, *Thomas Pickering*, and *John Grove*, and other falſe Traitors of our ſaid Sovereign Lord the King unknown, afterwards (to wit) the ſaid four-and-twentieth Day of *April*, in the ſaid thirtieth Year of the Reign of our ſaid Sovereign Lord the King, at the ſaid Pariſh of St. *Giles in the Fields* in the County of *Middleſex* aforeſaid, falſly, deceitfully, adviſedly, maliciouſly, deviliſhly, and traiterouſly, did ſeverally plight their Faith every one to other of them, and did then and there ſwear and promiſe upon the Sacrament, to conceal and not to divulge their ſaid moſt wicked Treaſons, and traiterous compaſſings, conſultations, and purpoſes aforeſaid, ſo among them had, traiterouſly to kill and murder our ſaid Sovereign Lord the King, and to introduce the *Roman Religion*, to be uſed within this Kingdom of *England*, and to alter and change the true *Reformed Religion*, rightly and by the Laws of this Kingdom of *England* in this ſame Kingdom of *England* eſtabliſhed: And further, that they the ſaid *Thomas Pickering* and *John Grove*, in execution of their ſaid traiterous Agreement, afterwards (to wit) the ſame 24th Day of *April*, in the ſaid 30th Year of the Reign of our ſaid Sovereign Lord the King, and divers other Days and Times afterwards at the ſaid Pariſh of St. *Giles in the Fields*, in the ſaid County of *Middleſex*, falſly, deceitfully, adviſedly, maliciouſly, deviliſhly, and traiterouſly they did prepare and obtain to themſelves, and had and did keep Muſquets, Piſtols, Swords, Daggers, and other offenſive and cruel weapons and inſtruments, to kill and murder our ſaid Sovereign Lord the King: And that they the ſaid *Thomas Pickering* and *John Grove* afterwards, to wit, the ſaid four-and-twentieth Day of *April*, in the ſaid thirtieth Year of the Reign of our ſaid Sovereign Lord the King, and divers days and times afterwards with Force and Arms, *&c.* at the ſaid Pariſh of St. *Giles in the Fields* in the County of *Middleſex* aforeſaid, and in other places within the ſaid County of *Middleſex*, falſly, deceitfully, adviſedly, maliciouſly, and traiterouſly, did lie in wait, and endeavour to kill and murder our ſaid Sovereign Lord the King; and further, that they the ſaid *Thomas White* otherwiſe *Whitebread*, *William Ireland*, *John Fenwick*, and other falſe Traitors unknown, afterwards (to wit) the ſaid 24th day of *April* in the ſaid thirtieth Year of the Reign of our ſaid Sovereign Lord the King, at the ſaid Pariſh of St. *Giles in the Fields*, in the County of *Middleſex* aforeſaid, falſly, deceitfully, adviſedly, maliciouſly, deviliſhly, and traiterouſly, did prepare, perſuade, excite, abet, comfort and counſel four other Perſons unknown, and Subjects of our ſaid Sovereign Lord the King, traiterouſly to kill and murder our ſaid Sovereign Lord the King, againſt the duty of their Allegiance, againſt the peace of our ſaid Sovereign Lord the King, his Crown and Dignity, and againſt the form of the Statute in that behalf made and provided.

Upon this Indictment they have been arraigned, and thereunto have ſeverally pleaded, *Not Guilty*, and for their Trial have put themſelves upon God and their Country, which Country you are.

Your Charge therefore is to enquire, whether they or any of them be guilty of the High-Treaſon whereof they ſtand indicted, or not guilty. If you find them or any of them guilty, you are to enquire what Goods or Chattels, Lands or Tenements, thoſe you find guilty had at the time of the High-Treaſon committed, or at any time ſince. If you find them or any of them not guilty, you are to enquire whether they did fly for it: if you find that they or any of them fled for it, you are to enquire of their Goods and Chattels, as if you had found them guilty. If you find them or any of them not guilty, nor that they nor any of them fled for it; ſay ſo, and no more, and hear your Evidence.

Make Proclamation of Silence on both ſides. Which was done.

Then Sir *Creſwell Levinz*, one of the King's Learned Counſel in the Law, opened the Indictment thus:

Sir *Creſ. Levinz.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury: Theſe Priſoners at the Bar, *Thomas White* alias *Whitebread*, *William Ireland*, *John Fenwick*, *Thomas Pickering*, and *John Grove*, do all ſtand indicted of High-Treaſon; for that whereas they, as falſe Traitors, meaning and deſigning to diſturb the Peace of the Kingdom, to levy War within the Kingdom, to make miſerable ſlaughter againſt the King's Subjects, to ſubvert the Religion eſtabliſhed by the Law of the Land, to introduce the Superſtition of the Church of *Rome*, and to bring to death and final deſtruction, and to murder and aſſaſſinate our Sovereign Lord the King, they did, to effect theſe things, the four-and-twentieth of *April* laſt aſſemble themſelves together, with many other falſe Traitors yet unknown, in the Pariſh of St. *Giles in the Fields* in the County of *Middleſex*, and there, being ſo aſſembled, the better to effect theſe deſigns did make agreements and conſpire together; firſt, that *Pickering* and *Grove* ſhould kill the King, and that *White* and the reſt of the Perſons that ſtand indicted, with many other Traitors, ſhould ſay a great number of Maſſes for the Soul of the ſaid *Pickering*, I think thirty thouſand; and they did further agree there, that *Grove* ſhould have a great Sum of Money; and upon this Agreement *Grove* and *Pickering* did undertake and promiſe they would do this Fact, and did then and there take the Sacrament and an Oath to one another upon the Sacrament, that they would conceal theſe their Treaſons, that they might the better effect them; and that in purſuance of this, *Grove* and *Pickering* did divers times lie in wait to murder the King, and did provide arms to do it: And the Indictment further ſets forth, that *White*, and *Ireland*, and *Fenwick*, and many other Traitors yet unknown, did procure four other Perſons yet alſo unknown, for to kill the King, againſt the peace of our

Sovereign Lord the King, his Crown and Dignity, and againſt the form of the Statute. Theſe are the Heads of thoſe Facts for which they ſtand indicted: They have all pleaded Not guilty: if we prove them or any of them guilty of theſe or any of theſe Facts, according to the Evidence you ſhall have, we hope you will find it.

Sir *Samuel Baldwin*, one of his Majeſty's Serjeants at Law, opened the Charge as followeth:

Sir *Samuel Baldwin.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, the Perſons here before you ſtand indicted of High-Treaſon; they are five in number, three of them are *Jeſuits*, one is a *Prieſt*, the fifth is a Lay-man, Perſons fitly prepared for the work in hand.

Gentlemen, it is not unknown to moſt Perſons, nay to every one amongſt us that hath the leaſt obſerved the former times, how that ever ſince the Reformation there hath been a deſign carried on to ſubvert the Government, and deſtroy the Proteſtant Religion eſtabliſhed here in *England*; for during all the Reign of Queen *Elizabeth* ſeveral attempts were made by ſeveral *Prieſts* and *Jeſuits*, that came from beyond the Seas (though the Laws were then ſevere againſt them), to deſtroy the Queen, and alter the Religion eſtabliſhed here in *England*, and ſo introduce Popery and the Superſtition of the Church of *Rome*.

But the Conſpirators from time to time, during all the Queen's Reign, were diſappointed, as *Edmond Campion* and ſeveral other Jeſuits, who came over in that time, and were executed, and did ſuffer for their Treaſons according to Law: At length, about the latter end of the Queen's time, a Seminary for the *Engliſh* Jeſuits was founded at *Valledolid* in *Spain*, and you know the Employment ſuch Perſons have.

And ſoon after the Queen's death, in the beginning of the Reign of King *James* ſeveral Perſons came over into *England* from this very Seminary, who together with one *Henry Garnet*, Superior of the Jeſuits then in *England*, and divers other *Engliſh* Papiſts, hatched that helliſh Gunpowder-Plot; whereby what was deſigned you all know; but as it fell out, theſe Perſons, as well as thoſe in Queen *Elizabeth*'s time, were likewiſe diſappointed, and for their execrable Treaſons, in the third Year of King *James*, were executed at *Tyburn* and other Places.

This is evident by the very Act of Parliament in 3° *Jacobi*, in the preamble whereof mention is made that *Creſwell* and *Teſmond*, Jeſuits, came from *Valledolid* in *Spain* to execute this Gunpowder-Treaſon with the Popiſh party here in *England*.

And, Gentlemen, after this Treaſon, ſo miraculouſly diſcovered, was puniſhed, one would not have thought that any future Age would have been guilty of the like Conſpiracy; but it ſo falls out, that the Myſtery of Iniquity and Jeſuitiſm ſtill worketh, for there hath of late been a ſort of cruel and bloody-minded Perſons, who, in hopes to have better Succeſs than they had in former times, during the Reigns of Queen *Elizabeth* and King *James*, have ſet on foot as horrid a Deſign as that of the Gunpowder-Treaſon; I can reſemble it to no other Plot, or Deſign, of Treaſon in any other time, and truly it does reſemble that in many particulars: I may ſay, it doth at the leaſt equal it, if not exceed it.

I ſhall mention two or three particulars in which this Plot doth reſemble that.

Firſt, That horrid Deſign was to take away the Life of the then King, to ſubvert the Government, to introduce the Popiſh Religion, and to deſtroy the eſtabliſhed Proteſtant Religion in *England*; and ſo, Gentlemen, we think our Proofs will make it out, that in each of theſe particulars this Deſign is the ſame that that was.

Secondly, The great Actors in that Deſign were Prieſts and Jeſuits that came from *Valledolid* in *Spain*, and other places beyond the Seas. And the great Actors in this Plot are Prieſts and Jeſuits, that are come from St. *Omers*, and other places beyond the Seas nearer home than *Spain*.

Thirdly, That Plot was chiefly guided and managed by *Henry Garnet*, Superior and Provincial of the Jeſuits then in *England*; and the great Actor in this Deſign is Mr. *Whitebread*, Superior and Provincial of the Jeſuits now in *England*; ſo that I ſay in theſe ſeveral Particulars it does reſemble the *GUNPOWDER-PLOT*.

Gentlemen, In this Plot, of which the Priſoners now ſtand indicted, ſeveral Perſons have ſeveral Parts: Some of theſe Perſons are employed to keep Correſpondence beyond the Seas (of which more hath been ſaid in another Place, and ſo I ſhall not ſpeak of it here): Others were to procure and prepare Aid and Aſſiſtance here in *England*, who were to be ready when there ſhould be occaſion to uſe it. But the great part that Theſe Perſons (the Priſoners at the Bar) were to Act in this Conſpiracy, was, *To take away the Life of our Sovereign Lord the KING*, on whoſe Preſervation the ſafety and welfare of Three Nations (and Millions of Men) doth depend. Now the Facts for which the Five Priſoners ſtand indicted, I ſhall open thus:

Firſt, They are here Indicted for *Conſpiring the Death of his Sacred Majeſty:* They did agree to take away the KING's Life; and entering into ſuch an Agreement, They hired ſome Perſons amongſt them to do it; and this Agreement was made the 24th of *April* laſt, 1678.

Secondly, There is another Fact they likewiſe ſtand indicted for: *That they did Endeavour and Contrive to Change and Alter the Religion eſtabliſhed in the Nation, and introduce Popery in the Room of it.* The Manner how to effect this, was thus, if my Information be right; you ſhall hear that from the Evidence. Mr. *Whitebread* being Reſident here in *England*, and Superior of the Jeſuits, did in *February* laſt think fit (being impowered by Authority from *Rome*) to give Summons to the Jeſuits abroad, at St. *Omers*, and other places beyond the Seas, that they ſhould come over here into *England*, to be ready at *London*, on the Four and Twentieth of *April*, the day laid in the Indictment, and which is the day after St. *George*'s Day; and their deſign was (as will appear by the Proof) to Contrive how they may *Take away the Life of the KING*: For if that were once done, they thought, in all other Things, their Deſign would eaſily be accompliſhed. After the Summons were out, they were ſo officious for the accompliſhing of this Great End, that between Forty and Fifty Jeſuits did appear here at *London* at the time (for thither they were ſummoned), and there the Meeting was appointed to be. At the *White Horſe* Tavern in the *Strand* they were to meet firſt; but being ſo great a Number that they were likely to be taken notice of, if they came all together, it was ſo ordered, they ſhould come but a few at a time, and go off in ſmall Numbers, and others ſhould ſucceed them, till the whole Number had been there. And there were Directions given, and a Courſe taken, that there ſhould be ſome Perſon to tell them whither they ſhould go from thence. After they had met there at ſeveral times in the ſame day, they were appointed, and adjourned to be at ſeveral other Places; ſome of them were appointed to be at Mr. *Whitebread*'s Lodging, and that was in *Wild-Street*, at one Mr. *Sanders*'s Houſe: Others were appointed to go to Mr. *Ireland*'s Lodging, which was in *Ruſſel-Street* (and this Mr. *Ireland* was Treaſurer of the Society): And others were to meet at Mr. *Fenwick*'s Chamber in *Drury-Lane*; and he was at that time Procurator and Agent for that Society. Others were appointed to meet at *Harcourt*'s Lodging; and others at other Places.

When they came there, they all agreed to the general Deſign of the firſt meeting, which was, *To kill the King*. Then there was a Paper, or ſome Inſtrument to be ſubſcribed. This was done, and the Sacrament was taken for the Concealment of it. After that, *Whitebread*, *Ireland*, *Fenwick*, and others did agree that Mr. *Grove* and Mr. *Pickering* ſhould be employed to *Aſſaſſinate the King*. One of them (Mr. *Grove*) being a Lay-Brother, was to have Fifteen Hundred Pound, a great Sum; the other, as a more ſuitable Reward for his Pains, was to have Thirty Thouſand Maſſes ſaid for his Soul. Mr. *Whitebread*, Mr. *Ireland*, and Mr. *Fenwick*, were all privy to this Deſign; and this was the Twenty Fourth of *April*. In *Auguſt* after (they being appointed to *Kill the King*, but it not taking Effect, either their Hearts miſgave them, or they wanted Opportunity) there was another Meeting at the *Savoy*, where the Witneſſes will tell you, four *Iriſh* Perſons were hired for to *Kill the King*. And this was ordered, in caſe the other Deſign took not Effect. There was fourſcore Pounds ſent down to them to *Windſor*, where they were to have done the Fact. After this, other Perſons were appointed to do the Execution, and they were to take the *King* at his Morning Walk at *New-Market*.

Theſe Perſons were all diſappointed in their Deſign. But you ſhall hear what was the Agreement, how it was carried on, and what Rewards were given to carry it on. We ſhall acquaint you likewiſe, that for the bottom of this Deſign (when ſo many Jeſuits ſhould come over, when they ſhould have ſo many Conſultations, and when they ſhould reſolve to *Kill the King*) there could be no leſs than the Altering of Religion, and Introduction of Popery here in *England*. And that time, at the firſt Meeting, they had Ordered, That Mr. *Cary* a Jeſuit, as their Procurator and Agent, ſhould go to *Rome*, to act their Concerns there. All which things, and more, will be made out to you by Witneſſes produced. There are likewiſe ſome other Circumſtances that will be material to confirm thoſe Witneſſes. We ſhall produce to you a Letter written in *February* laſt, about that time that Mr. *Whitebread* ſent over his Summons for the Jeſuits to appear here. This Letter was written by one Mr. *Peters*, a Jeſuit now in Cuſtody; and 'tis written to one *Tunſtal* a Jeſuit, to give him notice, That he ſhould be in *London* about the twenty firſt of *April*, and be ready on the twenty fourth of *April*: That he knew what the Buſineſs was; but he did adviſe him, that he ſhould conceal himſelf, leſt the Plot (by Obſervation) ſhould be diſcover'd. We ſhall likewiſe produce ſeveral other Evidences, to Strengthen and Confirm the Witneſſes: We ſhall firſt call our Witneſſes, and enter upon the Proof.

Mr. *Finch* open'd the Evidence thus:

Mr. *Finch.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury,

Before we call our Witneſſes, I would beg leave once more to Remind you of what hath already been open'd unto you: The Quality of the Offenders themſelves, and the Nature of the Offence they ſtand indicted of.

For the Offenders, they are moſt of them Prieſts and Jeſuits; three of them at the leaſt are ſo; the other Two are the Accurſed Inſtruments of this Deſign: For the Offence itſelf, 'tis High-Treaſon.

And though it be High-Treaſon by the Statute of Twenty Seven *Eliz.* for Men of that Profeſſion to come into *England*; yet theſe Men are not indicted upon that Law, nor for that Treaſon: This I take notice of to you, for the Priſoners ſake, that they ſhould not fancy to themſelves they ſuffered *Martyrdom* for their *Religion*, as ſome of them have vainly imagin'd in their caſe; and for your ſakes too, that as at firſt, it was Treaſon, repeated Acts of Treaſon in theſe Men; and thoſe proceeding from a Principle of Religion too, that juſtly occaſioned the making that Law: So here you might obſerve a pregnant Inſtance of it in the Priſoners at the Bar, That whenever they had an Opportunity, as now they thought they had, they have never failed to put thoſe Principles into Practice.

So now, Gentlemen, As they are not indicted for being *Prieſts*, I muſt deſire you to lay that quite out of the Caſe, and only conſider, that they ſtand here Accuſed for Treaſon; ſuch Treaſon, as were they Lay-men only, they ought to Die for it; though I cannot but obſerve, they were the ſooner Traitors for being Prieſts.

The Treaſon therefore they ſtand indicted of, is of the higheſt Nature: It is a Conſpiracy to *Kill the King*, and that too with Circumſtances ſo Aggravating (if any thing can aggravate that Offence which is the Higheſt), that nothing leſs than the Total Subverſion of the Government, and utter Deſtruction of the Proteſtant Religion, would ſerve their Turns. And really, when you conſider the Root from whence this Treaſon ſprings, you will ceaſe wondering that all this ſhould be attempted, and rather wonder that it was not done.

Miſchiefs have often miſcarried for want of Wickedneſs enough; the Horror of Conſcience, or elſe the Malice of the Aggreſſor not being equal to the Attempt, has ſometimes prevented the Execution of it. Here is no Room for any Thing of this Kind: This Treaſon proceeds from a Principle of *Religion*, from a Senſe that it is lawful; nay, that they ought to do theſe things; and every Neglect here is looked on as a Piece of Irreligion, a Want of Zeal; for which one of the Priſoners did Penance, as in the Courſe of our Evidence we ſhall prove unto you.

And

And when we conſider too, that this is carried on, not by the Fury of two or three buſy Men over-zealous in the Cauſe, but by the deliberate and ſteady Counſels of the whole Order, and that too under the Obligations of Secrecy, as high as Chriſtian Religion can lay on them: You have great Reaſon to wonder that it did not ſucceed: And yet after all this they have not been able to prevail. Not that we can bragg of any human Policy that did prevent it: No; all that the Wit of Man could do, theſe Men had done: But it was the Providence of God, 'twas his Revelation: That Providence that firſt enlightened his Church, and has preſerved it againſt all Oppoſition heretofore, has once more diſappointed their Counſels, and preſerved the King and this Nation in the Profeſſion of that true Religion theſe Men have vainly attempted to deſtroy.

Gentlemen, I will not open to you the Particulars of our Evidence; That I had rather ſhould come from the Witneſſes themſelves: I ſhall only in general tell you what will be the Courſe of it. We ſhall prove unto you, That there was a Summons for a Conſultation to be held by theſe Men the 24th of *April* laſt, from the Provincial Mr. *Whitebread:* That they had a Caution given them, Not to come too ſoon, nor appear much about Town, till the Conſultation were over, leſt Occaſion ſhould be given to *ſuſpect the Deſign:* That accordingly a Conſultation was held, as they ſay, to ſend *Cary*, their Procurator, to *Rome*; though we ſhall prove to you it was for other Purpoſes: That they adjourned from their General Aſſembly into leſſer Companies; where ſeveral Perſons did attend them to carry Intelligence of their ſeveral Reſolutions: That at theſe ſeveral Conſults they did reſolve the King was to be killed: That *Pickering* and *Grove* ſhould do it; for which the one was to have 30,000 Maſſes ſaid for his Soul; the other was to have 1500*l.* That in Proſecution of this Deſign, they made ſeveral Attempts to execute it: That they lay in Wait for the King ſeveral times in St. *James*'s Park, and other Places: And that once in particular it had been done by *Pickering*, if it had not pleaſed God to have prevented it by an Accident unforeſeen: The Flint of his Piſtol being looſe, he durſt not then attempt it, though he had an Opportunity: For which Neglect, we ſhall prove to you, he underwent the Penance of 20 or 30 Strokes. That when theſe Men had failed, we ſhall prove to you they hired four Ruffians to murder the King at *Windſor*, and after that at *New-Market*. Thus they Way-laid him in all his Privacies and Retirements, wherever they could think it moſt convenient to execute their Deſign.

And this we ſhall prove by two Witneſſes; who though they ſhould not ſpeak to the ſame Conſultations, nor the ſame Times, yet they are ſtill two Witneſſes in Law. For ſeveral Witneſſes of ſeveral Overt-Acts are ſo many Witneſſes to the Treaſon: Becauſe the Treaſon conſiſts in the Intention of the Man, in the Compaſſing and Imagining the Death of the King. The ſeveral Overt-Acts which declare that Intention, are but as ſo many Evidences of the Treaſon. We will call our Witneſſes, and make out what has been opened to you.

Cl. of Cr. Mr. *Oates*, Lay your Hand upon the Book. The Evidence you ſhall give for our Sovereign Lord the King, againſt *Thomas White* alias *Whitebread*, *William Ireland*, *John Fenwick*, *Thomas Pickering*, and *John Grove*, the Priſoners at the Bar, ſhall be the Truth, the whole Truth, and nothing but the Truth. *So help you God.*

Mr. Serj. Baldwyn. Pray, Mr. *Oates*, will you declare to the Court and the Jury, what Deſign there was for the killing of his Majeſty, and by whom.

Mr. Oates. My Lord, in the Month of *December* laſt, Mr. *Thomas Whitebread* did receive a Patent from the General of the Jeſuits at *Rome* to be Provincial of the Order: After he had received this Patent, he ſent Order to one *George Conyers*, a Jeſuit at St. *Omers*, to preach upon St. *Thomas* of *Canterbury*'s Day; and by virtue of this Order, *George Conyers* did preach againſt Oaths of Allegiance and Supremacy, and did in his Doctrine call them Anti-Chriſtian and Deviliſh. My Lord, in the Month of *January*, this Mr. *Whitebread* did ſend ſeveral Letters to St. *Omers*; in which Letters there was contained Intimation of his Intent to proceed againſt the King's Perſon to aſſaſſinate him; which Letters were written to *Richard Aſhby*. My Lord, in the Month of *February*, there comes an Order from him as Provincial, for ſeveral of the Jeſuits to make their Appearance at *London*, to be there at a Conſult to be held the 24th of *April* Old Stile.

Sir *William Scroggs*, *L. C. J.* Where was *Whitebread* then?

Mr. Oates. He was then in *London*, My Lord, as I ſuppoſe by the dating of his Letters. My Lord, from Mr. *Whitebread* after this Summons, we received a ſecond Summons, which came the 5th of *April*, New Stile, and upon the Summons there were nine did appear at *London*, the Rector of *Liege*, Sir *Thomas Preſton*, the Rector of *Ghent*, whoſe Name is *Marſh*, the Rector of *Watton*, whoſe Name is *Williams*, and one Sir *John Warner*, and two or three more from St. *Omers*; and there was a ſpecial Order given us, my Lord, to keep ourſelves cloſe, leſt we ſhould be ſuſpected, and ſo our Deſign diſcloſed. My Lord, upon the four and twentieth of *April*, Old Sile, we did appear in the Conſult. The Conſult was begun at the *White-Horſe* Tavern in the *Strand*, and there they met in ſeveral Rooms; they came in by Degrees; and as the new ones came on, the old ones, thoſe that had been there before them, fell off. And there was one *John Cary* appointed to go Procurator for *Rome*, and he was ſo appointed by the Suffrages of the three Priſoners at the Bar, *Whitebread*, *Ireland*, and *Fenwick*. It was afterwards adjourned into ſeveral Colloquies, or little Meetings; one Meeting was at Mrs. *Sanders*'s Houſe, that butts upon *Wild-Houſe*; a Second was at Mr. *Ireland*'s; a third was at Mr. *Harcourt*'s; a Fourth was at Mr. *Grove*'s; and other Meeting or Meetings there were, but I cannot give a good Account of them. My Lord, after they had thus met, and debated the State of Religion, and the Life of the King, they drew up this Reſolve; it was drawn up by one *Mico*, who was Secretary to the Society, and *Socius*, or Companion to the Provincial.

L. C. J. When was that done?

Mr. Oates. That Day, my Lord. The Reſolve, my Lord, was this, as near as I can remember the Words: It is reſolved, That *Thomas Pickering* and *John Grove* ſhall go on in their Attempt to Aſſaſſinate the King (whether they uſed the Word Aſſaſſinate, I can't remember, but the Meaning was, they ſhould make an Attempt upon his Perſon), and that the Reward of the one, that is *Grove*'s, ſhould be Fifteen Hundred Pounds, and that *Pickering*'s Reward ſhould be Thirty Thouſand Maſſes: My Lord, after this Reſolution was Signed by *Whitebread*, it was Signed by *Fenwick* and *Ireland*, and by all the four Clubs: I ſaw them Sign it, for I carried the Inſtrument from one to another.

L. C. J. What was it they Signed?

Mr. Oates. The Reſolve of the Conſult.

L. C. J. What, that which was drawn up by *Mico?*

Mr. Oates. Yes, my Lord, that which was drawn up by *Mico.*

Whitebread. Doth he ſay that he ſaw them Sign it?

Mr. Oates. Yes, I did ſee them Sign it.

Jury. We deſire he may be aſked were he ſaw them Sign it.

Mr. Oates. Mr. *Whitebread* Signed it at that Part of the Conſult that was at his Chamber, *Ireland* did Sign it at that Part of the Conſult that was at his Chamber, *Fenwick* Signed it at that Part of the Conſult that was at his Chamber.

Whitebread. Were you at all theſe Places?

Mr. Oates. I went with it from Place to Place; but I mention no more now, but only theſe.

Whitebread. You were not at all theſe Places, and ſaw them Sign it there, were you?

Mr. Oates. Yes, I did ſee them Sign it at all thoſe Places. My Lord, in the Month of *May*, Mr. *Whitebread* came over as Provincial from *England* to St. *Omers*, to begin his Provincial Viſitation, and with him came *Cary* and his Companion *Mico*. *Cary* left St. *Omers* to begin his Journey to *Rome*: *Whitebread*, after he had given an Accompt of what Proceedings the Catholicks of *England* had made in order to diſturb the Peace of the Kingdom, what Moneys had been gathered, what Suffrages diſpers'd, what Means had been uſed, what Noblemen had joined in this execrable Plot; he did then (my Lord) order me to come for *England.*

L. C. J. Whitebread did?

Mr. Oates. Yes, my Lord, *Whitebread* did. And, my Lord, the Buſineſs I was to come into *England* for, was to murder one Dr. *Tongue*, a Doctor in Divinity, who had written a Book called *The Jeſuits Morals*; that is to ſay, tranſlated them out of *French* into *Engliſh*. My Lord, I came over into *England* on the 23d of *June*, New Stile; I came out of St. *Omers*, that is, the 13th in the Stile of *England*; on the 24th New Stile, I took the Packet-Boat at *Calais*; the 25th New Stile, I met with Mr. *Fenwick* at *Dover*; he was come down with certain Youths, to ſend them to St. *Omers*, and had ordered their Paſſage.

My Lord, with Mr. *Fenwick*, and ſome other Perſons, we came to *London* in a Coach; and ſix Miles (as near as I remember it) on this Side *Canterbury*, at a Place called *Bolton*, our Coach was ſtopped by the Searchers, and there they did examine a Box that was in the Coach directed for the Honourable *Richard Blundell*, Eſq. This Box, when they opened it, they found full of Beads, Crucifixes, Images, and other Sorts of Trumpery, that I cannot give a good Account of; it's he can give the beſt: Mr. *Fenwick* went by the Name of one *Thompſon*, and did perſonate one *Thompſon*, as living near the *Fountain-Tavern*, at *Charing-Croſs*; and did order the Searchers to write to him there, as by the Name of *Thompſon.* When the Box was ſeized, they being prohibited Goods, Mr. *Fenwick* did ſay, that if they had ſearched his Pockets, they had found ſuch Letters about him as might have coſt him his Life; but his Letters did eſcape ſearching. We came that Night to *Sittinburgh*, and lay there on *Sunday* the 26th, New Stile, as near as I remember; and I think we ſtayed there till the Afternoon: We took Coach in the Afternoon, and came as far as *Dartford.* On *Monday* Morning we came into *London*; and (my Lord) when we came into *London*, and had continued there ſome Days (I now return to Mr. *Whitebread*), there came one *Aſhby* to Town; he had been ſome time Rector of St. *Omers*, and was come to *England* ſick of the Gout, and was to go to the *Bath* to be cured. And he brought Inſtructions with him from *Whitebread*; and the Inſtructions contained in them theſe Particulars: Inſtructions or Memorials, or what elſe they called them. Firſt, That Ten Thouſand Pounds ſhould be propoſed to Sir *George Wakeman* for the killing of the King. Secondly, That Care ſhould be taken for the Murder of the Biſhop of *Hereford.* Thirdly, That Care ſhould be taken for the Murder of Dr. *Stillingfleet.* Fourthly, That though this Propoſal was made to Sir *George Wakeman* of 10,000*l.* yet *Pickering* and *Grove* ſhould go on ſtill in their Attempts. My Lord, afterwards theſe were taken and copied out, and diſperſed to the ſeveral Conſpirators in the Kingdom, whoſe Names I cannot call to Mind. But *Coleman* made ſeveral Copies, and diſperſed them about: Then the 10,000*l.* was propoſed to Sir *George Wakeman*, but it was refuſed.

L. C. J. What, it was too little?

Mr. Oates. Yes (my Lord), it was too little. Then *Whitebread* he writ from St. *Omers*, that in caſe 10,000*l.* would not do, Fifteen ſhould be propoſed, and after that he had that propoſed, he accepted of that.

L. C. J. Were you by when he accepted it?

Mr. Oates. No (my Lord), I was not: But it appeared upon their Entry-books, and it appeared by a Letter from this Gentleman Mr. *Whitebread*, wherein he did ſhew a great deal of Joy for Sir *George Wakeman*'s accepting of the Fifteen Thouſand Pounds. (My Lord) After this it was agreed upon, that Sir *George Wakeman* ſhould have Fifteen Thouſand Pounds, and Five Thouſand of it was paid by *Coleman* or his Order. Thus the State of Affairs ſtood till *Auguſt.* Then one *Fogarthy*, who is dead, came to a Conſult of the Jeſuits with the Benedictines: Now at this Conſult the Priſoner at the Bar *Fenwick* was, he was one, and *Harcourt* was another. And in this Conſult there were Four *Ruffians* recommended to them.

L. C. J. By whom?

Mr. Oates. By *Fogarthy* they were recommended, but accepted of by heſe Conſultors, and conſented to by *Fenwick.* They were ſent away, tand the next Day after Fourſcore Pounds was ſent them, the moſt Par of it was Gold, and *Coleman* was there and gave the Meſſenger a Guinea to expedite his Errand. (My Lord) In the Month of *Auguſt* there came other Letters from *Whitebread*, wherein he did give an Account of what care

care he had taken of the *Scotch* Buſineſs; and he ordered one *Moor* and one *Sanders*, alias *Brown*, to go down to *Scotland*, and he did order the Rector of *London*, then *William Harcourt*, to ſend them; and he did ſo ſend them the 6th of *Auguſt*, in the Name of the Provincial.

Whitebread. From whence, I pray?

Mr. Oates. From *London*, and they went to proſecute and carry on the Deſign which *Fenwick* and *Ireland* had plotted, of a Rebellion amongſt the diſaffected *Scots* againſt the Governors appointed them by the King; and they ſent down Miniſters to preach under the Notion of Preſbyterian Miniſters, in order to get the diſaffected *Scots* to riſe, by inſinuating the ſad Condition they were likely to be in, by reaſon of Epiſcopal Tyranny (as they termed it). And that they were reſolved to diſpoſe of the King, and they did intend to diſpoſe of the Duke too, in caſe he did not appear vigorous in promoting the Catholick Religion (I ſpeak their own Words).

L. C. J. Have you done with your Evidence? What do you know of the Priſoners at the Bar? Name them all.

Mr. Oates. There is *Whitebread*, *Ireland*, *Fenwick*, *Pickering*, and *Grove*.

L. C. J. Are you ſure *Pickering* and *Grove* accepted of the Terms?

Mr. Oates. Yes, (my Lord) I was there.

L. C. J. Where was it?

Mr. Oates. At Mr. *Whitebread*'s Lodgings, at Mrs. *Sanders*'s Houſe. As for *Grove*, indeed, he did attend at that time upon *Fenwick* at his Chamber; but after the Conſult was over, he came to *Whitebread*'s Lodgings, and did take the Sacrament and the Oaths of Secrecy upon it, and did accept it, and agree to it.

L. C. J. Were you there when he took the Sacrament?

Mr. Oates. Yes (my Lord), I was.

L. C. J. Who gave you the Sacrament?

Mr. Oates. It was a Jeſuit, that goes by the Name of one *Barton*.

Whitebread. My Lord, before I forget it, I deſire to ſay this. He ſays that at ſuch and ſuch Conſults in *April* and *May* he was preſent, and carried the Reſolutions from one to another. There are above a hundred and a hundred, that can teſtify he was all that while at St. *Omers*. Pray tell me when I received the Sacrament?

Mr. Oates. At the ſame time.

Whitebread. What Day was that?

Mr. Oates. The 24th of *April*.

Whitebread. Was I there?

Mr. Oates. You were there.

Whitebread. I take God to Witneſs I was not.

L. C. J. Mr. *Whitebread*, you ſhall have time to make your Anſwer. But, Mr. *Oates*, pray, Mr. *Oates*, when was Mr. *Carey* diſpatch'd away to *Rome*, and what was his Errand?

Mr. Oates. My Lord, I'll tell you; he was approved of to go to *Rome* the 24th of *April*; in the Month of *May* or *June*, *Whitebread* brings *Cary* over to St. *Omers*, and one *Mico* his Secretary or Companion with him.

L. C. J. When was it?

Mr. Oates. In the Month of *May* or *June*, he was brought over by the Provincial; then he went away on his Journey, and at *Paris* received 20*l.* to bear his Charges.

Mr. Finch. What do you know of any Attempts to kill the King at St. *James*'s *Park*?

Mr. Oates. I ſaw *Pickering* and *Grove* ſeveral times walking in the Park together with their ſcrew'd Piſtols, which were longer than ordinary Piſtols, and ſhorter than ſome Carbines. They had Silver Bullets to ſhoot with, and *Grove* would have had the Bullets to be champt, for fear that if he ſhould ſhoot, if the Bullets were round, the Wound that might be given might be cured.

L. C. J. Did *Grove* intend to champ them?

Mr. Oates. He did ſay ſo.

L. C. J. Did he ſhew you the Bullets?

Mr. Oates. I did ſee them.

Grove. When was this?

Mr. Oates. I ſaw the Bullets in the Month of *May*, and in the Month of *June*.

Whitebread. Pray, where did you ſee them?

Mr. Oates. In *Grove*'s Poſſeſſion.

Whitebread. At what time?

Mr. Oates. In the Month of *May*.

Whitebread. Then was he actually himſelf at St. *Omers*. Was it in *May*, or *June*?

Mr. Oates. The latter end of *May* and *June*. I ſaw them then twice, if not thrice. But *Pickering*'s I ſaw in *Auguſt*.

Sir Cr. Levinz. Do you know any thing of *Pickering*'s doing Penance, and for what?

Mr. Oates. Yes (my Lord). In the Month of *March* laſt (for theſe Perſons have followed the King ſeveral Years); but he at that time had not look'd to the Flint of his Piſtol, but it was looſe, and he durſt not venture to give Fire. He had a fair Opportunity, as *Whitebread* ſaid; and becauſe he miſt it through his own Negligence, he underwent Penance, and had 20 or 30 Strokes of Diſcipline, and *Grove* was chidden for his Careleſſneſs.

L. C. J. That was in *March* laſt?

Mr. Oates. Yes, my Lord.

L. C. J. How do you know that?

Mr. Oates. By Letters that I have ſeen from Mr. *Whitebread*; theſe I ſaw, and read, and I know *Whitebread*'s Hand.

Mr. Serj. Baldwyn. What do you know of the Ruffians that went down to *Windſor*? What Succeſs had they?

Mr. Oates. I can give no Account of that, becauſe in the beginning of *September* this Gentleman that had been in *England* ſome time before, was come to *London*, and the Buſineſs had taken Air, and one *Beddingfield* had written to him, that the thing was diſcovered, and that none but ſuch a one could do it, naming me by a Name that he knew I went by.

Whitebread. When was that, Sir?

Mr. Oates. In the Month of *September* laſt. I came to the Provincial's Chamber the third of *September*; when I came I could not ſpeak with him, for he was at Supper; but when he had ſupp'd I was admitted in, and there he ſhewed me the Letter that he had received from *Beddingfield*.

Whitebread. Where did you ſee it?

Mr. Oates. You read it to me when you chid me, and beat me, and abuſed me.

L. C. J. What did he chide you for?

Mr. Oates. He did charge me with very high Language of being with the King, and with a Miniſter, and diſcovering the Matter. I was ſo unfortunate, that the Gentleman who was with the King did wear the ſame colour'd Clothes that I did then wear: And he having given an Account that the Party wore ſuch Clothes, the Suſpicion was laid upon me: Now, my Lord, I had not then been with the King, but another Gentleman had been with him from me with the Draughts of ſome Papers concerning this Buſineſs, which I had drawn up, and I was ready to appear when I ſhould be called to juſtify them, only I did not think fit to appear immediately: And, my Lord, this *Beddingfield*, he had gotten into it that it was diſcovered, and writ the Provincial word he thought it was by me; *for*, ſaid he, *he hath been drawn in by ſome of his old Acquaintance:* When he had received this Letter, he aſked me with what Face I could look upon him, ſince I had betrayed them: So, my Lord, I did profeſs a great deal of Innocency, becauſe I had not then been with the King; but he gave me very ill Language, and abuſed me, and I was afraid of a worſe Miſchief from them; for I could not but conclude, that if they dealt ſo cruelly with thoſe that only writ againſt them, I could ſcarce eſcape, of whom they had that Jealouſy, that I had betrayed them: And, my Lord, though they could not prove that I had diſcovered it, yet upon the bare Suſpicion I was beaten, and affronted, and reviled, and commanded to go beyond Sea again; nay, my Lord, I had my Lodging aſſaulted, to have murdered me if they could.

Whitebread. By whom?

Mr. Oates. By Mr. *Whitebread*, and ſome of them.

Whitebread. Who beat you?

Mr. Oates. Mr. *Whitebread* did.

Mr. Serj. Baldwyn. Was it *Pickering* or *Grove* that had the Flint of his Piſtol looſe?

Mr. Oates. Pickering.

Pickering. My Lord, I never ſhot off a Piſtol in all my Life.

L. C. J. What ſay you as to the Fourſcore Pounds?

Mr. Oates. My Lord, I will ſpeak to that; that was given to the four Ruffians that were to kill the King at *Windſor:* Now, my Lord, that Money I ſaw——

L. C. J. Where did you ſee it?

Mr. Oates. At *Harcourt*'s Chamber.

L. C. J. Where is that?

Mr. Oates. In *Duke-Street*, near the Arch.

L. C. J. Who was it given by?

Mr. Oates. William Harcourt.

L. C. J. Did you ſee the four Fellows?

Mr. Oates. No, my Lord, I never did, nor never knew their Names.

L. C. J. Who was the Money given to?

Mr. Oates. A Meſſenger that was to carry it down to them.

L. C. J. Who was that Meſſenger?

Mr. Oates. One of theirs that I do not know; and I durſt not be too inquiſitive, my Lord, for fear of being ſuſpected.

L. C. J. Who was by when the Money was paid?

Mr. Oates. Coleman, that is executed; and, my Lord, there was this Mr. *Fenwick* by, that is the Priſoner at the Bar.

Fenwick. When was this?

Mr. Oates. In the Month of *Auguſt*.

Fenwick. Where?

Mr. Oates. At *Harcourt*'s Chamber.

Fenwick. I never ſaw you there in all my Life: Are you ſure I was by when the Money was there?

Mr. Oates. Yes, you were.

L. C. J. Mr. *Fenwick*, you ſhall have your time by and by to aſk him any Queſtion: Mr. *Oates*, let me aſk you once again, When there was the Appointment made for *Grove* and *Pickering* to kill the King, who Signed it?

Mr. Oates. At leaſt Forty Signed it.

L. C. J. Did the other Three Sign it?

Mr. Oates. Yes, my Lord, all of them.

L. C. J. Name them.

Mr. Oates. There was *Whitebread*, *Fenwick*, and *Ireland*.

L. C. J. And you ſay you went from Place to Place, and ſaw it Signed?

Mr. Oates. Yes, my Lord, I did.

L. C. J. Were you Attendant upon them?

Mr. Oates. My Lord, I ever was ſince the Year 1666.

L. C. J. At whoſe Lodgings did you uſe to attend upon the Conſultation?

Mr. Oates. At the Provincial's Chamber, Mr. *Whitebread*.

L. C. J. Where was it firſt Signed?

Mr. Oates. At the Provincial's Chamber.

Sir Cr. Levinz. Who carried it from Lodging to Lodging?

Mr. Oates. I did.

L. C. J. When was it?

Mr. Oates. The 24th of *April*.

Mr. Juſt. Bertue. You ſay you carried the Reſult from Place to Place, pray tell us what that Reſult was?

Mr. Oates. They knew what it was, for they read it before they Signed it.

Mr. Juſt. Atkins. But tell us the Contents of it.

Mr. Oates. The Contents of that Reſolve was this (I'll tell you the Subſtance, though I cannot tell you exactly the Words): That *Pickering* and *Grove* ſhould go on in their Attempts to Aſſaſſinate the Perſon of the King; as near as I can remember it was ſo; that the former ſhould have 30000 Maſſes and the latter 1500 Pounds; and the whole Conſult did conſent to it, and Signed the Agreement that was made with them, and did reſolve upon the King's Death all in one Reſolve.

L. C. J.

L. C. J. Where was this agreed upon? at the *White-Horse* Tavern?

Mr. Oates. No, my Lord. After they had agreed at the *White-Horse*, that Mr. *Cary* should go Procurator to *Rome*, and some other small Particulars, which I cannot now remember, they did adjourn from the *White-Horse* Tavern, and met at several Chambers, some at one Place, and some at another.

L. C. J. But you say *Mico* did draw up the Resolution, where was that?

Mr. Oates. At Mr. *Whitebread*'s Chamber, for he was *Socius*, and Secretary to the Provincial.

L. C. J. Were *Ireland* and *Fenwick* present when *Mico* drew it up?

Mr. Oates. No, my Lord, but they were at their own Chambers; after it was drawn up there, and signed by Mr. *Whitebread*, and those of the Consult in his Chamber, it was carried to the several Consults.

L. C. J. What, all the same Day?

Mr. Oates. Yes, my Lord.

L. C. J. And you went along with it?

Mr. Oates. Yes, my Lord, I did.

Mr. Just. Bertue. I only ask you, Were all the five Prisoners privy to it? or do you distinguish any of them, and which?

Mr. Oates. They were all privy to it.

Whitebread. My Lord, we can prove———

L. C. J. You shall have time sufficient to make what Defence you can, you shall be sure to have a fair Trial, and be stopt of nothing that you will think fit to say for your selves. Mr. *Oates*, were *Pickering* and *Grove* present?

Mr. Oates. Yes, my Lord, *Grove* at *Fenwick*'s Chamber, and *Pickering* at the Provincial's Chamber.

L. C. J. But they were not required to sign this, were they?

Mr. Oates. After that the whole Consult had signed it, and Mass was preparing to be said for it, before Mass, they did sign and accept of it.

L. C. J. Where did they two do it?

Mr. Oates. At the Provincial's Chamber.

L. C. J. What Day was it?

Mr. Oates. That Day, for they met all together at the Provincial's Chamber to receive the Sacrament, and when Mass was going to be said, one said it was too late, for it was after Twelve o'clock; but Mr. *Whitebread* said it was not Afternoon till we had din'd; and you know, Mr. *Whitebread*, that Masses have been said at one or two of the Clock in the Afternoon.

Mr. Just. Atkins. How many Persons did meet at that Consult?

Mr. Oates. My Lord, there were about Forty or Fifty, and after they had adjourn'd into several lesser Companies, they met all together at Mr. *Whitebread*'s Chamber.

L. C. J. Where was that, and when?

Mr. Oates. That Day, at *Wild-House*.

L. C. J. Where was it that they gave the Sacrament?

Mr. Oates. At a little Chapel at *Wild-House*, Mrs. *Sanders*'s.

L. C. J. Did they accept it before they took the Sacrament?

Mr. Oates. Yes, *Pickering* and *Grove* did sign it before they took the Sacrament.

Mr. Just. Atkins. You tell us of an Oath of Secrecy that was taken, what was that Oath?

Mr. Oates. I cannot give an account of the Form of the Oath, but it was an Obligation of Secrecy.

Mr. Just. Atkins. Did you see the Oath administred?

Mr. Oates. Yes, my Lord, I did.

L. C. J. Who administred it?

Mr. Oates. Mr. *Whitebread*, he did give it unto me, and to all the rest that were there, and *Mico* held the Book; it was a Mass-Book, but they were Words of his own Invention, I believe, they were not written down.

L. C. J. Cannot you tell what they were?

Mr. Oates. No, my Lord, I cannot tell, because I did not see them written down.

L. C. J. If you will ask this Gentleman any thing more, you may.

Whitebread. My Lord, I am in a very weak and doubtful Condition as to my Health, and therefore I should be very loth to speak any thing but what is true: We are to prove a Negative, and I know 'tis much harder to prove a Negative, than to assert an Affirmative; 'tis not a very hard thing for a Man to swear any thing, if he will venture his Soul for it; but truly, I may boldly say, in the Sight of Almighty God before whom I am to appear, there have not been three true Words spoken by this Witness.

L. C. J. Do you hear, if you could but satisfy us, that you have no Dispensation to call God to witness a Lye———

Whitebread. My Lord, I do affirm it with all the Protestations imaginable.

L. C. J. But if you have a Religion that can give a Dispensation for Oaths, Sacraments, Protestations, and Falshoods that are in the World, how can you expect we should believe you?

Whitebread. I know no such thing.

L. C. J. We shall see that presently, before we have done.

Mr. Oates. I have one thing more to say, my Lord, that comes into my Mind. This *Whitebread* received Power from the See of *Rome* to grant out Commissions to Officers Military. And, my Lord, here are the Seals of the Office in Court, which he hath sealed some Hundreds of Commissions with, which they call Patents.

L. C. J. What were those Commissions for? For an Army?

Mr. Oates. Yes, my Lord, for an Army.

Whitebread. When were those Commissions Signed?

Mr. Oates. My Lord, several of them were Signed in the former Provincial's time.

L. C. J. What, I warrant you, you are not Provincial of the Jesuits, are you?

Whitebread. I cannot deny that, my Lord.

L. C. J. Then there are more than three Words he hath spoken are true.

Mr. Just. Atkins. I believe, Mr. *Oates*, that that Army was intended for something, pray what was it for?

Mr. Oates. My Lord, they were to rise upon the Death of the King, and let the *French* King in upon us, and they had made it their Business to prepare *Ireland* and *Scotland* for the receiving of a foreign Invasion.

L. C. J. Who were those Commissions Sealed by?

Mr. Oates. My Lord, the Commissions of the Great Officers were sealed with the General's Seal.

L. C. J. Who was that?

Mr. Oates. His Name is *Johannes Paulus de Oliva*: His Seal sealed the Commissions for the Generals, Major-Generals, and great Persons; but those Seals that sealed the several Commissions to several inferior Officers, were in the Custody of the Provincial.

L. C. J. Can you name any one Person that he hath Sealed a Commission to?

Mr. Oates. I can name one: To Sir *John Gage*, which Commission I delivered my self.

L. C. J. What, of *Sussex*?

Mr. Oates. Yes, of *Sussex*.

Mr. Just. Atkins. Who did you receive the Commission from?

Mr. Oates. My Lord, when he went over, he left a great many blank Patents to be filled up, and he left one ready Sealed for a Commission to Sir *John Gage*. This was delivered into my Hands when he was absent, but it was Signed by him, and delivered to me while he was in his Visitation beyond the Seas, but I dare swear it was his Hand, as I shall answer it before God and the King.

Mr. Just. Atkins. Who had it you from?

Mr. Oates. From Mr. *Ashby*, but by *Whitebread*'s Appointment in his Instructions, which I saw and read.

L. C. J. What was the Commission for?

Mr. Oates. To be an Officer in the Army.

L. C. J. Did you see the Instructions left for *Ashby*?

Mr. Oates. I did see them, and read them, and I did then, as I always did, give it as my Judgment, that it was more safe to Poison the King, than to Pistol or Stab him.

Mr. Just. Bertue. Was the Commission which you delivered to Sir *John Gage*, from *Ashby*, or from *Whitebread*?

Mr. Oates. I had it from *Ashby*; but *Whitebread*, who was then beyond Sea, had Signed this Commission before he went. My Lord, I have something more yet to say, and that is as to Mr. *Grove*, That he did go about with one *Smith* to gather *Peter-pence*, which was either to carry on the Design, or to send them to *Rome*. I saw the Book wherein it was entred, and I heard him say that he had been gathering of it.

Grove. Where was this?

Mr. Oates. In *Cock-pit Alley*, where you know I lodged.

Grove. Did I ever see you at your Lodging?

Mr. Oates. You saw me at my own Door.

L. C. J. Why, don't you know Mr. *Oates*?

Grove. My Lord, I have seen him before.

L. C. J. Why, this 'tis, ask a Papist a Question, and you shall have a Jesuitical Answer.

Mr. Oates. I will convince the Court that he does know me by some Circumstances. My Lord, in the Month of *December* last, by the Provincial's Order———

L. C. J. I would ask him first, whether he does know you or no. Do you know Mr. *Oates*?

Grove. I have seen him before.

L. C. J. Have you been often in his Company?

Grove. No, my Lord.

L. C. J. What do you call often? Have you been in his Company seven or eight times? (for we must deal subtilly with such as you are) Have you been in his Company ten times?

Grove. No.

L. C. J. What say you to three times?

Grove. Yes, I believe I have seen him twice or thrice.

L. C. J. Where? Did you never see him at *Whitebread*'s?

Grove. As I hope to be saved, and before the Eternal God, I did never.

Mr. Oates. I will convince him and the Court, that he does know me, and is well acquainted with me: In the Month of *December* last I went to St. *Omers*, I went first to the then Provincial's House, to take my leave of him, and there I met with Mr. *Grove*, and he appointed to come to my Lodging the next Morning, near the *Red Lion* in *Drury-Lane*, at one *Grigson*'s House, and he was so well acquainted with me then, that he had lent me eight Shillings to hire the Coach.

L. C. J. Did you lend him eight Shillings?

Grove. I did, my Lord, I do not deny it.

L. C. J. How came you to do it, when it seems, if you say true, he was a Stranger to you?

Grove. I thought I should have it again.

L. C. J. What, of him?

Grove. Yes.

L. C. J. Did he desire you to lend him the eight Shillings?

Grove. Yes, he did, my Lord.

Mr. Oates. Then there is one time that he confesses he saw me.

L. C. J. Did you not know him before?

Grove. I had no Acquaintance with him, I had seen him.

L. C. J. How came you then to lend Money to one you had no more Acquaintance with?

Grove. I knew I should go along with him to the Coach, then I thought I should have it again.

L. C. J. Mr. *Oates*, were you going beyond Sea then?

Mr. Oates. Yes, my Lord, I was.

L. C. J. Mr. *Oates*, did you pay him that Money?

Mr. Oates. No, my Lord, I did not.

L. C. J. Did you ask him for the Money, and had you it?

Grove. He did not pay it me.

L. C. J. How then were you sure you should have it?

Grove. He did order me to go to such a one for it.

L. C. J. Who was that?

Grove. Mr. *Fenwick*, I think.

L. C. J. Then Mr. *Oates* was known to you all, he was no such Stranger to you as you would make us believe.

Mr. Oates. Thus he confesses three times he had seen me, once before he lent me the Money, another time when he lent it, and the third time the next Day. And I will put him in mind of another time, when he and I were in Company, where one brought us a Note of what was done in the House of Commons, turned into Burlesque, for they used to

turn all that was done at the Council, or at the Parliament, or at the Courts in *Weſtminſter-Hall*, into Burleſque, and then tranſlated it into *French*, and ſent it to the *French* King, for him to laugh at too. But that by the way. Twice more he drank in my Company, at the *Red Poſts* in *Wild-ſtreet*, and once more when he owned to me, that he fired *Southwark*.

L. C. J. Now by the Oath that you have taken, did he own to you that he had fired *Southwark?*

Mr. Oates. My Lord, he did tell me that he with three *Iriſhmen* did fire *Southwark*, and that they had a thouſand Pounds given them for it, whereof he had four Hundred Pounds, and the other two Hundred Pounds a-piece.

L. C. J. Now for *Mr. Fenwick.* Do you know *Mr. Oates?*

Fenwick. Yes, my Lord, I do.

L. C. J. Were you well acquainted with him? Speak plain.

Mr. Oates. He was my Father-Confeſſor, my Lord.

L. C. J. Was he ſo? Were you his Confeſſor?

Fenw. I believe he never made any Confeſſion in his Life.

L. C. J. Yes, he hath made a very good one now. Were you of his Acquaintance, *Mr. Fenwick?* Speak home, and don't mince the Matter.

Fenw. My Lord, I have ſeen him.

L. C. J. I wonder what you are made of: Aſk a Proteſtant, an *Engliſh* one, a plain Queſtion, and he will ſcorn to come dallying with an evaſive Anſwer.

Fenw. My Lord, I have been ſeveral times in his Company.

L. C. J. Did you pay eight Shillings for him?

Fenw. Yes, I believe I did.

L. C. J. How came you to do it?

Fenw. He was going to St. *Omers*.

L. C. J. Why, were you Treaſurer for the Society?

Fenw. No, my Lord, I was not.

L. C. J. You never had your eight Shillings again, had you?

Fenw. It is upon my Book, my Lord, if I ever had it.

L. C. J. Did *Mr. Oates* ever pay it again?

Fenw. No, ſure, he was never ſo honeſt.

L. C. J. Who had you it of then?

Fenw. I am certain I had it not from him; he did not pay it.

L. C. J. How can you tell you had it then?

Fenw. I do ſuppoſe I had it again, but not of *Mr. Oates.*

L. C. J. Had you it of *Ireland?*

Fenw. I do not know who I had it of, my Lord, nor certainly whether I had it.

L. C. J. Why did you not aſk *Mr. Oates* for it?

Fenw. He was not able to pay it.

L. C. J. Why did you then lay it down for him?

Fenw. Becauſe I was a Fool.

L. C. J. That muſt be the Concluſion always: when you can't evade being prov'd Knaves by anſwering directly, you will rather ſuffer your ſelves to be call'd Fools.

Fenw. My Lord, I have done more for him than that comes to; for he came once to me in a miſerable poor Condition, and ſaid, I muſt turn again, and betake my ſelf to the Miniſtry to get Bread, for I have eaten nothing theſe two Days: And I then gave him five Shillings to relieve his preſent Neceſſity.

Mr. Oates. My Lord, I will anſwer to that; I was never in any ſuch Straits, I was ordered by the Provincial to be taken care of by the Procurator.

Fenw. You brought no ſuch Order to me.

Mr. Oates. Yes, *Mr. Fenwick*, you know there was ſuch an Order, and I never received ſo little in my Life as Five Shillings from you: I have received Twenty, and Thirty, and Forty Shillings at a time, but never ſo little as Five.

L. C. J. You are more charitable than you thought for.

Fenw. He told me he had not eaten a bit in two Days.

Mr. Oates. I have indeed gone a whole Day without eating, when I have been hurried about your Traſh; but I aſſure you, my Lord, I never wanted for any thing among them.

L. C. J. Perhaps it was Faſting-Day.

L. C. Baron. My Lord, their Faſting-Days are none of the worſt.

Mr. Oates. No, we commonly eat beſt of thoſe Days.

L. C. J. Have you any thing to aſk him, any of you?

Whitebread. My Lord, will you be pleaſed to give me leave to ſpeak for my ſelf?

Juſt. *Atkins.* It is not your time yet to make your full Defence, but if you will aſk him any Queſtions, you may.

Whitebread. I crave your Mercy, my Lord.

L. C. J. Will you aſk him any Queſtions?

Fenw. Did not you ſay that you were at my Chamber the 24th of *April*, with the Reſolve of the Conſult?

Mr. Oates. That Reſolve I did then carry to your Chamber.

Fenw. Then was he himſelf at St. *Omers*.

L. C. J. The difference of *old Stile* and *new Stile* may perhaps make ſome Alteration in that Circumſtance.

Whitebread. But, my Lord, he hath ſworn he was preſent at ſeveral Conſultations in *April* and *May*, but from *November* till *June* he was conſtantly at St. *Omers*.

L. C. J. If you can make it out that he was at St. *Omers* all *April* and *May*, then what he hath ſaid cannot be true.

Ireland. He himſelf hath confeſſed it that he was at St. *Omers*.

L. C. J. If you mean by Confeſſion, what ſtands upon the Evidence he hath given, I'll remember you what that was. He ſays he came to St. *Omers*——

Mr. Oates. Will your Lordſhip give me leave to ſatisfy the Court: In the Month of *December*, or *November*, I went to St. *Omers*: I remained there all *January*, *February*, *March*, and ſome part of *April:* Then I came over with the Fathers to the Conſult that was appointed the 24th of that Month.

Fenw. Did you go back again?

Mr. Oates. Yes.

Fenw. When was that?

Mr. Oates. In the Month of *May*, preſently after the Conſults were over.

Fenw. And we can prove by abundance of Witneſſes that he went not from St. *Omers* all that Month.

L. C. J. You ſhall have what time you will to prove what you can; and if you can prove what you ſay, you were beſt fix it upon him; for he ſaith he was here at the Conſults in *April* and *May*; if you can prove otherwiſe, pray do.

Fenw. We can bring an Authentick Writing (if there be any ſuch) from St. *Omers*, under the Seal of the College, and teſtified by all in the College, that he was there all the while.

L. C. J. Mr. *Fenwick*, that will not do; for firſt, if it were in any other Caſe beſides this, it would be no Evidence; but I know not what you cannot get from St. *Omers*, or what you will not call Authentick.

Fenw. Does your Lorſhip think there is no Juſtice out of *England?*

L. C. J. It is not, nor cannot be Evidence here.

Fenw. It ſhall be Signed by the Magiſtrates of the Town.

L. C. J. What, there?

Fenw. Yes, there.

L. C. J. You muſt be tried by the Laws of *England*, which ſends no Piece of Fact out of the Country to be Tried.

Fenw. But the Evidence of it may be brought hither.

L. C. J. Then you ſhould have brought it. You ſhall have a fair Trial; but we muſt not depart from the Law or the way of Trial, to ſerve your purpoſes. You muſt be Tried according to the Law of the Land.

Juſt. *Atkins.* Such Evidences as you ſpeak of we would not allow againſt you; and therefore we muſt not allow it for you.

Whitebread. May this Gentleman be put to this, to produce any two Witneſſes that ſaw him in Town at that time?

Mr. Oates. I'll give ſome Circumſtances and what Tokens I have to prove my being here: Father *Warner*, Sir *Tho. Preſton*, Father *Williams*, and Sir *John Warner*, they came hither with me from St. *Omers*; there was one *Nevil*, &c. I cannot reckon them all.

L. C. J. You have named enough.

Mr. Oates. But to convince them, there was a Lad in the Houſe that was got to the end of his Rhetorick; this Lad was Whipt and turned out of the Houſe, and had loſt all his *Money:* Father *Williams* did Re-imburſe this Lad in order to his bringing home, I think the Lad's Name was *Hilſley*, or ſome ſuch Name. And we came up to *London* together.

L. C. J. What ſay you to this Circumſtance?

Whitebread. My Lord, he knew that two ſuch came to Town, but he was not with them.

L. C. J. You are now very good at a Negative, I ſee; how can you tell that?

Whitebread. My Lord, he could not come.

L. C. J. How can you tell he could not come?

Whitebread. I can tell it very well, for he had no Order to come, nor did come.

L. C. J. How can you undertake to ſay that he did not come?

Whitebread. Becauſe he had no Order to come.

L. C. J. Is that all your reaſon? Where were you then?

Whitebread. I was here.

L. C. J. How do you know he was not here?

Whitebread. He had no Orders to come.

L. C. J. Have you any other Circumſtance, Mr. *Oates*, to prove that you were here then?

Oates. My Lord, when I came to *London*, I was ordered to keep very cloſe, and I lay at *Grove*'s Houſe; let him deny it if he can, I'll tell you who lay there then——

Grove. Did you ever lie at my Houſe?

Oates. There lay a Flaxen-Hair'd Gentleman, I forgot his Name: But I'll tell you who lay there beſides; that is *Strange*, that was the late Provincial.

L. C. J. Did *Strange* ever lie at your Houſe?

Grove. Yes, my Lord, he did.

L. C. J. Did he lie there in *April* or *May*?

Grove. No, he did not in either of them.

L. C. J. You will make that appear.

Grove. Yes, that I can by all the Houſe.

L. C. J. Have you any more Queſtions to aſk him? If you have, do: If you can prove this upon him, that he was abſent, and not in *England* in *April* or *May*, you have made a great Defence for your ſelves, and it ſhall be remembred for your advantage when it comes to your turn: In the mean time, if you have no more to ſay to him, call another Witneſs. Let Mr. *Oates* ſit down again, and have ſome Refreſhment.

Mr. Serj. *Baldwin.* We will now call Mr. *Bedlow*, my Lord.

Then Mr. Bedlow *was ſworn.*

Mr. Serj. *Baldwin. Mr. Bedlow*, Pray do you tell my Lord and the Jury what you know of any deſign of killing the King, and by whom.

Mr. Bedlow. My Lord, I have been five Years almoſt employed by the Society of *Jeſuits* and the *Engliſh Monks* in *Paris* to carry and bring Letters between them from *England* and to *England*, for the promoting of a Deſign tending to the Subverſion of the Government, and the extirpating of the Proteſtant Religion, to that degree (which was always concluded on in all their Conſults wherein I was) that they would not leave any Member of any Heretick in *England*, that ſhould ſurvive to tell in the Kingdom hereafter, that there ever was any ſuch Religion in *England* as the Proteſtant Religion——

Here Whitebread *would have interrupted him.*

My Lord, I am ſo well ſatisfied in their Denials, that I cannot but believe they who can give a Diſpenſation, and have received the Sacrament to kill a King and deſtroy a whole Kingdom, do not ſcruple to give a Diſpenſation for a little Lye to promote ſuch a Deſign, for ſo much as this expiates any Lye or greater Crime.

Sir *Cr. Levinz.* Pray, Sir, will you be pleaſed to tell your whole Knowledge concerning the Priſoners at the Bar.

Mr. Bedlow. The firſt Letter I carried was from Mr. *Harcourt*, at his Houſe next Door to the Arch in *Duke-ſtreet.* He hath been Procurator for the *Jeſuits* about ſix Years. He employed me firſt, and ſent for me over, for I was then Lieutenant in *Flanders*, and coming home to receive my Pay that was due to me——

L. C. J. How long is it ago?

Mr. Bedlow. Michaelmas laſt was four Years; when I came to *Dunkirk* I went to viſit the *Engliſh* Nunnery there, and the Lady Abbeſs finding me very pliable and inclinable, made very much of me, and I did adhere to her. She kept me ſix Weeks in the Convent, and afterwards when I went away, recommended me to Sir *John Warner*, as an Inſtrument fit to be employed in the carrying of Letters, or doing any thing that would promote the deſign againſt *England.* He kept me at St. *Omers* a Fortnight, and after ſent me to Father *Harcourt* to be inſtructed in

in my employment: It was then Winter; the next Spring he ſends me into *England* with divers Letters, where by Mr. *Harcourt* I was employed to carry ſeveral Letters to *Morton* and *Doway*, and other places: That Summer I was ſent into *England* without an Anſwer: But afterwards in (76,) which was the next Summer, I was to carry another Pacquet of Letters to the *Monks* at *Paris*, who ſent it to other *Engliſh Monks* in *France*——

L. C. J. Who ſent that Pacquet of Letters in 76?

Bedlow. I had it from Mr. *Harcourt*, and it was written by *Harcourt*, *Pritchard* and *Cary*.

L. C. J. To whom?

Bedlow. To the *Engliſh Monks* in *France*, and in it there was a Letter to *Le Chaiſe*. Upon the receipt of theſe Letters at *Paris*, *Le Chaiſe* had a Conſultation with the *Monks* and a *French* Biſhop or two about them: I did not then ſpeak *French* enough to underſtand what it was they ſaid, but it was interpreted to me by Mr. *Stapleton* an *Engliſh Monk*, who told me, that it was a Letter from my Lord *Bellaſis* and others of the Catholick Religion, Engliſh Gentlemen that were Contrivers of the Plot here, to ſatisfy them in what ſtate things ſtood in *England* as to Popery. I was ſent back again with a Pacquet of Letters directed to Mr. *Vaughan* of *Courtfield* in *Monmouthſhire*.

L. C. J. From whom was that?

Bedlow. From the *Engliſh Monks* at *Paris*. From that Conſultation I went to *Ponthois*, I there receiv'd other Letters to carry into *England*. I had a courſe to open their Letters, and read what was in them; and in thoſe Letters was contained, That the Prayers of that Houſe were for the proſperity of that Deſign, and they would not fail to be at the Conſultation at of *Warwickſhire Gentlemen*. I fell ſick at *Monmouth*, and Mr. *Vaughan* ſent to me a *Jeſuit* to Confeſs me; but I was well before he came, and ſo was not Confeſs'd by him. I now come to the latter times.

L. C. J. You muſt ſpeak it over to the Jury, that they and the Priſoners may hear you.

Bedlow. The 25th of *May*, 77, which was laſt Year, I was ſent over with another Pacquet of Letters. I had no Letters of conſequence forward, and therefore did not call then at *Wotton*, but I called upon the Lady Abbeſs at *Dunkirk*, and I went thence to *Bruges* and to *Ghent*, where I had ſome Letters for the *Engliſh* Nuns, which I delivered to them. When I came to *Doway*, I found there that the *Monks* were gone, that was *Sheldon*, *Stapleton*, and *Latham*, but the Letters were directed to *Paris*, and therefore I made haſte, and at *Cambray* I overtook them. And the Letters were to give an account of the Conſultation held in the Gallery at *Somerſet-Houſe*: All tending to the deſtruction of the Proteſtant Religion, and killing the King; but I do not think fit to declare here who were the Perſons that were preſent at that Conſultation. At *Cambray* they were very joyful that there was ſo good a Proceeding in *England*. At *Paris* when the Letters were ſhewed, there was a Letter written in a Language which I did not underſtand, but, as I was told, in that Letter they were charged in *Paris* by my Lord *Bellaſis*, that they did not proceed according to their promiſe to them in *England*; but, ſaid *Stapleton*, to me, My Lord *Bellaſis* nor the Society in *England* need not to write thus to Us, for we are not ſo backward, but that we can lend Men, and Money, and Arms too, and will upon occaſion. From thence they ſent me to *Spain* with a Letter to an *Iriſh* Father: I did overtake him at *Sa Mora*. From thence I went with another Letter to the Rector of a College of *Iriſh Jeſuits* in *Salamanca*. By their contrivance I was ſent to St. *Jago* in *Spain*, where was another College of *Iriſh Jeſuits*: there I ſtayed till I had an Anſwer to Sir *William Godolphin*; and when I had the Anſwer to that Letter, I went for the Letter from the Rector at *Salamanca*. The *Jeſuits* there told me, they would take care to ſend their own Anſwer another way: And when they had made me that promiſe, I came away for *England*, and landed at *Milford-Haven*: All this reaches to none of theſe Perſons in particular; But what I now ſhall ſay ſhall be about them, only it was neceſſary I ſhould ſpeak of what I have ſaid.

L. C. J. The meaning of all this is only to ſhew the Jury and ſatisfy them, that he was an Agent for theſe Men, and hath been employed by them for five Years together, and he names you the particular Places whither he hath been ſent, to ſhew you the Reaſons of his Knowledge in this Matter, and upon what account he comes to be informed of this Deſign.

Bedlow. Having receiv'd the News of that Country, I did there take Water, and landed again at *Penſans*, and when I came to *London* I gave the Letter to *Harcourt*: what was in that Pacquet I cannot particularly tell, for I was not ſo inquiſitive as to look into the Contents of it, but I know it was tending (as all the reſt did) to the carrying on of this Plot: Afterwards I was employed by *Harcourt* and *Coleman* to go to ſome parts of *England* to communicate the Letters to ſome of the Popiſh Party.

L. C. J. Now turn to the Jury.

Bedlow. The Summer was paſt in the doing of that: In the beginning of *Auguſt* laſt there was a Conſultation and a cloſe one at *Harcourt*'s Chamber, ſo as that they did not permit me to know any thing of it. I went out of Town for a Fortnight, and when I returned, I underſtood there had been ſuch a Meeting; I charged them with their Privacy in it, and aſked what was the private deſign of that Conſultation; they ſaid it was ſomething I ſhould know in time: That it did not ſignify much at preſent, but in time I ſhould know it: But then I underſtood by *Pritchard*, who was more my Confident than any of the reſt, That it was a Deſign to kill the King: That *Pickering* and *Grove* had undertaken it a great while, and that they had been endeavouring a long while to bring it to paſs.

Fenwick. Where was this Meeting, and when?

Bedlow. Laſt *Auguſt*, at *Harcourt*'s Chamber.

Fenwick. Who were preſent there?

Bedlow. Be pleaſed to give me leave to go on, I'll tell you by and by: Then I underſtood, as I ſaid, that it was to kill the King, but that *Pickering* and *Grove* failing of it, they had hired four Ruffians that were to go to *Windſor*, and do it there, and that if I would come the next day, I ſhould hear from *Coleman* the effect: When I came there I found *Coleman* was gone, but *Pritchard* ſaid there were ſome ſent to *Windſor*, and that *Coleman* was going after them, and that he had given a Meſſenger a Guinea that was to carry the Money to them. And he would preſently be after them, for fear they ſhould want Opportunity to effect their Deſign. Then I diſcours'd them, why they kept their Deſign ſo long hid from me? They ſaid, It was a Reſolve of the Society, and an Order of my Lord *Bellaſis*, that none ſhould know it but the Society, and thoſe that were Actors in it. I ſeem'd ſatisfy'd with that Anſwer at preſent. About the latter End of *Auguſt*, or the Beginning of *September*, (but I believe, it was the latter End of *Auguſt*) I came to *Harcourt*'s Chamber, and there was *Ireland*, and *Pritchard*, and *Pickering*, and *Grove*.

L. C. J. What Part of *Auguſt* was it?

Bedlow. The latter End.

L. C. J. Do you ſay it Poſitively, That it was the latter End of *Auguſt*?

Bedlow. My Lord, It was in *Auguſt*; I do not ſwear Poſitively to a Day:

L. C. J. But you ſay, it was in *Auguſt*?

Ireland. And that we were there preſent?

Bedlow. You were there, and *Grove*, and *Pickering*.

Ireland. Did you ever ſee me before?

Bedlow. You were preſent there, and *Grove*, and *Pickering*, and *Pritchard*, and *Fogarthy*, and *Harcourt*, and I.

L. C. J. What did you talk of there?

Bedlow. That the *Ruffians* miſſing of Killing the *KING* at *Windſor*, *Pickering* and *Grove* ſhould go on, and that *Conyers* ſhould be joined with them; and that was to Aſſaſſinate the *KING* in his Morning-Walks at *New-Market*: And they had taken it ſo ſtrongly upon them, that they were very eager upon it: And *Grove* was more forward than the Reſt: And ſaid, Since it could not be done Clandeſtinely, it ſhould be attempted Openly. And that thoſe that do Fall, had the Glory to die in a Good Cauſe. But (ſaid he) if it be diſcovered, the Diſcovery can never come to that Height, but their Party would be ſtrong enough to bring it to paſs.

L. C. J. And you ſwear, *Ireland* was there?

Bedlow. He was there, my Lord.

L. C. J. And heard all this?

Bedlow. Yes, my Lord; and ſo did *Grove*, and *Pickering*, and the Reſt.

Ireland. My Lord, I never ſaw him before in my Life.

L. C. J. What was the Reward that you were to have for your pains in this Buſineſs?

Bedlow. My Lord, the Reward that I was to have (as it was told me by *Harcourt*) was very conſiderable: I belong'd to one particular Part of the Society. There are others; and I preſume, they each kept their particular Meſſengers.

L. C. J. What was *Grove* to have?

Bedlow. *Grove* was to have Fifteen Hundred Pound, if he Eſcaped, and to be a continual Favourite, and Reſpected as a great Perſon, by all the Church.

L. C. J. What was *Pickering* to have?

Bedlow. He was to have ſo many *Maſſes*, I cannot preſume to tell the Number; but they were to be as many, as at Twelve Pence a *Maſs* ſhould come to that Money: Theſe *Maſſes* were to be Communicated to all the *Jeſuits* beyond the Seas, that when he had done it, he might be ſent away immediately.

L. C. J. What can you ſay of any of the Reſt?

Bedlow. My Lord, I do not Charge any more but them Three.

L. C. J. What ſay you to *Whitebread*?

Bedlow. They have ſaid, that he was very Active in the Plot; but I know it not.

L. C. J. That is not any Evidence againſt him. What can you ſay, as to *Fenwick*?

Bedlow. No more than I have ſaid, as to Mr. *Whitebread*: I only know him by Sight.

L. C. J. Then he Charges only theſe Three upon Oath, *Ireland*, *Pickering*, and *Grove*.

Ireland. Do you know Sir *John Warner*?

Bedlow. I know Father *Warner* at St. *Omers*, and Sir *John Warner* at *Wotton* by St. *Omers*.

Ireland. He named Sir *John Warner* to be at *Paris*.

Bedlow. It was *Sheldon* I ſpoke of (my Lord) at *Paris*.

Ireland. At leaſt you are certain, that I was preſent at that Conſultation?

Bedlow. Yes: I am certain, you were there.

Ireland. Can you produce any Witneſs, that you ever ſpoke to me before in your Life?

Mr. Serj. *Baldwyn.* Do you know any thing of Mr. *Whitebread*'s being preſent at any of the Conſults?

Bedlow. I do know, that *Whitebread*, and *Fenwick* both, have been ſeveral times at Conſultations; but I do not know what the Particular Reſolves of thoſe Conſultations were.

L. C. J. Did you ever hear them ſpeak any thing in particular?

Bedlow. No, I have never heard them ſpeak any thing in particular.

L. C. J. Where have you ſeen *Fenwick*?

Bedlow. I have ſeen *Fenwick* at *Harcourt*'s Chamber, and I have often heard him talk'd of; and it hath been told me, That nothing was done without *Fenwick*.

Whitebread. Are you ſure you know us?

Bedlow. I do not ſay, You are the Man that employed me: You are the Man I was leaſt acquainted with, of all the Society; but I have ſeen you there.

Ireland. Can you bring any one that can Teſtify it?

L. C. J. He muſt then have brought one of your ſelves; and it may be, he cannot produce any ſuch one.

Ireland. Nor no one elſe, except ſuch a *Knight* of the *Poſt*, as Mr. *Oates*.

L. C. J. You muſt be Corrected for that, Mr. *Ireland*: You ſhall not come here to Abuſe the *KING*'s *Evidence*. Nothing appears to us, that Reflects upon Mr. *Oates*'s Teſtimony; and we muſt not ſuffer any ſuch ſort of Language.

Mr. Juſt. *Atk.* Take off his Credit as much as you can by Proof, but you muſt not Abuſe him by ill Language.

Mr. *Finch.* Can you tell the Court and the Jury, when it was that by Agreement *Grove* ſhould have the Fifteen Hundred Pound?

Bedlow. He was to have it put into a Friend's Hands.

L. C. J. Do you know that Friend's Name?

Bedlow. No, my Lord, I do not.

Mr. *Finch.* Do you know when that was to be delivered out to him?

Bedlow. As to the particular Time of their Agreement, I do not know it.

Mr. *Finch.*

Mr. *Finch.* But this he ſays, That when the Agreement was made, he was to have Fifteen Hundred Pound.

L. C. J. And he ſays this, That *Ireland* was in *Auguſt* laſt, with *Pickering* and *Grove*, and others, at a Conſult; where he was alſo.

Ireland. But what if I prove I was not in *London* all *Auguſt* laſt, from the Beginning to the End?

L. C. J. You heard them talk of this Matter in *Auguſt*, at *Harcourt*'s Chamber, you ſay? What, did they talk of it as a Matter they had agreed?

Bedlow. My Lord, they brought it in, as being baulked in their Deſign of Killing the *KING* at *Windſor*; and becauſe that had not taken the Effect they intended it, they ſhould have *Conyers* joined to them, to do it at *New-Market.*

Mr. *Finch.* Did they tell you when, and where the Agreement was made?

L. C. J. No, he ſpeaks not of that; but they talk'd of the Failure at *Windſor:* And therefore they did conclude, that *Conyers* ſhould be joined to them, to do it at *New-Market.*

Bedlow. Yes, my Lord.

L. C. J. Have you any more to ſay?

Bedlow. My Lord, I would only ſay this; If I had any to prove what I ſay, they muſt be Parties as well as theſe Perſons.

Ireland. My Lord, I will prove, That I was not in Town in *Auguſt* all the Month, by twenty Witneſſes: I'll bring thoſe that ſaw me in *Staffordſhire*, and ſpoke with me all *Auguſt.*

L. C. J. Have you any more to aſk him?

Whitebread. No.

Serj. *Baldwin.* Swear Mr. *William Bedlow.* And he was ſworn.

Ireland. He does ſay, That he was Familiar with me, and ſeveral other Perſons here; and therefore, I deſire he may ſpecify the Place, and the Company.

William Bedlow. I do not ſay, there was a Familiarity; for I was a Stranger to that Part of the Society.

L. C. J. You muſt take him right, Mr. *Ireland*; he hath not ſaid, that he was of your Familiar Acquaintance.

Bedlow. I have ſeen you often, Sir.

Ireland. Where?

Bedlow. At *Monſieur Le Faire*'s.

Ireland. Where was that?

Bedlow. At *Somerſet-Houſe.*

Ireland. Was there any one preſent beſides?

Bedlow. Yes, ſeveral other *Prieſts* and *Jeſuits* of *Somerſet-Houſe.*

Ireland. Name one.

Bedlow. Signior *Perrare.*

Ireland. You ſay, you ſaw me and *Perrare* together at *Somerſet-Houſe*, I ſuppoſe, if Signior *Perrare* may be brought hither———

Bedlow. My Lord, *Perrare* is a *Prieſt* in Orders; and without doubt is in this Buſineſs.

L. C. J. If he did ſee you, he muſt ſee you in ſuch Company as you keep, they were *Prieſts and Jeſuits*, and of your own Religion; and we know very well what Anſwers we are like to be put off with by Men of your own Perſuaſion at this time of day.

Ireland. My Lord, if no body's Oath can be taken that is of another Perſuaſion than the Church of *England*, it is hard.

L. C. J. Pray mind you do not object ingenuouſly: for you ſay, This Witneſs ſwears he ſaw me in ſuch Company, why does he not produce them to teſtify it? Why? He does not come prepared to produce them; if he ſhould, we know well how you are concerned one for another at this time; and we can hardly expect they ſhould make true Anſwers. But notwithſtanding, if you will produce this Father *Perrare*, (he cannot be Sworn becauſe 'tis againſt the Law, but) his Teſtimony ſhall be heard, and let it go as far as it can.

Bedlow. If your Lordſhip pleaſes, my Lord, I would convince him that he does know me. Have you not been, Sir, at *Somerſet-Houſe?*

Ireland. Yes, I have.

Bedlow. Do you know *le Faire* and *Perrare?*

Ireland. Yes, but I never ſaw you in their Company in *Somerſet-Houſe* in my Life, above once or twice.

Bedlow. Yes, you have twice at *le Faire*'s.

L. C. J. Where is that *le Faire?* You would do well to produce him?

Bedlow. My Lord, he is gone away, and is one againſt whom the King's Proclamation is out.

L. C. J. You keep ſuch Company as run away, and then you require him to produce them, whom the King's Proclamation cannot bring in.

Ireland. I keep none but honeſt Company.

Bedlow. If your Lordſhip pleaſes, I have one thing more that is very material to ſpeak; at the ſame time that there was a diſcourſe about theſe Three Gentlemen's being to deſtroy the King at *New-Market*, at the ſame time there was a diſcourſe of a deſign to kill ſeveral Noble Perſons, and the particular Parts aſſigned to every one. *Knight* was to kill the Earl of *Shaftſbury*, *Pritchard* the Duke of *Buckingham*, *Oneile* the Earl of *Oſſory*, *Obrian* the Duke of *Ormond.*

L. C. J. Well, will you have any more of this?

Mr. *Finch.* You ſay, you ſaw Mr. *Ireland* ſay Maſs, where did you ſee him?

Bedlow. Not Mr. *Ireland*, but Mr. *Fenwick*, I have ſeen him ſay Maſs, and at *Wild-Houſe.*

Oates. My Lord, I did omit a Conſult wherein there was a deſign laid of taking away the Duke of *Ormond*'s Life, and of a Rebellion that was to be raiſed in *Ireland.*

My Lord, in the Month of *January* laſt, there came Letters from Archbiſhop *Talbot* to *London*, which Letters were peruſed by *Fenwick*, and *Ireland*, and *Whitebread*, and when they were peruſed, they were ſent and communicated to the Fathers at St. *Omers.* The Contents of thoſe Letters were thus, That the Catholicks had a fair proſpect of effecting their Deſigns in the Kingdom of *Ireland.* And this Letter was incloſed in a Letter ſigned by *Whitebread*, *Ireland*, *Fenwick*, and others, I name no Man's Name that is not here.

L. C. J. You ſaw the Letter?

Oates. Yes, I did ſee it, and read it, wherein they did give thanks unto God, that he was pleaſed to proſper their deſigns ſo fairly in *Ireland*; and withal they did ſay, That they would not leave a ſtone unturned to root out that abominable Hereſy out of that Kingdom. Now what that abominable Hereſy was, I have nothing but a Conjecture.

L. C. J. We all know what that is well enough, there needs no Proof of that.

Oates. In the Month of *Auguſt*, *Fenwick*, a little before he went to St. *Omers*, on the One and Twentieth of *Auguſt*, (as I think it was) that Week that *Bartholomew-Fair* begun on (as I take it) he was then going to fetch home the Provincial, and to carry ſome Students with him, and he went unto St. *Omers* the *Monday* following; but then there was a Conſult, and at that Conſult *Fenwick* did conſent to the contrivance of the Death of the Duke of *Ormond*, and for the Rebellion that was to be raiſed in *Ireland* after his Death. And he did approve of the Four *Jeſuits* that were to kill my Lord of *Ormond*, and did conſent to ſend *Fogarthy* down to the Archbiſhop of *Dublin*, in caſe the Four good Fathers did not hit the buſineſs. Mr. *Whitebread*, my Lord, did conſent when he came over, as appears by their Entry-Books. For there came a Letter from him dated as from St. *Omers*, but I concluded it did not come from thence, becauſe it paid but Two-pence.

Whitebread. Who was it that writ that Letter?

Oates. My Lord, this Letter was dated as the latter part of *Auguſt*, and dated as from St. *Omers*, but the Poſt-mark upon it was but Two pence, to be paid for it; ſo that I do conclude thence Mr. *Whitebread* was then at Eſquire *Leigh*'s Houſe in But in that Letter he did like the Propoſal that was made about killing the Duke of *Ormond* in that Conſult, and the Letter was ſigned with his own hand.

L. C. J. I would gladly ſee that Letter,

Oates. If I could ſee it, I could know it.

L. C. J. You have not that Letter?

Oates. No, but they kept a Book wherein they Regiſtred all their Reſolutions, and there it was entred.

L. C. J. You upon your Oath ſay, That he as Superior of them did keep a Book, wherein they Regiſtred all their Conſults?

Oates. Yes, my Lord.

L. C. J. You would do well to ſhew us your Book, Mr. *Whitebread.*

Whitebread. We never kept any.

Oates. The Conſult did; for tho' the Superior have an abſolute power over the Subject, yet they never do any thing of Conſequence without the Conſult. And this Book was kept by the Superior, and never opened but at the Conſult, and therein all the Paſſages were Regiſtred.

L. C. J. Produce your Book, and we ſhall ſee whether you cannot catch Mr. *Oates* in ſomething or other.

Bedlow. My Lord, that Book I have ſeen, and therein all their Conſults are Regiſtred.

L. C. J. Was there Books kept by them?

Bedlow. Yes, my Lord, all the Conſults did keep Books, and Mr. *Langhorn* was the Perſon that Regiſtred all into one.

L. C. J. If a Hundred Witneſſes ſwear it, they will deny it. Well, will you have any more?

Mr. *S. Baldwyn.* My Lord, we will now call Mr. *James Bedlow*, this Gentleman's Brother, to ſhew you, That theſe ſort of Perſons did reſort to him frequently.

L. C. J. Are you ſworn, Sir?

J. Bedlow. Yes, my Lord, I am.

L. C. J. Then let me aſk you one ſhort Queſtion. Do you know Mr. *Ireland?*

J. Bedlow. No.

L. C. J. Do you know *Pickering* or *Grove?*

J. Bedlow. I have heard of them.

L. C. J. Did your Brother know any thing of them?

J. Bedlow. As for the Conſpiracy of killing the King, I know nothing of it; but about his knowledge of Prieſts and *Jeſuits*, and the Converſe he had beyond Sea, that I can ſpeak to. And I have very often heard theſe Men's names named.

L. C. J. In what nature did he talk of them?

J. Bedlow. I know nothing of the Plot, and as for any Deſign I knew not what my Brother knew, but I have heard him talk of them.

L. C. J. How did he talk of them?

J. Bedlow. He mentioned them as his Acquaintance, the *Jeſuits* there did aſk him Queſtions about them.

L. C. J. And did it appear to you they were of his Acquaintance?

J. Bedlow. But I underſtood nothing of the Plot or Deſign, by the Oath I have taken.

L. C. J. But did he ſpeak as if he knew any of them?

J. Bedlow. For any certain knowledge that my Brother had of them I cannot ſpeak, but I have often heard him talk of them as people I thought he knew.

Mr. Finch. Do you know, that when he came over from beyond Sea, that his Lodging was frequented by any, and by whom?

J. Bedlow. Yes, there were many Prieſts and *Jeſuits* came to him.

Mr. Finch. Did your Brother receive any Money from them?

J. Bedlow. Yes, my Lord, I have fetch'd many ſcore of Pounds for my Brother from them.

L. C. J. The Uſe, Gentlemen, that the King's Council make of this Evidence, is only to ſhew, That his Brother Mr. *Bedlow* was converſant in their affairs, in that he hath received many a ſcore of Pounds in the managing of their buſineſs.

Sir *Cr. Levinz.* Pray, from whom had your Brother that Money?

J. Bedlow. I have proved that from the Goldſmiths themſelves that paid it, before the Duke of *Monmouth*, my Lord Chancellor, and Lord Treaſurer.

Mr. Finch. Have you received any conſiderable ſum at a time?

J. Bedlow. Yes, I have.

Mr. Finch. How much?

J. Bedlow. Fifty or Threeſcore Pounds at a time.

Finch. Of whom?

J. Bedlow. Of Prieſts and Jeſuits.

Finch. For whom?

J. Bedlow. For my Brother.

L. C. J. Will you have any more Evidence?

Mr. Serj. *Baldwyn.* Yes, my Lord, the next Evidence we produce, is concerning a Letter; there was a Letter written by one Mr. *Peters*, that is now a Priſoner, to one *Tonſtall* a Jeſuit; and this Letter does mention, That there was a meeting appointed by order of *Whitebread* to be at *London.*

L. C. J. What is that to them, and how come you by it?

Serj. *Baldwyn.* *Peters* is now in Priſon for things of this nature; and you have heard of one *Harcourt*, and out of his Study this Letter was taken.

W. Bedlow. My Lord, may I not have liberty to withdraw? My Head akes ſo extremely, I cannot endure it.

L. C. J.

L. C. J. Mr. *Bedlow*, you may sit down, but we can't part with you yet.

Ireland. I desire, my Lord, that his Brother may be asked, how long he had known me.

L. C. J. Can you recollect by the discourses you have heard, how long he might have known *Ireland?*

J. Bedlow. No, my Lord, it was out of my way.

L. C. J. But did he talk of *Ireland?*

J. Bedlow. Yes, my Lord, he did.

Ireland. As being where, in what Place?

J. Bedlow. I cannot tell.

Ireland. He named one place Three Years ago, it was at *Paris.*

L. C. J. But he does not say that you were there, but that you were familiarly talk'd of there; so that the meaning is, they were acquainted with you: And this is only brought to shew, that it is not a new-taken-up thing by *Bedlow*, though you seemed never to have known any such Man; yet he swears, saith he, I have heard such Persons talkt of as my Brother's acquaintance.

Ireland. If his Brother had talk'd of me three years ago, why then he must have known me three years ago.

L. C. J. I'll ask him that question: How long is it since you knew him?

W. Bedlow. I have known him but since *August* this same last Summer; but, my Lord, I talkt five, and four years ago of several *English* Monks and Jesuits that were then at *Rome*, that I never knew in my Life.

L. C. J. His answer then is this, saith his Brother, I have heard him talk of them three years ago; I then asked *Bedlow*, how long he had known them? saith he, I did not know them three years ago, though I did talk of them three years ago; for we have talkt of many that we never saw in our Lives: So it seems he had occasion to make use of your names frequently, and join them with those of some he knew better: But he never knew you 'till *August* last; but he did discourse of you three years ago, as known for such sort of Persons.

Ireland. He must hear some body speak of us, as being in some place or another.

W. Bedlow. I will satisfy you in that. We talk of some now in *England*, that are to be sent a year hence.

L. C. J. If you can produce but *Harcourt* and *Le Faire*, they will do you great service now.

W. Bedlow. My Lord, as for example, Father *Pritchard* is Confessor to such a Gentleman in *England* now this year; a year hence we must send such a one hither, and he must go back. And we may talk of that Person as in *England*, two years before.

L. C. J. You need not trouble yourselves about that. Mr. *Ireland*, you shall have a fair Trial, but you will not have cunning or art enough to deceive the Jury, nor will Mr. *Whitebread* have Learning enough to baffle the Court.

Then Mr. W. Bedlow *and his Brother withdrew.*

Serj. *Baldwyn.* My Lord, The next Evidence that we shall give, as I said, is a Letter from one *Peters* to one *Tonstall*, and this we will bring home to Mr. *Whitebread*, for it is an Invitation to be at the Consult held at *London* the 24th of *April*; and it was written about that very time, to wit, the 3d of *April*. It was written from *London*, and it mentions, that Mr. *Whitebread* did fix the meeting at that time. We'll tell you how we came by the Letter. Mr. *Harcourt*, who is one of the principal Persons here, and at whose House was the meeting you heard of, he himself is fled away, when they came to look after him upon the discovery that was made: And Mr. *Bradley*, who was the Messenger to seize upon him, did according to direction search his Study, and did there find this Letter, which we conceive, my Lord, to be very good Evidence; this *Harcourt* being a party, and one at whose House the last meeting was, and others was. We do conceive a Letter from one of that party, bearing date about the same time, concerning Mr. *Whitebread*'s Summons, who was Master of the Company, is very good Evidence against them.

L. C. J. If you had found it in Mr. *Whitebread*'s custody, you say something.

Just. *Bertie.* My Brother puts it so: We find a Letter directed to Mr. *Whitebread*, let the matter of it be what it will, it is found among *Harcourt*'s Papers.

Serj. *Baldwyn.* No, my Lord; we find a Letter from one Mr. *Peters* now a Prisoner directed to Mr. *Tonstall* concerning the Consult summoned by *Whitebread*, and this we find in *Harcourt*'s possession.

L. C. J. I can't understand how this may affect Mr. *Whitebread.*

Mr. Finch. Pray, my Lord, if your Lordship please, this is the use we make of this Letter; we do not produce it as another Evidence of this design, but to fortify that part of the Evidence which hath already been given, That there was a Consult summoned at that Time, and to be held with all the privacy that could be, to prevent discovery. And this is the paper that we find in the Custody of *Harcourt*, one of the Conspirators, who is fled for it.

L. C. J. Look you, Mr. *Finch*, if you use it not against any particular Person, but as an Evidence in general that there was a Plot amongst them, you say right enough; but it cannot be Evidence against any one particular Person of the Prisoners at the Bar.

Mr. Finch. My Lord, it can affect no particular Person; but we only use it in the general, and we pray it may be read.

L. C. J. Gentlemen of the Jury, before you hear the Letter read, I would say this to you. Let them have fair play; whatsoever they mete unto others, we will shew them Justice. They shall have as fair play upon their Trials as any Persons whatsoever. The thing that is offered to be given in Evidence, is a Letter written by one *Peters* a Prisoner for this Plot, and directed to one *Tonstall* a *Jesuit*, and this is found in *Harcourt*'s Chamber, a Priest that is fled, and one whom the King hath Commanded to render himself by his Proclamation; but he does not. Now in that Letter there is a discourse of a Design and Plot on foot. This cannot be Evidence to charge any one particular Person of these; but only to satisfy you and all the world, that those Letters and Papers that are found amongst their own Priests, do fortify the Testimony of Mr. *Oates*, that there is a general Plot: 'Tis not applied to any particular Person.

Oates. The day before the Consult met, Mr. *Whitebread* did ask Mr. *Peters* whether he had summoned the Consult according to his direction. Mr. *Peters* told him, Yes, he had writ into *Warwickshire* and *Worcestershire.*

Whitebread. When was this?

Oates. The day before the Consult met.

Whitebread. Did you hear me ask Mr. *Peters?*

Oates. Yes, I did hear you; and I did hear him say he had done it. Now, my Lord, this Letter that is found in *Harcourt*'s Study shews, that Mr. *Whitebread* had directed Mr. *Peters* in this Consult.

Serj. *Baldwyn.* Pray swear Sir *Tho. Doleman* to shew how he came by it. *Which was done.*

Serj. *Baldwyn.* Sir *Tho. Doleman*, What do you know of this Letter?

Sir *Tho. Doleman.* This Letter in my hand was taken amongst *Harcourt*'s Papers, in a great Bag of Paper; and searching them I did find this Letter amongst the rest.

Then the Letter was shewn to Mr. *Oates.*

L. C. J. Is that Mr. *Peters*'s hand?

Oates. Yes, my Lord, it is.

L. C. J. Were you acquainted with his hand?

Oates. Yes, my Lord, I have often read it in Letters.

L. C. J. Do you know *Tonstall?*

Oates. My Lord, I do not know him by that name; If I did see him, perhaps I might: I know Men better by their Faces.

Sir *Cr. Levinz.* Pray read it.

Cl. of the Cr. This is Dated *February* 23. (77,) And superscribed thus, (These for his Honoured Friend Mr. *William Tonstall* at *Burton.*)

Honoured dear Sir,

I *Have but time to convey these following particulars to you. First, I am to give you notice, that it hath seem'd fitting to our Master Consult, Prov. &c. to fix the 21st day of* April *next* Stylo veteri, *for the meeting at* London *of our Congregation, on which day all those that have a suffrage are to be present there, that they may be ready to give a beginning to the same on the 24th, which is the next after St.* George's-day. *You are warned to have* jus suffragii, *and therefore if your occasions should not permit you to be present, you are to signify as much, to the end others in their ranks be ordered to supply your absence: Every one is minded also, not to hasten to* London *long before the time appointed, nor to appear much about the Town 'till the meeting be over, lest occasion should be given to suspect the design. Finally, Secrecy, as to the time and place, is much recommended to all those that receive Summons, as it will appear of its own nature necessary.*

L. C. J. So it was very necessary, indeed.

Cl. of C. There is more of it, my Lord.

Tertio pro Domino solono disco.

Benefact. Prov. Lunienſis.

I am straitned for time, that I can only assure you, I shall be much glad of obliging you any ways, Sir,

Your Servant

Edward Petre.

Pray my Service where due, &c.

L. C. J. You know nothing of this Letter, Mr. *Whitebread?*

Whitebread. No, my Lord, nothing at all.

L. C. J. Nor you, Mr. *Ireland?*

Ireland. 'Tis none of my Letter, my Lord.

L. C. J. Did you never hear of it before?

Ireland. Not that I know of in particular.

L. C. J. Well, have you done with the Evidence for the King?

Serj. *Baldwyn.* Pray, Sir *Tho. Doleman*, will you tell my Lord, Did Mr. *Oates* give in this Testimony of the Consult, to be the 24th of *April*, before this Letter was found?

Sir *Tho. Doleman.* Mr. *Oates* gave in his Information about this matter, to the King and Council, four or five Days before we found this Letter.

Serj. *Baldwyn.* You were speaking of the Seals that were made use of to Sign Commissions, have you them in the Court?

Oates. Yes, my Lord, they are in the Court, and they were taken out of the Provincial's Chamber.

Whitebread. I confess they had the Seals out of my Chamber; but the taking of them was more than they had Power to do.

Then the Seals were shewn to the Court and the Jury.

Mr. Finch. It hath been told you already, Gentlemen, what use these Seals were put unto; to Seal Commissions to raise an Army. And we have now done with our Evidence for the King, 'till we hear what the Prisoners say.

L. C. J. Before you come to make your Defence, I will do that which I think in Justice and Honesty, and according to the duty of my Place and my Oath, I ought to do; That is, to say something to the Jury, before the Prisoners make their own Defence. Here are five that stand indicted of High-Treason: I must tell you this, That as to three of them, that is to say, *Ireland*, *Pickering* and *Grove*, both Mr. *Oates* and Mr. *Bedlow* have sworn the thing flat upon them: Mr. *Oates* his Testimony is full against them all; but Mr. *Bedlow* does only agree with him to charge Three, and that in this particular: Saith he, I was present at *Harcourt*'s Chamber when *Ireland* was there, and *Pickering* and *Grove*, where they discoursed of their defeat about their design against the King at *Windsor*; and there they came to a new agreement, to do it at *New-Market.* So that here is now, as the King's Counsel did open it to you at the first, as there ought to be, two Witnesses; so here are Two, which though they speak as to a different circumstance of time, yet they prove one Treasonable Fact at several times: For if killing the King be the Fact in question, and one proves they would do it by one thing, and another by another; and one in one place, and another in another; yet these are two Witnesses to prove one fact, that is, the substance, which is, the killing of the King. So that there are two Witnesses against them three, expresly proving a Confederacy to kill the King: For *Ireland*'s being by, and consenting, was the same thing, and as much, as if he had been to do it with *Grove* and *Pickering*; for there are no Accessaries in Treason. I do acknowledge, that Mr. *Oates* hath given a very full and ample Testimony, accompanied with all the circumstances of Time and Place, against them all, that may go far to weigh with you, all things considered, to believe there is a Plot; yet I do not think that they have proved it against *Whitebread* and *Fenwick* by two Witnesses: So that though the Testimony be so full, as to satisfy a private Conscience, yet we must go according to Law too. It will be convenient, from what is already proved, to have them stay 'till more proof may come in: 'Tis a great Evidence that is against them; but it not being sufficient in point of Law, we

discharge you of them; 'tis not a legal proof to convict them by, whatsoever it may be to satisfy your Consciences. Therefore remove Mr. *Fenwick* and Mr. *Whitebread* from the Bar, and let the other Three say what they will for themselves †.

* *William Montague*, Esq.

* *L. C. B.* (Speaking to the Goaler) You must understand they are no way acquitted; the Evidence is so full against them by Mr. *Oates*'s Testimony, that there is no reason to acquit them. It is as flat, as by one Witness can be; and the King hath sent forth a Proclamation for further discovery; before the time therein prefixt be out, no question there will come in more Evidence: Therefore keep them as strict as you can.

Then Whitebread *and* Fenwick *were taken back to the Goal by the Keeper.*

L. C. J. Now, Gentlemen, you shall have liberty to make your full defence.

Ireland. First, I shall endeavour to prove there are not two Witnesses against me: For that which he says, of my being at *Harcourt*'s Chamber in *August*, is false; for I will prove I was all *August* long out of Town, for I was then in *Staffordshire*.

L. C. J. Call your Witnesses.

Ireland. If there be any of them here.

L. C. J. Whoever comes to give Evidence for you, shall go and come in safety; they shall not be Trepann'd for any thing of that, but they shall be heard.

Ireland. My Lord, We are kept so strict, that we are not permitted to send for any body.

L. C. J. As soon as your Sister came to me, I ordered she should have access to you, and that you should have Pen, Ink and Paper, in order to your defence; therefore call those Witnesses you have, to prove what you say.

Ireland. I can only say this, That last *August* upon the 3d day I went down to *Staffordshire* with my Lord *Aston*, and his Lady, and his Son, and Sir *John Southcot* and his Lady, and all these can testify that I went down with them. Here is Mr. *John Aston* in Town, if he may be found, who was in my Company all *August* in *Staffordshire*.

L. C. J. Will you call that Gentleman? Crier, call him.

Crier. Mr. *John Aston.*

Ireland. It is an hundred to one if he be here; for I have not been permitted so much as to send a scrap of Paper.

L. C. J. Your Sister had leave to go to whom you thought fit, in your behalf. You said you would prove it. Why don't you?

Ireland. I do as much as I can do.

L. C. J. What, by saying so?

Ireland. Why, I do name them that can testify.

L. C. J. If naming them should serve, you must have a Law made on purpose for you.

Ireland. Then there is no help for Innocence.

Recorder. To save him that labour, the King's Evidence will prove, that he was in Town at that time.

Serj. *Baldwyn.* Swear *Sarah Paine. Which was done.*

Serj. *Baldwyn.* My Lord, this Person was Mr. *Grove*'s Maid.

L. C. J. I believe you know your Maid, Mr. *Grove*, don't you? Look upon her, she was your Servant.

Grove. Yes, my Lord, she was so, she is not so now.

L. C. J. Do you know Mr. *Ireland?*

Sarah Paine. Yes, my Lord.

L. C. J. Do you know whether Mr. *Ireland* was in Town in *August* last, or no?

S. Paine. I saw him at his own House about a Week before I went with my Lord *Arlington* to *Windsor*.

L. C. J. When was that?

S. Paine. That was about a Week after the King was gone thither.

L. C. J. Sir *Tho. Doleman*, what day was it the King was gone thither?

Sir *Tho. Doleman.* About the thirteenth of *August*.

L. C. J. Thirteen and seven is twenty; then you went to *Windsor* about the twentieth, it seems, and you say that eight days before you saw Mr. *Ireland* at his own House?

S. Paine. Yes, my Lord, about eight or nine days before that, I did see him at the door of his own House, which was a Scrivener's in *Fetter-Lane*: He was going into his own Lodging.

L. C. J. How long had you known him before that time?

S. Paine. My Lord, I knew him, for he came often to our House, when I lived at Mr. *Grove*'s; he was the Man that broke open the Pacquet of Letters that my Master carried about afterwards, and he Sealed all the Pacquets that went beyond the Seas. And he opened them still when the Answers returned back again.

Ireland. Now must all the people of my Lodging come and witness that I was out of my Lodging all *August*.

L. C. J. Call them.

Ireland. There is one *Anne Ireland.*

L. C. J. Crier, call her.

Crier. Anne Ireland: Here she is.

L. C. J. Come, Mistress, what can you say concerning your Brother's being out of Town in *August?*

A. Ireland. My Lord, on *Saturday* the third of *August*, he set out to go into *Staffordshire*.

L. C. J. How long did he continue there?

A. Ireland. Till it was a fortnight before *Michaelmas*.

L. C. J. How can you remember that it was just the third of *August?*

A. Ireland. I remember it by a very good Circumstance, because on the *Wednesday* before, my Brother, and my Mother, and I, were invited out to Dinner; we stay'd there all night, and all *Thursday* night, and *Friday* night my Brother came home, and on *Saturday* he set out for *Staffordshire*.

L. C. J. Where was it, Maid, that you saw him?

S. Paine. I saw him going in at the door of their own House.

L. C. J. When was that?

S. Paine. About a Week before I went with my Lord Chamberlain to *Windsor*, which was a Week after the King went thither.

L. C. J. That must be about the 12th or 13th. Are you sure you saw him?

S. Paine. Yes, my Lord, I am sure I saw him.

L. C. J. Do you know this Maid, Mr. *Ireland?*

Ireland. I do not know her, my Lord.

L. C. J. She knows you by a very good token. You used to break open the Letters at her Master's House, and to seal them.

S. Paine. He knows me very well, for I have carried several Letters to him, that came from the Carrier, as well as those that came from beyond Sea.

L. C. J. They will deny any thing in the World.

Ireland. I profess, I do not know her. Twenty People may come to me, and yet I not know them; and she having been Mr. *Grove*'s Servant, may have brought me Letters, and yet I not remember her. But, my Lord, here is my Mother *Eleanor Ireland*, that can testify the same.

L. C. J. Call her then.

Crier. Eleanor Ireland.

E. Ireland. Here.

L. C. J. Can you tell when your Son went out of Town?

E. Ireland. He went out of Town the third of *August*, towards *Staffordshire.*

Ireland. My Lord, there is Mr. *Charles Gifford* will prove that I was a Week after the beginning of *September*, and the latter end of *August*, in *Staffordshire.*

L. C. J. That will not do: for she says that she saw you in *London* about the 10th or 12th of *August*; and she makes it out by a Circumstance, which is better Evidence than if she had come and sworn the precise day wherein she saw him: for I should not have been satisfy'd, unless she had given me a good account why she did know it to be such a day. She does it by Circumstances, by which we must calculate that she saw you about the 12th or 13th day. She went to my Lord *Arlington*'s at such a day, a Week after the King went to *Windsor*, and that was about the 13th, and she saw you a Week before she went to my Lord *Arlington*'s, which must be the 12th or 13th. You say you went out of Town the third of *August*; who can swear you did not come back again?

Ireland. All the House can testify I did not come to my Lodging.

E. Ireland. He went out of Town the third of *August*, and did not return till a fortnight before *Michaelmas.*

L. C. J. Did you lie at his house?

E. Ireland. I did then, my Lord.

L. C. J. What, all that while?

E. Ireland. Yes, my Lord.

L. C. J. So did your Daughter too, did she?

E. Ireland. Yes, she did.

Ireland. There are others that did see me the latter end of *August* in *Staffordshire.*

L. C. J. And you would fain have crampt him up, between the 20th and 31st; and then, 'tis possible, you might be in *Staffordshire.*

Ireland. If I might have been permitted to send in for such Witness as I would have had, I could have brought them.

Recorder. Why, have you not a Note of what Witnesses you are to call? Why don't you call them according to that Note?

Ireland. I had that but this Morning.

L. C. J. Why did you not send for them before, to have them ready?

Recorder. 'Tis his Sister that brings that Note of the Witnesses that he should call, and now they are not here.

A. Ireland. There was one *Engletrap*, and one *Harrison*, had promised to be here, that went with him into *Staffordshire.*

Mr. Oates. My Lord, whenever we had a mind to come to Town, we commonly writ our Letters, and let them come to Town two days after us. So that we might prove by the writing of such Letters, if any Question did arise, that we could not be at such a place at such a time. And when we pretended to go into the Country, we have gone and taken a Chamber in the City, and have had frequent Cabals at our Chambers there. Mr. *Ireland* writ a Letter as dated from St. *Omers*, when I took my leave of him at his own Chamber, which was betwixt the 12th and 24th in *London.* He was there; and afterwards when I went to *Fenwick*'s Chamber he came thither; a fortnight or ten days at least I am sure it was in *August.*

L. C. J. Here are three Witnesses upon Oath about this one thing: Here is Mr. *Bedlow* that Swears the fact, upon which the Question arises, to be in *August*; that you deny, and say you were out of Town then: he produces a Maid here, and she swears, that about that time, which by calculation must be about the 11th or 12th, she saw you going into your own House. And here is a third Witness, who swears he knows nothing of this matter of fact, but he knows you were in Town then, and that he took his leave of you as going to St. *Omers.*

Oates. Whereas he says, that the beginning of *September* he was in *Staffordshire*, he was in Town the first of *September*, or second, for then I had of him twenty Shillings.

Ireland. This is a most false lye; for I was then in *Staffordshire.* And the Witnesses contradict themselves; for the one saith, he took his leave of me, as going to St. *Omers* the 12th; the other saith, it was the latter end of *August* I was at *Harcourt*'s Chamber.

L. C. J. He does not say you went, but you pretended to go.

A. Ireland. Here is one *Harrison*, that was a Coachman that went with them.

L. C. J. Well, what say you, Friend? Do you know Mr. *Ireland?*

Harrison. I never saw the Man before that time in my life, but I met with him at St. *Albans.*

L. C. J. When?

Harrison. The fifth of *August.* There I met with him, and was in a Journey with him to the sixteenth.

L. C. J. What day of the week was it?

Harrison. Of a *Monday.*

L. C. J. Did he come from *London* on that day?

Har. I cannot tell that. But there I met him.

L. C. J. What time?

Har. In the Evening.

L. C. J. Whereabouts in Saint *Albans?*

Har. At the *Bull-Inn*, where we lodged.

L. C. J. Mr. *Ireland*, you say you went on *Saturday* out of Town, did you stay at Saint *Albans* till *Monday?*

Ireland. No, I went to *Standen* that day, and lay there on *Saturday* and *Sunday* Night; on *Monday* I went to Saint *Albans.*

L. C. J. What, from thence?

Ireland. Yes, my Lord.

L. C. J. Why did you go thither? Was that in your way?

Ireland. I went thither for the company of Sir *John Southcot* and his Lady.

L. C. J. How did you know that they went thither?

† *See* Vol. IV. p. 661.

Ireland. I underſtood they were to meet my Lord *Aſton*, and Lady, there.

L. C. J. What, on *Monday* Night?

Ireland. Yes, my Lord.

Har. From thence I went with him to *Tixwel*, to my Lord *Aſton*'s Houſe, there we were all with him.

L. C. J. Were you my Lord *Aſton*'s Coachman?

Har. No, my Lord, I was Servant to Sir *John Southcot*.

L. C. J. How came you to go with them?

Har. Becauſe my Lord *Aſton* is my Lady *Southcot*'s Brother.

L. C. J. How long was you in his Company?

Har. From the Fifth of *Auguſt* to the Sixteenth, and then I was with him at *Weſt-Cheſter*.

Mr. Juſt. Atkins. You have not yet talk'd of being at *Weſt-Cheſter* all this while.

Ireland. My Lord, I muſt talk of my Journey by degrees.

L. C. J. Before, you ſaid you were all *Auguſt* in *Staffordſhire*; come, you muſt find out ſome Evaſion for that.

Ireland. In *Staffordſhire*, and thereabouts.

L. C. J. You Witneſs, who do you live with?

Har. With Sir *John Southcot*.

L. C. J. Who brought you hither?

Har. I came only by a Meſſenger laſt Night.

L. C. J. Was not Sir *John Southcot* in that Journey himſelf?

Har. Yes, my Lord, he was.

L. C. J. Then you might as well have ſent to Sir *John Southcot* himſelf to come.

A. Ireland. I did it of my ſelf; I never did ſuch a thing before, and did not underſtand the way of it.

Ireland. It was meer Chance ſhe did ſend for thoſe ſhe did.

L. C. J. But why ſhould ſhe not ſend for Sir *John* himſelf?

Ireland. She did not know that Sir *John* was there.

L. C. J. You were not denied to ſend for any Witneſſes, were you?

Ireland. I was expreſly denied; they would not let me have one bit of Paper.

L. C. J. Fellow, what Town was that in *Staffordſhire?* Tell me quickly.

Har. It was *Tixwel*, by my Lord *Aſton*'s; there we made a Stay for three or four Days, then we went to *Nantwich*, and ſo to *Weſt-Cheſter*.

L. C. J. Were not you at *Wolverhampton* with him?

Har. No, my Lord, I was not there, I left him at *Weſt-Cheſter*.

Ireland. My Lord, I was at *Wolverhampton* with Mr. *Charles Gifford*, and here he is to atteſt it.

L. C. J. Well, Sir, what ſay you?

Gifford. My Lord, I ſaw him there a Day or two after St. *Bartholomew*'s Day, there he continued till the 9th of *September*; the 7th of *September* I ſaw him there, and I can bring twenty and twenty more, that ſaw him there. Then, as he ſaid, he was to go towards *London*. I came again thither on the ninth, and there I found him. And this is all I have to ſay.

Oates. My Lord, I do know that Day in *September* I ſpeak of by a particular Circumſtance.

Ireland. My Lord, there is one *William Bowdrel*, that will teſtify the ſame, if I might ſend for him.

L. C. J. Why han't you him here?

Ireland. She hath done what ſhe can to bring as many as ſhe could.

L. C. J. Have you any more Witneſſes to call?

Ireland. I can't tell whether there be any more here, or no.

L. C. J. Mr. *Grove*, what ſay you for your ſelf?

Grove. Mr. *Oates* ſays he lay at my Houſe; my Lord, I have not been able to ſend for any Witneſſes, and therefore I know not whether there be any here. They could prove that he did not lie there. He ſays he ſaw me receive the Sacrament at *Wild-Houſe*, but he never did; and if I had any Witneſſes here, I could prove it.

L. C. J. He tells it you with ſuch and ſuch Circumſtances, who lay there at that time.

Grove. He did never lie there.

L. C. J. Why, you make as if you never knew Mr. *Oates*.

Grove. My Lord, I have ſeen him, but he never lay at my Houſe.

L. C. J. Mr. *Pickering*, what ſay you for your ſelf? You relie upon your Maſſes.

Pickering. I never ſaw Mr. *Oates*, as I know of, in my Life.

L. C. J. What ſay you to *Bedlow?* He tells you he was with you in *Harcourt*'s Chamber ſuch a Day.

Pickering. I will take my Oath I was never in Mr. *Bedlow*'s Company in all my Life.

L. C. J. I make no Queſtion but you will; and have a Diſpenſation for it when you have done. Well, have you any Witneſſes to call?

Pickering. I have not had time to ſend for any.

L. C. J. You might have moved the Court, when you came at firſt, and they would have given you an Order to ſend for any.

Ireland. Methinks there ſhould be ſome Witneſſes brought that know Mr. *Oates*, to atteſt his Reputation; for I am told, there are thoſe that can prove very ill things againſt him, they ſay he broke Priſon at *Dover*.

L. C. J. Why have you not your Witneſſes here to prove it?

Ireland. We could have had them, if we had Time.

L. C. J. See what you aſk now; you would have time, and the Jury are ready to go together about their Verdict.

Ireland. Why, we deſire but a little Time to make out our Proof.

L. C. J. Only you muſt tye up the Jury, and they muſt neither eat nor drink till they give in a Verdict.

Ireland. Then we muſt confeſs, there is no Juſtice for Innocence.

L. C. J. Well, if you have any more to ſay, ſay it.

Ireland. My Lord, I have produced Witneſſes that prove what I have ſaid.

L. C. J. I'll tell you what you have proved: You have produced your Siſter and your Mother, and the Servant of *Southcot*; they ſay you went out the third of *Auguſt*, and he gives an account you came to St. *Albans* on the fifth; and then there is another Gentleman, Mr. *Gifford*, who ſays he ſaw you at *Wolverhampton* till about a Week in *September*. Mr. *Oates* hath gainſaid him in that, ſo you have one Witneſs againſt Mr. *Oates* for that Circumſtance. It cannot be true what Mr. *Oates* ſays, if you were there all that time, and it cannot be true what Mr. *Gifford* ſays, if you were in *London* then. And againſt your two Witneſſes, and the Coachman, there are three Witneſſes, that ſwear the contrary, Mr. *Oates*, Mr. *Bedlow*, and the Maid; ſo that if ſhe and the other two be to be believed, here are three upon Oath againſt your three upon bare Affirmation.

Ireland. I do deſire time, that we may bring in more Witneſſes.

L. C. J. Come, you are better prepared than you ſeem to be. Call whom you have to call. Can you prove that againſt Mr. *Oates*, which you ſpeak of? If you can, call your Witneſſes, on God's Name. But only to aſperſe, tho' it be the way of your Church, it ſhall not be the way of Trial amongſt us. We know you can call Hereticks, and ill Names, faſt enough.

Ireland. That *Hilſley* that he names can prove, if he were here, that Mr. *Oates* was all the while at St. *Omers*.

L. C. J. Will you have any more Witneſſes call'd? If you will, do it, and don't let us ſpend the Time of the Court thus.

Grove. Here is Mrs. *York*, that is my Siſter, will your Lordſhip pleaſe to aſk her, whether ſhe ſaw that Gentleman at my Houſe?

L. C. J. What ſay you, Miſtreſs?

York. No, my Lord, not I.

Mr. Juſt. Atk. Nor I neither; might not he be there for all that?

Oates. To ſatisfy the Court, my Lord, I was in another Habit, and went by another Name.

L. C. J. Look you, he did as you all do, diſguiſe your ſelves.

Ireland. Though we have no more Witneſſes, yet we have Witneſſes that there are more Witneſſes.

L. C. J. I know what your way of Arguing is; that is very pretty; you have Witneſſes that can prove you have Witneſſes, and thoſe Witneſſes can prove you have more Witneſſes, and ſo *in infinitum*. And thus you argue in every thing you do.

Ireland. We can go no further than we can go, and can give no Anſwer to what we did not know would be proved againſt us.

L. C. J. Then look you, Gentlemen——

A. Ireland. My Lord, Sir *Denny Aſhburnham* promiſed to be here to teſtify what he can ſay concerning Mr. *Oates*.

L. C. J. Call him.

Crier. Sir *Denny Aſhburnham*. Here he is, my Lord.

L. C. J. Sir *Denny*, what can you ſay concerning Mr. *Oates?*

Sir D. Aſhburnham. My Lord, I received a Letter this Morning, which I tranſmitted to Mr. Attorney, and this Letter was only to ſend to me a Copy of an Indictment againſt Mr. *Oates* of Perjury: I did ſend it accordingly with my Letter to Mr. Attorney. He hath ſeen the Letter, and what the Town ſays to me in it.

* *Att. Gen.* I have ſeen it, there is nothing in it.

L. C. J. Do you know any thing of your own Knowledge?

Sir D. Aſhburnham. I do know Mr. *Oates*, and have known him a great while; I have known him from his Cradle, and I do know that when he was a Child, he was not a Perſon of that Credit that we could depend upon what he ſaid.

L. C. J. What ſignifies that?

Sir D. Aſhburnham. Will you pleaſe to hear me out, my Lord? I have been alſo ſolicited by ſome of the Priſoners who ſent to me, hoping I could ſay ſomething that would help them in this Matter: Particularly laſt Night one Miſtreſs *Ireland*, Siſter to the Priſoner at the Bar, a Gentlewoman I never ſaw before in my Life, ſhe came to me, and was preſſing me hard, that I would appear here voluntarily to give Evidence for the Priſoner. I told her No, I would not by any means in the World, nor could I ſay any thing, as I thought, that would advantage them; for I told her, though, perhaps, upon my Knowledge of Mr. *Oates* in his Youth, had this Diſcovery come only upon Mr. *Oates*'s Teſtimony, I might have had ſome little Doubt of it; but it was ſo corroborated with other Circumſtances that had convinced me, and I would not ſpeak any thing againſt the King's Witneſſes, when I my ſelf was ſatisfied with the Truth of the thing: And I do think truly that nothing can be ſaid againſt Mr. *Oates* to take off his Credibility; but what I tranſmitted to Mr. Attorney, I had from the Town of *Haſtings*, for which I ſerve.

L. C. J. What was in that Indictment?

Sir D. Aſhburnham. It is ſet forth, that he did ſwear the Peace againſt a Man, and at his taking his Oath did ſay, there were ſome Witneſſes that would evidence ſuch a Point of Fact, which, when they came, would not teſtify ſo much, and ſo was forſworn.

L. C. J. What was done upon that Indictment?

Sir D. Aſhburnham. They did not proceed upon it; but here is the Letter, and the Copy of the Indictment.

Mr. Serj. Baldwyn. My Lord, we deſire it may be read, and ſee what it is.

Mr. Att. Gen. It is only a Certificate, pray let it be read.

L. C. J. I do not think it Authentick Evidence.

Mr. Att. Gen. But if I conſent to it, it may be read.

L. C. J. If you will read it for the Priſoners you may, you ſhan't read it againſt them. If there be any Strain, it ſhall be in favour of the Priſoners, and not againſt them.

Mr. Att. Gen. It is nothing againſt the Priſoners, nor for them; but however, if your Lordſhip be not ſatisfied it ſhould be read, let it alone.

L. C. J. Truly, I do not think it is ſufficient Evidence, or fit to be read.

A. Ireland. I went to another, one Colonel *Shakeſby*, who was ſick, and could not come, but could have atteſted much as to this.

L. C. J. Have you any more Witneſſes?

Ireland. I have none, nor I have not time to bring them in.

L. C. J. If you have none, what time could have brought them in? But you have called a Gentleman that does come in, and truly he hath done you very great Service; you would have had him teſtified againſt Mr. *Oates*; he ſaith he hath known him ever ſince he was a Child, and

* *Sir* William Jones.

and that then he had not ſo much Credit as now he hath: And had it been upon his ſingle Teſtimony that the Diſcovery of the Plot had depended, he ſhould have doubted of it; but Mr. *Oates* his Evidence, with the Teſtimony of the Fact it ſelf, and all the concurring Evidences which he produces to back his Teſtimony, hath convinced him that he is true in his Narrative.

Sir D. Aſhburnham. Your Lordſhip is right in what I have ſpoken.

L. C. J. Have you any more Witneſſes, or any thing more to ſay for your ſelves?

Ireland. If I may produce on my own behalf Pledges of my own Loyalty, and that of my Family——

L. C. J. Produce whom you will.

Ireland. Here is my Siſter and my Mother can tell how our Relations were plundered for ſiding with the King.

L. C. J. No, I will tell you why it was; it was for being Papiſts, and you went to the King for Shelter.

Ireland. I had an Uncle that was killed in the King's Service; beſides, the *Pendrels* and the *Giffards* that were inſtrumental for ſaving the King, after the Fight at *Worceſter*, are my near Relations.

L. C. J. Why, all thoſe are Papiſts.

Pickering. My Father, my Lord, was killed in the King's Party.

L. C. J. Why then do you fall off from your Father's Virtue?

Pickering. I have not time to produce Witneſſes on my own behalf.

Ireland. I do deſire time to bring more Witneſſes.

Grove. As I have a Soul to ſave, I know nothing of this Matter charged upon me.

L. C. J. Well, have you any thing more to ſay?

Ireland. No, my Lord.

L. C. J. You of the King's Counſel, will you ſum up the Evidence?

Mr. Serj. Baldwyn. No, my Lord, we leave it to your Lordſhip.

Cl. of Cr. Crier, Make Proclamation of Silence.

Crier. O Yes! All manner of Perſons are commanded to keep Silence upon pain of Impriſonment.

Then the Lord Chief Juſtice directed the Jury thus:

L. C. J. Gentlemen, you of the Jury! As to theſe three Perſons, *Ireland*, *Pickering*, *Grove*, (the other two you are diſcharged of) One of them, *Ireland*, it ſeems, is a Prieſt. I know not whether *Pickering* be or no; *Grove* is none, but theſe are the two Men that ſhould kill the King, and *Ireland* is a Conſpirator in that Plot. They are all indicted for conſpiring the King's Death, and endeavouring to ſubvert the Government, and deſtroy the Proteſtant Religion, and bring in Popery. The main of the Evidence hath gone upon that foul and black Offence, *Endeavouring to kill the King*. The utmoſt end was, without all queſtion, to bring in Popery, and ſubvert the Proteſtant Religion; and they thought this a good means to do it, by killing the King. That is the thing you have had the greateſt Evidence of, I will ſum up the Particulars, and leave them with you.

'Tis ſworn by Mr. *Oates* expreſly, That on the 24th of *April* laſt, there was a Conſultation held of Prieſts and Jeſuits. They are the Men fit only for ſuch a Miſchief, for I know there are abundance of honeſt Gentlemen of that Perſuaſion, who could never be drawn to do any of theſe things, unleſs they were ſeduced by their Prieſts, that ſtick at nothing for their own end: He ſwears expreſly, that the Conſult was begun at the *White-Horſe* Tavern in the *Strand*; That they there agreed to murder the King; That *Pickering* and *Grove* were the Men that were to do it, who went afterwards and ſubſcribed this Holy League of theirs, and ſigned it every one at his own Lodging, *Whitebread* at his, *Ireland* at his, and *Fenwick* at his, two of which are out of the Caſe, but they are repeated to you only to ſhew you the Order of the Conſpiracy. That afterwards *Pickering* and *Grove* did agree to the ſame, and they received the Sacrament upon it as an Oath, to make all Sacred, and a Seal, to make all Secret.

Mr. *Bedlow* hath ſworn as to that particular time of killing the King by *Pickering* and *Grove*, though they were not to give over the Deſign, but there were Four that were ſent to kill the King at *Windſor*. Mr. *Oates* ſwears there was an Attempt by *Pickering* in *March* laſt, but the Flint of the Piſtol happening to be looſe, he durſt not proceed, for which he was rewarded with Penance. He ſwears there were Four hired to do it; that Fourſcore Pounds was provided for them. He ſaw the Money; and ſwears he ſaw it delivered to the Meſſenger to carry it down.

Ireland. At what time was that?

L. C. J. In *Auguſt* there was an Attempt firſt by *Pickering* and *Grove*. They then not doing of it, Four other Perſons (*Iriſh* Men) were hired to do it, and Ten Thouſand Pounds proffered to Sir *George Wakeman* to Poiſon the King. Thus ſtill they go on in their Attempts, and, That being too little, Five Thouſand Pounds more was added. This is to ſhew you the Groſs of the Plot in general; and alſo the particular Tranſactions of theſe two Murderers, *Grove* and *Pickering*, with the Conſpiracy of *Ireland*. *Bedlow* ſwears directly, that in *Auguſt* laſt, theſe three and *Harcourt*, and *Prichard*, and *Le Faire*, being all together in a Room, did diſcourſe of the Diſappointment the Four had met with in not killing the King at *Windſor*; and there the Reſolution was, the old Stagers ſhould go on ſtill, but they had one *Conyers* joined to them, and they were to kill the King then at *New-Market*. He ſwears they did agree to do it; that *Ireland* was at it; and that all three did conſent to that Reſolve. So that here are two Witneſſes that ſpeak poſitively, with all the Circumſtances of this Attempt, of the Two to kill the King, and the Confederacy of *Ireland*, all along with them. Now, I muſt tell you, there are no Acceſſaries, but all Principals, in Treaſon. It may ſeem hard, perhaps, to convict Men upon the Teſtimony of their Fellow-Offenders, and if it had been poſſible to have brought other Witneſſes, it had been well: but, in things of this Nature, you cannot expect that the Witneſſes ſhould be abſolutely ſpotleſs. You muſt take ſuch Evidence as the Nature of the thing will afford, or you may have the King deſtroyed, and our Religion too. For *Jeſuits* are too ſubtle to ſubject themſelves to too plain a Proof, ſuch as they cannot evade by Equivocation, or a flat Denial.

There is alſo a Letter produced, which, ſpeaking of the Conſult that was to be the 24th of *April*, proves that there was a Conſpiracy among them: And, although it is not Evidence to convict any one Man of them, yet it is Evidence upon Mr. *Oates*'s Teſtimony to prove the general Deſign. It is from one *Petre* to one of the Confederates, and taken amongſt *Harcourt*'s Papers, after Mr. *Oates* had given in his Teſtimony; and therein it is mentioned, That the Superior had taken care, that there ſhould be a Meeting the 24th of *April*, the Day after Saint *George*'s Day, which is the very time *Oates* ſpeaks of; and that they were not to come to Town too ſoon, that the Deſign might not be diſcovered. I would fain know what the Signification of that Clauſe may be. And then it goes farther, That it was to be kept ſecret, as the Nature of the thing doth require; which ſhews plainly there was ſuch a Tranſaction on foot. But the Reaſon I urge it for is, to ſhew you that 'tis a concurrent Evidence with Mr. *Oates*, who had never ſeen this Paper till three or four Days after his Information was given in; wherein he ſwears the Time when this Agitation was to be, and when they came to look upon the Paper, it agrees with the Time preciſely. Now they do not write in this Letter, that they intend to kill the King, but they write to caution them to keep the Deſign undiſcovered, and by that you may gueſs what they mean.

What is ſaid to all this by the Priſoners, but Denial? *Ireland* cannot deny but that he knew Mr. *Oates*, and had been in his Company ſometimes; five times, by Circumſtances, Mr. *Oates* hath proved, ſo that they were Acquaintance; and it appears plainly, there was a Familiarity between them. *Ireland* objects, that *Bedlow* charges him in *Auguſt*, when he was out of Town all that time, and that therefore the Teſtimony of one of the Witneſſes cannot be true. And, to prove this, he calls his Mother, his Siſter, and Sir *John Southcot*'s Man, and Mr. *Gifford*. His Mother and Siſter ſay expreſly, that he went out of Town the third of *Auguſt*, and the Servant ſays, that he ſaw him at St. *Albans* the fifth of *Auguſt*, and continued in his Company to the ſixteenth (ſo that as to that, there is a Teſtimony both againſt Mr. *Bedlow* and againſt Mr. *Oates*); and *Gifford* comes and ſays, he ſaw him at the latter end of *Auguſt* and beginning of *September* at *Wolverhampton*; whereas Mr. *Oates* hath ſworn, he ſaw him the twelfth of *Auguſt*, and the firſt or ſecond of *September*, and tells it by a particular Circumſtance, wherein, I muſt tell you, it is impoſſible that both Sides ſhould be true. But if it ſhould be a Miſtake only in point of Time, it deſtroys not the Evidence, unleſs you think it neceſſary to the Subſtance of the thing. If you charge one in the Month of *Auguſt* to have done ſuch a Fact, if he deny that he was in that Place at that time, and proves it by Witneſſes, it may go to invalidate the Credibility of a Man's Teſtimony, but it does not invalidate the Truth of the thing it ſelf, which may be true in Subſtance, though the Circumſtance of Time differ. And the Queſtion is, Whether the Thing be true?

Againſt this, the Counſel for the King have three that ſwear it poſitively and expreſly, That *Ireland* was here. Here is a young Maid that knew him very well, and was acquainted with him, and with his breaking up of Letters; and ſhe is one that was *Grove*'s Servant: She comes and tells you directly, That about that time, which, by Computation, was about the twelfth of *Auguſt*, ſhe ſaw him go into his own Houſe; which cannot be true, if that be true which is ſaid on the other Side; and ſhe does ſwear it upon better Circumſtances than if ſhe had barely pitch'd upon a Day; for ſhe muſt have ſatisfied me well, for what Reaſon ſhe could remember the Day ſo poſitively, ere I ſhould have believed her: But ſhe does it, remembring her going to my Lord *Arlington*'s Service, which was a Week after the King went to *Windſor*; which is ſworn to be about the thirteenth of *Auguſt*, and a Week before her going it was that ſhe ſaw *Ireland* at his own Door. What Arts they have of evading this, I know not; for as they have turn'd their Learning into Subtlety, ſo they have their Integrity too. The Study of Politicks is their Buſineſs and Art, which they make uſe of upon all Occaſions; and I find them Learned chiefly in Cunning, and very ſubtle in their Evaſions. So that you ſee, without great Difficulty, a Man cannot have from them a plain Anſwer to a plain Queſtion. But the Fact againſt them is here expreſly ſworn by two Witneſſes; if you have any reaſon to diſbelieve them, I muſt leave that to you. Sir *D. Aſhburnham*, who is produced to diſcredit Mr. *Oates*, ſays, that when he was a Child, there was little or no Credit to be given to him, and if the Matter had depended ſolely upon his Teſtimony, thoſe Irregularities of his, when a Boy, would have ſtaggered his Belief. But when the Matter is ſo accompanied with ſo many other Circumſtances, which are material things, and cannot be evaded or deny'd, it is almoſt impoſſible for any Man, either to make ſuch a Story, or not to believe it when it is told. I know not whether they can frame ſuch a one; I am ſure never a Proteſtant ever did, and, I believe, never would invent ſuch a one to take away their Lives: Therefore it is left to your Conſideration what is ſworn: The Circumſtances of ſwearing it by two Witneſſes, and what Reaſons you have to diſbelieve them.

It is moſt plain the Plot is diſcovered, and that by theſe Men; and that it is a Plot, and a villainous one, nothing is plainer. No Man of common Underſtanding, but muſt ſee there was a Conſpiracy to bring in *Popery*, and to deſtroy the *Proteſtant Religion*; and we know their Doctrines and Practices too well, to believe they will ſtick at any thing that may effect thoſe Ends. They muſt excuſe me, if I be plain with them; I would not aſperſe a Profeſſion of Men, as the Prieſts are, with hard Words, if they were not very true, and if at this time it were not very neceſſary. If they had not murdered Kings, I would not ſay they would have done ours. But when it hath been their Practice ſo to do; when they have debauched Men's Underſtandings, overturned all Morals, and deſtroy'd all Divinity, What ſhall I ſay of them? When their Humility is ſuch, that they tread upon the Necks of Emperors; their Charity ſuch, as to kill Princes; and their Vow of Poverty ſuch, as to covet Kingdoms, What ſhall I judge of them? When they have Licences to lye, and Indulgences for Falſhoods; Nay, when they can make him a Saint that dies in one, and then pray to him; as the Carpenter firſt makes an Image, and after wor-

ſhips,

ſhips it; and can then think to bring in that wooden Religion of theirs amongſt us in this Nation, What ſhall I think of them? What ſhall I ſay to them? What ſhall I do with them?

If there can be a Diſpenſation for the taking of any Oath (and diverſe Inſtances may be given of it, that their Church does Licenſe them to do ſo) it is a Cheat upon Men's Souls, it perverts and breaks off all Converſation amongſt Mankind; for how can we deal or converſe in the World, when there is no Sin, but can be indulged; no Offence ſo big, but they can pardon it, and ſome of the blackeſt be accounted meritorious? What is there left for Mankind to lean upon, if a Sacrament will not bind them (unleſs it be to conceal their Wickedneſs)? If they ſhall take Teſts and Sacraments, and all this under colour of Religion be avoided, and ſignify nothing, what is become of all Converſe? How can we think Obligations and Promiſes between Man and Man ſhould hold, if a Covenant between God and Man will not?

We have no ſuch Principles nor Doctrines in our Church, we thank God. To uſe any Prevarication in declaring of the Truth, is abominable to natural Reaſon, much more to true Religion; and 'tis a ſtrange Church that will allow a Man to be a Knave. 'Tis poſſible ſome of that Communion may be ſaved, but they can never hope to be ſo in ſuch a Courſe as this. I know they will ſay, That theſe are not their Principles, nor theſe their Practices, but they preach otherwiſe, they print otherwiſe, and their Councils do determine otherwiſe.

Some hold, that the *Pope* in Council is *Infallible*; and aſk any *Popiſh Jeſuit* of them all, and he will ſay the *Pope* is *Infallible* himſelf *in Cathedra*, or he is no right *Jeſuit*. And if ſo, whatever they command, is to be juſtified by their Authority; ſo that if they give a Diſpenſation to kill a King, that King is well killed. This is a Religion that quite unhinges all Piety, all Morality, and all Converſation, and to be abominated by all Mankind.

They have ſome Parts of the Foundation, 'tis true; but they are adulterated, and mixt with horrid Principles, and impious Practices. They eat their God, they kill their King, and Saint the Murderer. They indulge all ſorts of Sins, and no human Bonds can hold them.

They muſt pardon me if I ſeem ſharp, for a *Papiſt* in *England* is not to be treated as a *Proteſtant* ought to be in *Spain*: And if ye aſk me why? I'll give you this Reaſon, We have no ſuch Principles nor Practices as they have. If I were in *Spain*, I ſhould think my ſelf a very ill Chriſtian, ſhould I offer to diſturb the Government of the Place where I lived, that I may bring in my Religion there. What have I to do to undermine the Tranquility and Peace of a Kingdom, becauſe all that dwell in it are not of my particular Perſuaſion?

They do not do ſo here, there is nothing can quench the Thirſt of a *Prieſt* and a *Jeſuit*, not the Blood of Men; not of Any, if he can but propagate his Religion, which in truth is but his Intereſt.

They have not the Principles that we have, therefore they are not to have that common Credence, which our Principles and Practices call for.

They are not to wonder, if they keep no Faith, that they have none from others; and let them ſay what they will, that they do not own any ſuch things as we charge upon them, and are like to go hard with them; for we can ſhew them out of their own Writings and Councils, that they do juſtify the Power of the Pope in Excommunicating Kings, in Depoſing them for Hereſy, and Abſolving their Subjects from their Allegiance. And the Claim of Authority both of Pope and Council, is the ſureſt Foundation they build upon.

I have ſaid ſo much the more in this Matter, becauſe their Actions are ſo very plain and open, and yet ſo pernicious; and 'tis a very great Providence, that we, and our Religion, are delivered from Blood and Oppreſſion. I believe our Religion would have ſtood, notwithſtanding their Attempts, and I would have them to know we are not afraid of them; nay, I think we ſhould have maintained it, by deſtroying of them. We ſhould have been all in Blood, 'tis true, but the greateſt Effuſion would have been on their Side; and without it, How did they hope it ſhould have been done? There are honeſt Gentlemen, I believe Hundreds, of that Communion, who could not be openly won upon to engage in ſuch a Deſign. They will not tell them that the King ſhall be killed; but they will inſinuate unto them, that he is but one Man, and if he ſhould die, it were fit they were in readineſs to promote the Catholick Religion; and when it comes to that, they know what to do. When they have got them to give Money to provide Arms, and be in Readineſs on their ſpecious Pretence, then the Jeſuits will quickly find them Work. One Blow ſhall put 'em to exerciſe their Arms; and when they have killed the King, the Catholick Cauſe muſt be maintained.

But they have done themſelves the Miſchief, and have brought Miſery upon their whole Party, whom they have enſnared into the Deſign, upon other Pretences than what was really at the bottom. A Popiſh Prieſt is a certain Seducer, and nothing ſatisfies him; not the Blood of Kings, if it ſtands in the way of his Ambition. And I hope they have not only undeceived ſome Proteſtants, whoſe Charity might incline them to think them not ſo bad as they are; but I believe they have ſhaken their Religion in their own Party here, who will be aſhamed in time that ſuch Actions ſhould be put upon the Score of Religion.

I return now to the Fact, which is proved by two Witneſſes, and by the concurrent Evidence of the Letter and the Maid; and the Matter is as plain and notorious as can be, That there was an Intention of bringing in Popery by a cruel and bloody Way; for I believe they could never have Prayed us into their Religion. I leave it therefore to you to conſider, whether you have not as much Evidence from theſe two Men, as can be expected in a Caſe of this Nature; and whether Mr. *Oates* be not rather juſtified by the Teſtimony offered againſt him, than diſcredited. Let Prudence and Conſcience direct your Verdict, and you will be too hard for their Art and Cunning.

Gentlemen, If you think you ſhall be long, we will Adjourn the Court till the Afternoon, and take your Verdict then.

Jury. No, my Lord, we ſhall not be long.

Then an Officer was Sworn to keep the Jury ſafe, according to Law, and they withdrew to conſider of their Verdict.

After a very ſhort Receſs, the Jury returned, and the Clerk of the Crown ſpake to them thus:

Cl. of Cr. Gentlemen, Anſwer to your Names. Sir *William Roberts.*

Sir W. Roberts. Here. *And ſo of the reſt.*

Cl. of Cr. Gentlemen, Are you all agreed in your Verdict?

Omnes. Yes.

Cl. of Cr. Who ſhall ſay for you?

Omnes. The Foreman.

Cl. of Cr. Set *William Ireland* to the Bar. *William Ireland*, hold up thy Hand. Look upon the Priſoner, How ſay you, is he Guilty of the High-Treaſon whereof he ſtands Indicted, or Not Guilty?

Foreman. Guilty.

Cl. of Cr. What Goods and Chattels, Lands or Tenements?

Foreman. None to our knowledge.

Cl. of Cr. Set *Thomas Pickering* to the Bar. *Tho. Pickering*, hold up thy Hand. Look upon the Priſoner, How ſay you, is he Guilty of the ſame High-Treaſon, or Not Guilty?

Foreman. Guilty.

Cl. of Cr. What Goods or Chattels, Lands or Tenements?

Foreman. None to our knowledge.

Cl. of Cr. Set *John Grove* to the Bar. *John Grove*, hold up thy Hand. Look upon the Priſoner. How ſay you, is he Guilty of the ſame High-Treaſon, or Not Guilty?

Foreman. Guilty.

Cl. of Cr. What Goods or Chattels, Lands or Tenements?

Foreman. None to our knowledge.

Cl. of Cr. Hearken to your Verdict, as the Court hath recorded it. You ſay that *William Ireland* is Guilty of the High-Treaſon whereof he ſtands indicted. You ſay that *Thomas Pickering* is Guilty of the ſame High-Treaſon. You ſay that *John Grove* is Guilty of the ſame High-Treaſon. And for them you have found Guilty, you ſay, That they, nor any of them, had any Goods or Chattels, Lands or Tenements, at the time of the High-Treaſon committed, or at any time ſince, to your knowledge. And ſo you ſay all.

Omnes. Yes.

L. C. J. You have done, Gentlemen, like very good Subjects, and very good Chriſtians, that is to ſay, like very good Proteſtants: And now much good may their Thirty Thouſand Maſſes do them.

Then the Court adjourned by Proclamation till Four in the Afternoon.

In the Afternoon the ſame Day.

About Five of the Clock Mr. Recorder *and a ſufficient Number of the Juſtices returned into the Court, the Judges being departed home; and Proclamation was made for Attendance, as in the Morning.*

Then the Clerk of the Crown called for the Priſoners Convicted of High-Treaſon, and ſpoke to each of them thus:

Cl. of Cr. Set *William Ireland* to the Bar. *William Ireland*, hold up thy Hand. Thou ſtandeſt Convicted of High-Treaſon; what canſt thou ſay for thy ſelf, why the Court ſhould not give thee Judgment to die according to Law?

Ireland. My Lord, I repreſented all along from the beginning, that we had not time to call in our Witneſſes to juſtify our Innocence.

Recorder. If you have any thing to ſay in ſtay of Judgment, you have all free liberty to ſay it.

Ireland. We had no time allowed us to bring in our Witneſſes, ſo that we could have none, but only thoſe that came in by chance; and thoſe things they have declared, though true, were not believed.

Mr. Recorder. Theſe things, Mr. *Ireland*, you did not object before the Jury gave their Verdict; now they have given their Verdict, and found you Guilty, if you have any thing to ſay to the Court why they ſhould not proceed to Judgment according to that Verdict, you may ſpeak it; but for theſe things it is too late.

Ireland. My Lord, I only have this to ſay, I deſire more time to be heard again, and to call in my Witneſſes.

Recorder. Call the Executioner to do his Office.

Ireland. There are Teſtimonies, my Lord, that I could produce of my Loyalty, and my Relations Fidelity to the King.

Mr. Recorder. I believe, Mr. *Ireland*, it will be a Shame to all your Relations that have been Loyal to the King, that you ſhould be privy to the Murder of that good King whom your Relations ſo well ſerved; and therefore if that be all that you have to ſay, it will ſignify nothing.

The Executioner not appearing, the Sheriff of *Middleſex* was called to come into Court, and give Attendance, upon Pain of 40*l.* But the Executioner coming in, was, with a Reproof from the Recorder for his Negligence, commanded to tie him up, which he did.

Cl. of Cr. Set *Thomas Pickering* to the Bar.

Thomas Pickering, hold up thy Hand. Thou art in the ſame caſe with the Priſoner laſt before thee; what canſt thou ſay for thy ſelf, why the Court ſhould not give thee Judgment to die according to Law?

Mr. Recorder. What does he ſay for himſelf?

Capt. *Richardſon.* He has nothing to ſay.

Mr. Recorder. Then tie him up.

Cl. of Cr. Set *John Grove* to the Bar.

John Grove, hold up thy Hand. Thou art in the ſame caſe with the Priſoner laſt before thee, what canſt thou ſay for thy ſelf, why the Court ſhould not give thee Judgment to die according to Law?

Grove. I am as innocent as the Child unborn.

Cl. of Cr. Tie him up—Which was done.

Cl of Cr. Criers on both ſides, make Proclamations.

Criers. O yes! All manner of Perſons are commanded to keep ſilence whilſt Judgment is giving, upon Pain of Impriſonment: Peace about the Court.

Mr. Recorder. Where is the Keeper? Shew me the Priſoners, *William Ireland*, *Thomas Pickering*, and *John Grove*.

Capt. *Richardſon.* Thoſe are the three.

Mr. Recorder. You, the Priſoners at the Bar, You have been arraigned for a very great Offence, the greateſt that can be committed againſt any Authority upon Earth, for High-Treaſon againſt your King, with all the Aggravations that poſſibly can attend ſo great a Crime as that is; for you did not only ſtrike at the Life of the beſt of Kings, but you intended the Subverſion of the beſt of Religions. Whatever you may apprehend, yet all Men that will lay their hopes of Salvation upon any thing that is fit for a Man to lay his hopes upon, which is upon the Merits of a crucified Saviour, and not upon your Maſſes, Tricks or Trumperies, do abhor the thoughts of promoting their Religion by maſſacring Kings, and murdering their Subjects. And though we whom you call Hereticks, abhor to own any ſuch Religion; yet we are not afraid to tell you, and all others who are enſnared into your Principles, we will maintain the Religion and the Government as it is eſtabliſhed, with our Lives and Fortunes. And it is fit that it ſhould be known, that we who live under the Government of ſo mild and pious a Prince, and in a Country where ſo good, ſo moderate a Religion is eſtabliſhed by Law, will not be affrighted by all your Murders, Conſpiracies and Deſigns, from declaring, that they who dare kill Kings, and maſſacre their Subjects, are the higheſt Violators, not only of the Laws of the Land, but of that great Law which all good Chriſtians and Proteſtants think themſelves obliged to pay great Reverence and Obedience to, I mean the Law of God Almighty himſelf.

Thus I ſpeak to you, Gentlemen, not vauntingly, 'tis againſt my Nature to inſult upon Perſons in your ſad Condition; God forgive you for what you have done, and I do heartily beg it, though you don't deſire I ſhould for; poor Men, you may believe that your Int[illegible]t in the World to come is ſecured to you by your Maſſes, but do not well conſider that vaſt Eternity you muſt ere long enter into, and that great Tribunal you muſt appear before, where his Maſſes (ſpeaking to *Pickering*) will not ſignify ſo many Groats to him, no not one Farthing. And I muſt ſay it for the ſake of thoſe ſilly People whom you have impoſed upon with ſuch Fallacies, That the Maſſes can no more ſave thee from a future Damnation, than they do from a preſent Condemnation.

I do not ſpeak this to you, as intending thereby to inveigh againſt all Perſons that profeſs the *Romiſh* Religion; for there are many that are of that Perſuaſion, that do abhor thoſe baſe Principles of murdering Kings and ſubverting Governments. There are many honeſt Gentlemen in *England*, I dare ſay, of that Communion, whom none of the moſt impudent Jeſuits durſt undertake to tempt into ſuch Deſigns; theſe are only to be impoſed upon ſilly Men, not upon Men of Conſcience and Underſtanding. And I pray God, as was ſaid lately by a learned Gentleman whom we all knew, that all Proteſtants may be as ſafe from the force of your Daggers, as they are from thoſe of your Arguments; for I dare ſay, that you could ſooner Murder any Man that underſtands the Proteſtant Religion, than perſuade him to ſuch Villanies. And among thoſe many things which prevailed with the honeſt Gentlemen of the Jury to convict you of this horrid Crime, they could not but take notice, that you (ſpeaking to *Ireland*) that do pretend to Learning, did ſend into Foreign Parts, that your Fellow-Jeſuits ſhould take care publickly to Preach, That the Oaths of Allegiance and Supremacy, by which the Common Juſtice of the Nation is preſerved, ſignified nothing; which is a ſtrong Evidence of your Deſign, not only to Murder the King, but ſubvert the Government; for ſurely the moſt probable way to do that, is to aſperſe thoſe Oaths by which all Proteſtant Subjects, thoſe whom you call Hereticks, lie under an Obligation of Obedience to their Prince. And I think it not unfit to tell you, that you had a great Favour ſhewed to you to be tried only for the Matters contained in this Indictment; for you that are Prieſts muſt know, that there is a Law in the Land, that would have hang'd you for your very Reſidence here; for if any Subject born in *England* ſhall take Orders from the See of *Rome*, and afterwards come into *England*, and remain there 40 Days, ſuch, for that Offence alone, are made Traitors by Act of Parliament. But you are ſo far from being under any Awe of that Law or Submiſſion to it, that you dare not only come to live here in deſpite thereof, but endeavour what you can to overthrow both it, and the Government itſelf. You dare conſpire to Murder the King; nay not only ſo, but you dare make your Conſults thereof publick. You dare write your Names to thoſe Conſults. You dare ſolicit all your Party to do the like, and make all the Ties of Religion and Conſcience (that to Conſidering Chriſtians are Obligations to Piety and Charity) as Engagements either to act your Villanies, or to conceal them. We think no Power can diſpenſe with us, whom you call Hereticks, to falſify our Oaths, much leſs to break our Covenant with God in the holy Sacrament. But you, inſtead of making that a Tie and Obligation to engage you to the Remembrance of our Saviour, make it a Snare and a Gin to oblige your Proſelytes to the Aſſaſſinating Kings, and murdering their Subjects. I am ſorry with all my Soul, that Men who have had their Education here, and the benefit of the good Examples of others, ſhould not only be led into ſuch miſchievous Principles themſelves, but to be of that confidence in their Perſuaſion, as to dare to debauch others alſo. I am ſorry alſo to hear a Lay-man ſhould with ſo much Malice declare, That a Bullet, if round and ſmooth, was not ſafe enough for him to execute his Villanies by; but he muſt be ſure, not only to ſet his Poiſonous Invention on work about it, but he muſt add thereto his Poiſonous Teeth; for fear if the Bullet were ſmooth, it might light in ſome Part where the Wound might be cured. But ſuch is the height of ſome Mens Malice, that they will put all the Venom and Malice they can into their Actions. I am ſure this was ſo horrid a Deſign, that nothing but a Conclave of Devils in Hell, or a College of ſuch Jeſuits as yours on Earth, could have thought upon.

This I remember to you for the ſake of them that are to live, and for the Charity I have for you who are to die: For the ſake of them that are to live; for I hope when they hear, that Men of your Perſuaſion dare commit thoſe outrageous Crimes, and juſtify them by a Principle of Religion, they will not eaſily be ſeduced into your Opinion: And out of Charity to you that are to die, to perſuade you to hearty Repentance; for otherwiſe, I muſt tell you, thy 1500*l.* (ſpeaking to *Grove*) nor thy 30,000 Maſſes (ſpeaking to *Pickering*) will avail but little. And I thought fit to ſay this alſo, that it may be known that you have had the full Benefit of the Laws Eſtabliſhed in *England*, and thoſe the beſt of Laws; for ſuch is not the Law of other Nations: For if any Proteſtant in any Place where the *Romiſh* Religion is profeſt, had been but thought Guilty of ſuch Crimes, he had never come to the Formality and Juſtice of an Arraignment, and to be tried by his Peers, permitted to make his Defence, and hear what could be ſaid againſt him; but he had been hang'd immediately, or perhaps ſuffer'd a worſe Death. But you are not only beholden to the happy Conſtitution of our Laws, but to the more happy Conſtitution of our Religion. For ſuch are the admirable Documents of that Religion we in *England* profeſs, That we dare not requite Maſſacre for Maſſacre, Blood for Blood. We diſown and abhor all Stabbing; and we are ſo far from reckoning that he ſhall be a Saint in Heaven for Aſſaſſinating a Prince, and be pray'd to in another World, that the Proteſtant is required to believe, that ſuch as begin with Murder, muſt end with Damnation, if our bleſſed Lord and Saviour do not interpoſe; nothing that Man can do, Papiſt or Proteſtant, can ſave any Man in ſuch a caſe. We dare not ſay that our Religion will permit us to Murder Diſſenters, much leſs to Aſſaſſinate our King.

And having thus ſaid, let me once more as a Chriſtian, in the name of the great God of Heaven, beg of you for your own Souls ſake, be not ſatisfied or over-perſuaded with any Doctrine that you have Preached to others, or imbibed from others; but believe, that no one can contrive the Death of the King, or the Overthrow of the Government, but the great God of Heaven and Earth will have an account of it. And all Pardons, Abſolutions, and the Diſpenſations that you who are Prieſts can give to your Lay-Brother, or that any of your Superiors may give to you, will not ſerve the turn.

I know not, but as I ſaid, you may think I ſpeak this to inſult, I take the great God of Heaven to Witneſs, that I ſpeak it with Charity to your Souls, and with great Sorrow and Grief in my own Heart, to ſee Men that might have made themſelves happy, draw upon themſelves ſo great a Ruin. But ſince you have been ſo fairly Heard, ſo fairly Tried and Convicted, there is but little more to be ſaid; for I muſt tell you, becauſe it may not be thought that you had not free Liberty to make your full Defence, though that Gentleman (ſpeaking to *Ireland*) ſeemed to be ſurpriz'd, he had a kind Siſter, that took care for to bring his Witneſſes; I am ſo far from blaming her for it, that I do commend her, it was the effect of her Good-nature, and deſerves Commendation; but ſpeak to this Purpoſe, to ſhew that there was no Surpriſe upon him, nor his Life taken away by any ſuch thing; for he had a greater Favour ſhew'd to him than is uſually ſhewn to ſuch Offenders.

And having thus ſaid to you myſelf, we do alſo require him whoſe Duty it is to attend in ſuch Caſes, nay, I do Command him in the Name of the Court, that he attend upon you to give you all the comfortable Aſſiſtance that he can for the advantage of your future State: And not only ſo, but we will certainly take care, that if you will have any others come to you, they ſhall. I would not be miſtaken, I do not mean any of your Prieſts and Jeſuits; but if you will have the Aſſiſtance of any Proteſtant Divines, they ſhall not be deny'd you. And I hope God Almighty will pleaſe to give you Pardon in another World, though you have offended beyond hopes of any in this. I once more aſſure you, all I have ſaid is in perfect Charity. I pray God forgive you for what you have done. And ſo there remains now only for me to pronounce that Sentence which by the Law of the Land the Court is required to do againſt Perſons Convicted of that Offence which you are Convicted of.

This Court doth therefore award, *That you, the Priſoners at the Bar, be conveyed from hence to the Place from whence you came, and from thence that you be drawn to the Place of Execution upon Hurdles, that there you be ſeverally hanged by the Neck, that you be cut down alive, that your privy Members be cut off, and your Bowels taken out, and burnt in your view, that your Heads be ſevered from your Bodies, that your Bodies be divided into Quarters, and thoſe Quarters be diſpoſed of at the King's Pleaſure: And the God of infinite Mercy be merciful to your Souls.*

Then the Priſoners were conveyed back to the Goal by the Keeper of the Goal, according to Cuſtom; and the Commiſſion was called over, and the Priſoners taken Order for according to Law. And the Court adjourned by Proclamation thus:

Cl. of Cr. Crier, make Proclamation.

Crier. *O Yes, O Yes, O Yes! All Manner of Perſons that have any thing more to do at this General Seſſions of the Peace holden for the City of* London, *may depart hence for this time, and give their Attendance at the* Guildhall, London, *on* Friday *the* 10*th Day of* January *next, at Seven of the Clock in the morning. And all Manner of Perſons at this Seſſions of* Oyer *and* Terminer, *and Goal-delivery of* Newgate, *holden for the City of* London *and County of* Middleſex, *may depart hence for this time, and give their Attendance here again on* Wedneſday *the* 15*th Day of* January, *at Seven of the Clock in the Morning.* God ſave the King.

And then the Court broke up.

On *Friday* the 24th of *January* following, *William Ireland* and *John Grove* were drawn from *Newgate* on an Hurdle to *Tyburn*, where they were executed according to their Sentence; but the Execution of *Thomas Pickering* was reſpited for ſo long a time, that it occaſioned an Addreſs of the Houſe of Commons, *April* 27, 1679, "That his Majeſty would be "pleaſed to order the Execution of one *Pickering*, a Priſoner in *New-*"*gate*, and of divers Prieſts and Jeſuits, who had been condemned by the "Judges at the *Old Baily* and in the ſeveral Circuits, but did remain as "yet unexecuted, to the great emboldening of ſuch Offenders, in caſe "they ſhould eſcape without due Puniſhment." To which the King returned this Anſwer: "Gentlemen, I have always been tender in Matters "of Blood, which my Subjects have no Reaſon to take Exceptions at: "But this is a Matter of great Weight, I ſhall therefore conſider of it, "and return you an Anſwer."

May 25, The King ſent a Meſſage to the Houſe, by Lord *Ruſſel*, to let them know, that he would comply with their Requeſt concerning *Pickering*, and that the Law ſhould paſs upon him.

He was accordingly executed in Purſuance of his Sentence.

LXXVII. *The Trial of the Lord* Cornwallis, *before the Lords at* Weſtminſter, *for the* Murder *of* Robert Clerk, 1678. 30 Car. II.

AFTER my Lord High Steward* was aſcended to the High Chair of State, and ſat down therein, the Commiſſion was delivered by the Clerk of the Crown in the Chancery, to my Lord, on his Knees, who delivered it to Sir *Thomas Fanſhaw*, Clerk of the Crown in the *King*'s-*Bench* Office, and he received it kneeling.

Then Proclamation was made by the Serjeant at Arms, who was Crier for the Day.

Serjeant. O Yes, O Yes, O Yes! My Lord High Steward of *England* ſtrictly chargeth and commandeth all Manner of Perſons here preſent, upon Pain of Impriſonment, to keep Silence, and give Ear to his Majeſty's Commiſſion, To my Lord High Steward of *England*, to his Grace directed.

The Clerk of the Crown, with his Face to my Lord High Steward, reads it thus:

Clerk of the Crown. Charles Rex Carolus Secundus, &c.

All which time my Lord and the Peers ſtood up bare.

Serjeant. God ſave the King.

Cl. Cr. Make Proclamation.

Serjeant. O Yes! The King at Arms, and the Uſher of the Black Rod, on their Knees, deliver the White Staff to my Lord, who re-delivered it to the Uſher of the Black Rod, who held it up all the time before him.

Cl. Cr. Make Proclamation.

Serjeant. O Yes! My Lord High Steward of *England* ſtrictly chargeth and commandeth all Juſtices and Commiſſioners, and all and every Perſon and Perſons to whom any Writ or Precept hath been directed for the certifying of any Indictment, or of any other Record before my Lord High Steward of *England*, to certify and bring the ſame immediately, according to the Tenor of the ſaid Writs and Precepts unto them, or any of them directed, on Pain and Peril as ſhall fall thereon.

The Lord Chief Juſtice of the *King*'s-*Bench* returned his *Certiorari*, and the Record of the Indictment by the Grand Jury of *Middleſex*, which was read by the Clerk of the Crown *in hæc verba*.

Cl. Cr. Virtute, &c.

L. H. Stew. Call the Conſtable of the *Tower* to return his Precept and his Priſoner.

Cl. Cr. Make Proclamation.

Serjeant. O Yes! Conſtable of the *Tower* of *London*, return the Precept to thee directed, and bring forth the Priſoner *Charles* Lord *Cornwallis*, on Pain and Peril as will fall thereon.

The Lord Lieutenant of the *Tower* brought in the Priſoner, on his Left-hand, with the Ax before him, borne by the Deputy-Lieutenant, which he held with the Edge from him, and returned his Precept *in hæc verba*.

Cl. Cr. Virtute, &c.

L. H. Stew. Call the Serjeant at Arms to return his Precept.

Cl. Cr. Make Proclamation.

Serjeant. O Yes! *Roger Harſnet*, Eſq; Serjeant at Arms to our Sovereign Lord the King, return the Precept to thee directed, with the Names of all the Lords and Noblemen of this Realm, Peers of *Charles* Lord *Cornwallis*, by thee ſummoned, to be heard this Day, on Pain and Peril as will fall thereon.

He delivered his Precept returned with a Schedule annexed thus:

Cl. Cr. Virtute, &c. Make Proclamation.

Serjeant. O Yes! All Marquiſſes, Earls, Viſcounts, and Barons of this Realm of *England*, Peers of *Charles* Lord *Cornwallis*, which by Commandment of the Lord High Steward of *England* are ſummoned to appear this Day, and to be preſent in Court, anſwer to your Names, as you are called, every one upon Pain and Peril as will fall thereon.

Then the Pannel was called over; the Number of Peers ſummoned were 35, in order as followeth:

Thomas Earl of *Danby*, Lord High Treaſurer of *England*, &c.

All that appeared, anſwered to the Call, ſtanding up bare.

Then my Lord High Steward made a Speech to the Priſoner at the Bar, thus:

Lord High Steward. 'My Lord *Cornwallis*, The Violation of the King's 'Peace, in the chief Sanctuary of it, his own Royal Palace, and in ſo 'high a Manner as by the Death of one of his Subjects, is a Matter 'that muſt be accounted for. And that it may be ſo, it hath pleaſed the 'King to command this high and Honourable Court to aſſemble, in order to a ſtrict and impartial Enquiry.

'The Wiſdom of the Law hath therefore ſtyled it the King's Peace, 'becauſe it is his Authority that commands it, it is his Juſtice that ſecures it, it is he on whom Men do rely for the Safety of their Liberties 'and their Lives; in him they truſt that a ſevere Account ſhall be taken 'of all the Violences and Injuries that are offered to them, and they that 'truſt in the King can never be deceived.

'It is your Lordſhip's great Unhappineſs at this time to ſtand Priſoner 'at the Bar, under the Weight of no leſs a Charge than an Indictment 'of Murder; and it is not to be wondered at, if ſo great a Misfortune as 'this be attended with ſome Kind of Confuſion of Face; when a Man 'ſees himſelf become a Spectacle of Miſery in ſo great a Preſence, and before ſo noble and ſo illuſtrious an Aſſembly. But be not yet diſmayed, 'my Lord, for all this; let not the Fears and Terrors of Juſtice ſo 'amaze and ſurprize you, ſo as to betray thoſe Succours that your Reaſon would afford you, or to diſarm you of thoſe Helps which good Diſcretion may adminiſter, and which are now extremely neceſſary.

'It is indeed a dreadful thing to fall into the Hands of Juſtice, where 'the Law is the Rule, and a ſevere and inflexible Meaſure both of Life 'and Death. But yet it ought to be ſome Comfort to your Lordſhip, 'that you are now to be tried by my Lords your Peers; and that now 'you ſee the Scales of Juſtice are held by ſuch noble Hands, you may be 'confident they will put into them all the Grains of Allowance, either 'Juſtice or Honour will bear.

'Hearken therefore to your Indictment with Quietneſs and Attention; 'obſerve what the Witneſſes ſay againſt you without Interruption; and 'reſerve what you have to ſay for yourſelf, till it ſhall come to your Turn 'to make your Defence, of which I ſhall be ſure to give you Notice; 'and when the Time comes, aſſure yourſelf you ſhall be heard, not only 'with Patience, but with Candor too.

'And then what Judgment ſoever my Lords will give you, yourſelf 'will (and all the World) be forced to acknowledge the Juſtice and 'Equity of their Judgment, and the Righteouſneſs of all their Lordſhips 'Proceedings.'

Read the Indictment.

Cl. Cr. Charles *Lord* Cornwallis, *Thou ſtandeſt indicted in the County of* Middleſex, *by the Name of*, &c. How ſayeſt thou, *Charles* Lord *Cornwallis*, Art thou guilty of this Felony and Murder whereof thou ſtandeſt indicted, or Not guilty?

Lord Corn. Not Guilty.

Cl. Cr. How wilt thou be tried?

Ld. Corn. By God and my Peers.

Then my Lord High Steward addreſſed himſelf to the Lords thus:

L. H. Stew. 'My Lords, Your Lordſhips have here a Member before 'you of your Noble Body, expoſed to the Shame of a publick Arraignment, and (which to a Man of Honour is much leſs) to the Hazard 'both of his Life and Eſtate. All that he hath, and ever hopes to have, 'his Wealth, his Fame, his Poſterity; all that is valuable to him in this 'World, entirely depends on your Lordſhips Judicature, who are now 'his Peers, and on whom he doth freely put himſelf.

'My Lords, The Privilege of this Kind of Trial and Judicature, is a 'Part of the true Greatneſs of the *Engliſh* Nobility: It is an eminent and 'an Illuſtrious Privilege. It is a ſolid Point of Honour and Dignity. 'It is a Privilege that no Neighbour Nation ever had, and a Privilege 'this Nation never was without.

'It is not a Privilege created by the Great Charter, but confeſt and 'acknowledged by it. They look but a little Way that find this in the 'Steps of the *Norman* Conqueſt; for it is to be found even in the Foot-ſteps of the *Saxon* Monarchy, when *Godwin* Earl of *Kent* was tried by 'Earls and Barons. And it is no improbable Conjecture of theirs, who 'do think the Wiſdom of this Conſtitution was taken from that Law 'amongſt the *Romans*, whereby it was made unlawful for any Man to ſit 'upon a Senator, that was not himſelf of the ſame Order; a Privilege, 'that (as learned Civilians tell us) continued with them during the 'Reign of many of the *Roman* Emperors. But, my Lords, as this is a 'Privilege as ancient as Monarchy, ſo we have found by many old Experiences, that it cannot be taken away without the Diſſolution of that 'Government: Therefore this is one of thoſe many Ties by which the 'Intereſt of the Nobility, as well as their Duty, have obliged them to 'the Service of the King.

'In the Exerciſe of this Privilege at this time; I know your Lordſhips 'will weigh the Fact with all the Circumſtances, whereby it is to receive its true and its proper Doom. Your Lordſhips are too juſt, to let 'Pity make any Abatement for the Crime, and too wiſe to let Rhetorick 'make any Improvement of it: This only will be neceſſary to be obſerved by all your Lordſhips, that the fouler the Crime is, the clearer 'and the plainer ought the Proof of it to be. There is no other good 'Reaſon can be given, why the Law refuſeth to allow the Priſoner at the 'Bar Counſel in Matter of Fact, when his Life is concerned, but only 'this, Becauſe the Evidence by which he is condemned ought to be ſo 'very evident and ſo plain, that all the Counſel in the World ſhould not 'be able to anſwer upon it: Upon this Ground it is, that the Law hath 'truſted your Lordſhips with the Trial of your Fellow Peers; no Truſt 'can be more nobly lodged, nor no Judicature had ever more true Submiſſion made to it: Therefore it would be in me ſome want of Reſpect 'to this auguſt and Noble Aſſembly, ſhould I go about to put your Lordſhips in Mind of your Duty: No doubt you will obſerve the Evidence 'carefully, weigh it diligently, and when that is done, it is impoſſible 'but the Judgment you will give muſt be right and honourable, and 'worthy of ſo wiſe and ſo great a Body. Therefore I will not detain 'your Lordſhips any longer from hearing the Evidence that is ready to 'be offered unto you.'

Cl. of Cr. Make Proclamation.

Serj. O Yes! If any will give Evidence for our Sovereign Lord the King, againſt *Charles* Lord *Cornwallis*, Priſoner at the Bar, let him come forth, and he ſhall be heard; for the Priſoner ſtands at the Bar upon his Deliverance.

The Indictment was again read to the Peers.

Serjeant *Maynard.* May it pleaſe your Grace, my Lord High Steward of *England*, and this great and Noble Aſſembly: The Priſoner at the Bar, *Charles* Lord *Cornwallis*, ſtandeth indicted of a great Crime, that he, together with *Charles Gerrard* and *Edward Bourne*, not having in his Heart the Fear of God, but inſtigated by the Suggeſtions of the Devil, the 18th of *May* laſt, did felonioufly and of his Malice forethought, aſſault one *Robert Clerk* in *Whitehall*, and that Mr. *Gerrard* took him up in his Arms, flung him down, and broke his Neck, of which he inſtantly died. To this he hath pleaded Not Guilty. It lies upon us who are Counſel for the King, in this Caſe to proſecute it, and prove it to you.

* *Mr. Attorney General.* May it pleaſe your Grace, my Lord High Steward of *England*, and my Lords ſummoned for the Trial of the Priſoner at the Bar: This Noble Lord

* *Sir* William Jones.

* *Earl of* Nottingham.

ſtands

ſtands Indicted for Murder; an Offence, my Lord, which is the firſt and greateſt that is forbidden by the ſecond Table, and an Offence of that nature, that the Law of God hath by a moſt peremptory Sentence condemned and decreed, that whoſo ſheddeth Man's Blood, by Man ſhall his Blood be ſhed. Whether this Noble Lord be guilty of it, remains upon your Lordſhips to try, and I ſhall very ſhortly ſtate the Matter of Fact, which we ſhall prove, and then let the Evidence be offered to you. We do not pretend, my Lords, neither doth the Indictment lay it, that this great Offence was committed by the Hand of my Lord *Cornwallis*.

For I know your Lordſhips have obſerved the Indictment, by which it is alledged, that the Hand of Mr. *Gerrard* did the Fact: But, my Lords, if we ſhall make it out that my Lord *Cornwallis* did concur to this Act, and had in himſelf at that time an Intent to be a Murderer, then it will be declared by his Grace, my Lord High Steward, and my Lords the Judges, that tho' his Hand did it not, yet he is equally guilty as if it had.

Now, to make out the Charge againſt him, our Evidence will be ſhortly thus:

On the 18th of *May* laſt, early in the Morning, between the Hours of One and Two, came down two Gentlemen with three Footmen behind them, out of the Gallery at *Whitehall*, by the Stairs that lead down to the Park: I call them two Gentlemen, becauſe it was not then diſcovered who they were, or of what Quality; but your Lordſhips will perceive, by the courſe of the Evidence, they were my Lord *Cornwallis* and Mr. *Gerrard*, coming down at that unſeaſonable Hour. The firſt Queſtion they aſk'd the Centinel (who watch'd at the Foot of the Stairs), was the Hour of the Night; and from him had account that it was ſo much.

The Priſoner and Mr. *Gerrard* were ſomewhat diſtemper'd with Drink, and made him a Reply that he Lyed, with great Oaths accompanying it. At that time they did no more but go by him into the Park, where, after they had continued by the ſpace of an Hour, back they return'd to the Stairs, and the Centinel demanding, according to his Duty, Who came there? they anſwered him in very obſcene and uncivil Language, and threatened they would kill the Centinel, who only did his Duty in enquiring who came by him at that time of Night. And we ſhall make it appear, they were in a kind of Contention among themſelves who ſhould kill him; for as I am inform'd, (I know if it be not prov'd, your Lordſhips will obſerve it) one deſired, *Pray let me kill him*; and the other deſired, *Pray let me kill him*; and threatened no leſs than to run him through.

My Lords, the Centinel being of good Reſolution, was not affrighted from his Place, but kept them off; and when they ſaw they could not win upon the Centinel that way, one of them delivered away his Sword, which he held in his hand not drawn, and then was pleaſed to come to the Centinel, and deſired to kiſs him, and ſwore he would do that: but that the Centinel did equally refuſe; and then they did uſe the ſame Threatenings again, and ſeemed to be in a Contention who ſhould run him through. My Lords, after ſome time, being now come to the top of the Stairs, and there ſtaying, it happen'd there came to the Stair-foot two Youths, and theſe young Men were, it ſeems, going to Bed in their Lodging, which was very near, and did make it their Requeſt to the Centinel (one of them did) to call him up very early the next Morning, becauſe he was to go of a Meſſage out of the Town. My Lord *Cornwallis* and Mr. *Gerrard* remaining on the top of the Stair-Caſe, being (as we ſaid) in diſorder (which is the ſtrength of the King's Evidence, if proved) both of them ſaid, before they went thence they would kill ſome or other, which Evidence will go a great way to ſhew the Concern that Noble Lord, the Priſoner at the Bar, had in the Buſineſs.

It happen'd as theſe Boys were making their Requeſt to the Centinel, my Lord and Mr. *Gerrard* took notice of it, and ſeem'd to be concern'd that they ſhould command the King's Soldiers, and bid the Centinel ſhoot him, who told them he conceiv'd the Boy had done him no wrong in aſking a civil Kindneſs from him; they again call'd to ſhoot him, and they would bear him out; which he ſtill refuſed to do, finding no reaſon for it: then one of the two took occaſion to ſwear a great Oath, *he would kick his Arſe to Hell*; to which the Boy that aſk'd the Centinel made ſome reply; wherein the word *Arſe* was repeated: (Now whether they underſtood it as an Interrogation, *Why kick my Arſe to Hell?* as he intended it; or in a worſe ſenſe, *Kiſs my Arſe*) one of the Gentlemen in a Rage came running down the Stairs, and that Boy that in truth ſpoke the Word ran away, and the other poor Innocent Boy, truſting in his own Innocency, remained there, until the Perſon came to him, and did on his Knees (in a manner) deſire not to be miſtaken, he was not the Perſon that uſed any ill Words, and cry'd out, *O my Lord, it was not I; indeed, my Lord, it was not I*; but ſuch, at that time, was the Intemperance and Wrath of the Perſon, who in ſuch a Fury deſcended the Stairs, that (whether with the Blow or the Fall) the Boy receiv'd his Death. We find by our Information of the Evidence, that he who did the Thing was in Truth, Mr. *Gerrard*, who is not yet taken; but whether my Lord, the Priſoner at the Bar, did not concur in it, and had not an Intention to kill ſomebody, is the Queſtion left for your Grace and theſe Noble Peers to decide. This is the Nature of the Fact; only I deſire to obſerve, that it is true here was ſome diſtance between the Place where my Lord *Cornwallis* ſtood, and the Place where the Boy was killed. Of what conſequence that may be, I leave to your Grace's and theſe Noble Lords Conſideration: It was the diſtance of the Stairs; but, I think, as every one knows, they are not ſo many, but what is done below may be eaſily ſeen at the top.

We ſhall now, without detaining your Lordſhips any longer, call the Witneſſes, and prove what hath been opened.

The Soldier prov'd the Fact, as it was open'd by Mr. Attorney General, except that part about both ſwearing they would kill one or other, which Paſſage was heard but by one of them, and was ſpoken but by one of the Gentlemen.

They could not ſwear, who were the Perſons, becauſe of the darkneſs of the time.

The Boy who was the Companion of him that was ſlain, and that uſed the Words that cauſed the Perſon to come down, ſwore them to be a Repetition only, by way of Interrogation, *Why kick my Arſe to Hell?*

Then Mr. Attorney deſired to call my Lord *Cornwallis*'s own two Footmen, who had been Indicted and acquitted at the *King's-Bench-Bar*.

Lord High Steward. My Lords the Judges, is there any Queſtion, whether a Perſon acquitted of an Offence be a good Witneſs againſt another charged with the ſame Offence?

Judges. None at all: when he is acquitted, he ought to be admitted.

Then the Copy of the Acquittal (proved by a Clerk in the Crown-Office) was read, and then were Sworn; who fixed it upon the Perſon of Mr. *Gerrard*, and ſwore that my Lord *Cornwallis* was all the while upon the top of the Stairs, but after the Fact committed haſted away for fear of being knock'd down by the Soldiers: And there ended the King's Evidence.

L. High Stew. Now, my Lord, is the time come for your Defence. You hear what is charg'd on you. Pray ſpeak what you have to ſay for yourſelf.

Lord Cornwallis. Then the Priſoner at the Bar confeſſed himſelf to have been in the Company that Night, when this Accident happen'd; which he hop'd would be a Warning to him to ſhun ſuch Diſorders hereafter; but that he had no evil Intention, and but one Witneſs ſwore that both of them would have kill'd the Centinel; that he was not conſcious to himſelf to have had a hand in it, and therefore withdrew not himſelf, but yielded himſelf to the Coroner the next Day, (which he prov'd by the Coroner himſelf) and did therefore, in truſt of his Innocency, ſubmit himſelf to the Judgment of His Grace and his Peers.

Which being done, Sir *Francis Winnington*, the King's Sollicitor-General, ſumm'd up the Evidence in this manner:

May it pleaſe your Grace, my Lord High Steward of *England*, and my Noble Lords the Peers of the Priſoner at the Bar: According to the Duty of my Place I am to repeat the King's Evidence, and ſtate it to your Grace and theſe Noble Lords, and ſubmit it to your great Judgments, how far it will go for the Proof of this Crime; wherein I ſhall obſerve the Duty of all honeſt Men, which is to do nothing either to wreſt any thing in Diſadvantage of the Priſoner out of the King's Evidence, to go farther than it ought, nor ſhall omit any thing that ſhall require your Grace and the Noble Lords Juſtice; for we come to ſeek out the Truth, and we queſtion not but by this Honourable Trial it will be brought to light. But I beſeech your Favour, to take notice, in the firſt place, what Crime this Noble Lord ſtands accuſed of, and it is for Murder; wherein our Law takes notice, that Murder is where a Man unlawfully kills another under the King's Peace, with Malice forethought. Now that here is a Murder committed, I dare with all Humility aver. By whom? that is the Queſtion: For this *Robert Clerk*, the Perſon killed, doth appear, by the Courſe of the Evidence, to have been doing his Duty, attending the Place his Employment required; gave no Offence to any whatſoever; but when the Perſon came down and fell upon him, the poor Youth cried, *Indeed, my Lord, it was not I*; yet, my Lords, the Hands of Violence ſeiz'd him, and kill'd him. Let us then ſee how the Evidence brings it home to the Noble Lord, the Priſoner at the Bar; wherein I muſt confeſs we have no expreſs Evidence (nay, we have Evidence to the contrary) that it was not his Hand that did the Fact actually; for it is by two Witneſſes, the Footmen, ſworn that it was Mr. *Gerrard* who came down and gave the unfortunate Blow: But we have that which we think, with humble Submiſſion, may reach this Noble Lord: For I know your Grace and my Lords remember, that after they had been an Hour in the Park, both returning, did with horrid Oaths ſwear they would kill the Centinel; there the Evidence fixeth it, not upon one only, but upon both: it was at that time ſo dark they could not be diſtinguiſhed, but by the Voice: The Centinel hath given you an Account how he perform'd his Duty, and in what Strait he was, he had much ado to ſave his own Life, or to prevent killing them: But when they came upon the Stairs, theſe two Boys came there in order to deſire the Centinel to call one of them the next Morning. Then one on the Stairs (no Man can tell who it was) with horrid Execrations, aſk'd, *Will you command the King's Soldiers? Shoot him, Centinel, we'll bear you out.* But all this while it was Duſk, no diſtinction of Perſons could be made; whereupon it will fall out to come to this Caſe, If ſeveral Perſons intend to kill one, and happen to kill another, whether this be not Murder in them? For the urging of this, as to the Matter in Law, I leave to him that comes after me. The Centinel ſwears one of them did ſwear he would kill one or other; who it was took up that cruel Reſolution, is left to you to judge: But at that time they were both together upon the top of the Stairs; and my Lord doth not ſeem to give one Tittle of Evidence, that ſhews any Endeavours of the Priſoner at the Bar to prevent the other, or diſprove of his Actions: If he had given an Account of that, he had ſilenced Juſtice; but when they were all together, he not endeavouring to ſtop his Hand, it is as much in Law as if he had ſtruck the Stroke.

The other Soldiers give you a particular Account to the ſame purpoſe.

The two laſt Witneſſes do bring it to the Perſon of my Lord, the Priſoner at the Bar, and Mr. *Gerrard*, who, they ſwore, came down the Stairs, and his Man followed him to the bottom, and there ſtaid at ſome diſtance till the Fact was done, and they all fled.

This I take to be the matter of Fact faithfully proved before your Grace, and the Lords the Peers; and I would not trouble your Grace longer, becauſe I would not miſreport any thing, whereby I might do wrong, either to the Priſoner or the King's Cauſe; and becauſe I know your Grace and the Noble Lords will diſtinguiſh and find out where the Truth is. I muſt ſay, it is a great Comfort to all the Subjects of *England*, that Crimes of this Nature are ſo carefully preſented, that whatſoever Honours and Dignities our Gracious Sovereign doth confer on any Perſon, it doth not exempt him from the Juſtice of the Law: It is not only a Comfort to this Aſſembly, but to the whole Nation, to ſee the King tender of his Subjects Perſons and Lives, in that he hath cauſed this ſtrict Courſe to be taken, where the Enquiry hath gone from the Grand Jury of the County, 'till the Bill came to this great Tribunal; where I doubt not but your Grace, and theſe Noble Lords, will give a righteous and juſt Judgment.

Serjeant.

Serjeant *Maynard*. May it pleaſe your Grace, my Lord High Steward of *England*, and my Noble Lords the Peers:

I, according to the Duty of my Place, come now to conclude the Charge on the King's behalf; ſome things are fit to be obſerved upon the Evidence, that may produce a Queſtion for the deciſion of the Fact, of what Nature it is. That a Murder is committed, is upon Evidence without all Queſtion; and not only the Death of a Man, here is a Child ſlain without any Provocation in the world given by him to that Perſon that did it; and that did it too, notwithſtanding the Deprecations of the Boy, affirming his own Innocency, and that with as full Circumſtances as a Chriſtian almoſt could a thing: theſe came from the King's Palace-walk in the Park; call the Centinel Rogue, and when he doth his Duty, ſwear to murder him; with Oaths that a Chriſtian would bluſh at, and be afraid to hear: *God damme* oftentimes reiterated; and he that ſaith that Word, doth beg of God to hate him, and affirm that he doth hate God. The Obſcenity that they uſed I ſhall not mention again; theſe are Circumſtances of the Caſe; that all were guilty of much, is no doubt; but who of the Murder, is the Queſtion. And I humbly conceive, it is manifeſt, that this Noble Lord was concern'd in it. For it is not requiſite to make a Murder, that he who kills a Man hath conceiv'd a Malice againſt him; for if I have a Malice againſt any Man, and the Effect of that fall upon another, it is Murder.

I apply it thus: If it be a Murder in Mr. *Gerrard*, if this Noble Lord partake with him in the Deſign which made it ſo; to wit, the Malice againſt the Centinel; he is as guilty, as if his Hand had been as much upon him as was Mr. *Gerrard*'s; as in that known Caſe of the Man that poiſon'd an Apple with an Intent to kill his Wife, and ſhe not knowing of the Poiſon, gave ſome of it to her Child, of which it died; tho' he had no deſign to kill the Child, yet the Malice he conceiv'd againſt his Wife ſupply'd the Defect of an expreſs Malice to make it Murder; and he was hang'd therefore. So if a Man aſſault a Maſter, in the preſence of his Servant, who defends his Maſter, and is ſlain, tho' the other had no purpoſe to kill him, yet it is Felony in him, for which he ſhall die; the Law implying a Malice. Then here was clearly a Malice to the Centinel; how near it comes to the Boy will come in Queſtion afterwards. I find the Objection made in my Lord's Caſe, that at the particular Time where the Fact was committed, my Lord was not with Mr. *Gerrard*: But that will be no Objection in the Caſe; for if he did partake in the Deſign of the other, I will anſwer it with the Caſe of my Lord *Dacres* of the South, who, with ſome others, went unlawfully to ſteal Deer, and the Keeper coming, ſome fled, among whom my Lord was one: the Keeper was kill'd, my Lord *Dacres* being at that time without the Pales, a Mile off from the Place, and yet was found guilty of the Murder, and left both his Lands and Life for it. But here, my Lord *Cornwallis* was preſent, for the Witneſs ſwears the diſtance was not ſo great but it might be diſcern'd. Now whether he was aiding or aſſiſting, is the next thing in queſtion. What occaſion had they of Malice, Revenge, or Injury to the Centinel? They both ſwore they would kill him: Had there been any Excuſe for the other, if one of them had killed the Centinel? That could not be. Well, they did not kill the Centinel, but at the ſame time take up a cauſeleſs Offence againſt another, and kill him. I argue, that the Malice againſt the Soldier was diffuſive to the Boy; and one of the Witneſſes proves, that one of them ſwore he would kill ſome Body: now, no one ſpeaks to any thing of my Lord's reproving Mr. *Gerrard*. Thus ſtands the Caſe before your Grace and my Lords: It is a Caſe of Blood, and it cries loud: How far this Noble Lord and Priſoner at the Bar is guilty thereof, you are to enquire, and without all doubt will give a clear Verdict, according to Juſtice and Honour.

Sanders's *Caſe in* Plowden, *fol.* 473.

Anno 33. H. VIII. Coke, 3 *Inſt. fol.* 211.

Lord High Stew. My Lords, you have heard the Evidence; if your Lordſhips pleaſe to go and conſider of it, you may.

Then the Priſoner withdrew into his own Apartment, with the Lieutenant of the *Tower*. The Lords went into a Room behind the Court of *Chancery*, and after a ſtay of two Hours return'd; and being all ſat, the Earl of *Danby*, Lord High Treaſurer of *England*, who was the firſt of the Jury, addreſſed himſelf to my Lord High Steward, and ſaid:

Earl of *Danby*. My Lord High Steward, there is a Queſtion in Law, of which ſome of my Lords deſire to receive Satisfaction before they can give in their full Verdict: and we deſire to know of your Grace, whether it be proper here to aſk the Queſtion of your Grace, or to propoſe it to the Judges.

Lord H. Stew. If your Lordſhips doubt of any thing, whereon a Queſtion in Law ariſeth, the latter Opinion, and the better for the Priſoner is, that it muſt be ſtated in the preſence of the Priſoner, that he may know whether the Queſtion be truly put. It hath ſometimes been practiſed otherwiſe; and the Peers have ſent for the Judges, and have aſked their Opinion in private, and have come back, and given their Verdict, according to that Opinion; and there is ſcarce a Precedent of its being otherwiſe done, but there is a latter Authority in Print, that doth ſettle the Point ſo as I tell you; and I do conceive it ought to be followed; and it being ſafer for the Priſoner, my humble Opinion to your Lordſhip is, that he ought to be preſent at the ſtating of the Queſtion.

3 Coke's Inſt. fol. 429. Paſch. 26 Hen. 3 *Lord* Dacres's *Caſe*.

Call the Priſoner to the Bar. Who being come, my Lord ſpake thus to him:

Lord High Steward. My Lord *Cornwallis*, My Lords the Peers, ſince they have withdrawn, have conceived a Doubt, in ſome Matter of Law ariſing upon the Matter of Fact in your Caſe; and they have that tender Regard of a Priſoner at the Bar, that they will not ſuffer a Caſe to be put up in his Abſence, leſt it ſhould chance to prejudice him, by being wrong ſtated; therefore, your Lordſhip will do well to attend the Queſtion that is raiſed; and, my Lords, will you pleaſe to propound your Doubts?

Earl of Danby. It was taken notice of here, that by opening the Matter by Mr. Solicitor, the Matter of Murder was explained to be meant by having a prepenſed Malice, and in that Caſe it was opened to us, that any Perſons then preſent, and that had in any Sort contributed to the Diſorders, they were as equally guilty, as they whoſe Hand had ſhed the Blood of the Perſon killed.

Now the Doubt of ſome of my Lords is, whether if it be found but Man-ſlaughter, thoſe are equally guilty (that are preſent, and have proved to contribute to the Diſturbance) of that Crime, as they are in Murder; becauſe ſome of them have not the Satisfaction that they are the ſame.

Lord High Steward. My Lords the Judges, I take it, the Doubt propoſed to you, is this; Whether or no, thoſe that are preſent, and have contributed to the Diſorders, whereby ſuch an Accident doth enſue, as proves to be Man-ſlaughter, be as culpable, as he that doth the immediate Fact, as it is in the Caſe of Murder?

After a little Pauſe and Conference, the Judges returned this Anſwer.

Judges. We have had Conference of this Caſe, and our humble Opinion is, If ſundry Perſons be together, aiding and aſſiſting to an Action, wherein a Man-ſlaughter doth enſue, as in caſe of a ſudden Buſineſs without Malice prepenſed, they are equally guilty of the Man-ſlaughter, as they are in the Caſe of Murder prepenſed.

Earl of Danby. The Lords deſire to withdraw once more. Which they did, and after a ſhort Space returned; and being called over, anſwered to their Names; and all appearing, my Lord High Steward took their Verdict *ſeriatim*, beginning at the Puiſne Lord in the following Order, they anſwering, ſtanding bare with their Hands on their Breaſts.

Lord High Steward. My Lord *Duras*, Is *Charles* Lord *Cornwallis* guilty of the Felony and Murder whereof he ſtands indicted, or not guilty?

Lord Duras. Not guilty.

The ſame Queſtion he demanded of each; who anſwered thus:

Lord {
Butler, Not guilty.
Not guilty.
Maynard, Not guilty of Murder, but guilty of Man-ſlaughter.
Paget, Not guilty.
Berkly, Not guilty of Murder, but guilty of Man ſlaughter.
Newport, Not guilty.
Halliſax, Not guilty.
Viſcount *Cambden*, Not guilty.
Guilford, Not guilty.
Ailſbury, Not guilty of Murder, but guilty of Man-ſlaughter.
Craven, Not guilty.
Bath, Not guilty.
Clarendon, Not guilty.
Sunderland, Not guilty.
Peterborough, Not guilty.
Devonſhire, Not guilty.
Northampton, Not guilty.
Bridgwater, Not guilty.
Dorſet, Not guilty.
Suffolk, Not guilty.
Bedford, Not guilty.
Derby, Not guilty.
Kent, Not guilty.
Oxford, Not guilty.
Arlington, Not guilty.
Brereton, Not guilty.
Lindſey, Not guilty of Murder, but of Man-ſlaughter.
Dorcheſter, Not guilty.
Angleſey, Not guilty of Murder, but of Man-ſlaughter.
Danby, Not guilty of Murder, but of Man-ſlaughter.
}

Lord High Steward. Call the Priſoner to the Bar.

Then the Priſoner came to the Bar, and the Deputy Lieutenant of the *Tower* held the Edge of the Ax towards him, while my Lord High Steward ſpake thus unto him;

Lord High Steward. My Lord *Cornwallis*, you have been indicted for Murder, pleaded Not guilty, put your ſelf upon your Peers; and your Peers upon Conſideration of the whole Matter have acquitted you, and found you Not Guilty, ſo you are to be diſcharged.

Cl. Cr. Make Proclamation.

Serjeant. O Yes! my Lord High Steward of *England* willeth and commandeth all Perſons to depart hence, in God's Peace, and the King's; for my Lord High Steward of *England* His Grace doth diſſolve this Commiſſion.

God ſave the King.]

At which Words my Lord High Steward holding the white Staff (which was delivered him by the Uſher of the Black Rod on his Knees) in both Hands over his Head, ſnapt it in two, and the Aſſembly broke up.

LXXVIII. *Proceedings in Parliament againſt* THOMAS *Earl of* DANBY, * *Lord High Treaſurer of* ENGLAND, *upon an Impeachment of* High-Treaſon, *and other* High-Crimes *and* Miſdemeanors, December, &c. 1678. 30 Car. II.

THE Papers of Mr. *Montague*, the King's Ambaſſador in *France*, being ſeized by the King's Order, upon Suſpicion of his Intriguing with the *French* Court, Mr. *Montague* (in his own Defence) acquainted the Houſe of Commons, that he had in his Cuſtody ſeveral Papers, which he conceived might tend very much to the Safety of his Majeſty's Perſon, and the Preſervation of his Kingdom; whereupon two Letters were produced and read in the Houſe, ſubſcribed *Danby:* which are as follow.

My Lord, Jan. 17, 1677.

YEſterday *Monſieur* Rouvigny *came to me with Monſieur* Barillon (*having given me his Father's Letters the Day before*) *and diſcourſed much upon the Confidence his King hath of the Firmneſs of ours to him, of the good Opinion his Maſter hath of me, and of his King's Reſolution to condeſcend to any thing that is not infamous to him, for the Satisfaction of our King, how certainly our King may depend upon all Sorts of Aſſiſtances and Supplies from his Maſter, in caſe the Friendſhip be preſerved.*——*The main of their Driſt was to engage me to prevail with the King to prevail with the Prince of* Orange.——*The King muſt come to ſome Declaration of his Mind to the Parliament when it meets: That which makes the Hopes of Peace yet leſs probable is, that the Duke grows every Day leſs inclin'd to it, and has created a greater Indifferency in the King than I could have imagined; which being added to the* French *King's Reſolution not to part with* Tournay, *do, I confeſs, make me deſpair of any Accommodation: Nevertheleſs, I am aſſured, that one principal Cauſe of the Adjournment for thirteen Days, has been to ſee if any Expedient for the Peace could have been found in that time; and the Effect of the Adjournment hath hitherto been, that no body will now believe other than that the Peace is already concluded between Us and* France.

March 25, 1678.

IN Caſe the Conditions of the Peace ſhall be accepted, the King expects to have ſix Millions of Livres Yearly for three Years from the Time that this Agreement ſhall be ſigned betwixt his Majeſty and the King of France, *becauſe it will be two or three Years before he can hope to find his Parliament in an Humour to give him Supplies after the having made any Peace with* France; *and the Ambaſſador here has agreed to that Sum, but not for ſo long a Time. If you find the Peace will not be accepted, you are not to mention the Money at all; and all poſſible Care muſt be taken to have this whole Negotiation as private as is poſſible, for fear of giving Offence at home, where for the moſt part we hear it ten Days after any thing that is communicated to the* French *Miniſters.*

Upon reading theſe Letters, it was immediately reſolv'd, That there was ſufficient Matter of Impeachment againſt *Thomas* Earl of *Danby*, Lord High Treaſurer of *England*; and on *December* 21, 1678, Articles of Impeachment were drawn up and agreed to, and on *December* 23 were carried up by Sir *Henry Capel* to the Lords, where they were read, as follow.

I.

That he hath traiterouſly encroach'd to himſelf Regal Power, by treating in Matters of Peace and War with Foreign Miniſters and Ambaſſadors, and giving Inſtructions to his Majeſty's Ambaſſadors Abroad, without communicating the ſame to the Secretaries of State, and the reſt of his Majeſty's Council, againſt the expreſs Declaration of his Majeſty and his Parliament; thereby intending to defeat and overthrow the Proviſion that has been deliberately made by his Majeſty and his Parliament for the Safety and Preſervation of his Majeſty's Kingdoms and Dominions.

II.

That he hath traiterouſly endeavoured to ſubvert the ancient and well eſtabliſhed Form of Government in this Kingdom, and inſtead thereof to introduce an arbitrary and tyrannical Way of Government; and the better to effect this his Purpoſe, he did deſign the raiſing of an Army, upon Pretence of a War againſt the *French* King, and to continue the ſame as a ſtanding Army within this Kingdom: And an Army being ſo raiſed, and no War enſuing, an Act of Parliament having paſs'd to pay and diſband the ſame, and a great Sum of Money being granted for that End, he did continue the Army contrary to the ſaid Act, and miſemploy'd the ſaid Money given for the diſbanding, to the Continuance thereof; and iſſued out of his Majeſty's Revenues divers great Sums of Money for the ſaid Purpoſe, and wilfully neglected to take Security of the Pay-maſters of the Army, as the ſaid Act required; whereby the ſaid Law is eluded, and the Army is yet continued, to the great Danger and unneceſſary Charge of his Majeſty and the whole Kingdom.

III.

That he traiterouſly intending and deſigning to alienate the Hearts and Affections of his Majeſty's good Subjects from his Royal Perſon and Government, and to hinder the Meetings of Parliaments, and to deprive his Sacred Majeſty of their ſafe and wholſome Counſel, and thereby to alter the Conſtitution of the Government of this Kingdom, did propoſe and negotiate a Peace for the *French* King, upon Terms diſadvantageous to the Intereſt of his Majeſty and his Kingdoms; for the doing whereof, he did endeavour to procure a great Sum of Money from the *French* King, for enabling him to maintain and carry on his ſaid traiterous Deſigns and Purpoſes, to the Hazard of his Majeſty's Perſon and Government.

IV.

That he is Popiſhly affected, and hath traiterouſly concealed (after he had Notice) the late horrid and bloody Plot and Conſpiracy, contrived by the Papiſts, againſt his Majeſty's Perſon and Government; and hath ſuppreſſed the Evidence, and reproachfully diſcountenanced the King's Witneſſes in the Diſcovery of it in Favour of Popery, immediately tending to the Deſtruction of the King's Sacred Perſon, and the Subverſion of the Proteſtant Religion.

V.

That he hath waſted the King's Treaſure, by iſſuing out of his Majeſty's *Exchequer* ſeveral Branches of his Revenue for unneceſſary Penſions and ſecret Services, to the Value of 231602*l.* within two Years; and that he hath wholly diverted out of the known Method and Government of the *Exchequer* one whole Branch of his Majeſty's Revenue to private Uſes, without any Account to be made of it to his Majeſty in his *Exchequer*; contrary to the expreſs Act of Parliament, which granted the ſame; and he hath removed two of his Majeſty's Commiſſioners of that Part of the Revenue, for refuſing to conſent to ſuch his unwarrantable Actions therein, and to advance Money upon that Branch of the Revenue for private Uſes.

VI.

That he hath by indirect Means procured from his Majeſty to himſelf divers conſiderable Gifts and Grants of Inheritance, of the ancient Revenue of the Crown, even contrary to Acts of Parliament.

For which Matters and Things the Knights, Citizens and Burgeſſes of the Commons in Parliament, do, in the Name of themſelves, and of all the Commons of *England*, impeach the ſaid *Thomas* Earl of *Danby*, Lord High Treaſurer of *England*, of High-Treaſon, and other High Crimes, Miſdemeanors and Offences, in the ſaid Articles contain'd: And the ſaid Commons by Proteſtation, ſaving to themſelves the Liberty of exhibiting at any Time hereafter, any other Accuſation or Impeachment againſt the ſaid Earl, and alſo of replying to the Anſwers which the ſaid *Thomas* Earl of *Danby* ſhall make to the Premiſes, or any of them, or any Impeachment or Accuſation that ſhall be by them exhibited, as the Cauſe (according to the Courſe and Proceedings of Parliament) ſhall require; do pray, That the ſaid *Thomas* Earl of *Danby* may be put to anſwer all and every the Premiſes; that ſuch Proceedings, Trial, Examinations and Judgments, may be upon them, and every one of them had and uſed, as ſhall be agreeable to Law and Juſtice; and that he may be ſequeſtred from Parliament, and forthwith committed to ſafe Cuſtody.

As ſoon as the Articles were read, the Earl of *Danby* ſpake as follows.

My Lords,

I Hope you will not enter upon any other Buſineſs, before you have given that Liberty to me, which is the Privilege of every Peer, to be heard upon any Accuſation that is brought againſt him, tho' of far leſs Moment than what hath been newly read againſt my ſelf.

I confeſs I ſhould have heard this Charge with Horror, if the Matter of it had been true; but I thank God, I know my Innocency to be ſo great, that it protects me from all ſorts of Fear, but that of lying under ſo black a Character, as may be believed by thoſe that cannot hear my Defence; tho' I have the Confidence to think, that it is not truly believed in the Hearts of the greateſt Part of thoſe that have been informed againſt me.

I muſt needs confeſs, that I thought my ſelf the laſt Man in this Kingdom that ſhould ever have been in Danger of being accuſed for Treaſon, becauſe I know no Man that abhors it more, and that would purſue it more vigorouſly than my ſelf, againſt any that ſhould be guilty of it. Nay, to ſuch a Degree is my Deteſtation of that Crime, that were I ſure the deareſt Child I have were guilty of it, I would willingly be his Executioner.

My Lords, I know this is not the Time for me to enter regularly upon my Defence, becauſe I know your Lordſhips will firſt order me a Copy of my Charge, and appoint me a Time for my Vindication; when I doubt not but to do it to the full Satisfaction of your Lordſhips and all the World. In the mean time I will only beg leave to obſerve to your Lordſhips, That thoſe Articles in this Charge which can ſeem to have any thing of Treaſon in them, have their Anſwer ſo obvious, that there is very little in them which may not be anſwered by many others as well as my ſelf, and ſome of them by every Man in the Kingdom.

The firſt, which is the aſſuming Regal Power, I confeſs I do not underſtand; having never in my Life done any thing of great Moment, either at Home, or relating to foreign Matters, for which I have not always had his Majeſty's Command. And altho' I am far from having been the moſt cautious Man in taking care of my own Security, (which perhaps my great Innocence hath been the Cauſe of) yet I have not been ſo wanting of common Prudence, as in the moſt material Things not to have had his Majeſty's Orders and Directions under his own Hand, and particularly for the Letters now made uſe of againſt me.

The ſecond, I think, doth ſcarce need my giving any Anſwer to it; it being obvious, that the Army was no more raiſed by me, than by every Lord in this Houſe: And whoever is in that Station which I hold, muſt certainly be a Fool, to deſire any thing which creates a want of Money, eſpecially ſo great a one, as the Charge of an Army muſt neceſſarily and immediately produce. And for one Part of the Article concerning the Pay-maſter of the Army, it is in Fact otherwiſe; for Security from the Pay-maſter has been taken in the Sum of four hundred thouſand Pounds.

* Burnet's *Hiſt. Own Times*, Vol. I. p. 439. 453, 460.

The

The third is of the ſame Nature with the firſt, and comes from the ſame Foundation, which is, what a Gentleman had thought fit to produce to the Houſe of Commons. I will not now cenſure his Action, I think it will do enough for it ſelf; I will only ſay, That altho' I take it for one of the greateſt Misfortunes which can befal a Man, to lie under ſuch a Charge of the Houſe of Commons, yet I would much ſooner chuſe to be under that Unhappineſs, than under his Circumſtances.

The fourth Article is not only falſe in every Part of it, but it is not poſſible to believe it true, without my being the greateſt Fool on Earth, as well as the blackeſt Villain. For were I capable of ſuch a Wickedneſs, yet the more wicked any Man is, the more he is carried to his own Intereſt; and is it poſſible any thing under Heaven can agree leſs with my Intereſt, than the Deſtruction of this King? Can I poſſibly hope to be better than I am? And is it not apparent, that there is not one Man living, whoſe Happineſs depends ſo much as mine upon the Preſervation of his Perſon.

My Lords, I know there is not a Man in the World, that can in his Heart think me guilty of that Part of the Article, if I ſhould ſay nothing to it. But beſides, I was ſo far from concealing this helliſh Plot, that it is notoriouſly known, his Majeſty ſent me the firſt Notice of it, together with forty-three Heads of the Information, before I knew a Syllable of it from any Body elſe: And it hath been own'd at the Bar of the Houſe of Commons by him (from whom only I had the Intelligence) that he had all the Encouragement and Diſpatch from me that I could give him. Beſides, when it was diſcloſed to the Council-board, he told ſome of the Clerks of the Council, (as he had done me divers times before) that it would have been much better, and more would have been diſcover'd, if it had been longer kept private. Beſides this, I had the Fortune to be particularly inſtrumental in ſeizing Mr. *Coleman*'s Papers, without which Care there had not one of them appear'd, and conſequently, the beſt and moſt material Evidence which is yet of the Plot, had been wholly wanting. And certainly this is the firſt Time that any Man was accuſed to be the Concealer of that Plot, whereof he hath been a principal Means of procuring the Diſcovery.

For that Part of the Article that ſays, I am Popiſhly affected, I thank God, that the contrary is ſo known to all the World, that even ſome of thoſe that voted againſt me, did own their Knowledge of the Falſity of that Allegation; and I hope I have through my whole Life given ſo good Teſtimony of my Religion, both in my own Family, and by my Services to the Church, (whenever it hath lain in my Power) that I ſhall not need much Vindication in that Particular: And I hope your Lordſhips will forgive me my Weakneſs, in telling you, that I have a younger Son in the Houſe of Commons, whom I ſhall love the better as long as I live, for moving to have that Part of the Article to ſtand againſt me, that by that Pattern it might appear, with what ſort of Zeal the whole hath been carried to my Prejudice.

The fifth Article will, upon Examination, appear to be as ill-grounded as any of the reſt; and I am ſorry I am able to give one Reaſon, which is, That I have known no Treaſure in my Time to waſte, having enter'd upon an empty Treaſury, and never ſeen one Farthing given to his Majeſty (in almoſt ſix Years) that hath not been appropriated to particular Uſes, and ſtrictly ſo applied by me, as the Acts have directed. And there hath not been one of thoſe Aids, which, inſtead of giving the King Money, hath not coſt him more out of his own Purſe, to the ſame Uſes, as doth appear by the larger Dimenſions of the new Ships, and ſo in other things: Inſomuch that I take upon me the Vanity to ſay, That by the Payments I have made to the Navy and Seamen, beyond former Times; the paying off the greateſt Part of the Debt which was ſtopp'd in the *Exchequer* before my Time; by my own Punctuality in the Courſe of Payments, and by other Things, which I am able to ſhew, I doubt not but to appear meritorious, inſtead of being criminal, upon that Article.

As to the ſixth Article, which mentions my great Gettings, I cannot deny, but that I ſerve a Maſter, whoſe Goodneſs and Bounty hath been a great deal more to me than I have deſerved, and to whom I can never pay Gratitude enough by all the Services of my Life. But when the Particulars of thoſe Gettings ſhall appear, it will be found very contrary to what is ſuggeſted abroad; and that in near ſix Years time in this great Place, I have not got half that, which many others have got in leſſer Places in half that time. And from the Examination of this, which I deſire may be ſeen, there will ariſe Matter to accuſe my Prudence, in not having done for my Family what juſtly I might, but nothing to arraign either my Honour, my Conſcience, or my faithful Service to the Crown.

My Lords, If my Obedience to the King ſhall not be my Crime, I think nothing elſe will ſtick upon me from theſe Articles: For my own Heart flatters me to believe, that I have done nothing but as a true Proteſtant, and a faithful Servant both to my King and Country. Nay, I am as confident, as that now I ſpeak, that had I either been a Papiſt, or Friend to the *French*, I had not been now accuſed. For I have Reaſon to believe, that the principal Informer of the Houſe of Commons hath been aſſiſted by *French* Advice to this Accuſation; and if the

* Mr. *Montague.*

*Gentleman were as juſt to produce all he knows for me, as he hath been malicious to ſhew what may be liable to Miſconſtruction againſt me, or rather againſt the King, (as indeed it is) no Man could vindicate me more than himſelf: Under whoſe Hand I have it to ſhew, how great an Enemy to *France* I am thought, how much I might have had to have been otherwiſe, and what he himſelf might have had for getting me to take it. But I do not wonder this Gentleman will do me no Right, when he does not think fit to do it to his Majeſty (upon whom chiefly this Matter muſt reflect). Although he knows, as will appear under his Hand, that the greateſt Invitations to his Majeſty, for having Money from *France*, have been made by himſelf; that if his Majeſty would have been tempted for Money, he might have ſold Towns for as much as if they had been his own, and the Money have been convey'd as privately as he pleaſed; that his Majeſty might havemade Matches with *France*, if he would have conſented to give them Towns; and yet, that the King hath always ſcorn'd to yield the meaneſt Village that was not agreed to by the *Spaniard* and *Hollander*. That Gentleman hath often pretended how much his own Intereſt in *France* was diminiſh'd, only by being thought my Friend. And beſides divers other Inſtances, I have under his Hand, to ſhew the Malice of the *French* Court againſt me, I ſent two of his Letters to the Houſe of Commons, which ſhew how *Monſieur Rouvigny* was ſent hither on purpoſe to ruin me; which I am well aſſured at this Time they would rather ſee, than of any one Man in *England*. Beſides what that Gentleman could ſay of this kind (if he pleas'd) I hope his Majeſty will give me leave (in my Defence) to ſay in his Preſence, and in the Hearing of divers Lords, with whom I have the Honour to ſit in the Committee of Foreign Affairs, that, which were it not true, his Majeſty muſt think me the impudenteſt and worſt of Men to affirm before him, That ever ſince I had the Honour to ſerve his Majeſty to this Day, I have deliver'd it as my conſtant Opinion, That *France* was the worſt Intereſt his Majeſty could embrace, and that they were the Nation in the World from whom I did believe he ought to apprehend the greateſt Danger; and who have both his Perſon and Government under the laſt Degree of Contempt: For which Reaſon alone (were there no other) I would never adviſe his Majeſty to truſt to their Friendſhip.

My Lords, 'tis my greateſt Happineſs, that your Lordſhips are my Judges; whoſe Wiſdom and Juſtice are ſo great, that you will both diſcern the Truth of the Evidence when it ſhall come before you, and in the mean time diſtinguiſh truly what the Crimes are (if they could be proved) and not what they are call'd. For this Reaſon this Houſe hath wiſely provided to have the ſpecial Matter before them, to the end they may be ſatisfied whether the Charge have its right Denomination; for otherwiſe it were to no purpoſe to deſire ſpecial Matter, unleſs it were to ſee whether the ſpecial Matter alledg'd be what it is call'd. As for Example, if a Man were accuſed of having traiterouſly paſs'd the River in a Pair of Oars, this is ſpecial Matter, and ſtyled Treaſon, by inſerting the Word traiterouſly; yet your Lordſhips would not therefore proceed as taking it for Treaſon. So in this Caſe, I beg for all your Lordſhips Sakes, as well as my own, that you will pleaſe to uſe that Caution which will be neceſſary for all your Lordſhips Safety and Seats in this Houſe: For I beſeech your Lordſhips to conſider, whither ſuch a Precedent may go hereafter? What the Houſe of Commons may do in ſuch a Caſe, there is no Queſtion but his Majeſty may do the ſame by his Attorney; and what either of them may do againſt one Lord, they may do againſt more (and we have ſeen it done in our Days againſt all the Biſhops at once). Were it not very precariouſly then that your Lordſhips hold your Seats here, when by either of theſe Ways as many of your Lordſhips, as for a Time it might be convenient to remove, ſhould be at the Mercy of having a Thing call'd Treaſon, whether it be ſo or no.

Truly, my Lords, I have Reaſon to believe, that in the Houſe of Commons the Matter of my Charge (if proved) was not thought to amount to Treaſon, either by Statute or Common Law; and I hope your Lordſhips have too ſad an Example in your Memory, ever to aſſiſt the making of Treaſon by Accumulation.

I ſhould therefore not only wrong my own Innocence, but the Right of the Peers, to ſubmit to anſwer Matters of Miſdemeanor, as a Criminal in Treaſon.

My Lords, I wonder not at the malicious Proſecution of thoſe who would have me taken for what they truly are. For I am well aſſur'd, that neither the *French* take me to be of their Intereſt, nor the Papiſts to be of their Religion: But I am troubled to fall under ſo ſevere a Cenſure of the Houſe of Commons, altho' I cannot blame them, but my Accuſers, who have ſo wrongfully inform'd them.

My Lords, I will conclude with this Comfort, That I do not in the leaſt apprehend the Matter of my Charge, under the Security of your Lordſhips Juſtice; and will therefore trouble your Lordſhips no longer at this Time, but only to pray your Directions whether I am to withdraw, which I ſhall readily obey.

Upon this there was a great Debate, whether he ſhould be committed; but the Majority were againſt committing him.

All further Proceedings were prevented by the Prorogation of the Parliament, *December* 30. However, the King diſmiſs'd him from his Poſt of Lord Treaſurer. This Parliament was afterwards diſſolv'd *January* 24, and a new one met on *March* 15.

On *March* the 20th, the Houſe of Commons reſumed the Affair relating to the Earl of *Danby*'s Impeachment, when, among others, Mr. *Powle* deliver'd himſelf as follows:

Mr. Speaker,

I Should have been pleaſed to have heard, what was needful to have been ſpoken unto, from ſome other Member of this Houſe, rather than myſelf; it is concerning the Earl of *Danby*, who ſtands impeached by the Commons of *England* of High-Treaſon.

The Perſon, to whom we owe the Dangers and Fears of the *French* King againſt us.

The Perſon, to whom we owe the Threats and ſevere Anſwers to thoſe humble Addreſſes we made the laſt Seſſions of Parliament.

The Perſon, to whom we owe the Ruin of this Nation, and exhauſting the King's Revenue.

The Perſon, to whom we owe the Expence of 200,000*l.* and upwards, within a Year, unaccounted for.

The Perſon, to whom we owe the many Prorogations that happen'd in the laſt Parliament, when many profitable Bills were ready for paſſing.

The Perſon, to whom we owe the Raiſing of a Standing Army, to be kept up by the Receipt of ſix Millions of Livres yearly, for three Years together, to enſlave us and our Religion.

The Perſon, to whom we owe the late Bone that was thrown in the Sitting of the laſt Parliament, to hinder the good Iſſue that might have come by their Proceedings; who is now laying down his Staff, and making up his Accompts in the Treaſury as he pleaſeth, to enrich himſelf out of the Spoils of the People, and ſo depart.

My

My humble Motion is, That a Meſſenger be ſent immediately to the Lords from the Commons of *England*, to deſire their Lordſhips, That *Thomas* Earl of *Danby* be immediately committed to ſafe Cuſtody, he being impeach'd by the Commons of *England* of High-Treaſon.

Upon the Debate the Houſe came to this Reſolution.

Reſolved, *Nemine Contradicente*, 'That a Meſſage be ſent to the Lords, 'to put them in mind of the Impeachment of *High-Treaſon*, exhibited 'againſt *Thomas* Earl of *Danby*, in the Name of the Commons of *Eng-'land*; and to deſire that he may be committed to ſafe Cuſtody: *Reſolving* 'again, That it be referred to the Committee of Secrecy to draw up fur-'ther Articles againſt him'.

On *Saturday*, *March* 22, the Commons being commanded to attend his Majeſty in the Houſe of Peers, the King ſpoke to them in Favour of the Earl of *Danby*: But returning to their Houſe, they *Reſolved*, 'That a 'Meſſage be immediately ſent to the Lords to remind their Lordſhips of 'the laſt Meſſage ſent them from this Houſe, relating to *Thomas* Earl of '*Danby*, and to demand that he might be forthwith ſequeſtered from Par-'liament, and committed to ſafe Cuſtody.' Upon which the Lords deſired a preſent Conference with the Commons, where the Duke of *Monmouth* ſpake thus; *I am commanded by the Lords to acquaint you, That their Lordſhips having taken into Conſideration Matters relating to the Earl of* Danby, *together with what his Majeſty was pleaſed to ſay upon that Subject; have ordered that a Bill be brought in, by which* Thomas *Earl of* Danby *may be made for ever incapable of coming to his Majeſty's Preſence, and of all Offices and Employments, and of receiving any Grants or Gifts from the Crown, and of ſitting in the Houſe of Peers.* In the mean time, the Commons hearing that the King had ſigned a Pardon for the Earl, they appointed a Committee to repair to the Lord Chancellor, to enquire into the Manner of ſuing forth that Pardon. The Lord Chancellor did inform the Committee, 'That 'the Pardon was paſſed with all Privacy, the King commanding him to 'bring the Seal to *Whitehall*; and being there, he laid it upon the Table; 'whereupon his Majeſty commanded the Seal to be taken out of the Bag, 'which his Lordſhip was obliged to ſubmit unto, it not being in his 'Power to hinder it; and the King writ his Name upon the Top of the 'Parchment, and then directed to have it ſealed; whereupon the Perſon 'that uſually carried the Purſe affixed the Seal to it.' Upon this Report from his Lordſhip, the Commons *Reſolved*, 'That an humble Addreſs be 'made to his Majeſty, to repreſent the Irregularity and Illegality of the 'Pardon mention'd by his Majeſty to be granted to the Earl of *Danby*, 'and the dangerous Conſequence of granting Pardons to any Perſons that 'lie under an Impeachment of the Commons of *England*.' The ſame Day the Earl thought fit to withdraw himſelf.

On *Tueſday*, *March* 25, the Lords ſent a Meſſage, by Baron *Littleton* and Baron *Thurland*, to acquaint the Houſe of Commons, *That they had ſent to apprehend* Thomas *Earl of* Danby, *both to his Houſe here in Town, and to his Houſe at* Wimbleton; *and that the Gentleman-Uſher of the Black-Rod returned their Lordſhips Anſwer, That he could not be found.* Whereupon the Commons ordered, 'That a Bill be brought in to ſummon *Thomas* 'Earl of *Danby* to render himſelf to Juſtice by a certain Day therein 'limited, or in default thereof to attaint him.' On *Thurſday*, *March* 27, the Lords ſent down a Bill, entitled, *An Act for baniſhing and diſabling* Thomas *Earl of* Danby, *&c.* which the Commons immediately took into Conſideration; upon which Occaſion Sir *Francis Winnington (who had been lately remov'd from being Solicitor-General)* made the following Speech.

Mr. *Speaker*,

THE King cannot pardon Treaſon againſt the Government, for then the Government cannot be free from evil Counſellors. Could a King have done it, would not *Belknap*, *Treſilian* *, and the two *Spencers* have been pardon'd? A King ought to be the Sanctuary of his People from the Oppreſſion of evil Miniſters, but not the Refuge of the Enemies of the Government, and the Protector of ſuch Arch-Traitors as *Danby*. If *Danby* be pardon'd, then the Popiſh Lords in the *Tower* may be, and the Jeſuits in *Newgate* likewiſe.

* *Trial* I.

Is this the way to ſecure the Laws, and the Proteſtant Religion? The King hath a Limited Power, or elſe it is not Legal; his Limitation then is for the Good and Benefit of the People. But is *Shrouding* an open and notorious Traitor, the Miniſter of the preſent Miſchief, and the Common Centre, in which all the Lines of Confuſion do meet; is that, I ſay, for the Good of the People? Prerogative is to abate rigorous Juſtice, not to evade and deſtroy it. If Miniſters may be pardon'd at the Prince's Pleaſure for all the Wrongs they do the People (tho' the Prince be ſworn to protect the People from thoſe Wrongs, and is therefore Truſted and Paid) there is no Security, and our pretended Freedom and Legal Government is a mere Cheat, and we are all arrant Slaves. And I ſay, he that ſpeaks one Word for *Danby*, ſpeaks two for himſelf. Beſides, this is *Treaſon Impeach'd in Parliament*, therefore not pardonable but in Parliament; this is a *National* and *Catholick Treaſon*; the Life, the Root of Government is invaded: A Pardon here is ſo unſufferable a thing, that it ought to be placed to his Account that dares plead it, and ranked amongſt the reſt of his evil Counſels. The Bill ſent from the Houſe of Lords is not his Puniſhment, but his Pardon, a *Salvation* by Act of Parliament. Who will be deterred by that Act, that can plead ſuch a Precedent to eſcape unpuniſhed, and can carry away Honour and Wealth, the Reward of Treaſon, and the poor People's Spoils; and that at ſuch a Time as this, circumſtantiated with Plots and Conſpiracies, and he tardy too? If this muſt be, it is good, yea, meritorious, to invade Property, to betray the Kingdom, ſell the People, encourage Popery, ſuborn Witneſſes, and ſtrangle and murder the Diſcoverers of the Plot.

Remember how you us'd to proceed; make him an Example for the reſt; if he muſt live, let him ſurvive his Glory; at leaſt degrade him and ſequeſter him; that is, reduce him to as ſmall a thing as Sir *Thomas Oſborn*, and as lean and indigent; leave him nothing he has got by his monſtrous Actions againſt the Kingdom. I am bold to ſay, That thoſe Lords and Commons that agree not in this, would do the ſame thing, to end in the ſame Security.

It is a Licence to cheat the King for Five Years; if this muſt be, pray let there be a Clauſe in this Bill to pardon all Villanies and Treaſon againſt the Government whatſoever, and for Poor as well as Rich. Let not *the great Rogues* only eſcape and go unpuniſh'd. Was *Green*, *Berry*, and *Hill*, hang'd for killing Sir *Edmund-Bury Godfrey*? and muſt he eſcape, that ſo vehemently diſcourag'd and bitterly menaced him? What Reaſon was there that *Groves* and *Ireland* ſhould die for being in the Plot, while he is rewarded that concealed and would have ſtifled it, and afterwards have father'd it upon others?

To conclude, If after all this Diſcovery made and proceeded in by us, this Point ſhall be delivered up, they will not however eſcape unpuniſhed, but God will bring Deliverance another way.

The Reſult was, that the Houſe came to this Reſolution;

'*Reſolved*, That the Bill be rejected.'

On *April* 1, the Commons paſs'd a Bill for the Attainder of *Thomas* Earl of *Danby* of *High-Treaſon*, unleſs he ſhould ſurrender himſelf within a Time fixt, which was ſent up to the Lords by Sir *Robert Peyton*.

On *April* 4, there was a Conference between the two Houſes relating to the Bill of Attainder, where the Lord Privy-Seal managed the Conference for their Lordſhips, and deliver'd himſelf to this effect, 'That the Lords 'choſe to deliver back by Conference, rather than Meſſage, to preſerve a 'good Underſtanding, and to prevent Debate or Controverſy between 'them: The Lords obſerve, That the great Affairs of this Nation are at 'a ſtand, at a time of greateſt Danger and Difficulty that this Kingdom ever 'laboured under: That the King hath always in his Reign inclined to 'Mercy and Clemency to all his Subjects: Therefore to a King ſo merci-'ful and compaſſionate, the firſt Interruption of his Clemency they did 'deſire ſhould not proceed from the two Houſes preſſing the King to an 'Act of the greateſt Severity; therefore have paſſed the Bill, with ſome 'Amendments, which he deliver'd.' The Commons diſagreed to the Amendments made by the Lords, and drew up Reaſons to be offered in another Conference, implying, That their Lordſhips Amendments had wholly altered the Nature of their Bill, and from a Bill of Attainder had converted it into a Bill of Baniſhment: And at the ſame time '*Reſolved*, 'That an humble Addreſs be made to his Majeſty, to deſire his Majeſty 'to iſſue out his Royal Proclamation for the apprehending *Thomas* Earl of '*Danby*; with the uſual Penalties upon ſuch as ſhall conceal him: And that 'his Majeſty will be further pleaſed to give Order to the Officers of his 'Majeſty's Houſhold, That they take care that the ſaid Earl of *Danby* be 'not permitted to reſide within either of his Majeſty's Palaces of *Whit-'Hall*, *Somerſet-Houſe*, and *St. James*. And it is referred to Mr. *Powle*, '*&c.* to prepare and draw up the ſame, and preſent it to the Houſe to-'morrow Morning,' which was done accordingly the next Day, and preſented to the King.

The ſame Day the Commons had another Conference with the Lords upon the Earl of *Danby*'s Caſe, where the Lord *Huntington* managed the Conference, and what he delivered was to this effect; 'The Lords have 'deſired this Conference with the Commons, not ſo much to argue and 'diſpute, as to mitigate and reconcile: They have already obſerved, that 'the Debate of this Bill hath given ſo long and ſo great an Obſtruction to 'publick Buſineſs, and therefore they deſire you to believe, that *that* is 'the Reaſon which hath chiefly prevailed with their Lordſhips in a Matter 'of this Nature; and upon this Ground it is, that if a Way may be 'found to ſatisfy and ſecure the publick Fears, by growing leſs than the 'Bill you have propoſed, the Lords do not think it adviſeable to inſiſt upon 'the utmoſt and moſt rigorous Satisfaction, to prevent Juſtice, which 'might be denied. To induce you to this Compliance, the Lords do 'acknowledge, that Baniſhment is ſo far from being the legal Judgment 'in Caſe of High-Treaſon, that it is not the legal Judgment in any Caſe 'whatſoever, ſince it can never be inflicted but by the Legiſlative Autho-'rity: But they ſee no Reaſon why the Legiſlative Authority ſhould always 'be found to act to the utmoſt Extent of its Power; for there may be a 'prudential Neceſſity ſometimes of making Abatements, and it might be 'of fatal Conſequence if it ſhould not be ſo. And the Lords, to remove 'all Jealouſies of the Precedents of this kind, do declare, That nothing 'which hath been done in the Earl of *Danby*'s Caſe ſhall be ever drawn 'into Example for the time to come, and will ſo enter it upon their Jour-'nal. And thereupon their Lordſhips inſiſt upon their Amendments ſo 'far, as to exclude all Attainders; and do promiſe themſelves the Com-'mons will in this Point comply with their Lordſhips, who do again aſſure 'them, That their Reſolutions are grounded only upon their Tenderneſs 'and Conſideration of the Publick.' There was another Conference on this Subject-Matter, *April* 12; upon which the Commons again reſolved to adhere to their Bill, and to diſagree to the Amendments made by the Lords: Upon which the Bill of Attainder did at laſt paſs both Houſes. Upon this the Earl of *Danby* ſurrendred himſelf, and Sir *Edward Carteret*, Uſher of the Black-Rod, on *April* 16, gave the Houſe of Lords an Account that the Earl of *Danby* had the laſt Night render'd himſelf to him, and was in his Cuſtody. 'Their Lordſhips ordered him to be brought to 'their Bar, where kneeling, and then ſtanding up, the Lord Chancellor 'let him know, that he ſtood impeached by the Commons, and that, upon 'his withdrawing himſelf, a Bill of Attainder had paſſed the two Houſes; 'by which, however, he had time given him to come in, and make his De-'fence.——The Earl of *Danby* excuſed his not appearing ſooner, declared 'his Innocency, and made ſeveral Petitions to the Houſe, and then was 'ordered to withdraw. And being called in, and brought to the Bar 'again, the Lord Chancellor acquainted him that their Lordſhips 'would allow him Time to give in his Anſwer to the Articles of his Im-'peachment, till the firſt Day of the Sitting of the Houſe after *Eaſter*: 'That if any further Charge be put in againſt him, he ſhall have

'further Time to answer; That he shall have Counsel assigned him, 'and shall have Liberty to make use of Records, and that his Witnesses 'shall be summoned.'—Upon which he withdrew, and by Order of the House was committed to the *Tower*.

On *April* 25, the Earl was brought from the *Tower* to the Bar of the Lords House, where he delivered in Writing his Plea to the Articles of his Impeachment, which was as follows:

The PLEA *of the Earl of* DANBY, *late Lord High-Treasurer of* England, *to the* ARTICLES *of* IMPEACHMENT, *and other High Crimes and Misdemeanours, and Offences, exhibited against him by the Name of* THOMAS *Earl of* DANBY, *Lord High-Treasurer of* England.

THE said Earl for Plea saith, and humbly offereth to your Lordships, as to all and every the Treasons, Crimes, Misdemeanours and Offences, contained or mentioned in the said Articles, That after the said Articles exhibited, namely, the First of *March* now last past, the King's Most Excellent Majesty, by his most Gracious Letters-Patents of Pardon, under his Great Seal of *England*, bearing Date at *Westminster* the said First Day of *March*, in the One and Thirtieth Year of his Majesty's Reign; and here, into this most High and Honourable Court, produced under the said Great-Seal:

Of His special Grace, certain Knowledge, and mere Motion, hath Pardoned, Remised and Released to him, the said *Thomas* Earl of *Danby*, all, and all manner of Treasons, Misprisions of Treasons, Insurrections, Rebellions, Felonies, Exactions, Oppressions, Publications of Words, Misprisions, Confederacies, Concealments, Negligences, Omissions, Offences, Crimes, Contempts, Misdemeanors and Trespasses whatsoever, by himself alone, or with any other Person or Persons, or by any other, by the Command, Advice, Assent, Consent, or Procurement of him the said *Thomas* Earl of *Danby*, advised, committed, attempted, made, perpetrated, concealed, committed, or omitted, before the 27th Day of *February* then and now last past, being also after the Time of the said Articles exhibited, altho' the said Premises, or any of them did, or should touch or concern the Person of his said Majesty, or any of his Publick Negotiations whatsoever; and also his Majesty's Affairs with Foreign Ambassadors sent to his said Majesty, or by not rightly prosecuting his Majesty's Instructions and Commands to his Ambassadors, residing on his Majesty's behalf in Foreign Parts.

And as to all and singular Accessaries to the said Premises, and every of them, altho' he the said *Thomas* Earl of *Danby* were, or were not of the said Premises, or any of them, Indicted, Impeached, Appealed, Accused, Convicted, Adjudged, Out-law'd, Condemned, or Attainted; and all and singular Indictments, Impeachments, Inquisitions, Informations, Exigents, Judgments, Attainders, Out-lawries, Convictions, Pains of Death, Corporal Punishments, Imprisonments, Forfeitures, Punishments, and all other Pains and Penalties whatsoever, for the same, or any of them; and all, and all manner of Suits, Complaints, Impeachments and Demands whatsoever, which his said Majesty, by reason of the Premises, or any of them, then had, or for the future should have, or his Heirs, or Successors, any ways could have afterwards against him the said *Thomas* Earl of *Danby*: And also Suit of his Majesty's Peace, and whatsoever to his Majesty, his Heirs, or Successors, against him the said Earl of *Danby*, did, or could belong, by Reason or Occasion of the Premises, or any of them. And his Majesty hath thereby given and granted his firm Peace to the said *Thomas* Earl of *Danby*. And further, his Majesty willed and granted, that the said Letters-Patents, and the said Pardon and Release therein contained, as to all the things therein pardoned and released, should be good and effectual in the Law, altho' the Treasons, Misprisions of Treason, Insurrections, Rebellions, Felonies, Exactions, Oppressions, Publications of Words, Misprisions of Confederacies, Concealments, Negligences, Omissions, Offences, Crimes, Contempts, Misdemeanors and Trespasses were not certainly specified. And notwithstanding the Statute in the Parliament of the Lord *Richard* the Second, late King of *England*, in the 13th Year of his Reign, made and provided. And notwithstanding the Statute in the Parliament of the Lord *Edward* the Third, in the Fourteenth Year of his Reign, made and provided, or any other Statute, Act, or Ordinance to the contrary thereof made and provided. And moreover, his said now Majesty, by his said Letters-Patents, of his further Grace, did firmly command all and singular Judges, Justices, Officers, and others whomsoever, That the said free and general Pardon of his said Majesty, and the general Words, Clauses, and Sentences abovesaid, should be construed, expounded, and adjudged in all his said Majesty's Courts, and elsewhere, in the most beneficial, ample and benign Sense.

And for the better and more firm Discharge of the said Earl of and from the Crimes and Offences aforesaid, according to the true Intents of his Majesty, and in such beneficial Manner and Form to all Intents and Purposes whatsoever, as if the said Treasons, Crimes, Offences, Concealments, Negligences, Omissions, Contempts and Trespasses aforesaid, and other the said Premises, by apt, express and special Words had been remitted, released and pardoned. And that the said Letters-Patents of Pardon, and the Release and Pardon therein contained, shall be pleaded and allowed in all and every his Majesty's Courts, and before all his Justices whatsoever, without any Writ of Allowance, any Matter, Cause, or Thing whatsoever in any ways notwithstanding, as by the said Letters-Patents themselves more at large appeareth; which said Letters-Patents follow in these Words.

CAROLUS *Secundus, Dei Gratia* Angliæ, Scotiæ, Franciæ, & Hiberniæ *Rex, Fidei Defensor, &c. Omnibus ad quos præsentes literæ nostræ pervenerint, Salutem. Sciatis, quod Nos pro diversis bonis Causis & Considerationibus nos ad hoc specialiter moventibus, de Gratia nostra speciali, ac ex certa scientia & mero motu nostris, Pardonavimus & Relaxavimus, &c.*

And the said Earl doth averr, That he the said *Thomas* Earl of *Danby*, in the said Articles named, is the said *Thomas* Earl of *Danby* in the said Letters-Patents of Pardon here produc'd, likewise named. Which Pardon the said Earl doth rely upon, and pleaded the same in Bar of the said Impeachment, and in Discharge of all the Treasons, Crimes, Misdemeanors and Offences contain'd or mention'd in the said Articles of Impeachment, and every of them; and this the said Earl is ready to averr.

Whereupon he humbly prays the Judgments of your Lordships, and that his Majesty's most Gracious Pardon aforesaid may be allowed: And that he the said Earl, by virtue hereof, may be (from all the said Articles of Impeachment, and all and every of the Treasons and Crimes therein alledg'd against him) acquitted and discharged.

A Copy of the Pardon of THOMAS Earl of DANBY.

CAROLUS *Secundus, Dei Gratia* Angliæ, Scotiæ, Franciæ, & Hiberniæ *Rex, Fidei Defensor, &c. Omnibus ad quos præsentes literæ nostræ pervenerint, Salutem. Sciatis, quod Nos pro diversis bonis Causis & Considerationibus Nos ad hoc specialiter moventibus, de Gratia Nostra speciali, ac ex certa scientia & mero motu nostris, Pardonavimus, Remissimus & Relaxavimus, ac per præsentes pro Nobis, Heredibus & Successoribus nostris, Pardonamus, Remittimus & Relaxamus prædilecto, & perquam fideli Consanguineo & Consiliario nostro* Thomæ *Comiti* Danbii, *omnes & omnimodas Proditiones, Crimina læsæ Majestatis, Misprisiones Proditionum, Insurrectiones, Verborum Propalationes, Misprisiones, Confederationes, Concelamenta, Negligentias, Omissiones, Offensas, Crimina Contemptus, Malefacta & Transgressiones quæcunque, per se solum seu cum aliqua alia persona, vel aliquibus aliis personis, aut per aliquem alium, sive aliquos alios, ex præcepto, advisamento, assensu, consensu, seu procuratione ejusdem* Thomæ *Comitis* Danbii, *advisata, præcepta, attempta, facta, perpetrata, concelata, commissa, seu omissa, ante* 27 *diem* Februarii *jam ultim. præteritum, licet præmissa, vel eorum aliqua, vel aliquod, tangunt vel tangat personam vel negotiationes Nostras Publicas qualescunque, necnon transactiones nostras cum Forensecis Legatis ad nos missis, vel non rite prosequendo Instructiones & Mandata Nostra Legatis Nostris, in partibus extramarinis, ex parte Nostra residentibus etiam omnia & singula accessaria præmissorum & cujuslibet eorum, licet idem* Thomas *Comes* Danbii *de præmissis vel aliqua præmissorum indictatus, impetitus, appellatus, restatus, convictus, adjudicatus, utlegatus, condemnatus vel attinctus, Existit vel non Existit, ac omnia & singula Indictamenta, Impetitiones, Inquisitiones, Informationes exigenda judicia, attincta, utlegaria, Convictiones, Executiones, Pœnas mortis, Pœnas corporales, Imprisonamenta, foris factura, Punitiones, & omnes alias Pœnas & Pœnalitates quascunque, pro eisdem vel eorum aliquo, ac omnia & omnimoda, Sectas, Querelas, Impetitiones, & Demanda quæcunque, quæ Nos versus ipsum* Thomam *Comitem* Danbii, *ratione præmissorum vel eorum alicujus, habuimus, habemus, seu in futurum habere poterimus, aut Heredes, seu Successores Nostri, ullo modo habere poterint, in futuro, sectamque pacis Nostræ, ac quæ ad Nos, Heredes & Successores Nostros versus ipsum* Thomam *Comitem* Danbii *pertinet, seu pertinere poterit, ratione seu occasione præmissorum, seu eorum aliquorum vel alicujus, ac firmam pacem Nostram. Et inde damus & concedimus per præsentes, & ulterius volumus, & concedimus, Quod hæ literæ nostræ, ac hæc nostra Pardonatio, Remissio, Relaxatio in eisdem contenta, quoad omnia & singula superius pardonata, remissa, & relaxata, bonæ & effectuales in lege sint, & erint, licet Proditiones, Crimina læsæ Majestatis, Misprisiones Proditionum, Insurrectiones, Rebelliones, Felloniæ, Exactiones, Oppressiones, Verborum Propalationes, Misprisiones, Confederationes, Concelamenta, Negligentiæ, Omissiones, Offensæ, Crimina Contemptus, Malefacta & Transgressiones antedicta, Minus certe specificat. existunt. Et non obstante Statuto Parliamento Dom.* Ricardi *Secundi, nuper Regis* Angliæ, *Anno* 13 *Regni sui edito & proviso. Et non obstante Statuto in Parliamento Dom.* Edwardi *Tertii, nuper Regis* Angliæ, *Anno Regni sui* 14 *edito & proviso; Aut aliquo alio Statuto, Actu vel Ordinatione, in contrarium inde editis & provisis. Et ulterius de uberiori Gratia Nostra firmiter Præcipimus omnibus & singulis Judicibus, Justiciariis, vel aliis quibuscunque, Quod hæc præsens Litera & Generalis Pardonatio nostra & generalia Verba, Clausulæ & Sententiæ supradicta, construentur, exponentur & adjudicentur in omnibus Curiis nostris & alibi, in beneficentissimo, amplissimo, & benignissimo sensu, & pro maxima & firmiori exoneratione prædicti* Thomæ *Comitis* Danbii *de & à criminibus & offensis prædictis secundum veram intentionem nostram, & in tam beneficiali modo & forma & ad omnes intentiones & proposita, prout si prædictæ Proditiones, Crimina læsæ Majestatis, Misprisiones Proditionum, Crimina Offensæ, Misprisiones, Concelamenta, Negligentiæ, Omissiones, Contemptus, & Transgressiones prædictæ ac cetera præmissa per apta expressa, & specialia Verba Pardonata, Remissa, & Relaxata fuissent. Et quod hæ Literæ Patentes, Remissio, Relaxatio, & Pardonatio, omnia in eisdem contenta, in quibuscunque Curiis & coram quibuscunq; Justiciariis nostris, placitentur & allocentur, sine aliquo Breve de allocatione, aliqua re, causa vel materia quacunq; in aliquo non obstante. In cujus rei Testimonium has Literas nostras fieri fecimus Patentes. Teste Meipso apud* Westmonasterium 1 *die* Martii, *Anno Regni nostri* 31.

CHARLES.

CHARLES the Second, by the Grace of *God* of *England, Scotland, France* and *Ireland*, King, Defender of the Faith, *&c.* To all to whom these our Letters-Patents shall come, sendeth Greeting. Know ye, that we for divers good Causes and Considerations, Us hereunto especially moving, have out of our special Favour, certain Knowledge and mere Motion of our own, pardoned, remitted and released, and by these Presents for Us, our Heirs and Successors, do pardon, remit and release to our Well-beloved and Right Trusty Cousin and Counsellor,

Counſellor, *Thomas* Earl of *Danby*, all, and all manner of Treaſons, as well High-Treaſon, as Miſpriſions of Treaſon, Inſurrections, Revealing of Councils, Miſpriſions, Confederations, Concealments, Neglects, Omiſſions, Offences, Crimes, Contempts, Miſdeeds and Tranſgreſſions whatſoever, by himſelf alone, or with any other Perſon, or Perſons, or by any other, or others, by the Command, Advice, Aſſent, Conſent, or Procurement of the ſaid *Thomas* Earl of *Danby*, adviſed, commanded, attempted, done, performed, concealed, committed, or omitted, before the 27th Day of *February* now laſt paſt. Although the Premiſes, or any of them, touch, or may touch Our Perſon, or our publick Negotiations whatſoever, or our Tranſactions with Foreign Ambaſſadors unto Us ſent, or for not right following our Inſtructions and Mandates to our own Ambaſſadors reſident on Our Behalf in Foreign Parts beyond the Seas; And alſo all and ſingular Acceſſaries to the Premiſes, or any of them, altho' the ſaid *Thomas* Earl of *Danby* be indicted, impeached, appealed, arreſted, convict, adjudged, or as Ambaſſador condemned, or be, or be not attainted of the Premiſes, or any of them; and all and every Indictments, Impeachments, Inquiſitions, Informations, Judgments to be required, Attainders, Outlawries, Convictions, Penalties of Death, Corporal Puniſhments, Impriſonments, Forfeitures, Sufferings, together with all other Pains and Penalties whatſoever, for the ſame, or any of them, and all, and all manner of Suits, Complaints, Impeachments and Demands whatſoever, which We, againſt the ſaid *Thomas* Earl of *Danby*, by reaſon of the Premiſes, or any of them, have had, now have, or hereafter may have, or which our Heirs or Succeſſors in any manner may have hereafter, together with any Suit for Breach of our Peace, which to Us, our Heirs, or Succeſſors, againſt the ſaid *Thomas* Earl of *Danby* doth, or may belong, by Reaſon or Occaſion of the Premiſes, of ſome, or any of them; We do for ever indemnify him. Moreover we give and grant by theſe Preſents, and it is our further Will and Pleaſure, that theſe our Letters, and this our Pardon, Remiſſion and Releaſe therein contained, as to all and ſingular the things above pardoned, remitted and releaſed, be and ſhall be good and effectual in Law, altho' the Treaſons, High-Treaſons, Miſpriſions of Treaſons, Inſurrections, Rebellions, Felonies, Extortions, Oppreſſions, Betraying of Councils, Confederacies, Concealments, Negligencies, Omiſſions, Offences, Crimes, Contempts, Miſdemeanours and Tranſgreſſions aforeſaid, be not fully ſpecified. And notwithſtanding the Statute of *Richard* the Second, late of *England* King, in the 13th Year of his Reign made and provided. And notwithſtanding the Statute by the Parliament of *Edward* the Third, late King of *England*, in the 14th Year of his Reign made and provided, or any other Statute, Act, or Ordinance to the contrary heretofore publiſh'd and provided. And moreover of our abundant Grace, We do ſtrictly command all Judges, Juſtices, or others whatſoever, that this preſent Letter, with our General Pardon, and General Words, Clauſes, and Sentences aboveſaid, ſhall be conſtrued, expounded and adjudged in all our Courts, and elſewhere, in the moſt beneficial, moſt ample, and moſt favourable Senſe, and for the greateſt and firmeſt Diſcharge of the aforeſaid *Thomas* Earl of *Danby*, of and from the Crimes and Offences aforeſaid, according to our true Intention, and in ſo beneficial a Manner and Form, and to all Intents and Purpoſes, ſo as if the ſaid Treaſons, High-Treaſons, Miſpriſions of Treaſon, Crimes, Offences, Omiſſions, Contempts, Concealments, Negligence and Tranſgreſſion aforeſaid, and other the Premiſes, had been by apt, expreſs and ſpecial Words, pardon'd, remitted and releas'd. And that theſe Letters-Patents, Remiſſion, Releaſe and Pardon, with all things therein contain'd, in whatſoever Courts, and before whatſoever Our Juſtices, ſhall be pleaded and allowed, without any Writ of Allowance, any Thing, Cauſe, or Matter whatſoever in any wiſe notwithſtanding. In Witneſs whereof We have cauſed theſe Our Letters-Patents to be made. Witneſs Myſelf, at *Weſtminſter*, the Firſt Day of *March*, in the 31ſt Year of Our Reign.

When the Plea and Pardon were read, the Earl withdrew, and was carried back to the *Tower*.

On *April* the 25th a Meſſage was brought from the Lords, 'That '*Thomas* Earl of *Danby* had this Day appeared in Perſon at the Bar of the 'Houſe of Lords, and had put in his Plea, which the Lords have ſent 'down, deſiring it may be return'd with all convenient Speed.' Hereupon the Houſe of Commons appointed a Committee to examine and peruſe the Plea of the Earl of *Danby*.

On *April* the 28th, the Committee made this Report: '1. We find no 'Precedent that ever any Pardon was granted to any Perſon Impeach-'ed by the Commons of High-Treaſon, or other High Crimes, the Im-'peachment depending. 2. As to the Manner of the paſſing the Earl of '*Danby*'s Pardon, it hath been formerly reported to the Houſe, and the 'Committee refer themſelves to that Report. 3. That by what Means 'it was obtained, the Time allowed the Committee hath been ſo ſhort, 'that we cannot as yet diſcover the Adviſers or Promoters thereof any 'farther than what is mentioned in the ſaid Report relating to the Lord 'Chancellor. *Reſolved*, That a Meſſage be ſent to the Lords, to deſire 'their Lordſhips to demand of the Earl of *Danby*, *Whether he will rely* '*upon, and abide by the Plea of his Pardon?*' Accordingly the next Day the Earl was again brought to the Bar of the Lords Houſe, where kneeling, and then ſtanding up, the Lord Chancellor acquainted him, That the Commons had returned to their Lordſhips the Plea delivered by him at the Bar of their Houſe on the 25th Inſtant, with a Deſire that their Lordſhips would ask him, *Whether he will rely upon, and abide by his ſaid Plea?* The Earl praying Time to anſwer, their Lordſhips allow'd him 'till *Saturday* next, and then he withdrew, and was conducted back to the *Tower*. He afterwards returned Anſwer, that he relied on his Pardon. To which Plea the Commons put in a Replication; and on *May* the Fifth Reſolved, 'That it was the Opinion of that Houſe, That the Pardon 'pleaded by the Earl of *Danby* was illegal and void, and ought not to be 'allow'd in Bar of an Impeachment.' Whereupon the Speaker with the Houſe went up to the Lords Bar, and demanded Judgment againſt the Earl.

After this, the Commons underſtanding that the Lords would admit the Earl of *Danby* to have the Validity of his Pardon pleaded at their Bar, they *Reſolved*, 'That no Commoner whatſoever ſhould preſume 'to maintain the Validity of the Pardon pleaded by the Earl of *Danby*, 'without the Leave of this Houſe firſt had; and that the Perſons ſo 'doing ſhould be accounted Betrayers of the Liberties of the Commons 'of *England*.'

Afterwards a Difference ariſing between the two Houſes, about the Biſhops Right of Voting in any Part (tho' preliminary) of a Trial for Treaſon, the Commons refus'd to proceed in the Affair; the Narrative and Reaſons whereof they deliver'd to the Lords at a Conference on *Monday*, *May* 26, which were as follow:

The Commons have always deſir'd, that a good Correſpondence may be preſerv'd between the two Houſes.

There is now depending between your Lordſhips and the Commons a Matter of the greateſt Weight; in the Tranſactions of which, your Lordſhips ſeem to apprehend ſome Difficulty in the Matters propoſed by the Commons.

To clear this, the Commons have deſir'd this Conference; and do readily acknowledge, That any Change in Judicature in Parliament, made without Conſent in full Parliament, to be of pernicious Conſequence, both to his Majeſty and his Subjects; and conceive themſelves oblig'd to tranſmit to their Poſterity, all the Rights which of this kind they have received from their Anceſtors, by putting your Lordſhips in mind of the Progreſs that has already been between the two Houſes, in relation to Propoſitions made by the Commons, and the Reaſonableneſs of the Propoſitions themſelves; they doubt not to make it appear, that their Aim has been no other, than to avoid ſuch Conſequences, and preſerve that Right; and that there is no Delay of Juſtice on their Part. And to that End, do offer to your Lordſhips the enſuing Reaſons and Narrative: That the Commons in bringing the Earl of *Danby* to Juſtice, and in Diſcovery of that execrable and traitorous Conſpiracy, have labour'd under many great Difficulties, is not unknown to your Lordſhips.

Nor is it leſs known to your Lordſhips, that upon the Impeachment of the Houſe of Commons againſt the Earl of *Danby* for High-Treaſon, and other high Crimes, Miſdemeanours and Offences, even the common Juſtice of Sequeſtring him from Parliament, and forthwith committing him to ſafe Cuſtody, was then requir'd by the Commons, and denied by the Houſe of Peers, though he then ſat in their Houſe; of which your Lordſhips have been ſo ſenſible, that at a free Conference the 10th of *April* laſt, your Lordſhips declared, That it was the Right of the Commons, and well warranted by Precedents of former Ages, That upon an Impeachment of the Commons, a Peer ſo impeach'd ought of right to be order'd to withdraw, and then to be committed. And had not that Juſtice been denied to the Commons, a great Part of this Seſſion of Parliament, which hath been ſpent in framing and adjuſting a Bill for cauſing the Earl of *Danby* to appear, and to anſwer that Juſtice from which he was fled, had been ſaved, and had been employed for the Preſervation of his Majeſty's Perſon, and the Security of the Nation; neither had he had the Opportunity of procuring for himſelf that illegal Pardon, which bears Date the Firſt of *March* laſt paſt, and which he hath now pleaded in Bar of his Impeachment: Nor of waſting ſo great a Proportion of the Treaſure of the Kingdom, as he hath done ſince the Commons exhibited their Articles of Impeachment againſt him.

After which Time thus loſt, by reaſon of the Denial of that Juſtice, which of Right belong'd to the Commons upon their Impeachment, the ſaid Bill being ready for the Royal Aſſent, the ſaid Earl then rendered himſelf; and by your Lordſhips Order of the Sixteenth of *April* laſt, was committed to the *Tower*. After which he pleads the ſaid Pardon; and being preſs'd, did at length declare, He would rely upon, and abide by that Plea: which Pardon pleaded, being illegal and void, ought not to bar or preclude the Commons from having Juſtice upon the Impeachment: They did thereupon, with their *Speaker*, on the Fifth of *May* Inſtant, in the Name of themſelves and all the Commons of *England*, demand Judgment againſt the ſaid Earl, upon their Impeachment; not doubting, but that your Lordſhips did intend in all your Proceedings upon the Impeachment to follow the uſual Courſe and Method of Parliament.

But the Commons were not a little ſurpriz'd by the Meſſage from your Lordſhips, deliver'd them on the Seventh of *May*; thereby acquainting them, That as well the Lords Spiritual as Temporal had order'd, That the Tenth of *May* Inſtant ſhould be the Day for hearing the Earl of *Danby*, to make good his Plea of Pardon. And that your Lordſhips had addreſſed to his Majeſty for naming of a Lord High Steward in the Caſe of the Earl of *Danby*.

Upon Conſideration of this Meſſage, the Commons found, that the admitting of the Lords Spiritual to exerciſe Juriſdiction in theſe Caſes, was an Alteration of the Judicature in Parliament; and that if a Lord High Steward ſhould be neceſſary upon Trial on Impeachments of the Commons, the Power of Judicature in Parliament, upon Impeachments, might be defeated, by ſuſpending or denying a Commiſſion to conſtitute a Lord High Steward.

And that the ſaid Day of Trial appointed by your Lordſhips, was ſo near to the Time of your ſaid Meſſage, that theſe Matters, and the Method of proceeding upon the Trial, could not be adjuſted by Conference betwixt the two Houſes, before the Day ſo nominated. And conſequently, the Commons could not then proceed to Trial, unleſs the Zeal which they have for ſpeedy Judgment againſt the Earl of *Danby* ſhould induce them at this Juncture, both to admit the Enlargement of your Lordſhips Juriſdiction, and to ſit down under theſe or any Hardſhips, though with the Hazard of all the Commons Power of Impeaching for time to come, rather than the Trial ſhou'd be deferr'd for ſome ſhort time, whilſt theſe Matters might be agreed on and ſettled.

For reconciling Differences in this great and weighty Matter, and for ſaving that Time, which would neceſſarily have been ſpent in Debates

bates and Conferences betwixt the two Houſes; and for expediting the Trial, without giving up the Power of Impeachment, or rendering it ineffectual.

The Commons thought fit to propoſe to your Lordſhips, that a Committee of both Houſes might be appointed for this Purpoſe. At which Committee (when agreed to by your Lordſhips) it was then agreed, that the Propoſition as to the Time of the Trial, ſhould be the laſt thing conſider'd. And the Effect of this Agreement ſtands reported upon your Lordſhips Books.

After which, the Commons communicated to your Lordſhips, by your Committee, a Vote of theirs, (*viz.*) That the Committee of the Commons ſhould inſiſt upon their former Vote of their Houſe, That the Lords Spiritual ought not to have any Vote in any Proceedings againſt the Lords in the *Tower*, and that when that Matter would be ſettled, and the Method of Proceedings adjuſted, the Commons ſhould then be ready to proceed upon the Trial of the Pardon of the Earl of *Danby*, againſt whom they had before demanded Judgment; but the Commons as yet received nothing from your Lordſhips towards an Anſwer of that Vote, ſave that your Lordſhips have acquainted them, that the Biſhops have aſk'd Leave of the Houſe of Peers, that they might withdraw themſelves from the Trial of the Five Lords, with Liberty of entring their uſual Proteſtation.

And tho' the Commons Committee have almoſt daily declared to your Lordſhips Committee, that that was a neceſſary Point of Right to be ſettled before the Trial, and offered to debate the ſame; your Committee always anſwered, That they had not any Power from your Lordſhips, either to confer upon; or to give any Anſwer concerning that Matter.

And yet your Lordſhips, without having given the Commons any ſatisfactory Anſwer to the ſaid Vote, or permitting any Conference or Debate thereupon, and contrary to the ſaid Agreement, did, on *Thurſday* the 22d of *May*, ſend a Meſſage to the Commons, declaring, That the Lords Spiritual as well as Temporal had order'd, that the 27th of this inſtant *May* be appointed for the Trial of the Five Lords.

So that the Commons cannot but apprehend that your Lordſhips have not only departed from what was agreed on, and in effect laid aſide that Committee which was conſtituted for preſerving a good Underſtanding betwixt the two Houſes, and better Diſpatch of the weighty Affairs now depending in Parliament, but muſt alſo needs conclude from the Meſſage, and the Votes of your Lordſhips on the 14th of *May*, that the Lords Spiritual have a Right to ſtay and ſit in Court, till the Court proceeds to the Vote of Guilty, or Not Guilty. And from the Biſhops aſking Leave (as appears by your Lordſhips Books two Days after your ſaid Vote) that they might withdraw themſelves from the Trial of the ſaid Lords, with Liberty of entring their uſual Proteſtation, and by their perſiſting ſtill to go on and give in their Votes Proceeding upon the Impeachment; that their Deſire of Leave to withdraw at the ſaid Trial, is only an evaſive Anſwer to the before-mention'd Vote of the Commons, and chiefly intended as an Argument for a Right of Judicature in Proceedings upon Impeachments, and as a Reſerve to Judge upon the Earl of *Danby*'s Plea of Pardon, and upon theſe and other like Impeachments, although no ſuch Power was ever claimed by their Predeceſſors, but is utterly denied by the Commons. And the Commons are the rather induced to believe it ſo intended, becauſe the very aſking Leave to withdraw, ſeems to imply a Right to be there, and that they cannot be abſent without it.

And becauſe by this way they ſhould have it in their Power, whether or no for the Future, either in the Earl of *Danby*'s Caſe, or any other, they will ever aſk leave to be abſent; and the Temporal Lords a like Power of denying Leave, if that ſhould once be admitted neceſſary.

The Commons therefore are obliged not to proceed to the Trial of the Lords on the 27th of this Inſtant May, *but to adhere to their aforeſaid Vote: And for their ſo doing, beſides what hath been now and formerly by them ſaid to your Lordſhips, do offer you theſe Reaſons following:*

REASONS.

I.

BEcauſe your Lordſhips have received the Earl of *Danby*'s Plea of Pardon with a very long and unuſual Proteſtation, wherein he hath aſperſed his Majeſty by falſe Suggeſtions, as if his Majeſty had commanded or countenanced the Crimes he ſtands charg'd with; and particularly ſuppreſſing and diſcouraging the Diſcovery of the Plot, and endeavouring to introduce an arbitrary and tyrannical Way of Government; which remains as a Scandal upon Record againſt his Majeſty, tending to render his Perſon and his Government odious to his People; againſt which it ought to be the firſt and principal Care of both Houſes to vindicate his Majeſty, by doing Juſtice upon the ſaid Earl.

II.

The ſetting up a Pardon to be a Bar of an Impeachment, defeats the whole Uſe and Effect of Impeachments; and ſhould this Point be admitted, or ſtand doubted, it would totally diſcourage the exhibiting any for the future: Whereby the chief Inſtitution for the Preſervation of the Government (and conſequently the Government it ſelf) would be deſtroy'd. And therefore the Caſe of the ſaid Earl (which in conſequence concerns all Impeachments whatſoever) ought to be determin'd before that of the ſaid Five Lords, which is but their particular Caſe.

And without reſorting to many Authorities of greater Antiquity, the Commons deſire your Lordſhips to take notice (with the ſame Regard they do) of the Declaration which that Excellent Prince, King *Charles* the Firſt of bleſſed Memory, made in this Behalf, in his Anſwer to the Nineteen Propoſitions of both Houſes of Parliament: Wherein, ſtating the ſeveral Parts of this regulated Monarchy, he ſays; *The King, the Houſe of Lords, and the Houſe of Commons, have each particular Privileges:* And among thoſe which belong to the King, he reckons *Power of Pardoning.* After the enumerating of which, and other his Prerogatives, his ſaid Majeſty adds thus: *Again, That the Prince may not make uſe of this high and perpetual Power, to the Hurt of thoſe for whoſe Good he hath it, and make uſe of the Name of Publick Neceſſity, for the Gain of his Private Favourites and Followers, to the Detriment of his People; The Houſe of Commons (an excellent Conſerver of Liberty, &c.) is ſolely intruſted with the firſt Propoſitions concerning the Levies of Monies, and the impeaching of thoſe who for their own Ends, though countenanced by any ſurreptitiouſly-gotten Command of the King, have violated the Law, which he is bound (when He knows it) to protect, and to the Protection of which they were bound to adviſe Him, at leaſt not to ſerve Him in the contrary. And the Lords being truſted with a Judicatory Power, are an excellent Screen and Bank between the Prince and People, to aſſiſt each againſt any Incroachments of the other; and by juſt Judgments to preſerve that Law which ought to be the Rule of every one of the Three,* &c. *Therefore the Power legally placed in both Houſes, is more than ſufficient to prevent and reſtrain the Power of Tyranny,* &c.

III.

Until the Commons of *England* have Right done them againſt this Plea of Pardon, they may juſtly apprehend, that the whole Juſtice of the Kingdom, in the Caſe of the Five Lords, may be obſtructed and defeated by Pardons of like Nature.

IV.

An Impeachment is virtually the Voice of every particular Subject of this Kingdom, crying out againſt an Oppreſſion, by which every Member of that Body is equally wounded; And it will prove a Matter of ill Conſequence, That the Univerſality of the People ſhould have Occaſion miniſtred and continued to them, to be apprehenſive of utmoſt Danger from the Crown, from whence they of Right expect Protection.

V.

The Commons exhibited Articles of Impeachment againſt the ſaid Earl before any againſt the Five other Lords, and demanded Judgment upon thoſe Articles: Whereupon, your Lordſhips have appointed the Trial of the ſaid Earl to be before that of the other Five Lords; Now your Lordſhips having ſince inverted that Order, gives a great Cauſe of Doubt to the Houſe of Commons, and raiſes a Jealouſy in the Hearts of all the Commons of *England*, that, if they ſhould proceed to the Trial of the ſaid Five Lords in the firſt Place, not only Juſtice will be obſtructed in the Caſe of thoſe Lords, but that they ſhould never have right done them in the Matter of this Plea of Pardon, which is of ſo fatal Conſequence to the whole Kingdom, and a new Device to fruſtrate publick Juſtice in Parliament.

Which Reaſons and Matters being duly weighed by your Lordſhips, the Commons doubt not but your Lordſhips will receive Satisfaction concerning their Propoſitions and Proceedings; and will agree, That the Commons ought not, nor can, without deſerting their Truſt, depart from their former Vote communicated to your Lordſhips; *That the Lords Spiritual ought not to have any Vote in any Proceedings againſt the Lords in the* Tower; *and when that Matter ſhall be ſettled, and the Methods of Proceedings adjuſted, the Commons ſhall then be ready to proceed upon the Trial of the Earl of* Danby.

May 27, 1679.

The Narrative and Reaſons delivered at the Conference Yeſterday with the Houſe of Commons were again read, and after a long Debate, the Vote of this Houſe, dated the 13th of *May* Inſtant, and the Explanation thereupon, dated the 14th Inſtant, were read, and the Queſtion was put, Whether to inſiſt upon theſe Votes concerning the Lords Spiritual, and it was reſolv'd in the Affirmative.

DISSENTERS Preſent.

Buckingham.	*Newport.*
Huntingdon,	*Say* and *Seal.*
Kent.	*P. Wharton.*
Shaftſbury, P. R.	*Leiceſter.*
Bedford.	*Scarſdale.*
Wincheſter.	*Strafford.*
Rocheſter.	*Derby.*
North and *Grey.*	*Delamer.*
Suffolk.	*Howard.*
J. Lovelace.	*Paget.*
Townſhend.	*Clare.*
Herbert.	*Saliſbury.*
Gray.	*Falconberg.*
Stamford.	*Windſor.*

The ſame Day the King came to the Houſe and prorogued the Parliament, and ſoon after diſſolv'd it, and a new one call'd, which was not ſuffer'd to ſit.

Proceedings in the KING'S BENCH, *upon the Earl of* DANBY'S *Motion for Bail.*

THE Earl of *Danby* having been confin'd for above three Years, and no Parliament ſitting, to which he could apply for his Liberty, brought an *Habeas Corpus* in the *King's-Bench*, in order to be Bail'd; which came to be argued *May* 27, 1682, *Eaſter* Term, 34 *Car.* II.

Immediately after his Lordſhip was in Court, the Return of the *Habeas Corpus* was read, and Mr. *Saunders* (of Council for his Lordſhip) did move the Court, That whereas in *Eaſter-Term*, 1681, the Court had diſmiſs'd his Lordſhip with a *Declaration*, that they would take into their Conſideration, till the *Term* following, what Anſwer they would make to what had then been ſaid to them by his Lordſhip and his Council; he there-

therefore moved, That they might now accordingly know the Pleaſure of the Court, and that they would be pleaſed to grant Bail to the Earl of *Danby*.

But before the ſaid Mr. *Saunders* could well have pronounced the foregoing Words, the Lord Chief Juſtice *Pemberton* did reprimand the ſaid Mr. *Saunders*, for having offer'd to impoſe upon the Court what had never been ſaid by them; ſaying, That there was no ſuch thing as their having ſaid, at any time, that they would take the Earl of *Danby*'s Caſe into farther conſideration; for that they had told my Lord of *Danby* the laſt time, That it was not in their Power to give him any Relief at all; and that he therefore wonder'd, and muſt extremely blame Mr. *Saunders*, for moving the Court again in a Matter to which they had already given ſuch a poſitive Anſwer; and could not but admire, that he ſhould ſo miſinform his Client, as to give him any ſuch Advice, which could only be to the giving both him and the Court an unneceſſary Trouble.

To all which Mr. *Saunders* replied, That he humbly begg'd his Lordſhip's Pardon, if he had miſtaken him; for that truly he did underſtand, that his Lordſhip had declar'd that he would take time to conſider of my Lord of *Danby*'s Caſe till the following Term; but that if it was a Miſtake, he muſt beg his Lordſhip's Pardon; and did believe the reſt of his Brethren took it ſo, as well as himſelf.

The Earl of *Danby* then ſpoke himſelf for about two Hours, and ſaid to the Lord Chief Juſtice, That he met with an Objection, which he did not expect; and that he muſt beg his Lordſhip's Pardon, not to let that paſs for a Miſtake which his Council had affirm'd, of the Court's having taken Time to conſider of his Caſe, till the next Term after that of his Lordſhip's being laſt there; for that his Lordſhip did therein appeal both to the reſt of the Judges, which were upon the Bench with him, and to all other Perſons whatſoever, who were then in Court, whether his Lordſhip had not ſaid, that if he (meaning the Earl of *Danby*) pleaſed, they would take time to conſider of his Caſe till the next Term; and he did declare upon his *Honour*, that thoſe Words had been pronounced to him by my Lord Chief Juſtice himſelf, and that he did then accept it as a Favour from the Court, and did return his humble Thanks to them for it: Inſomuch, that his Lordſhip ſaid, That he confeſſed he was very much ſurprized to meet with ſuch an Introduction at the firſt entrance into a Matter which he conceived to be of ſo great Weight, as he doubted not but he ſhould make this Caſe of his appear to be.

But yet, that it did give him Reaſon to believe, that he came with ſome Prejudice before his Lordſhip, and that they were ſo much prepoſſeſſed in this Matter, that if he did not think every Man in *England* would find that he might be concern'd in what Reſolution ſhould be given in this Caſe, as well as himſelf, he ſhould ſcarcely have ventured upon it, though he had lain ſo long under ſo unreaſonable a Confinement, as he took himſelf to do; and therefore he muſt deſire their Lordſhips' Patience and Attention to what he had to offer in his own Behalf, and (as he believed) in the Behalf of the *Liberty of the Subject* in general.

His Lordſhip, directing himſelf to the Lord Chief Juſtice, ſaid, It was juſt now a Year ſince he was before his Lordſhip in this Court; and that he was aſſured, that his Lordſhip did then pleaſe to tell him, That they would take Time to the following Term to conſider of what they ſhould think fit to do in his Lordſhip's Caſe: But he ſaid, that Care was then taken the firſt Day of that following Term to prevent his coming there, by an *Indictment* which was brought againſt him (*ready cut and dry'd*, as he had been told) for his being privy to the Murder of Sir *Edmundbury Godfrey*.

He ſaid he did not wonder at it, becauſe there was nothing ſo *black*, which had not been Invented to be ſaid againſt him; but, he confeſſed, he did wonder to hear, that ſuch an Evidence of an *Iriſh Papiſt* (who was upon Trial for his own Life, and upon an *Hear-ſay* only) ſhould be believed againſt an *Engliſh Proteſtant*, by a Jury of *Engliſh-Men*, and ſome of them *Gentlemen*; but yet that Wonder hath been much abated, when he heard that the ſame *Fore-man* had been as favourable in the Caſe of a *Notorious Murder*, as he had been ready to find that *Murder* againſt him, which had not the leaſt *Probability* in it, and which no Man could think of with more Deteſtation both of the *Fact*, and of any *Man* that could have an hand in it, than himſelf.

However, this prevented him from coming there again, till after Notice had been given to Sir *Edmundbury Godfrey*'s Brothers, to know if they had any thing further to ſay againſt him on that Matter, and that he could get himſelf diſcharg'd from that *Indictment*; and as to the Wretch himſelf, *Fitz Harris*, (who had accuſed him) he did Two Days before his Death ſend the *Miniſter* of the *Tower* to his Lordſhip to beg of him that, before he died, his Lordſhip would forgive him his having ſworn falſly againſt him; and he did confeſs, that he was put upon it to *Save* his *own* Life; and did ſay by *whom* he was prompted to do it. And whether it proceeded from thoſe Men, who might think their Villanies diſcovered, and ſo might fear they could no way be ſafe but by putting that Matter yet farther againſt him, or from what other Cauſe, his Lordſhip could not tell; but (if his Lordſhip was not miſinformed) he did hear that *Some* Men were ſtill endeavouring to get ſomething more of the ſame Nature to be ſworn againſt him, if they can contrive how to make their forg'd Teſtimonies to agree about it.

He ſaid he thought that Time would have tired out the Malice of ſuch *Blood-Suckers* before now, whom he had found ſo buſy, for the firſt Year and half after his Impriſonment; that he was not a Week without Endeavours uſed by ſtrange People to get to ſpeak with him, and ſuch as he had Reaſon often to ſuſpect to be *Knights of the Poſt*; amongſt whom the Story of one *Magrath*, (another *Iriſh-Man*) he ſaid, was notably remarkable, in his Endeavour (under Pretence of Kindneſs) to have made him their *Tool*, to prove, that Sir *Edmundbury Godfrey* had killed himſelf: But he ſaid, he had the good Fortune immediately to *detect* that Villany, as he hoped yet to live to do of *ſome* others; but that in the mean time he foreſaw, that he was always to be a particular Object of the Malice of ſuch Men, ſo long as he was left under this *Confinement*, from which he ſaw no Hopes to be relieved, but by that Court, where the Law directs every *Engliſhman* to come for Juſtice that is oppreſſed in his Liberty.

He ſaid, he hoped his Lordſhip would forgive him for having been a little tedious on that Subject of Sir *Edmundbury Godfrey*, becauſe his Reputation had been ſo much expoſed in that Particular, and before that Court.

After his Diſcharge from that Indictment, he ſaid, there ſeem'd to be a Probability of the Call of a *Parliament* in ſome ſhort time; and whenever he could give himſelf the leaſt Hopes of that, he reſolved to trouble no other Place: But that now he had not the leaſt Proſpect of that kind; and that he had been a Priſoner about Three Years, and yet could ſafely ſwear, he was without the Knowledge to that Day, for what real Crimes he was committed; only he knew that the Name of *Treaſon* had been laid to his Charge, without ſaying wherein the *Treaſon* conſiſted.

He ſaid he came, therefore, now to that *Court* (as the only proper Place for all Perſons to reſort to for their *Liberty*) and he was ſorry, that he was put to the great Diſadvantage of ſpeaking in his own Cauſe. But becauſe he ſaw the laſt time he was there, that ſome Fault ſeemed to be found with his Council, for urging things which ſeem'd to relate to Matters of *Parliament* (altho' upon a due Conſideration of his Requeſt, there is nothing in it which does touch their Juriſdiction), he had choſen rather to rely upon the Court's Pardoning his Defects, than put any further Hardſhips upon thoſe Gentlemen, who had been his Counſel, to whom he had been more beholden, than they had been to him, for that they had undergone ſome unheard-of *Rebukes* already in another Place, for offering to be of Counſel with him, (though in Matters of Law) which he believed had never been heard of, but in his Caſe; and he hoped, that (when all his Circumſtances ſhall have been well conſidered) he ſhall be the laſt *Engliſhman* that will ever have ſo many Hardſhips put upon him, as will appear to be thro' every Part of his Caſe.

In the firſt Place he ſaid, That he had been both Accuſed and Committed, without any *Oath* or *Affidavit* made againſt him, for any *Crime* whatever: Which hath been in the Caſe of no other Lord but himſelf, and he did believe of no other Man.

Secondly, That there was no particular *Treaſon* mention'd in the *Articles* againſt him, only the Word TRAITEROUSLY had been applied to things which were not *Treaſon*, if they had been true (as was then declared by Sir *William Jones*, the King's Attorney); and he ſaid, there were good ſtore of Witneſſes to prove, that when it could not be maintained by Argument in the *Houſe of Commons*, that any of the Crimes mentioned againſt him were *Treaſon*; it was anſwered by one of the *Long Robe* there, (who would not have ſpared to have aſſigned the Treaſon, had there been any) that however, they ought to give the *Title* of *High-Treaſon* to the Articles, *for that otherwiſe they would dwindle to nothing when they came into the Houſe of Peers*. Now in the Impeachments of other Lords (not to meddle with the Truth or Falſity of their Accuſers) they were charg'd with the higheſt Treaſons in Name, and upon Oaths made againſt them.

Thirdly, When a *ſhort* Day was ſet by the Lords for his being heard; and that he appeared that Day accordingly, his Counſel was then threatned if they did dare to plead Matter of Law for him: Which he ſaid was never heard of before in any Man's Caſe whatſoever, nor in the worſt of Times.

Fourthly, He ſaid, if all the Articles had been true againſt him, and had been Treaſon; he had his Majeſty's *Pardon* (which he then ſhewed to the Court, and demanded the Benefit of it); ſaying, That that did pardon both his Crimes (if he were Guilty of any) and his Impriſonment; and yet, that both that *Pardon* and *He* had been Priſoners together for above three Years (of which he ſaid he durſt confidently affirm, that his was the firſt Precedent ſince the Conqueſt).

Fifthly, He ſet forth, That he had not only his Majeſty's Pardon, but that there had been his Majeſty's *Declaration* of it in his *Speech* to his two Houſes of *Parliament*, together with a *Declaration* of his Innocency, and a *Declaration* that he would give him his Pardon *Ten* times over, if that were defective either in *Matter* or *Form*. And in this alſo he ſaid, that his Caſe was not only particular from any others, but that ſuch *Declarations* of the King's Intentions to Pardon, (altho' the *formal* Pardons have not been obtained) have heretofore been alone a Ground to procure Bail at leaſt, when the Party has been the King's *Priſoner*, and at the King's Suit; which he ſuppoſed was not doubted in his Caſe.

Sixthly, He ſaid that he had not only been thus Committed, and thus Detained for above forty Months, but he had been kept a Priſoner without any Proſecution for the greateſt part of that time; which is another ſufficient Ground by the Law for Bail: But inſtead of a Reſtraint *Ad Cuſtodiam*, he ſaid he had undergone Puniſhments greater than the Crimes alledged againſt him could have deſerved if they had been true; both by the Length of his Impriſonment, which was agreed to be a ſufficient Ground for Bail, both by the King's Council and the Priſoner's, in the Arguments on the Grand *Habeas Corpus*, 3 *Car.* as alſo in *Melvin*'s Caſe, 1 *Car.* and in Sir *Thomas Darnell*'s and other Caſes.

By the Inconvenience of his Accommodations in the Priſon, for above two Years and an half of this time.

By Two moſt dangerous Sickneſſes in the Priſon. And

By the Loſs of Divers of his Family ſince his being in Priſon, who would ſome of them moſt certainly not have been in thoſe Places where they have been loſt, had he been at Liberty.

He ſaid he was informed, That his Majeſty had been again pleaſed to give his Directions to Mr. *Attorney*, to give his Conſent a ſecond time to his *Bail*, and he did beg leave to aſk Mr. *Attorney* if it were ſo? Whereupon Mr. *Attorney* did ſtand up, and ſay, that he had his Majeſty's Directions to give his Majeſty's Conſent again to his Lordſhip's being Bailed.

His Lordſhip did thereupon ſay, That this alſo was Particular in his Caſe; and he did believe, there was ſcarce a Precedent in the World, of the *King*'s Priſoner, and at the *King*'s Suit, not being Bailed when there hath been the *King*'s Conſent to it; unleſs where the Priſoner hath not been able to find ſufficient Security for his Appearance to abide his Trial. For that the two only juſtifiable Grounds for the continuance of Reſtraint by

by the Law are; either for keeping the Party from being able to do any harm by his being at Liberty (of which the King is the beſt Judge), or for ſecuring the Party to abide the Judgment of the Law, (in which the Court ought to have good Satisfaction) and ſo they might have ſufficiently in his Caſe.

He ſaid, That the Precedent would be no leſs ſtrange and new againſt the King, than againſt himſelf, if they ſhould not permit him to be Bail'd under ſuch Circumſtances: For he had heard, that the Law did admit of no *Abſurdity:* Now he did deſire to know, how any thing could in Reaſon be more *Abſurd* on behalf of the *King*, than if the *King*'s Priſoner, and at the *King*'s Suit, ſhould be kept in Priſon by any of the *King*'s Courts, againſt the *King*'s Will?

Or how, ſaid he, can any thing be more dangerous to the Subject, or be a plainer *failure* of Juſtice (whatever may be pretended to the contrary) than to ſay, That there can be any ſuch Reſtraint of *Engliſh* Liberty, as cannot obtain ſo much as Bail, but by the leave of the Houſe of Lords? when that Houſe can neither meet but when the King pleaſes, nor can never ſit longer than he pleaſes: So that to ſay a Man ſhall be a cloſe Priſoner (I mean by that a Priſoner without Bail, for Bail itſelf is Impriſonment in the Eye of the Law) till he ſhall be diſcharg'd by the Houſe of Lords, is to ſay, that a Man ſhall be a Priſoner during the *King*'s Pleaſure; which was the Great Grievance complained of, when the *Petition of Right* was granted, and that was thought to have fully and for ever Redreſſed that Grievance.

But if after ſo many Heats and Diſputes which our Anceſtors have had with the Crown about their Liberties, this Doctrine ſhould now be admitted for Law; We would ſeem to endeavour (as much as in us lies) to bring it to this Concluſion, and be our own *Felo's de ſe*; *That the King ſhall have a way found out by ourſelves, and without his ſeeking, how he may Impriſon any Man, or number of Men, when he pleaſes, in a Parliamentary way; and by Diſſolving that Parliament he may keep them as long as he pleaſes in a Priſon without Remedy: But that he ſhall neither have Power to Relieve us himſelf by his own Authority, nor by his Courts of Juſtice.* So as in ſhort, by this Doctrine, the King ſhould only have Power to *hurt* his Subjects as much and as long as he pleaſes, but ſhould not be able to do them any *Right* if he would; and then we ſhall have *Magna Charta* and the *Petition of Right* revers'd, inſtead of receiving that Benefit by them, which the Kings of *England* have been ſo Gracious as to give us, and all the Learned Writers upon thoſe happy *Laws* of *Liberty* have told us, we are ſecure under, *at all Times, and againſt all Accidents whatever.*

He then begg'd leave to obſerve to his Lordſhip what he found in my Lord Chief Juſtice *Coke*'s Comments upon *Magna Charta*; who ſaid, That the Words *Nulli Vendemus, Nulli Negabimus, aut Differemus Juſtitiam vel Rectum*, are ſpoken in the Perſon of the King, who (in Judgment of Law) is always preſent, and repeating the ſaid Words in all his Courts of Juſtice.

And therefore (ſays he) every Subject in the Realm may, *at all times*, have a Remedy by the Courſe of the Law; and may have Juſtice done freely, fully, and ſpeedily, without Delay; for that Delay is a ſort of Denial.

The ſaid Lord *Coke* obſerves farther, That thoſe Words of *Magna Charta* are fully expounded by latter Statutes, *viz.* 20 *Eliz.* 3, &c. which do direct, That there ſhall be no *Delay* nor *Hindrance* of ſpeedy Juſtice to any Man, neither by any *Seal*, nor by any *Order*, nor any *Writ* whatſoever; neither from the *King*, nor from any *other*, *nor by any other Cauſe.*

Now, whatever may be ſaid out of other Conſiderations, he ſaid, No Man can deny, but that there is great *Delay of Juſtice* (to ſay no worſe of it) to any Man who (through no Neglect of his own) can neither get *Trial* nor *Bail* in above three Years, altho' his Crimes were never ſo great. And he ſaid, he durſt be confident, that the Makers of *Magna Charta* did believe they had ſecured all *Engliſhmen* from ever being under the Poſſibility of ſuch a Danger; and that he made no Queſtion at all, but that by *Law* we are ſo.

He ſaid, that the ſaid Lord *Coke* does ſay in his Comment upon the 15 *W.* I. (where he ſpeaks of what Things are Bailable, and what are not; and names Treaſon amongſt the Things not Bailable) that is (ſays he), ſuch Offences ſhall not be Replevied by the Sheriff; but all or any of theſe, he ſaith, may be Bailed in the *King's-Bench.*

And he ſaid, he had alſo ſome of the *preſent* Judges Opinions to ſhew, in this Point, which he deſired to read out of a *Copy* of the Lords *Journal*, (*viz.*) 23d *Decemb.* 1678. *The Queſtion being put, Whether the Lord Treaſurer ſhould withdraw? 'Twas carried in the Negative.* And on the 27th of the ſaid *December*, *The Queſtion being put, Whether the Earl of* Danby, *Lord High Treaſurer, (who ſtands Impeached by the Houſe of Commons) ſhould be committed? It was reſolved in the Negative.*

And it was the ſame Day propoſed to the Judges, Whether the Judges can Bail any Perſon, in Caſe of *Miſpriſion* of Treaſon, wherein the King's *Life* is concern'd?

To which Sir *William Scroggs* (Lord Chief Juſtice of the *King's-Bench*), Sir *Francis North* (Lord Chief Juſtice of the Court of *Common-Pleas*), Juſtice *Windham*, Juſtice *Jones*, and other of the Judges then preſent, gave ſeverally their Opinions; That the Court of *King's-Bench* may take Bail for High-Treaſon of any kind, if they ſee Cauſe.

He cited the Lord *Coke* alſo in his Comment on the 24 *W.* II. where he ſays, That it is a Rule in Law, *Quod Curia Regis non debet Deficere Conquerentibus in Juſtitia Exhibenda.* And the Reaſon of this is, that a *Failure* of *Juſtice* may be prevented; which he frequently ſays, is *Abhorred by the Law:* So as it appears, That *the Law abhors all Failure of Juſtice*; and he ſaid, That if ſuch *Failure* do appear in his Caſe, or any Man's elſe, no *Order* can licenſe ſuch Failure; nor *no Court* can Juſtify the not giving Relief againſt it: And he ſaid, he ſhould either make ſuch Failure appear, or his Lordſhip (meaning the Lord Chief Juſtice) would be able to tell him where he might repair for Juſtice; which both *Magna Charta* and the *Petition of Right* are underſtood to have provided *at all times for the Subjects Liberty:* But if his Lordſhip could not inform him where he might appeal forthwith for his Liberty; in that Caſe, he ſaid, That for that Reaſon alone (were there no other) he ought of *Right* to be admitted to Bail by that Court; till he could be brought before ſuch a *Judicature*, as had Power to diſcharge him.

He obſerved alſo, That the Lord *Coke* (in a Chapter on the *King's-Bench*) did ſay, That that Court might Bail for any Offence whatſoever: And that in the ſaid Chapter it was particularly obſerved, That there had been ſuch Care taken by the Law to avoid *Failure* of *Juſtice*, (even in ſmall Matters, in compariſon of Liberty) that he gives there an Example concerning a *Clerk* or *Officer* of that Court: For he takes notice of what Things, and againſt whom that Court hath Power to hold *Plea* by *Bill.* And amongſt thoſe, he names againſt any Officer or Clerk of that Court; and gives the Reaſon: Becauſe if they ſhould be Sued in any other Court, they would have the Privilege of that Court, which might be the Cauſe of a *Failure* of *Juſtice.* And from this his Lordſhip ſaid it did appear, That the Law intended that there ſhould be no *Failure* of *Juſtice* by the Privilege of any Court, how great ſoever it was; for that (as was ſaid before) the Law did abhor all *Failure* of *Juſtice.* And he ſaid, if ſuch Care had been taken againſt a Failure, in ſuch ſmall Matters, and not in what concern our Liberties; all *Engliſhmen* ought juſtly to break out into the Like Exclamations, as the ſame Lord *Coke* and many others did, in their Speeches in Parliament, and in their Pleadings, 3 & 5 *Car.* upon the Argument of the *Habeas Corpus* at that time: Where the Lord *Coke* breaks forth into this Expreſſion; *Shall I have an Eſtate of Inheritance for Life, or for Years, in my Land? And ſhall I be Tenant at Will for my Liberty? Shall I have Property in my Goods by the Laws; and not Liberty in my Perſon?* And thereupon he tells us, That *Perſpicuè vera non ſunt probanda*; As taking for granted, That our *Liberties* were not to be doubted, where our *Properties* were ſo ſecured: And the King (ſays he) had diſtributed his *Judicial* Power to Courts, and to his Miniſters of Juſtice; *Who are to ſee Right done.*

And he ſaid, the Lord *Coke* gave the Reaſons of thoſe Laws which are againſt undue Impriſonments; and that one of thoſe is, *For the Indefiniteneſs of Time*: which, he ſays, may be *perpetual during Life:* And that his Words are, *That it is unreaſonable to think, that a Man has a Remedy for his Horſe or Cattle (if detained), and* none *for his Body indefinitely Impriſoned: For that a Priſon without any prefixed Time is a kind of Hell.*

And here his Lordſhip ſaid, That he hoped the Court would either allow him Bail, or tell him a *prefixed* Time, when he ſhould be Tried or Diſcharged. He did then alſo quote the Caſe of the Duke of *Suffolk*, 26 *H.* VI. and the Opinions of *Preſcot* and *Forteſcue* (who were eminent Judges), who ſaid, That he ought not to be committed (tho' for Treaſon), without Eſpecial Cauſe of the Treaſon ſhewed; which had not been in his Caſe.

He further ſaid, That many other Principal Gentlemen of that Parliament had ſpoke moſt *Senſibly* on the ſame Subject of Liberty; and amongſt the reſt, Sir *Robert Philips* had ſaid, To have our Liberties (which are the Souls of our Lives) taken from us, and to be pent up in Goals without Remedy by Law; and this to be ſo adjudged (for ſo that Court had then thought fit to deny Bail, for Reaſons which were at that time alſo beſt known to themſelves), he cries out, *O Improvident Anceſtors! O Unwiſe Fore-Fathers! To be ſo curious in providing for the quiet Poſſeſſion of our Lands, and to neglect our Perſons and Bodies! And to let them lie in Priſon! And without Remedy,* durante bene placito! *If this be Law, what do we talk of our Liberties? This* (ſays he) *is* Summa Totalis *of all Miſeries.*

He ſaid alſo, That Mr. *Selden* did in the ſame Parliament argue, at a Conference with the Lords, That in all Caſes where any *Right* or *Liberty* belongs to the Subject by any *Poſitive* Law, written or unwritten, if there were not alſo a Remedy by Law for enjoying or regaining of this *Right of Liberty*, when it is violated or taken from him, the *Poſitive* Law were moſt vain, and to no purpoſe; and it were to no purpoſe for any Man to have any Right in Land, Liberty, or other Inheritance, if there were not a *known Remedy*, by which in ſome Court of ORDINARY JUSTICE he might recover it; and in this Caſe of Right and Liberty of Perſon, if there were not a Remedy in the Law for regaining it, when it is reſtrain'd, it were to no purpoſe to ſpeak of Laws.

Here he deſired leave to ſhew his Lordſhip what Sir *Nicholas Hide* (when ſitting as Lord Chief Juſtice in that Court) did ſay on this Occaſion, *viz.* That the King's Pleaſure is, his Law ſhould take Place and be executed; and for that do we ſit here: And whether the Commitment be by the King, *or others*, this Court is the Place where *the King doth ſit in Perſon to do Right, if Injury be done*; and if it appear that any Man hath Wrong done to him by his Impriſonment, we have *Power to deliver or diſcharge him.* And he farther ſaid, That the ſame Lord Chief Juſtice *Doderidge*, *Jones*, and *Whitlocke*, (anſwering the Priſoner's Counſel at that Time) did ſay, the Attorney-General had told them, That the King had done it; and that they (the Judges) do ever truſt him in great Matters. And here he took occaſion to ſay, That he hoped that the King's Conſent to his Bail, and his Declaration of his Innocency, would be now as much truſted in this Court.

He cited alſo the Arguments of Mr. *Calthorpe* for Sir *John Corbet*, on the ſame Occaſion, who ſaid, That, admit the Commitment were lawful, yet when a Man hath continued in Priſon a reaſonable time, he ought to be brought to Anſwer, and not to be continued ſtill in Priſon: For that it appears by the Books of our Laws, that Liberty is a thing ſo favoured by the Law, that the Law will not ſuffer the Continuance of any Man in Priſon, longer than of neceſſity muſt.

He cited alſo Mr. *Hackwell*; who ſaid, upon the ſame Occaſion, that the Law admits not the Power of detaining in Priſon at Pleaſure, when the Impriſonment is but *pro Cuſtodia:* For a Man, by long Impriſonment, might otherwiſe *be puniſhed before his Offence.* And he mention'd an Expreſſion of his, That long Impriſonment was, *Vita pejor Morte.*

He mentioned how the Commons, at the End of the Parliament 3 *Car.* did deſire, That the Judges might declare themſelves upon the Matter, why thoſe Gentlemen had not been Bailed, when (*by the Judges Arguments*) it was poſſible they might have been *kept Priſoners all their days.*

To which, he ſaid, *Whitlocke* anſwer'd, Firſt, Not ſo; but they did Remand them, that they might better adviſe of the Matter; and that the

Gentlemen, if they had pleaſed, might have had a new Writ of *Habeas Corpus*, when they thought fit. And, ſecondly, That he had ſpent much time in this Court; and that in ſuch great Caſes, he never knew any Man *bailed without the King firſt conſulted in it*: And the ſame, he ſaid, was then ſaid by the reſt of the Judges of that Court.

Hereupon he made two Remarks: Firſt, That by this it did appear, that upon Conſideration, that Court had altered their Opinions in the Caſe of Bail, juſt contrary to what their firſt Opinions had been poſitive in: And, ſecondly, That the conſulting of the King was ever neceſſary in ſuch great Caſes. And he ſaid, he did believe, that there was not a Precedent, where the King had agreed to the Bail, that ever it had been denied.

He ſaid, That thoſe Men whom he had quoted, were Men of no ordinary Underſtanding in the Laws: And as the Judges then did at laſt acknowledge their Senſe of them to be right, ſo he ſaid, he hoped our Laws were neither changed nor diminiſhed, in what related to the SUBJECTS LIBERTIES; and he hoped that no Order of one Houſe, nor Ordinance of both Houſes, nor King alone, nor King and either Houſe alone, could alter them: And he reſted aſſured, that a King and Parliament would never alter them to the Prejudice of Liberty.

He proceeded, That if the Law were ſtill the ſame it was heretofore, it was plain, that that Law did both give a Power to that Court to bail for all Offences whatſoever (and for Treaſon particularly), and did require that *the Subject ſhould at all times find Remedy in it*, when his Liberty was reſtrained, BY ANY CAUSE WHATEVER.

The chief Reaſons, he ſaid, why ſuch large Powers had been given to that Court, were principally *for avoiding all Failure of Juſtice*; and to the End, firſt, That the King may both have a Means of giving Right to his Subjects *at all times*, according to his Oath at his Coronation, and according to the Intent of *Magna Charta*, and the *Petition of Right*. And, ſecondly, That there might be a *conſtant Place* for the Subject to reſort unto for *Remedy at all times*, whenſoever he was oppreſſed in his Liberty: And he hoped we were not now to learn a new Law, that the King could neither keep his Oath, nor maintain *Magna Charta*, nor the *Petition of Right*, without the Aſſiſtance of an *extraordinary Court*, which he may both chuſe, whether he will call, or when he will call it, and how long it ſhall ſit; which (as he had ſaid) would put all under the *King's abſolute Will*.

He then ſaid, he took for granted, that there would be no Diſpute made in this Matter, but that there was *an Order of the Lords* which was ſuppoſed to ſtand in the Way: But he ſaid, if his Lordſhip would give him Leave, he would firſt ſay ſomething to the Order itſelf, and then he hoped to ſhew his Lordſhip, that it ſtood not at all in the Way, as to his Requeſt of Bail; and that it ſhould neither be interfered with in the leaſt, nor the Juriſdiction of the Lords, nor their Proceedings meddled with in any Kind by his being bailed; but rather owned and ſubmitted to, by his being bailed to the Parliament.

And firſt for the Order itſelf, he deſired the Court to obſerve, that it was dated the 19th of *March*, 1678, and worded as followeth, *viz.*

Die Mercurii, 19° Martii, 167⅞.

THE Houſe this Day taking into Conſideration the Report made from the Lords Committee for Privileges, that in Purſuance of the Order of the 17th inſtant to them directed, for conſidering whether Petitions of Appeal, which were preſented to this Houſe in the laſt Parliament, *be ſtill in Force to be proceeded on; and for conſidering of the State of Impeachments brought up from the Houſe of Commons* the laſt Parliament; *and all the Incidents relating thereto; upon which the Lords Committees were of Opinion, That in all* Caſes of Appeals, *and* Writs of Errors, *they continue, and are to be proceeded on in* Statu quo, *as they ſtood at the Diſſolution of the* laſt Parliament, without beginning *De Novo. And that the Diſſolution of* the laſt Parliament *doth not alter* the State of the Impeachments *brought up by the Commons in* that Parliament.

Now upon this Order he obſerved, That it related as well to Appeals and Writs of Error, as to Impeachments; and ſeemed to be more fully worded to them, than to Impeachments; the Words STATU QUO, and *without beginning* DE NOVO, being annexed in the Order more particularly to the Appeals and Writs of Errors; whereas all that was ſaid as to the Impeachments, he obſerved to be, that the Diſſolution of THAT LAST PARLIAMENT doth not alter *the State of Impeachments* brought up by the Commons in THAT PARLIAMENT, and are not Words which (ſtrictly taken) can bind after the Diſſolution of any other *than that Parliament*.

But he ſaid, If the Order ſhould be expounded otherwiſe, yet that both the Law, and the Practice of the Inferior Courts, were undoubtedly contrary, *In the Caſes of Appeals and Writs of Error*. And, he hoped, no Court would take upon them to expound the Order ſo, as if they were at Liberty to ſlip the Order, and to judge, *which Part of the ſame Order ſhould be binding, and which not*; for that would be to meddle, in a more extraordinary Manner, with the Proceedings of the Lords, than he had deſired.

Now, as to *Writs of Error*, he ſaid, there were full Reſolutions of the Judges in the Caſe, though in times of Prorogations only, when a Day is ſet for the ſitting of the Lords Houſe; and he cited the Caſe of *Heydon* and *Godſalve*, in *Croke's* Reports; as alſo the Lord Chief Juſtice *Hale*, who did not only grant Execution upon a Writ of Error (depending in Parliament) but did alſo anſwer the Defendant's Counſel (who would have pleaded the Lords Order in Bar of the Execution), that he ſhould always pay all due Reſpect to that ſuperior Court of the Lords; but that he muſt act according to Law; and, that he knew, that the Lords did not intend otherwiſe. And of this Lord Chief Juſtice *Pemberton* himſelf, who he ſaid had denied Reſtitution upon an Execution lately taken out, in caſe where a Writ of Error was, and is ſtill depending in Parliament. And in *Caſes of Appeals*, he ſaid, he was informed, that the Court of Chancery did not take any Notice of the Appeal being in Parliament after a Diſſolution, but did notwithſtanding proceed to Sequeſtration. And he ſaid, that there was a late Precedent in the Court of Exchequer, in the Caſe of one *Fountaine*, where an Appeal was brought from a Decree in the Exchequer, and Recognizance entered into by the ſaid *Fountaine*, to abide the Order of the Houſe of Lords: And after the Parliament was diſſolved, the Counſel of the ſaid *Fountaine* did inſiſt on the ſaid Order before the Barons, that the Houſe being poſſeſt of Mr. *Fountaine's* Cauſe, and Security having been given by him to abide the Order of the Houſe, that no Proceedings ought to be had in the Exchequer upon the ſaid Decree, until the Matter on the Appeal was determined before the Lords. Notwithſtanding which, and that Mr. *Fountaine* produced the Lords Order in Court, and produced the Security allowed; yet the now Barons declared and ordered, That the Decree by them made ſhould be proceeded on, againſt the ſaid *Fountaine*, in the Court of Exchequer: And a Proceeding hath been had accordingly.

By all which he obſerved, That the Inferior Courts did proceed upon *Matters, forbid as much by the Houſe of Lords*, in the Matters of Appeals and Writs of Error, as it was upon Impeachments; and yet that the Reaſon was plain why they did ſo, for that the Parliament might proceed again upon the ſame Appeals, and Writs of Errors, notwithſtanding thoſe Proceedings in the Inferior Courts, in the Interval of Parliaments; for that none of thoſe Acts of the Inferior Courts do ſo hinder the Proceedings of the Superior, but that the Plaintiff in Parliament may revive the ſame Matter there again, by *Scire Facias*, or by Reſummons, *&c.* But he ſaid, it was never heard of, that the Lords themſelves did proceed again *Ex Officio*, without the Petition of the Party to revive the Cauſe. And ſo he ſaid in the Caſe of Impeachments, that the Lords would no more proceed *Ex Officio* upon that neither, unleſs they were called upon by the Proſecutors; and then *their Lordſhips Proceedings upon the Impeachment, would be no more hindered by the Bailing of him in the Inferior Court, than they were in the other Caſes by the Executions and Sequeſtrations, which are granted in the Intervals of Parliament*, which were for the Prevention both of DELAY *and of* FAILURE *of* JUSTICE.

Beſides, he ſaid, If this ſhould not be done, how could it be known whether the Proſecutors of an Impeachment from the Houſe of Commons (who are never the ſame Men in a new Parliament), will proceed any more upon a former Impeachment? For, he ſaid, it had many times fallen out otherwiſe; and he cited a late Caſe of the Lord *Mordant*, who was impeached upon Articles in one Seſſion; and having taken out a Pardon during the Prorogation, was never more called upon, nor never queſtioned upon the former Impeachment; although the very ſame Parliament ſat again, which had impeached him: And therefore he ſaid, that the Caſe might more probably happen to fall out ſo, when a new Parliament ſhould meet again, which would conſiſt of new Men.

He ſaid, It was likewiſe to be obſerved, that although the Tranſcript of the *Record* in a *Writ of Error* might have Days of Continuance, yet no *Superſedeas* is grantable; and he ſaid, that if the Lords Order be no Ground for a *Superſedeas* on a Writ of Error, why the lying of an Impeachment ſhould be a Ground for confining a Man within the *Tower* Walls all his Life, he was ſure muſt be leſs reaſonable and leſs juſt, as Liberty was more valuable than Property, and without which Property could be of no Comfort.

In the next Place he obſerved, That if the Order ſhould be conſtrued literally to mean, that the Impeachments, as well as the Appeals and Writs of Error (and the Incidents relating to all of them), ſhould remain in the ſame State they were at the Diſſolution of THAT PARLIAMENT mentioned in the ſaid Order, his Caſe thereupon, he ſaid, would be quite different from any others; for that he was *not under any Commitment* at the *Diſſolution of* THAT PARLIAMENT, nor at the time when THAT ORDER *was made*, but was *then at Liberty* to be a ſitting Member of that Houſe, and *by a Vote of the Houſe had Leave to continue ſo*; for that (as he had already obſerved) the Date of the Order was the 19th of *March*, 1678, and the Warrant of his Commitment did appear by the Return before the Court, to be the 16th of *April* following: Inſomuch that he deſired the Court to take Notice, that the ſtrict Letter of the Words *Statu Quo* in the Order (compared with the time when the ſaid Order was made) would be an Argument to ſet him *in a State of Liberty, as he then was.*

He then told the Court, That by what he had ſaid, he hoped he had made appear, that the Order did not afford the leaſt Shadow for the hindering of his being bailed; but that, on the contrary, the Reaſons were much ſtronger for the doing of that (as it related not only to him, but *to the Liberty of the Subject in general*) than for the Proceedings which the Inferior Courts do daily practiſe upon Appeals and Writs of Error *(which are but for Property)*, and are *comprized in the ſame Order*; and therefore he ſaid, that he hoped he ſhould at leaſt find the ſame Favour in a Caſe of *Liberty*, which is allowed every Day in Caſes of leſſer Moment.

He then ſaid, that although it did not concern his particular Caſe, yet for the Sake of *Engliſh Liberty itſelf*, he could not but ſay ſomething farther upon this Point: For he could not but be of Opinion, That if the Order had directly forbid Bail; which it was far from doing; and beſides, the Lords own Practice had ſhewed their Meaning to the contrary, by the bailing of a Commoner, whoſe Crimes were declared to be greater than his; and in which Caſe they made no *Non Obſtante* to their Order, but take that to be ſtill in the ſame Force towards him, as towards any others who were in Cuſtody: Yet he ſaid, in that Caſe, if ſuch an Order ſhould be found to be againſt *Magna Charta*, and the Fundamental Right of the Liberty of the Subject (as any thing muſt be, *which does ſubject any Man to an* INDEFINITE IMPRISONMENT); he conceived, that of Right that Court ought to free any Man from ſuch a Slavery; for he ſaid, he could give it no better a Name. And he then cited an Argument of the Earl of *Shaftsbury's* upon that Point, which that Lord argued in that Court upon an *Habeas Corpus*; when the Court agreed they would have bailed him, had it not been in a time of *Adjournment* only of the Parliament. His Words, he ſaid, were, *That this Court will and ought to judge* AN ACT OF PARLIAMENT VOID, *if it be againſt* MAGNA CHARTA; *and more might be judged of* AN ORDER OF THE HOUSE OF LORDS, *that is put in Execution to deprive any Subject of his* LIBERTY. And, as he ſaid, this

this could not be denied to be Law; ſo he was confident the Earl of *Shaftſbury* was ſtill of the ſame Mind, and ſo muſt every Lord in *England* be, or (when they conſider their own Caſes) they would make their Liberties to be very precarious.

He proceeded to ſay, That the Earl of *Shaftſbury* being allowed to be a knowing Man, both in the Laws, Orders, and Conſtitutions of Parliaments, he would beg Leave to quote another Part of the ſame Speech, *viz. That Mr.* Attorney (which was then Sir *William Jones*) *was pleaſed to anſwer the Inſtance of one of his Lordſhip's Counſel, That if a great Miniſter ſhould be committed, he hath the Cure of a Pardon, a Prorogation, or a Diſſolution: But* (ſays the Earl) *if the Caſe ſhould be put, why forty Members, or a greater Number, may not as well be taken without any Remedy of any of the King's Courts? His Lordſhip ſaid, That Mr. Attorney could not very eaſily anſwer. And if in this Caſe* (ſays he) *there can be no Relief, no Man can foreſee what may be hereafter.* And in another Place of the ſame Speech he ſays, *he does not think it a Kindneſs to the Lords to make them abſolute, and above the Law; for ſo it muſt be, if it be adjudged, that they may commit a Man to an* INDEFINITE IMPRISONMENT.

He ſaid, he took theſe Men whom he had named, for no ſmall Authorities in this Age: And the Earl of *Shaftſbury*, he ſaid, was a Man ſtill as much for the maintaining of this Order as ever; but that his Lordſhip did ſhew himſelf at the ſame time to be for *Engliſh Liberty*. And he plainly ſhewed his own Senſe, both of this and all Orders whatever, which concerned the Liberty of the Subject; and declared, That he took that Court to be the proper Judge of all ſuch Orders.

He ſaid, It thereby appeared how ſenſible that Lord was, that ſuch Caſes might concern Forty as well as One, and Members of either Houſe as well as other Men; and without Relief, if it ſhould be admitted, that ORDINARY COURTS *could not relieve.* And the Earl of *Danby* ſaid, That there was no anſwering of theſe Arguments of the Earl of *Shaftſbury*; unleſs it could be denied, *That the King can impeach as well as the Commons; or that the King cannot call and diſſolve Parliaments at his own Will and Pleaſure:* For if he may (as was not to be doubted), he ſaid, he was ſure *every Man in* England *was in the ſame Danger when the King pleaſed*; and then he ſaw nothing whereby he had any Security; but that we lived under a King who would not exerciſe this Power over us, which we will needs put into his Hands, although he does not deſire it himſelf. As if we were ſo weary of our Liberties, that we would be induſtrious in contriving how we might inſenſibly ſlide into thoſe Slaveries, which our Anceſtors have been ſome Ages taking pains to ſecure us from; and our Kings have been ſo gracious as to grant and confirm to us, ſo many times over as they have done; and which other Kings may be as ready to reaſſume hereafter, as we are to give them away.

He concluded his Obſervations upon that Speech of the Earl of *Shaftſbury*'s, with taking Notice, that his Lordſhip had ſhewed he was one of thoſe Peers who would take it for no Kindneſs to be made abſolute, and above the Law, by ſuch Orders of theirs being conſtrued to extend to INDEFINITE IMPRISONMENT.

He then repeated Sir *William Jones*'s Declaration in that Court; *That either a Pardon, a Prorogation, or a Diſſolution, was a Cure againſt ſuch Impriſonments.* And he obſerved thereupon, That if that Doctrine were true, *That any one of thoſe was a Cure againſt ſuch Impriſonment* (and he could not doubt of its being good Law), then certainly he ought to find Relief from his Impriſonment, *who had every one of theſe Cures on his Side.*

He then deſired to put the Court in Mind, how in the worſt of Times Juſtice had taken place ſo far, as *to lay aſide the Force of Orders made in Parliaments, after the Diſſolutions of thoſe Parliaments which made them*; although it was to the Prejudice of the Intereſt of thoſe Uſurpers themſelves.

He cited an Inſtance of one Sir *John Stowel*, who, by the Articles of *Exeter*, was to have been admitted to Compoſition for his Eſtate; but yet, contrary to thoſe Articles, the Parliament did afterwards order his Eſtate to be ſold. After the Diſſolution of which Parliament Sir *John Stowel* pleaded by his Counſel (which were Serjeant *Maynard* and Mr. *Latch*), That *that Order was diſſolved by the Diſſolution of that Parliament*; and that therefore the Articles were again in Force: And that the Plea was admitted to be good, and Sir *John* reſtored to the Benefit of the Articles upon that Plea, *even by* Bradſhaw *himſelf.* But he ſaid, he was ſorry that he could neither have Sir *William Jones* to argue thoſe Points for him which he had uſed againſt my Lord *Shaftſbury*; nor Serjeant *Maynard*, to make good the *Invalidity of Parliamentary Orders after Diſſolutions:* But he ſaid, That it was not his Fault, and he doubted not but that he was before more juſt Judges than there were in thoſe ill Times; and that he hoped, *That the Liberty of the Subject was not now more precarious than it was in thoſe Days.*

He added, That if upon *ſuch Orders* Men could not be bailed in the Interval of Parliaments, they would become *Grievances* equal to the *Multiplications* of *Treaſons* in former Days; which have ſometimes been greedily made heretofore by Parliaments in diſtempered Times; but the Commons had never been quiet, till they could get their Bear chained up, and their Laws reduced to the old Standard of Treaſon again: But yet thoſe things had been done by Acts, and not by Orders of Parliament.

He deſired them likewiſe to remember, That it had been one of the chief Grounds of the late War betwixt the King and his Parliament (in which ſo much Blood had been ſhed), That an Ordinance of Parliament ſhould not be held equal to an Act of Parliament; and yet thoſe were Orders of both Houſes. And now, ſaid he, ſhall we be defending, that an Order of one Houſe only ſhall be equivalent to a Law? and ſhall be in Force againſt our greateſt and moſt ſacred Laws of Liberty, which have been ſo confirmed to us? This, ſaid he, I am not able to underſtand the Reaſon of; nor will any Man who ſhall give himſelf the leaſt leiſure to think upon it.

He then ſaid, he deſired to aſk any Man that then heard him, or any Commoner of *England*, who would but take Time to conſider this Caſe (*which may be any Man's in* England), Whether they would be contented to inveſt the Lords with ſuch an *Inherent* Power over their Liberties, which they can no more be exempted from than the Peers themſelves?

And he ſaid, that the Lords had already made it appear, that they would not have any ſuch *Arbitrary Power* placed in them, for that they had refuſed to paſs a *Favourite Act* (which was for their own Trials) only by reaſon of a Clauſe which was inſerted therein, *To have enacted the Subſtance of this preſent Order into a Law.*

And he ſaid, That the Houſe of Commons deſiring that ſuch a Power might have been enacted into a Law (*tho' themſelves would have been the firſt who would have repented ſuch a Law*), did ſufficiently denote, *That the Commons did not think the Order would be binding in Law after their Diſſolution*; for otherwiſe what need was there *of a Law*, if the Order was in force after Diſſolution, *without a Law?*

Upon the whole he ſaid, he thought the Diſtemper of that time had given more weight to the Order, than any thing elſe; and ſome of their Lordſhips on that Bench did know, both in what an Heat it had been made, and how it had been ſince blown upon by the Lords themſelves; who he was confident would no more endure to have it conſtrued in that Senſe which now ſeems to be put upon it (*of ſubjecting Men to be under* INDEFINITE IMPRISONMENT), than they will endure themſelves to be every Day put in the Stocks.

As he had ſaid thus much to the Order it ſelf, ſo he ſaid, he hoped to make appear, *That the Court's Bailing of him would not at all intrench upon the Order, nor meddle with the Juriſdiction of the Lords nor their Proceedings in any kind.*

For that he took it for granted, That what is done by that Court, and the Courts of *Chancery* and *Exchequer*, on Appeals and Writs of Error, was underſtood not to meddle at all with the Juriſdiction nor Proceedings of the Lords in thoſe Caſes; and *that this was juſt the ſame, all being alike ſubject to the final Determination of the Lords, whenever they pleaſed to call the Appeal, Writ of Error, or Impeachment, before them, and without any Prejudice to their Lordſhips Proceedings by any of thoſe Acts done by that or the other Courts in the Interval of Parliaments.*

Beſides, he ſaid, it had been uſual to Bail in that Court to the Juſtice Seat in *Eyre*, and yet that that Court could not proceed further.

He inſtanced alſo, That Court's allowing of the Pardons of Peers (when pleaded there), and yet that they had no Power to proceed to the Trial of a Peer.

And ſo he ſaid, there were divers other Inſtances of that Court's proceeding to ſuch and ſuch Degrees of exerciſing their Power to avoid Delays, *&c.* where the Court had no Juriſdiction to determine the Matter.

Precedents, he ſaid, were not to be expected which were exactly fitted to his Caſe, becauſe he durſt be bold to ſay, there never was ſuch a Caſe before (when well conſidered in all its Circumſtances), nor he hoped never would be again: But he ſaid, that therefore both the King's Power and the People's Liberties would be the more concern'd in what Reſolution ſhould be given by the Court in this Caſe of his.

He ſaid there were Precedents of Diſcharging of Men Impeach'd in Parliament upon the King's Writ to that Court, commanding the Proceedings to ceaſe, and they have been diſcharged accordingly by that Court, without any other Reaſon given in the Writ, but becauſe the King held the Parties to be Innocent and Free from the Crimes charg'd againſt them. As in the Caſes of *Melton* Archbiſhop of *York*, and *Graveſend* Biſhop of *London*, 7 *E.* III.

He mentioned alſo *Hugh Spencer*, and Sir *Thomas Berkley*'s being Mainpriſed to Parliament, and yet that the latter was upon Suſpicion for the Murder of a King (*viz.*), *Edward* the Second.

He ſaid, Inferior Courts had Bailed to Parliament, about the Pope's Bull, *&c. Reg. Writs*, 274.

He ſaid, a ſingle Judge, (*viz.* Sir *Robert Atkins*) had lately Bailed one for Treaſon, and another for Murder; and that he did himſelf hear his Juſtification of both allow'd (as to the legal part) before the King and Council.

He ſaid, that Kings had formerly aboliſh'd Accuſations of Treaſon, and inſtanced a Caſe of *Talbot* againſt *Ormond* in the time of *H.* VI.

And to ſhew how powerful the bare Intention of Kings to Pardon hath been heretofore, he inſtanced the Caſe of a Man Indicted of Felony, who (without any Counſel) ſhew'd forth a Charter of Pardon to the Court, which was diſcordant to the Indictment, and alſo to his Name; and yet becauſe the Court perceived that it was the King's Intention he ſhould be pardoned, he was remanded to get a better Pardon, 26 *Aſſ.* p. 46.

And he did thereupon ſay, that he hoped the King's Intention of Pardon as to him, had been ſufficiently declared to the whole Kingdom.

And in ſhort, he ſaid, That if the Matter was proper for the Juriſdiction of that Court, before it was in Parliament; its having been there, did not take away the Juriſdiction from a Competent Court, when the Extraordinary Juriſdiction fails; which was not to be ſuppoſed could lay all other Juriſdictions aſleep, when itſelf was not in being; and eſpecially when that Competent Court ſhould do nothing in Contradiction to the Proceedings of the Extraordinary Court, as he hoped he had made appear that that Court would not do by the Bailing of him.

Whereas, on the contrary, he ſaid it was moſt evident, that *Juſtice did fail in the higheſt Concern (which is that of Mens Liberties)*, unleſs he could be informed when and where he might certainly be either Tried or Diſcharged; for that (as he had ſaid before) it was agreed both by the Counſel for the King, and the Counſel for the Priſoners, in the Arguments on the Grand *Habeas Corpus*, that INDEFINITE IMPRISONMENT was held to be PERPETUAL IMPRISONMENT, *which the Law did admit in no Caſe where the Impriſonment was only* AD CUSTODIAM. And altho' his had been intended but AD CUSTODIAM, yet it could not be denied, but *it had already been* ad Gravem Pœnam, *and without any particular Cauſe yet ſhew'd for which he ought not to be Bailed by Law.*

He then ſaid, That *Littleton* had declared in his Arguments, 5 *Car.* That if Treaſon in general ſhould be held to be a ſufficient Return, yet that the *King's-Bench* might Bail: And the ſaid *Littleton* and the King's

Attorney in their Arguments (one for the King, and the other for Mr. *Selden*) did agree, *That where the Party could not avoid the Judgment of the Law, nor that there was no Danger by his being at Liberty, He ought to be Bailed after long Impriſonment*; and at that time, Six Months was taken to be long Impriſonment.

He ſaid he had read a Paſſage in the Lord *Coke*'s Inſtitutes, where he ſpoke of ſuch Impriſonments as he compared to the Impriſonment of St. *Paul*, by the *Centurion*, who firſt put him in Chains, and then enquired who he was, and what he had done.

He ſaid he would not compare his Caſe to that; but that there was ſo much of reſemblance in it, that he had been in Chains, or what was there meant by Chains (which was a Priſon) for above Three Years, on a pretence of Treaſon, without being told to that day what kind of Treaſon he had committed; which had been done in no-body's Caſe but his, and by ſo much the greater was his Hardſhip.

He had alſo both been Accuſed and Committed without any Oath made againſt him.

When a Day had been appointed for his Hearing, his Counſel had been forbid to plead Matter of Law for him.

It had been acknowledged, that there was no Treaſon contained in any of the Articles againſt him, if they were all true.

And if they had been true, and had amounted to Treaſon, he had there ſhewed the King's Pardon, which did releaſe both the Crimes and the Impriſonment.

That beſides that Pardon, he had had his Majeſty's Declaration in full Parliament, both of his Innocence, and that he would grant him his Pardon ten times over, if this were defective.

That he had now had his Majeſty's Conſent to his Bail, a ſecond time, declared to that Court by the Attorney-General by the King's Direction.

That in all theſe foregoing Particulars, his Caſe was ſingular, and different from all others who are or have been made Priſoners ſince the beginning of the late Plot, or (as he believed) at any other time.

Beſides theſe Things, which are peculiar to his own Caſe, he ſaid that there was alſo what was common to other Caſes as well as his.

The Length of his Impriſonment, which had been above 40 Months

The being confin'd ſo long under pretence (as he conceived) of an Order of the Houſe of Lords, *which neither directs nor implies any thing to forbid Bail.* But in that alſo he had what was particular to himſelf (which he had already ſaid, and deſired leave to repeat, becauſe it would deſerve their Conſideration), *viz. That he was at Liberty, and had leave to be a ſitting Member in the Houſe of Lords, at the time when that Order did declare that the Impeachments, Appeals,* &c. *and the Incidents belonging to them ſhould ſtand in STATU QUO; ſo that (as is already obſerved) the STATUS QUO (as to him) he again ſaid, was to put him into a State of Liberty.*

Laſtly, he ſaid, That he had no Proſpect now when any Parliament would ſit, and by the Examples of paſt Parliaments he might reaſonably fear, whether, when they did meet, they might ſit ſo long as to give him Relief; for that his Petition had been read the firſt Day that the laſt Parliament entered upon any publick Buſineſs; or whether greater Buſineſs of the Kingdom might not (as it had done already) ſo take up their Time, as not to give them leiſure to conſider the Caſe of a ſingle Perſon: And ſince this had already fallen out to be his Misfortune in three Parliaments ſucceſſively, he took it to be but too plain *a Demonſtration of his lying under an indefinite Impriſonment*, unleſs he ſhould find Relief in that Court, *for that there was no other to appeal unto.*

He ſaid, That in thoſe great and eminent Caſes which fell out, 3 & 5 *Car.* about the bailing of Perſons committed to *indefinite Impriſonment*, the Judges were then very poſitive againſt their Bail, and yet changed thoſe Opinions afterwards; and ſo he hoped that Court might do upon a due Conſideration of his Caſe and Circumſtances; or elſe he hoped that his Lordſhip would convince him, *that his Impriſonment was not indefinite*, by letting him know *at what prefixed Time* and where he might reſort for Remedy, which the Law does, without Queſtion, allow to all Men, and at all Times.

He ſaid he was a very reaſonable Man, and when he was convinced by Reaſon (upon which he was ſure all Laws were founded) he could be content to ſuffer ſtill, tho' his Impriſonment had been ſo long already; for that however he may have been miſrepreſented, for an *arbitrary Man*, he would rather periſh in his Priſon, than have any thing done for him which the Law would not warrant: But, on the other ſide, he ſhould be ſorry, that his Caſe ſhould be made a *Precedent againſt Law and againſt* Engliſh *Liberty*, which he was ſure it would be, if he ſhould be continued to lie *under an indefinite Impriſonment without being bailed*; and he ſaid he was not aſhamed to ſay, in the Behalf of all *Engliſhmen*'s Liberties, as well as of his own Caſe; That it was a Caſe which did concern every Man to take care of in the Conſequences of it, and which did cry loudly for Relief.

He then told the Court, That he had troubled them long, but that he hoped it would be excuſed in a Caſe of that Moment: And in the firſt place, he ſaid, he hoped it was plain, That that Court had it in their Power to grant him Relief, if they pleaſed.

That it was as plain, that there was nothing in the Lords Order againſt it, and that the Practice of the Lords had been otherwiſe, even in the Behalf of Commoners.

That it was apparent, that both that Court, and the Courts of *Chancery* and *Exchequer*, *do relieve upon Appeals and Writs of Error, which are in the ſame Order with the Impeachments*, and yet do in no ſort meddle with the Judicature or Proceedings of the Houſe of Lords.

That it was manifeſt, that let the Order be conſtrued as any Man pleaſes, yet that bailing could be no ſort of judging of any Proceedings in the ſuperior Court, *but would leave the Judgment entirely to the Parliament, and would continue him a Priſoner in Law*, bound to appear before that extraordinary Court, whenever his Majeſty ſhall be pleaſed to call it; and he ſaid it was more evident, that *otherwiſe* he was an *indefinite Priſoner*, and at the *King's Will only for his Liberty*, the Conſequences of which every Man ought to lay to his Heart, with a Dread of it, whenever they ſhould live under a Prince that might not be ſo merciful as our preſent King; and he hoped the Court would duly conſider it.

Beſides all this, he ſaid he durſt confidently affirm, *That there was not a Precedent ſince the Conqueſt, of any Man's being refuſed Bail under ſuch Circumſtances as his were*. Whereas, he ſaid, the Detaining of Men under long Impriſonment, ought either to have *expreſs Law for it, or a good Number of Precedents, and in good Times to juſtify it*, and not any ſingle Inſtance or two (if they could be produced) which he thought they could not.

And he hoped that Precedent, which he had already mentioned on his Majeſty's Behalf, would be very well conſidered, which was, How the *King*'s Court ſhould keep the *King*'s Priſoner, and at the *King*'s Suit, in the *King*'s Priſon, with the *King*'s Pardon, and againſt the *King*'s Will, twice declared in that Court by his Attorney-General.

He ſaid, he ſhould conclude with letting his Lordſhip know, that as the King himſelf had ſufficiently declared that there was no Danger in the letting him have his Liberty, ſo he had ſuch Bail to offer to his Lordſhip, as would ſufficiently ſatisfy the World, that he ſhould be forthcoming to anſwer when and where that Court ſhould appoint; and then, he hoped, the two chief Grounds for Detention in a Priſon (viz. *the Danger of a Man's having his Liberty, and the Danger of his not appearing to abide his Trial)* would be fully anſwered.

And if it might not ſeem too great a Vanity to ſay (altho' the true Reaſon does take away the Vanity of it, becauſe it would not be for his but for their own Sakes, as what may happen to be their own Caſes), he ſaid, he doth believe, he could have the major Part of the Houſe of Lords to be his Bail in this Caſe, and ſome of thoſe very Lords who were for the making of this Order, altho' not in that Senſe which would ſeem to be put upon it. Inſomuch that there would be no more to fear in the granting him Bail, than, he hoped there was either Reaſon or Juſtice to deny it. And he doubted not, but he was there before very juſt Judges, who would duly conſider what he had ſaid.

The Lord Chief Juſtice then ſpeaking, did ſay, That the Earl of *Danby* had ſeemed to reflect upon the Court, as if they had denied him Juſtice in not hearing his Counſel.

Then the Earl of *Danby* deſired Leave to interrupt his Lordſhip, ſaying, That his Lordſhip had miſtaken him, for that he had ſaid no ſuch thing of that Court, nor did he mean of that Court; but ſaid, it was very well known, that his Counſel had been forbid to plead for him in another Place; which was then acknowledged by Juſtice *Jones* to be very true.

The Lord Chief Juſtice then proceeded, and ſaid, That for his Lordſhip's ſaying they needed not to fear, becauſe he did believe the greateſt Part of the Lords would be his Bail: That it was not the Fear of another Court that had any kind of Influence upon them, or that they ſhould do ſuch Things as they feared to be called to an Account for; but that they were to govern themſelves by the doing of Juſtice.

That they had heard his Lordſhip with a great deal of Patience; and that he had ſaid many material Things, and with much Acuteneſs; and that they were not ſenſeleſs of the Hardſhip of his Lordſhip's Caſe, and of the Greatneſs of his Sufferings.

That they were likewiſe ſenſible of the King's Deſires, that his Lordſhip ſhould have no longer Impriſonment than the Law requires. And he confeſſed, *That the King had done as much as lay in his Power.*

That it was not denied, becauſe that Court could not bail for Treaſon; *for that they had a Power to bail in all Caſes whatſoever*, if the Court ſaw Cauſe. Neither would the Indictment which was found againſt him about Sir *Edmundbury Godfrey* have hindred; *nor was it the Order of the Houſe of Lords which hindred them:* But, that they were to act there according to Law; and he pray'd his Lordſhip to conſider, that they could not relieve him according to Law.

That he did agree to ſome Things mentioned by his Lordſhip; and that it was a very hard Caſe he ſhould lie ſo long in Priſon: But here was the Miſery; they could only compaſſionate him; for that his Lordſhip was impriſoned by an higher Hand, and where they had no Power to intermeddle.

He inſtanced Indictments for Treaſons, and ſeveral other great Crimes, in which they could bail Men; but in this Caſe, the *Supreme Juriſdiction of the Nation had laid their Hands upon it, which was attended by the Houſe of Commons with an Impeachment.*

Whether their Lordſhips had Cauſe, or not Cauſe, to commit his Lordſhip, they could not inſpect; but that they ought to believe that his Lordſhip was juſtly committed; and that their Lordſhips, in their mature Deliberation, would do nothing unjuſtly.

He ſaid, That they had a Juriſdiction over all the Courts in the Kingdom (that only excepted). *And as it would be very incongruous for an inferior Court to Bail whom they had committed, or to call their Proceſſes in queſtion; ſo would it be in like manner for them to do in this Caſe*, becauſe the Lords exceed their Juriſdiction, and were above them. He ſaid alſo, That the Opinion of all the Judges in *England* had been taken therein, and had delivered their Opinions, that he could not be bailed: and that the Truth was, his Lordſhip was impriſoned by too high a Court for them to bail him: For that his Lordſhip *was not indefinitely impriſoned*, as he had alledged; *for whenever his Majeſty is pleaſed to call a Parliament, his Lordſhip would have Remedy.*

That the King has Power to do it when he pleaſes; and for his People's Good, no doubt he will, when he ſees fit: But that at ſome time the Circumſtances of State differ from other times, and that it may not for ſome Space of Time be thought convenient: And though this may prove miſchievous to a ſingle Perſon, or to two or three Perſons, yet ſuch Things muſt be endured for the Good of the Publick. He ſaid alſo, *That if that Court ſhould commit a Man for High-Treaſon, and the King ſhould adjourn them from Time to Time, that Man could not be bailed until they ſat again:*

again: So that he must confess, (as his Lordship had said) that as his Case did happen, he was under a *temporary indefinite Imprisonment.*

He concluded with telling his Lordship, *That he must be contented to wait the King's Pleasure when he would call a Parliament.*

That, for his Part, he was before of Opinion, that they could not bail his Lordship, and he was so still.

The Earl of *Danby* to all this answered, that he must confess, his Ears did tingle to hear his Lordship say, *That the King had done as much as lay in his Power*; when his Majesty is bound both by his Coronation Oath, and by the Laws, to see Right done at all Times to his Subjects; and he desired to know, *Whether this was not the King's Court, and whether he had not deputed a Power to them to see Right done to all accordingly?*

He said also, That he was now under greater Amazement than before; since his Lordship had both granted, *That this Court could bail any Treason*, and *that the Order of the House of Lords did not hinder it*; which, till now, he confest, he had taken to be the only Obstruction to his Liberty.

That he had hoped, he had satisfied his Lordship, that altho' he was imprison'd by an higher Hand, yet *that the bailing of him did not intermeddle with the Jurisdiction of that higher Judicature*, and he had yet heard nothing to shew him that it did.

That for what his Lordship had said of the Opinion of all the Judges of *England*, being taken in his Case, he must needs inform his Lordship, That that was a Mistake; for that the Opinion of the Judges had never been asked in this particular Case, saving once, upon petitioning the King for Liberty to go to his Country-House at *Wimbleton*, with a Guard, or otherwise, as his Majesty should think fit; which Petition was referred by his Majesty to the Judges: And they (according to their wonted Prudence and Caution) did only report, That they thought his Majesty could not legally grant the Petitioner's Request.

That whereas his Lordship said, That he was *not indefinitely imprisoned, for that whenever his Majesty is pleased to call a Parliament, he will have Remedy; and that he must be content to await the King's Pleasure when he will call a Parliament*; He took those to be fuller Arguments than any himself had made, to prove, *That his Imprisonment was indefinite, and at the King's Pleasure; so that he was now more fully confirm'd than ever to be of that Opinion, and wish'd that every Man, that heard that Doctrine given for Law, might fully consider the Consequences of it.*

He said further, That his Lordship had mistaken him, in thinking that he had said he was under a *temporary indefinite Imprisonment*; for that he had said he was under an *absolute indefinite Imprisonment*: And that his Lordship had rather proved him to be so, than shewed any thing to the contrary; nor did he know what *temporary indefinite* did mean.

The Lord Chief Justice then said, That he was not a Judge at that Time when the Judges Opinions were asked, but desired his Brother *Jones* to relate how it was.

Mr. Justice *Jones* then said, That he remembred the Case had been put to the Judges, Whether the Lords in the *Tower* might be bailed, and that it was then the Opinion of the Judges that they might not: But he said, he did think the Earl of *Danby* was not particularly concerned in the Question at that Time, but that it related to the Popish Lords only, and that there was much Difference betwixt his Lordship's Case and theirs; besides, he did think, that was at a Time when there was a Day appointed for the Meeting of a Parliament.

The Earl of *Danby* then said, that the Question which was put at that Time to the Judges, about the Popish Lords, did not concern his Case at all; for that it differed from theirs in very many Particulars, which he had already mentioned, *viz.* Of no Oath against him; No special Treason alledged, *&c.* which he was loth to trouble them with repeating again; but he supposed, that the then Opinion of the Judges ought not to be made any Argument against him.

He said also, that the Lord Chief Justice had argued very strongly for him: For that it was true, *That the King might call a Parliament when he pleased; but if therefore a Man must stay in Prison till the King did please to do so, he may (by that very Argument) lie there all his Life-time, if the King pleases*; which confirms what he had been a great Part of his Time labouring to prove: And, he said, he must confess, he did expect to have heard stronger and more powerful Arguments to have convinc'd him, that he was in the Wrong in what he had said; but that now he was more encourag'd than before, not to give over a Cause which did so much concern every Man in *England.*

The Lord Chief Justice then said, That his Lordship was mistaken in believing that that Court did keep him in Prison; for that he was not kept in Prison by them, but by a superior Court, which was too big for them to meddle with, or to examine what they did.

To this his Lordship answered, That he had Wrong done him, which must be done by somebody, and that it was a Maxim of the Law, *That the King could do no Man Wrong* (being advised by his Courts); besides, that his Majesty had twice shew'd his Consent in that Court to have him bail'd. Neither could he say, that the Lords did him Wrong, because there was nothing in their Order to hinder his being bailed, (besides their own Practice to the contrary) and it seemed now to be said, that it was by the Law, and not by the Order, that he was kept a Prisoner. He said, he would not say, that That Court did keep him a Prisoner, but by somebody he was sure he was kept Prisoner; but perhaps it might be by the Stars, since he could not find who it was upon Earth that did it.

He concluded, That if he were legally imprison'd, yet by *Magna Charta* and the *Petition of Right*, &c. it was impossible for an *Englishman* to be without some certain Prospect of Relief in a reasonable Time, they being to have Justice done them by the Law at all Times, and without Delay; and that he was now in the King's proper Court for Justice; wherefore, as his Lordship had given his own Opinion, so he did desire that every Judge would be pleased to deliver theirs severally.

Then Mr. Justice *Jones* said, That he was not ready to give any present Opinion, there having been so much, and some Things so materially said by his Lordship: But that for his better Satisfaction, he did desire to ask his Lordship a Question, in a Point which did much stick with him, and would go a great way in guiding his Judgment; and he was confident, that his Lordship was as able to give him an Answer to it, as any Man; which was this: His Lordship (he said) had been charged with Treason by an Impeachment, and had pleaded a Pardon to the Impeachment before the Lords; *He said he took that Plea to be a tacit Confession of Guilt in Law*, (tho' the Party were never so innocent) and then it had been a *tacit Pleading of Guilty*; insomuch, that he did believe, there could be no Admittance of any second Plea; and if so, he did confess, he did not see how that Court could then have any thing to do with his Lordship in that Case; but it was what he had not well considered (tho' at present he took the Law to be so), and he did desire to hear what his Lordship did say to that?

His Lordship answered, That he gave him great Thanks for letting him clear any Objections, and giving him Liberty to answer them as well as he could. That this indeed was a Question of Law, which he was but little vers'd in, but that he was at present able to say, That he had read the Opinions of some great Men of the Law, to be otherwise; and instanced what the Lord *Coke* had said upon the Case of *Gravesend*, Bishop of *London*, 7 *E.* III. who did get a Writ of Discharge to the *King's-Bench*, and did not take a Pardon; upon which he observed the said Lord *Coke* to have said, *That it may be he thought that the taking of a Pardon would have implied a Confession of the Fault, and therefore went a new Way; but that was a Mistake, for that no Man that is wise and well advised, will refuse God and the King's Pardon, how often soever he may have it; for there is no Man but offendeth God and the King almost every Day, and the Pardon is the safest and surest Way*

And tho' at present, he said, he was not provided of Precedents in the Case, yet he remembred there was a Case of a Coiner tried at *Durham* upon a Pardon, where the Pardon proved defective, and yet he was allowed to plead over.

And he told him, That the same Question had been moved in the House of Lords upon his own Case, where divers Lords had declared themselves, *That they hoped it should never pass for Law amongst them, that a Man should not have one Plea for his Life; and gave for Reason, that if a Pardon was pleaded, and not admitted to be good, then the Prisoner had depended upon what he thought had been a good Plea, but was adjudged by the Court not to be so; and then, if he should not be admitted to plead over, it would be to ensnare a Man's Life, without giving him any Plea at all for it.* And he concluded, saying, He thought that this Question was rather going into the Merits of his Cause, than to what he only demanded, which was but Bail.

Mr. Justice *Dolben* then said, He must acknowledge there was a vast Difference betwixt his Lordship's Case, and the Case of the Popish Lords in the *Tower*, in many material Particulars, which his Lordship had mentioned; *and he must confess he thought it one of the hardest Cases in* England. He said also, that he could not but differ from what his Brother *Jones* had said, as to the not having Liberty to plead over; for that he was of Opinion, his Lordship ought not to be debarr'd from having a second Plea, if the Pardon should be over-ruled; and (if I did not mistake him) he cited the Instance of one *Hetley*'s Case, (or such a Name) and he said, that his Lordship had said so many Things of great Consequence, that he thought it did very well deserve further Consideration; but if he should be put to give any present Answer, he must then say (as my Lord Chief Justice had done), that he thought they could not bail his Lordship; but he thought it might well deserve further Consideration.

Mr. Justice *Raymond* then said, That his Lordship's Case had so many weighty Circumstances in it, as ought to make it to be very well considered, before any Opinion could be delivered in it. That for what had been said by his Brother *Jones*, about the Pleading over or not, he thought that did not properly lie before them in that Place: That his Lordship had *said some Things, to which he thought full Answers might be given*; but that he had also said *some things, to which he thought it would not be so easy to answer.* That for his Part, he thought it was a Case which might well deserve the Consideration of more of the Judges, betwixt this and the next Term; and that he must acknowledge he must further consider it, before he would presume to give any Opinion at all upon it.

A Counsel at the Bar then moved, That a Rule of Court might be made to bring his Lordship thither again, the first Day of the next Term.

The Lord Chief Justice seemed displeased with the Forwardness of that Counsel; and the Earl of *Danby* excused it, saying, It was not moved by his Desire or Directions; but said, That was all alike to him, whether there were any Rule of Court or no; for that they were like to be troubled with him again, and that he should not easily give over a Cause, wherein he took the Liberty of the Subject in general to be as deeply concern'd as himself, and wherein he had found so little to be said against him, that he did believe he should be as troublesome to them as ever Judge *Jenkins* had been heretofore in the Defence of *English* Liberty.

The Lord Chief Justice then standing up, said, My Lord, your Lordship must for the present be content to be remanded; and speaking to the Lieutenant of the *Tower*'s Officer, told him, he must take back his Prisoner.

And then the Lord Chief Justice immediately left the Court.

June 29, 1682. *Trin.* 34 Car. II.

THE Earl moved the Court again to be bailed; when he spake as follows:

My Lord,

WHEN I last attended your Lordships and this Court, the Judges (or most of them) were of Opinion, That what I then said to your Lordship might deserve further Consideration; and therefore, my Lord, I doubt not, but that your Lordship has been pleased to consider further thereof.

At that Time, my Lord, none of the Judges but your Lordship, I think, made any very particular Objections against my being bailed; and if I am able to offer any thing to your Lordship that may give a sufficient Answer to those Objections, I do not doubt but that your Lordship

is ſo juſt, that you will not adhere to any Opinion, only becauſe you have been once of that Opinion, if any thing can be ſhewed to convince you to change it. In Confidence, therefore, that I am before a Court, which is not to be influenced by any Body *(how great ſoever)*, nor by any Thing but by the Laws of *England*, and by your Oaths to do Juſtice according to thoſe Laws; and being well aſſured of the Care which your Lordſhip will always have to maintain the *Engliſh Liberties*, with which your Lordſhip is intruſted by the King, and by the Laws, and inveſted with Power enough by both to defend them at all Times, and againſt all Opinions whatſoever: My Lord, I ſay, preſuming, and not doubting of all this, I ſhall take upon me to add ſomething to what I have ſaid already to the Objections which were then made by your Lordſhip, and I hope I ſhall have Liberty to anſwer any new Objections that may be now made.

My Lord, I take it for granted in the firſt Place, that the Order of the Houſe of Lords is no Objection againſt my Bail, becauſe your Lordſhip was pleaſed to tell me ſo the laſt Time I was here; and then I do reckon that thoſe Objections which have been made againſt my being bailed, may be ſummed up under theſe three Heads:

The firſt, my Lord, as well as my Memory will ſerve me, was, That as it was incongruous for a Court which was inferior to this, to bail any Man that was committed by this Court, or to call in queſtion the Proceſs of this Court; ſo it would likewiſe be for this Court to do in my Caſe; for that if a Man were committed by this Court, no inferior Court could bail that Man (in caſe his Majeſty ſhould think fit to adjourn this Court from Time to Time) until this Court ſhould ſit again.

The ſecond Objection was, That I am not indefinitely impriſoned, for that when his Majeſty ſhall pleaſe to call a Parliament, I would have Remedy; and therefore I muſt wait till his Majeſty ſhould pleaſe to call a Parliament.

The third was, That this Cauſe of mine was depending in a ſuperior Court, which was too big for this Court, and that the ſupreme Court having laid its Hands upon me, therefore this Court could not intermeddle in that Matter; my Lord, theſe, to the beſt of my Remembrance, are the Subſtance of the Objections then made.

The firſt of theſe, I have been told without Doors, is taken to be one of the weightieſt Objections againſt me, and truly I ſhould be very glad it ſhould prove ſo, becauſe I think it may be ſo eaſily anſwered.

For in the firſt Place, As to the calling in queſtion the Proceſs, I conceive that Bail is no calling in queſtion any Proceſs; and this Court did truly think ſo, when in the Caſe of the Earl of *Shaftſbury* they did declare, that had he not come to them in the Time of an Adjournment of Parliament, they would have bailed him; and, my Lord, as nothing is more evident, than that this Court and other Courts do meddle with the Proceedings of that ſuperior Court, ſo I do not doubt but to make appear, that they do meddle in a much greater degree than what I deſire of Bail; and that the Conſequences of what they do every Day practiſe, may be far more dangerous to the Subject, than the bailing of me can be.

For that Part of the Objection that compares a Commitment of this Court to a Commitment of the Houſe of Lords, and doth from thence conclude, that becauſe an inferior Court to this cannot bail a Man who is committed by this Court, therefore this Court cannot bail a Man who is committed by a ſuperior Court:

This ſeems ſo very unequal a Compariſon, and the Inequality of it ſo obvious, that truly I thought it had not needed any Anſwer; for I would deſire no other Anſwer from your Lordſhip, (if you can give it me,) than what an inferior Court may give to any Perſon that ſhall come before them with the like Requeſt: For they may give him good and ſufficient Reaſons why they do not bail him; they may not only tell the Party that he is committed by the ſuperior Court of the *King*'s-*Bench*, and that he muſt go thither for his Relief; but they can give him good Reaſons why he muſt do ſo; for they can tell him that the Court of *King*'s-*Bench* will ſit next *Term*, they can tell him when that *Term* will begin, and they can tell him how long that *Term* will laſt, and they can tell him that the Court of *King*'s-*Bench* cannot be diſſolved as the Parliament may be: And, my Lord, this takes away all that Priſoner's Pretences, to ſay that he is an indefinite Priſoner; and if your Lordſhip can give me any ſuch Anſwers as theſe, I ſhall be as well ſatisfied as that Man ought to be; but if no ſuch certain Anſwers as theſe can be given, then I muſt beg Pardon, to tell your Lordſhips, that it cannot be denied, but that my Impriſonment is indefinite, and if it be ſo, I do as an *Engliſhman* affirm, that no Law in *England* can ſupport it.

For the ſaying that if the King ſhould adjourn this Court from Time to Time, the Party could not be bailed till ſuch Time as this Court ſhould ſit again; my Lord, If this ſhould be admitted as a reaſonable Suppoſition (which, under Favour, I do not think your Lordſhip your ſelf does take it to be), yet it is but an Adjournment that is objected, and if the Parliament were but under an Adjournment, I would not have troubled your Lordſhip: But this is not the Caſe; for though ſometimes the King may adjourn this or any other Court of *Weſtminſter*, by reaſon of ſome extraordinary Occaſion, as in Caſe of a Peſtilence or ſomething of that Nature (and I know there have been Precedents of it); yet, my Lord, theſe are upon extraordinary Occaſions, and it is not to be thought, nay I am very certain, that his Majeſty will never do any thing that ſhall deprive his Subjects of any of thoſe Rights the Law allows them; ſo that in one Caſe the Law obliges that the *Terms* ſhould be kept four Times a Year, and that then the Court ſhall ſit if there be not extraordinary Occaſions to hinder it; but in the other Caſe of a Parliament, the King lies under no Obligation, nor Reſtraint, whether he ſhall call, or whether he will call it; and therefore the Inequality of the Compariſon is ſufficiently apparent: And, beſides this, it is as unknown how long a Parliament ſhall ſit, as when it is to ſit; Inſomuch that I take all this but to have offered additional Arguments on my Side, and ſhews how little the Arguments are that can be brought againſt me; and I think it makes out to me and to all *Engliſhmen*, that no Man ought to lie under ſuch an indefinite Reſtraint as I do: And truly, my Lord, I thought I ſhewed more Reſpect to the Court, in giving a more general Anſwer to this Objection (as I did before) than I can do now by being ſo particular.

For the ſecond Objection, *viz.* That I am not indefinitely impriſoned, for that when the King will pleaſe to call a Parliament, I would have a Remedy there, and therefore I muſt wait till the King will call a Parliament.

Truly, my Lord, perhaps your Lordſhip may know the Mind of the King or his Miniſters better than I do; but if you do not, I am ſure no Man but the King can tell whether I ſhall have Remedy then or no; for by the Experience of three Parliaments that have been called ſince I was a Priſoner, it hath appeared that I have had no Remedy: Therefore I ſhould be very glad to ſee this Matter any better proved, than it hath been, that I am not indefinitely impriſoned; but if this cannot be proved neither, but that I muſt wait till the King ſhall pleaſe to call a Parliament; and when he ſhall call a Parliament, I ſhall be no more certain of my Remedy than hitherto I have been, truly then I ſhall need no other Council but your Lordſhip to prove I am under an indefinite Impriſonment; and that any Man in *England* may be ſo, when the King pleaſes; and how any Doctrine can be more arbitrary than that, or leſs to be defended by Law, whenever that Matter ſhall be brought into queſtion, others than either your Lordſhip or I muſt be Judges, and thoſe who will be Parties ſo much concerned in this Queſtion for their own Sakes, as well as the Publick, that I believe there is ſmall Doubt to be made how they will then decide this Queſtion.

My Lord, If it ſhould then be found that this would hold Water, and ſhould be maintained for good Doctrine; truly, I think, there would need no other arbitrary Power to be ſet up to make Men quit this Country: For as to any Man's Liberty, it might be equal to him whether he lived under the *French* Government, or under the Grand Signior's Government, as under a Government ſo arbitrary as this Doctrine alone would make ours; and therefore I make no doubt, my Lord, but that you will be very careful how you give it us for Law.

As I ſhould be very ſorry that there ſhould be any ſuch arbitrary Doctrine taught to ſet the King's Prerogative higher or greater than it ought to be by Law, or than this King deſires, ſo I ſhould be as ſorry that the King ſhould not have that Right which duly belongs to him, which is a Right and Power at all Times to adminiſter Juſtice to his Subjects, and which I never heard denied to the Kings of *England*, nor I hope I never ſhall: And, my Lord, I muſt ſay, that the Preſervation of that Right to the King, would take away all Pretences for any of theſe dangerous and new Doctrines; for if the King may adminiſter Juſtice at all Times to his Subjects, (as it hath been the Care of Parliaments, and by *Magna Charta* it ſelf that he ſhould) there is no Reaſon left for any of thoſe Things to be ſtarted or put upon us.

'Tis true, indeed, that the King cannot make Laws without a Parliament; but I did never hear in my whole Life, but that he could adminiſter Juſtice without his Parliament; and if he could not, his Subjects would be in a miſerable Condition; for ſurely it would be a very hard Caſe, if his Subjects could have no Hopes of being righted by their Sovereign's Authority, either by himſelf, or in his Courts, in all Caſes, and at all Times.

The Houſe of Peers in Parliament ('tis true) is his greateſt Court, but they ſit only by Virtue of the King's Writ, and if the King ſhould die (which I hope I ſhall never live to ſee), they would not then be a Court of Juſtice, nor any Court at all; and therefore, my Lord, in this Queſtion, the Royal Authority and the Subjects Liberties are ſo involved, that what Judgment ſoever ſhall be given, muſt paſs upon the one, as well as upon the other, and cannot poſſibly be divided.

The third Objection that was made, is, That this Cauſe of mine is depending in Parliament, which is a ſuperior Court to this; and that the ſupreme Court having laid its Hands upon me, therefore this Court cannot intermeddle.

My Lord, There is no Man living that hath a greater Reverence for that ſupreme Court than I have, or that will go further than I will, to defend it, in all the Rights and Privileges that belong to it by Law: Nay, my Lord, I have ſo much a greater eſteem for that Court, becauſe I am ſure it will never ſuffer me, nor any Man living to go unpuniſh'd, that ſhall tranſgreſs the Law, or that ſhall go about any way to make them Tranſgreſſors of the Law, or to make them ſuch as would be Reſtrainers of the *Engliſh* Liberties beyond what the Law permits. They have ſhewed the contrary, when it was offered to them by a Bill from the Houſe of Commons, that they would have no ſuch abſolute Authority put into their Hands over the Liberties of the Subject, but did then refuſe it; ſo that to ſay, that ſupreme Court hath laid its Hands upon any Man's Liberty in *England*, further than the Law permits, would be to put an unjuſt Odium upon the Houſe of Lords to the Nation, inſtead of doing them Right; and therefore I muſt needs ſay, that in this particular Caſe of my own, I find only the Word and Name of ſuperior Court to be made uſe of againſt me, but nothing in Reality; juſt as they were pleaſed in the Houſe of Commons to uſe the Word Traiterouſly, in the Articles againſt me, when there was not a Tittle of Treaſon in them, only that by calling it Treaſon, it might ſerve to lay me where I am.

But, my Lord, I know no Court that is ſuperior at this Time to this Court where I am now; and how any thing can be ſaid to be depending in a Court that hath no Being, I think, will not very eaſily be defended from Nonſenſe, without having the Matter extremely well explained; and whenever that ſuperior Court ſhall have a Being, my Cauſe will then be before it, by my being bailed to appear there. And for ſaying, it has laid its Hand upon this Caſe of mine, it ought to be ſhewn in what the ſuperior Court hath laid its Hand upon me, ſo as to keep me from Bail, when neither that ſuperior Court it ſelf (though it were willing ſo to do) is able to give me any Relief, nor that I can get to be Tried or Diſcharged elſewhere, nor have any Time prefixed when that ſuperior Court ſhall Sit; as if there were no Juſtice left in *England*.

But if it be ſo, that I ſhall neither be Bailed, nor have it ſhewed, what Hand the ſuperior Court has laid upon me to hinder it, then truly

any Man may be ſo concluded, and the Argument may be decided, by the Will and Pleaſure of thoſe who have Men in their Power; but the Shadows of Things, when there is no Subſtance in the Argument, will not ſatisfy reaſonable Men for an Anſwer, why ſo publick a Grievance ſhall not be remedied; and I am confident, that the Superior Court it ſelf will never ſuffer its Name to be made uſe of, nor themſelves to be made Properties, to ſupport ſuch a Grievance as may concern not only themſelves, but the whole Nation, both in this Age, and to all Poſterities; and by which, not only *Magna Charta* and the Petition of Right would be evaded, but the late Act of *Habeas Corpus* may alſo be eluded by this Device; and the Parliament (when it ſhall meet again) will find, that inſtead of ſecuring their Liberties, they have only been hedging in the Cuckow; for that there is now a new way found out, by which all Acts for our Liberties may be made of no Effect: And this cannot be contradicted, unleſs (as ſome would fancy) the King could not Impeach as well as the Commons; but there are ſo many Evidences to the contrary of that, as there is no room left for the Diſpute: And amongſt the Precedents of that kind, there is one (becauſe it hath a double Conſequence) that I do deſire to put your Lordſhip in mind of.

It is in the 5° *H.* IV. in the Records of the *Tower*. There you will find, that the Commons came to petition the King, that his Majeſty would be pleaſed, not to Impeach the Archbiſhop of *Canterbury*, the Earl of *Northumberland*, and ſome others that were at that time accuſed for being in the Confederacy of Sir *Henry Piercy*, and the King grants their Requeſt, and does agree he would not Impeach them.

I have quoted this the rather, becauſe of the double Precedent that is in this Caſe; for again the ſame day the Commons came (after his Majeſty had granted their former Requeſt), and did further Petition his Majeſty, that he would be pleaſed to affirm thoſe Lords (whom he hath promiſed he would not Impeach) to be his true Liege-men; and the King did grant that alſo; by which it was then taken for granted, that he had ſet them *Rectè in Curia*, (even though they were in that Conſpiracy with Sir *Henry Piercy*); and, my Lord, I give you this Inſtance, that you may obſerve two things by it: Firſt, That the Commons did Petition the King not to Impeach; and when he had granted that, it appears alſo, that by the King's declaring them to be his true Liege-men, it was by the Commons conceived, that the King did ſet them *Rectè in Curia*; by which it does appear, what great Regard the Houſe of Commons had to the King's bare Affirmation, of their being his true Liege-men; and I hope, that neither this King's Power nor Credit ſhall be leſs with his own Court, than that King's was with his Houſe of Commons; and I am ſure, no King's Affirmation can be greater, nor more publick, both to his Parliament and Kingdom, of any Man's being a true Liege-man, (to uſe that old Word) than the King's hath been concerning me.

My Lord, there are ſome Men very unable to diſtinguiſh (tho' they would) between Sound and good Senſe, and there are a great many, that are as willing to let Men remain under their Miſtakes; but ſince it weighs a great deal with ſome who do not very rightly diſtinguiſh, it will be of abſolute Neceſſity for me to explain what it is that is meant by a Caſe depending in Parliament, when there is no Parliament: This will be beſt ſhewn by an Inſtance in a Writ of Error depending in Parliament, in which Caſe, when the Parliament is ſitting, and ſo the Writ is really and truly depending in the Court that is in Being, there can (during ſuch Sitting) be no Execution ſued upon the Judgment. But, my Lord, no ſooner is the Parliament diſſolved, but Experience ſhews, that Execution may be ſued, and Goods levied, and the Properties of Men's Eſtates changed; and therefore it is by this ſufficiently plain, that Depending is not then meant in the ſame Senſe, or in the ſame Manner, as it was meant when the Parliament was actually ſitting; for then there could have been no Execution ſued.

Now, my Lord, when a Parliament ſhall meet again, what does it meet with? It meets, it is true, with the ſame Cauſe again, (as to the Merits) but it meets it quite altered as to other Circumſtances, *viz.* as to the Execution that hath been granted by an inferior Court, in the Interval of Parliament. And, as to the Change of Property, for a Man's Eſtate (and perhaps of great Value) may happen to be in another Man's Hands at the ſame Time by the Execution; ſo that when a Parliament doth meet again, it doth meet, it is true, with the ſame Cauſe (as to the Merits), but indeed as to nothing elſe.

And therefore, by this, it is clear, that a Parliament does only expect, when it meets again, to meet with the Cauſe in the ſame State (as to the Merits of the Cauſe), and doth not at all meddle or concern it ſelf to find Fault with thoſe ſuppletory Acts that have been done by an inferior Court in the Interval, which was only to prevent Failure of Juſtice; but it commends them for not having delayed Juſtice, and that Men ſhould not be kept too long out of their Rights, (even tho' there may have been prodigious Wrong done to the Parties, if the Judgment have been erroneous) for that the ſuperior Court will at laſt ſee to the Error, if any have been committed by the Judgment of the inferior Court, and will enter upon all as entire again, (as to it's Merits) as if nothing had been done by the inferior Court; ſo that in Reality, that which can only reconcile the Senſe of being Depending in Parliament, when the Parliament is diſſolved, is this laſt Order of the Houſe of Lords, which declares Impeachments, &c. to be continued, notwithſtanding Diſſolution. For by Virtue of this laſt Order, the Lords do proceed upon the Cauſe, without beginning *De novo*, or having any new Writ or new Impeachment brought up to them: But this is new Doctrine, and never practiſed till of late; however, ſince they have done ſo, in this Senſe, and in this only, a Cauſe may be ſaid to be depending; and ſo it was adjudged in that ſingle Inſtance of the Trial and Condemnation of my Lord *Stafford*; and there they proceeded to the Merits of the Cauſe, and they tried and condemned my Lord *Stafford*; and there is no manner of Doubt, but by Virtue of their late Order, they may proceed upon me when they ſhall meet, as they ſhall think fit, notwithſtanding my having been bailed; for I deſire not to have the Merits of my Cauſe removed from before the Lords, if I might, but that they may do with me as they pleaſe, even to Condemnation, if they ſhall have Cauſe, which I hope in God they never ſhall.

Therefore, I ſay, my Lord, in this Senſe only which I have explained, a Cauſe may be ſaid to be depending, though a Parliament is not in being; but I will challenge the ableſt Lawyer, with all the Sophiſtry he can uſe, together with his Law, to ſhew me how he can poſſibly diſtinguiſh the Caſe of Writs of Error from the Caſe of Impeachment, or wherein they differ, as to their depending, in the Intervals of Parliament; and I likewiſe challenge him to make appear, how Bail is any other than ſuch a ſuppletory Act, to relieve a Man from being kept too long from his Liberty, as the granting of Execution in the Interval, is to relieve a Man from being too long kept out of his Money or Eſtate; for that the Merit of the Cauſe, both in the one Caſe and the other, remains entire for the Parliament to recommit upon (if they ſee Cauſe), as well as to reverſe the Judgment, and all the Proceedings, upon the Writ of Error.

Where is then the Difference, my Lord? If there be any Difference, I think it lies only in this, that in one Caſe there may be an erroneous Judgment, and a Man may be almoſt undone and ruined, by being wrongfully diſpoſſeſs'd of his Eſtate (be it never ſo great); but in this Caſe, the ſuppletory Act which is done to admit to Bail, can only be to caſe a Man from his too long or perhaps perpetual Impriſonment, and can hurt no Body, nor take no Man's Liberty from him, to grant him his; but yet this muſt be thought an hard Caſe, and the other a very eaſy one, and fit to be practiſed every Day.

My Lord, if the Law has taken care, and made ſuch Proviſion, that a Man ſhall not be kept too long out of 10*l.* in Money, or out of 40*l.* a Year in Land, then it would be ſtrange, that the Law ſhould not have made Proviſion, that a Man ſhould not be kept too long out of his Liberty, and when there is no Proſpect of his having it.

Beſides, in a Writ of Error the Judgment given is controverted, and the Power of awarding Execution is ſuſpended upon that very account, becauſe the Judgment of the Court is in queſtion, and the Juſtice of it is brought in diſpute, whether they have judged right or wrong.

Now, my Lord, if the Diſſolution of a Parliament can reſtore the Judges Power in the Interval of Parliament, ſo as to award an Execution upon a Man's Eſtate, where the Property ſhall be changed and altered, and notwithſtanding their Juſtice was brought in queſtion, and that they may have done great Wrong to the Party by their Judgment; and yet we are to believe, that the ſame Diſſolution cannot reſtore the Power of the Judges ſo as to give a Man a little Eaſe from a Confinement within four Walls, where the Juſtice of no Court is queſtion'd nor arraigned, nor no Wrong can have been done to any body; but on the contrary, does Right to the King, who by his Conſent ſhews his Will to have a Man Bailed; and great Right to the Subject, who ought to be delivered from the Danger of an indefinite Impriſonment which is ſo contrary to Law: Then indeed there muſt be ſome Infallibility ſuppoſed in that Chair, which ſhall maintain ſuch Doctrine, and muſt be ſubmitted to, with the ſame Implicite Faith which they do who can believe Infallibility.

But for my Part (who can believe Infallibility in no kind upon Earth), I confeſs I muſt have my Reaſon better ſatisfied, before I can any more believe this Expoſition of the Law, than I can believe thoſe infallible Men's Expoſitions of the Goſpel.

My Lord, I hope I have made plain to your Lordſhip, what it is that is meant, or can be underſtood, by a Cauſe depending in Parliament when there is none, and how and in what Senſe only it can be underſtood to be ſo depending; and it is as plain, that the Bailing of me is no intermeddling with the Merits of the Cauſe in Parliament, but on the contrary, an evident Affirmation of the Juriſdiction of that Supreme Court; and if I cannot be admitted to bail in ſome other Court than the Houſe of Lords, it is contrary to what my Warrant of Commitment implies, by which I am committed only till I am diſcharged by due Courſe of Law, for which I am properly in this Place.

My Lord, it cannot be meant that Bail can be any more than a ſuppletory Act (*propter rei neceſſitatem*), and for the Eaſe of the Subject; and it is impoſſible for that old Rule of *Salus Populi Suprema Lex eſto*, to be more aptly applied in any Caſe in the World than in this, that concerns every Man in *England* in his Liberty: For ſhould it be otherwiſe, pray ſee what the Conſequence of this Doctrine would be; that becauſe a Superior Court which is not now in being (nor hath it in its own Power to be ſo) hath committed a Man, therefore he cannot be admitted to Bail; what ſhould become of Men, if after the Diſſolution of a Parliament there can be no Poſſibility of having Juſtice done them?

Nay farther, If it ſhould be granted that this Court cannot intermeddle, becauſe the Superior Court has committed, by that Doctrine it would not matter whether the Commitment were for Treaſon, or for the ſmalleſt Quarrel or Miſdemeanor, for which a Man might happen to be in Priſon at the time of a Diſſolution of a Parliament; nor would it be any matter, whether the Order of the Houſe of Lords were revoked or not.

For it is an Order of a Superior Court, which will ſtill be a Superior Court though the Order were burnt; and yet that muſt be enough to keep one in Priſon by this Rule, for that there would ſtill be no other Remedy, though the Order were repealed.

But, my Lord, the Warrant of Commitment ſhews the Lords Directions to be contrary to this Opinion, for I can ſhew ſeveral Inſtances of Warrants which run, ſome to be kept *'till further Order of that Houſe*, others to be kept *'till they ſhall be diſcharged by the Houſe*, and others to be kept *'till the Pleaſure of the Houſe be further ſignified*, and others *during the Pleaſure of that Houſe*: But my Warrant is, *'till I am diſcharged by due Courſe of Law*: Now I doubt not, but if the Lords had thought thoſe Words had not given a Latitude for Relief elſewhere, they would have worded the Warrant otherwiſe, and inſtead of ſaying *by due Courſe of Law*, would have ſaid, *'till I were diſcharged by that Houſe*, if the Lords had thought there had been no other Remedy by Law, but by that Houſe. But, my Lord, the Lords will not act any thing above the Law, they will keep every thing within the compaſs of the Law; and I am ſure that there cannot be a better

a better Example to follow, than the Example of thoſe wiſe and great Men of that great Court, and I deſire it may be followed, and not contradicted.

For by this Doctrine, truly, my Lord, Liberty it ſelf would not only be utterly loſt; but to make the Riddle the greater, and the Manner more ridiculous, it would be loſt, and yet no Body invade it: For the *King* he conſents to my Bail (if he hath any Power), ſo he does not intend to deprive me of my Liberty: The Lords would for their own Sakes and Juſtice Sake (if it were in their Power to meet, and have Time to ſit ſo long as to take the Caſe of a ſingle Perſon into Conſideration) do me Juſtice, either in diſcharging or trying me: So that in my Caſe, here is a Subject of *England* impriſoned by no Body, and yet no Power upon Earth can relieve me. Shew me an Example of this in any Nation under the Sun, but this, that there wants a Power in the Government to relieve a Priſoner at all times (if it would), and I will be ſatisfied: Nay, my Lord, the very *Spaniſh Inquiſition* is more reaſonable than this, for though the Cauſe may be unjuſt that they commit a Man for, and their Uſage of him may be very ſevere while he is there, yet the *Inquiſitors* (if they pleaſe) *can* deliver him; there is no Priſoner in the World but *can* be delivered by ſome Power or other, but me; and, my Lord, this is a Rule that muſt be for every Man in *England* as well as me, and I am not ſo inconſiderable but that my Fate may be made a Precedent of Note.

The Opinions, my Lord, that were given by the Judges in the Caſe of Ship-money, appear far more tolerable, in my Opinion, than this; for I know there is no Man but had rather have a Sentence paſs'd againſt his Eſtate (which he may recover again) than have it paſſed againſt his Liberty, which he may never have, and which is more valuable than any Eſtate.

Beſides, where is the Juſtice of the Nation? And what a Shame would it be to our Laws and to our Government, that it could be ſaid of this Country, that a Man might be puniſhed by Impriſonment in *England* (where the Government is not Arbitrary) for ſeven Years or more, and at laſt be found Guilty of no Offence? And what Satisfaction could be in Nature given to that Man? I ſay, if that Man could have a Crown given him, it could not make him Satisfaction for the Loſs of his Liberty all his Life, which may be the Conſequence of this Doctrine; and, my Lord, there are Precedents good ſtore where Men have ſuffered ſufficiently for their Judgments againſt the *Liberty and Property of the Subject*, but I never found one that ſuffered in the Defence either of the one or the other.

I have ſhewn, I think, ſufficiently what can be meant either in my Caſe or any other, by a Cauſe depending in *Parliament*, when there is no *Parliament*; as alſo how much Inferior Courts do meddle with things of much an higher Nature, than Bail will be; inſomuch that truly I ſhould think it might be ſufficient to ſay no more than I have ſaid: But I do not know what may be ſufficient in my Caſe; and therefore, my Lord, you muſt pardon me, if I do put you in mind of a Caſe wherein you have gone to the Merits of the Cauſe it ſelf, when Depending in *Parliament*.

It is *Fitz-Harris* his Caſe; and I know very well what Anſwers will be given me; as that *that* was a Caſe rejected by the Lords, and that it was not the ſame Treaſon for which he was Impeached, and other things that I could mention; but I know your Lordſhip will ſpeak by the Record of the Court (of which I have here a Copy), and the Record is that which muſt ſatisfy the World an hundred Years hence; by which it will appear to them, that he was Impeached, and Tried, and Condemned, depending that Impeachment; for he made that his *Plea*, and Mr. Attorney General demurring to it, the Court muſt take the Matter pleaded, as confeſſed and allow'd; and this being ſo, I ſhould think there ſhould be no Scruple made in the Point of Bail; or if there ſhould, there muſt certainly be very great Hardſhip in one Caſe or the other, and muſt be very difficult to be anſwered.

But to conclude: Beſides all this, I am the King's Priſoner, and I have the *King*'s Pardon; and if I cannot get to be Bailed, there is not only a Defect of Juriſdiction in this Court, but a Defect of the Regal Authority and Power of the Kings of *England* to adminiſter Juſtice to their Subjects; which was never heard of, I think, and I hope I ſhall never live to hear of it (eſpecially from the *King*'s Supreme Ordinary Court of Juſtice). And that, my Lord, that muſt make this Caſe the more unhappy at this time is, that we live in Days wherein his Majeſty's Prerogatives are ſo much brought in queſtion: For what Prerogative hath He which is more undoubted than his Power of Pardoning? And yet you ſee that brought in Queſtion to the utmoſt, and thoſe that are the ableſt Men that ſpeak againſt that Power, do laugh at the little ſmall Triflers who object, that the *King* may Pardon before Impeachment, and after the Sentence be given, but not betwixt thoſe Times: They laugh at this, and tell you that he cannot Pardon at all; and it is eaſily perceived, that if they could reach their Deſign, they would have it underſtood, That *Treaſon* may be committed againſt the People, and by that Doctrine another High-Court of Juſtice may be ſet up, and the *King* may be Tried by his People, as well as he can Try them. My Lord, there are a great many Conſequences attending upon that Doctrine, which I am ſure will ne'er be countenanced by the *King*'s Courts; but I ſhall not wonder that ſuch Men as theſe be trying their Projects, and think themſelves in the Right to do ſo, if they find his Majeſty cannot do ſo much as a leſſer Act of Grace for his Priſoner, which is but to give him Eaſe from too long or perhaps a perpetual Impriſonment; for if he hath not Power ſo much as to Bail his own Priſoner, I ſhall not wonder if others queſtion whether he hath Power to Pardon him.

My Lord, I have ſeen ſuch Keepers of our Liberties, from whom I ſhould expect ſuch Doctrines; but I thank God that by our Laws the *King* is the Keeper of our Liberties, and therefore I hope I ſhall not hear any ſuch Doctrine by which he can only be the Keeper of us in Priſon, but ſhall have no more Power than another Man, to ſet his Priſoner at Liberty, although his Will be only to give his Priſoner Eaſe (as the Law intends) againſt Indefinite Impriſonment.

Laſtly, My Lord, If I ſhould die in Priſon with this Pardon by me, which I have ſhew'd your Lordſhip; or ſuppoſe that the Houſe of Commons (if it were but with a Deſign to deſtroy the Pardon) would give ſome other Reaſon than the Pardon (as being better ſatisfied concerning me, or any thing elſe) why they would proſecute me no more (of which there be divers Precedents); what a Wound would thereby be given to the *King*'s Prerogative! And pray how is it poſſible almoſt to give it a greater Blow than this would be?

What a Precedent would it be to Poſterity to ſay, that a Man had lain three, four or five Years or more in Priſon, notwithſtanding a Pardon, that ſignified nothing all that time? for that the *King* would have Eaſed him if he could, and hath ſhewed his Court that he would do ſo, but was not able ſo much as to have him Bailed—would not this put that Prerogative in great hazard? I confeſs I do wonder that ſome others beſides your Lordſhip have not taken more care of the Prerogative of the *King*, for their own Sakes as well as the *King*'s; For it would be very convenient it ſhould be uſeful, if ever it ſhould become neceſſary: And it is not improbable, but if the *King* ſhould hereafter find ſuch a Prerogative diminiſh'd, he would not only reflect upon his Loſs, but upon thoſe who might have adviſed better, or might have better defended this Prerogative of the *King*; And for the Subjects Liberties, there will never be Eyes wanting to inquire after any Invaſion which ſhall be made of that kind.

Upon the whole, I have troubled your Lordſhip too long, but it hath been upon a Subject of the greateſt Concern to *Engliſhmen*: I have ſuch Bail to offer to your Lordſhip, as I am ſure cannot be denied; and I am in my own Conſcience ſufficiently ſatisfied, that I am detained a Priſoner from Bail, neither by the *King*, by the Lords, nor by the Laws; and therefore, my Lord, I do humbly pray your Lordſhip you would pleaſe to accept my Bail; and as I here offer your Lordſhip my Pardon again, ſo I again pray the Benefit of it, and I deſire your Lordſhip it may be read in Court.

The Lord Chief Juſtice then ſpoke, and ſo did all the reſt of the Judges, (upon the Earl's deſiring that they would ſeverally deliver their Opinions) And the Lord Chief Juſtice, and Mr. Juſtice *Dolben*, did deliver their Opinions, that the Earl could not be relieved by that Court. Mr. Juſtice *Jones* concluded his Diſcourſe with ſaying, that he could not give his Judgment that the Earl ſhould be Bailed AT THAT TIME. Mr. Juſtice *Raymond* did ſay, he could not ſee but that there would be a *failure of Juſtice* if ſo be his Lordſhip ſhould not have Liberty upon Bail; but that he had not time to view Precedents, and therefore it would be very unfit for him at preſent to be poſitive in what he did ſay.

And then the Lord Chief Juſtice did tell the Earl, he muſt be contented to be Remanded.

But afterwards, on the laſt Day of *Hilary* Term, 1683, the Judges delivered their Opinions ſeverally, and were Unanimous, that the Earl † ought to be Bail'd. And accordingly Bail was taken in 40000 *l.* his Lordſhip in a Recognizance of 20000 *l.* and the Dukes of *Somerſet* and *Albemarle*, and the Earls of *Oxford* and *Cheſterfield* in 5000 *l.* a piece; upon condition that the Earl of *Danby* do appear in the Houſe of Lords the next Seſſion of Parliament, and not depart without leave of that Court.

LXXIX. *The Trial of* Robert Green, Henry Berry, *and* Lawrence Hill, * *at the* King's-Bench, *for the* Murder *of Sir* Edmundbury Godfrey, Feb. 10, 1678. Hil. 31 Car. II.

ON *Wedneſday* the 5th of *February*, 1678, *Robert Green*, *Henry Berry*, and *Lawrence Hill*, were brought from His Majeſty's Goal of *Newgate*, to the Bar of the Court of *King's-Bench*, to be Arraigned for the Murder of Sir *Edmundbury Godfrey*, upon an Indictment found by the Grand Jury for the County of *Middleſex*, on *Monday* the Morrow of the Purification of the Bleſſed Virgin *Mary*; and the Court proceeded thus:

Mr. Juſtice *Wild* Arraign'd the Priſoners.

Clerk of the Crown. Robert Green, hold up thy Hand; *Henry Berry*, hold up thy Hand; *Lawrence Hill*, hold up thy Hand. *Which they ſeverally did.*

You ſtand Indicted by the Names of Robert Green, *late of the Pariſh of St.* Mary le Strand, *in the County of* Middleſex, *Labourer*; Henry Berry, *late of the ſame Pariſh and County, Labourer*; *and* Lawrence Hill, *late of the ſame Pariſh and County, Labourer*; *for that you three, together with* ——— Girald, *late of the ſame Pariſh and County, Clerk*; Dominick Kelly, *late of the ſame Pariſh and County, Clerk*; *and* Phillibert Vernatt, *late of the ſame Pariſh and County, Labourer, who are withdrawn: Not having the Fear of God before your Eyes, but being moved and ſeduced*

† *This was now done on purpoſe to be a Precedent for the four Popiſh Lords, who were Bail'd out that ſame Day.*

* Burn. *Hiſt. own Times*, Vol. I. p. 445.

by

by the Inſtigation of the Devil, the 12*th Day of* October, *in the Thirtieth Year of the Reign of our Sovereign Lord* Charles *the Second, by the Grace of God, of* England, Scotland, France *and* Ireland, *King, Defender of the Faith,* &c. *at the Pariſh of St.* Mary le Strand *aforeſaid, in and upon Sir* Edmundbury Godfrey, *Knight, in the Peace of God, and of our ſaid Sovereign Lord the King, then and there being, feloniouſly, voluntarily and of your Malice aforethought, did make an aſſault; and that thou the aforeſaid* Robert Green, *a certain Linen Handkerchief of the Value of Six-pence, about the Neck of the ſaid Sir* Edmundbury Godfrey, *then and there feloniouſly, wilfully, and of thy Malice aforethought, didſt fold and faſten; and that thou the ſaid* Robert Green, *with the Handkerchief aforeſaid, by thee the ſaid* Robert Green *in and about the Neck of the ſaid Sir* Edmundbury Godfrey, *in manner and form aforeſaid, folded and faſtened, then and there him the ſaid Sir* Edmundbury Godfrey *didſt choke and ſtrangle, of which ſaid choking and ſtrangling of him the ſaid Sir* Edmundbury Godfrey, *in manner and form aforeſaid, he the ſaid Sir* Edmundbury Godfrey *then and there inſtantly died: And that you the ſaid* Henry Berry *and* Lawrence Hill, *together with the ſaid* ——— Girald, Dominick Kelly, *and* Phillibert Vernatt, *then and there feloniouſly, voluntarily, and of your Malice aforethought, were preſent, aiding, abetting, comforting and maintaining the aforeſaid* Robert Green, *the aforeſaid Sir* Edmundbury Godfrey *in manner and form aforeſaid, feloniouſly, voluntarily, and of his Malice aforethought, to Kill and Murder; and ſo you the ſaid* Robert Green, Henry Berry, *and* Lawrence Hill, *together with the ſaid* ——— Girald, Dominick Kelly, *and* Phillibert Vernatt, *in manner and form aforeſaid, the aforeſaid Sir* Edmundbury Godfrey, *feloniouſly, wilfully, and of your Malice aforethought, did Kill and Murder, againſt the Peace of our Sovereign Lord the King, his Crown and Dignity.*

How ſay'ſt thou, *Robert Green*, art thou Guilty of this Felony and Murder whereof thou ſtandeſt Indicted, and haſt been now Arraigned, or Not Guilty?

Green. Not Guilty.

Cl. of the Cr. Culprit, How wilt thou be Tried?

Green. By God and my Country.

Cl. of the Cr. God ſend thee a good Deliverance. How ſay'ſt thou, *Henry Berry*, art thou Guilty of the Felony and Murder whereof thou ſtandeſt Indicted, and haſt been now Arraigned, or Not Guilty?

Berry. Not Guilty.

Cl. of the Cr. Culprit, How wilt thou be Tried?

Berry. By God and my Country.

Cl. of the Cr. God ſend thee a good Deliverance. How ſay'ſt thou, *Lawrence Hill*, art thou Guilty of the Felony and Murder whereof thou ſtandeſt Indicted, and haſt been Arraign'd, or Not Guilty?

Hill. Not Guilty.

Cl. of the Cr. Culprit, How wilt thou be Tried?

Hill. By God and my Country

Cl. of the Cr. God ſend thee a good Deliverance.

Capt. Richardſon. I deſire to know when they muſt be brought up to be Tried?

Mr. Juſt. *Wild.* Upon *Friday* next.

Cl. of the Cr. You ſhall have a Rule to bring them up on *Friday.*

But on Thurſday, *the* 6*th of* February, *Mr. Attorney-General mov'd the Court that it might be deferr'd till* Monday, *that the King's Evidence might be the more ready; which was granted accordingly.*

On *Monday* the 10th of *February*, 1678, the ſaid *Robert Green*, *Henry Berry*, and *Lawrence Hill*, were brought again to the Bar for their Trial; which proceeded as followeth.

Cl. of the Cr. Make Proclamation.

Crier. O Yes!

Cl. of the Cr. Again, Again.

Crier. O Yes, O Yes! Our Sovereign Lord the King doth ſtraightly Charge and Command all manner of Perſons to keep Silence upon pain of Impriſonment.

Cl. of the Cr. Make an O Yes!

Crier. O Yes! If any one can inform our Sovereign Lord the King, the King's Serjeant at Law, the King's Attorney-General, or this Inqueſt now to be taken of the Felony and Murder whereof *Robert Green*, *Henry Berry*, and *Lawrence Hill*, the Priſoners at the Bar, ſtand Indicted, let them come forth and they ſhall be heard, for now the Priſoners ſtand at the Bar upon their Delivery. And all others that are bound by Recognizance to give Evidence againſt the Priſoners at the Bar, let them come forth and give their Evidence, or elſe they forfeit their Recognizance.

Cl. of the Cr. Robert Green, hold up thy Hand; *Henry Berry*, hold up thy Hand; *Lawrence Hill*, hold up thy Hand. *Which they ſeverally did.*

Thoſe good Men that you ſhall hear call'd, and perſonally appear, are to paſs between our Sovereign Lord the King and You, upon Trial of your ſeveral Lives and Deaths: If therefore you, or any of you, will challenge them, or any of them, your Time is to ſpeak unto them when they come to the Book to be ſworn, and before they are ſworn. Crier, make an O Yes.

Crier. O Yes! You good Men that are Impanell'd to enquire between our Sovereign Lord the King and *Robert Green*, *Henry Berry*, and *Lawrence Hill*, the Priſoners at the Bar, anſwer to your Names, and ſave your Iſſues.

Cl. of the Cr. Sir *William Roberts.*

Crier. Vous avez, Sir *William Roberts.*

Cl. of the Cr. Sir *William Roberts*, to the Book.

Crier. Sir *William Roberts*, look upon the Priſoners: You Priſoners, look upon the Jury. You ſhall well and truly Try, and true Deliverance make, between our Sovereign Lord the King and the Priſoners at the Bar, whom you ſhall have in Charge, and a true Verdict give according to your Evidence. *So help you God.*

And the ſame Oath was adminiſtred to the reſt, and their Names were as follow:

Sir *William Roberts*, Baronet.	*John Bathurſt*, Eſq;
Sir *Richard Fiſher*, Baronet.	*Richard Gowre*, Eſq;
Sir *Michael Heneage*, Knight.	*Thomas Henſhawe*, Eſq;
Sir *Thomas Bridges*, Knight.	*John Sharpe*, Eſq;
William Avery, Eſq;	*John Haynes*, Eſq; and
Charles Humphreville, Eſq;	*Walter Moyle*, Eſq;

Cl. of the Cr. Crier, count theſe. Sir *William Roberts.*

Crier. One, &c.

Cl. of the Cr. Walter Moyle.

Crier. Twelve good Men and true, ſtand together, and hear your Evidence. Gentlemen, are you all Sworn? And you that are not Sworn, pray withdraw.

The Standing-Place for the Jury being ſo throng'd, that thoſe who were ſworn had not room to ſtand together, the Clerk of the Crown was order'd to make Proclamation thus:

Cl. of the Cr. Crier, make Proclamation.

Crier. O Yes! My Lords the King's Juſtices do ſtraitly charge and command all Perſons that are not of the Jury, to withdraw forthwith, upon Pain of one hundred Pounds a Man.

Cl. of the Cr. Robert Green, hold up thy Hand; *Henry Berry*, hold up thy Hand; *Lawrence Hill*, hold up thy Hand. *Which they ſeverally did.*

Gentlemen, You that are ſworn, look upon the Priſoners, and hearken to their Charge: You ſhall underſtand, that they ſtand indicted by the Names of *Robert Green*, late of the Pariſh of St. *Mary le Strand* in the County of *Middleſex*, Labourer; *Henry Berry*, late of the ſame Pariſh and County, Labourer; and *Lawrence Hill*, late of the ſame Pariſh and County, Labourer; for that they, together with, *&c. (as before)* againſt the Peace of our Sovereign Lord the King, his Crown and Dignity. Upon this Indictment they have been Arraigned, they have thereunto ſeverally pleaded Not Guilty, and for their Trials have ſeverally put themſelves upon God and their Country, which Country you are. Your Charge is to enquire, whether the Priſoners at the Bar, *Robert Green*, *Henry Berry*, and *Lawrence Hill*, or any of them, are Guilty of the Felony and Murder whereof they ſtand Indicted, or Not Guilty; and for them which you ſhall find Guilty, you ſhall enquire what Goods or Chattels, Lands or Tenements, they had at the time of the Felony committed, or at any time ſince. If you find them, or any of them, Not Guilty, you ſhall enquire, whether they, or any of them, that you find ſo Not Guilty, fled for the ſame; if you find that they or any of them fled for the ſame, you ſhall enquire of their Goods and Chattels, as if you had found them Guilty: But if you find them, nor any of them, Not Guilty, nor that they did fly for it, ſay ſo, and no more, and hear your Evidence. Crier, make Proclamation.

Crier. O Yes! If any one will give Evidence on behalf of our Sovereign Lord the King, againſt *Robert Green*, *Henry Berry*, and *Lawrence Hill*, the Priſoners at the Bar, let them come forth, and they ſhall be heard.

Mr. Serjeant *Stringer.* May it pleaſe your Lordſhip, and you Gentlemen of this Jury, The Priſoners at the Bar, *Robert Green*, *Henry Berry*, and *Lawrence Hill*, ſtand Indicted, for that they, with one *Girald* a Prieſt, one *Kelly*, and one *Vernatt*, did the twelfth of *October* laſt, at the Pariſh of St. *Mary le Strand* in this County, feloniouſly, wilfully, and of their Malice aforethought, aſſault the Perſon of Sir *Edmundbury Godfrey*, Kt. and that the Priſoner, *Robert Green*, did put about the Neck of the ſaid Sir *Edmundbury* a twiſted Handkerchief, and did with that twiſted Handkerchief ſo choke and ſtrangle the ſaid Sir *Edmundbury*, that he immediately died; and that the other Priſoners, *Henry Berry* and *Lawrence Hill*, with the other Perſons, *Girald*, *Kelly*, and *Vernatt*, were aiding and aſſiſting the ſaid *Robert Green* to Murder the ſaid Sir *Edmundbury*; and ſo the Priſoners at the Bar, with the ſaid other Perſons, the ſaid Sir *Edmundbury Godfrey* did kill and murder, againſt the King's Peace, his Crown and Dignity. To this they have pleaded Not Guilty, and for their Trial have put themſelves upon their Country, which Country you are. If we prove them or any of them Guilty, you are to find it ſo.

* *Mr. Attorney-General.* May it pleaſe your Lordſhip, and you Gentlemen of this Jury, the Priſoners who ſtand now at the Bar are Indicted for Murder. Murder, as it is the firſt, ſo it is the greateſt Crime that is prohibited in the Second Table. It is a Crime of ſo deep a Stain, that nothing can waſh it away but the Blood of the Offender, and unleſs that be done, the Land in which it is ſhed will continue polluted. My Lord, as Murder is always a very great Crime, ſo the Murder which is now to be try'd before your Lordſhip is, it may be, the moſt heinous and moſt barbarous that ever was committed. The Murder was committed upon a Gentleman, and upon a Magiſtrate, and I wiſh he had not therefore been murdered, becauſe he was a Proteſtant Magiſtrate.

* *Sir* William Jones.

My Lord, I will not ſpend much of your Time in making my Obſervations before-hand, becauſe I muſt in this Caſe crave leave to do it in the Concluſion of the Evidence. For I, that have made a ſtrict Examination into this matter, do find, that I ſhall better ſpend my Time in making Obſervations, and ſhewing how the Witneſſes do agree, after the Evidence given, than before. Therefore, my Lord, I ſhall at preſent only make a ſhort Narrative of the Fact, to ſhew you the Courſe of our Evidence, that it may be the better underſtood and remembred by the Jury.

My Lord, Upon the Diſcovery of the late horrid Plot——

* *Lord Chief Juſtice.* And preſent Plot too, Mr. Attorney: But pray go on.

* *Sir* William Scroggs.

Mr. Attorney-General. If your Lordſhip pleaſe, you may call it ſo, for 'tis to be feared they have not yet given it over: But upon the Diſcovery of that Plot (call it late or preſent) Sir *Edmundbury Godfrey* (whom I ſuppoſe the Jury all knew, and every Man that lived thereabouts muſt needs remember to have been a very uſeful and active Juſtice of the Peace) had taken ſeveral Examinations about this Matter, and perhaps ſome more than now are extant; (but we have proof he had ſome) and was very induſtrious in finding out the principal Actors in this Plot, among whom, ſome Prieſts and Jeſuits foreſeeing their own danger, and likewiſe the Overthrow of a Deſign which they had been ſo long in contriving, they had ſeveral Conſultations how to prevent the Diſcovery. And as they are Men who never ſtick at Blood, but rather account it meritorious to ſhed it, though never ſo unjuſtly; when their Intereſt may be profited by it, they did reſolve to ſecure themſelves and their Deſign by taking away the Life of this Gentleman. In order thereunto they had ſeveral Meetings, and the Place of their Meeting, you will find by the Evidence,

to be at the *Plow*-Alehouſe, and there they did conſult how to take away the Life of Sir *Edmundbury Godfrey*. And they made ſeveral Attempts to do it: One while they dogg'd him into the Fields, another while they ſent People to ſpy when he came abroad, that they might follow him into ſome dark Alley, or other obſcure or unfrequented Place, and there diſpatch him; and at laſt, after many Attempts, they ſucceeded in that wicked one, when the Murder was committed.

My Lord, There are contained in this Indictment ſix Offenders, all Principals; three of them, I think, are Prieſts, or at leaſt two of them are ſo; that is, Father *Girald* an *Iriſhman*, Father *Kelly* likewiſe of the ſame Nation, and one *Vernatt*, whether a Prieſt or Layman I know not. Theſe Prieſts (as they are always the firſt that contrive Miſchief, ſo they are always the firſt that fly Puniſhment) have taken care for themſelves, and run away, and left their blind Followers, the Priſoners at the Bar, whom they had drawn into this bloody Act, alone to anſwer for it.

The Day when this Murder was committed was *Saturday* the 12th of *October* laſt; and I muſt deſire your Lordſhip to take notice of the Day, for upon that much of the Evidence will depend. And we ſhall prove, that as they did before ſend ſeveral times to Sir *Edmundbury Godfrey*'s Houſe to get Intelligence of his going abroad, ſo this very Day in the Morning, *Hill*, one of the Priſoners at the Bar, came to his Houſe upon pretence of Buſineſs with him; and, as we gueſs, and have reaſon to believe, to learn whither he went that Day: *Green* (another of the Priſoners) had been there before on the ſame Errand. And ſo much we ſhall prove to you by the People of the Houſe. Sir *Edmundbury Godfrey* happened about Noon, or ſome time in the Afternoon of the ſame Day (as we have it by the confeſſion of one of the Parties), to be at an Houſe near St. *Clement*'s Church, where theſe Murderers had Notice he was, and had prepared a Trap for him as he came back. They had appointed Men to watch him, and give them Notice when he did come back; and whatever his Buſineſs was at the Houſe that he was in (for it cannot yet be known) he ſtaid there till about ſeven or eight o'clock at Night: And your Lordſhip knows that at that time of the Year it is then dark. He coming from about St. *Clement*'s Church towards his own Houſe near *Charing-Croſs*, Notice was given to the Murderers of his approach near to *Somerſet-Houſe*. And thus they had laid their bloody Contrivance: Some of them were Appointed to meet him at the Back-Gate of *Somerſet-Houſe*, and to inform him that there was a Quarrel in the Yard, and he being a Man always careful to keep the Peace and puniſh them that broke it, they thought it a very apt means to train him into the Yard. And when he came near the Back-Gate they did accordingly acquaint him that Two of the Queen's Servants were fighting in the Yard, and that they needed his Preſence to part and quiet them. He, at firſt, thought it might be but ſome ordinary idle Scuffle, and was not willing to go down; but being very much importun'd by them, down he went, thro' the Back-Gate into the Yard, where were indeed two Men ſcuffling together, but counterfeitly; the one was *Berry*, the Priſoner here; the other was *Kelly*, the Prieſt that is run away. And when Sir *Edmundbury Godfrey* was come, and within their reach, then, as it was before contrived, the Fray of it ſelf ended, and *Berry* goes to the Lower Water-Gate, and Mr. *Praunce* (who was in that foul Fact, but hath ſince repented, and hath made this diſcovery) to the Upper-Gate, to keep back any caſual Paſſengers for a little while, till ſuch time as the Murder was over.

My Lord, Things being thus prepared, whilſt Sir *Edmundbury Godfrey* ſtood ſtill, or was returning, having no more to do there, after the Scuffle was thus appeaſed, *Green*, one of the Priſoners, coming behind him, puts a Cravat, or a Twiſted Linen Cloth, (which he had ready for the purpoſe) about his Neck. And he, *Hill*, and thoſe Holy Fathers *Girald* and *Kelly* (with great veneration be it ſpoken, for Men of their Order to ſtain their Hands with the Blood of an Innocent Gentleman, and that in ſo treacherous a manner), all ſet upon him, and very manfully, being four upon one, and he altogether ſurprized, threw him down and ſtrangled him. And this was done (as it is eaſy to imagine) without much Noiſe; ſo that I doubt not but many that were near the Place might be ignorant of it, and did not hear it.

My Lord, Tho' the thing was done with a great Zeal, and a very good Will to diſpatch him, yet it ſo happened, that when Mr. *Praunce* came back from keeping Sentinel at the Gate, there was ſome Life left in Sir *Edmundbury Godfrey*; he did ſtir his Feet, and thereby they perceived that he was not quite Dead. But to make thorough Work with him, *Green* (who begun, and was to give an Accompliſhment to this bloody Fact) takes hold of his Head and twiſts his Neck round, and ſtamps upon his Breaſt, the Marks of which outrageous Cruelty did plainly appear in his Body after it was found.

My Lord, After they had thus kill'd him, *Girald* the Prieſt thought he was not yet Dead enough, and was very willing to run him through with Sir *Edmundbury*'s own Sword; but that was not liked by the reſt, leſt it might be diſcovered by a great effuſion of Blood in that Place; and ſo they forbore it for that Time. Having thus diſpatch'd him, they removed him to the Chamber of *Hill*, where they kept him ſome time, and after that to another Chamber. I will not be particular herein, becauſe the Witneſs will give the beſt account of it. But after ſome time, (I deſire it may be obſerved, 'twas on *Monday* Night, two Nights after the Fact was committed) they brought him into another Room and laid him there, with a Cloke thrown over him. And I mention this laſt ſo particularly, becauſe he then happened to be ſeen by another Witneſs here preſent, who concurs as to his lying there Dead, and that he ſaw him by the help of a Dark-Lanthorn, of which, and other Circumſtances, I ſhall have occaſion to make uſe hereafter.

My Lord, After he had lain in *Somerſet-Houſe* ſome Days, they thought it was high time to remove him, or rather to expoſe him: for having now kill'd him, they did endeavour to kill his Reputation, and lay the blame of this foul Murder upon this Innocent Gentleman, as if he had killed himſelf: And on *Wedneſday* Night, which by computation was the 16th of *October*, they carried him out of *Somerſet-Houſe* in this manner: *Hill* having late in the Night procured a Sedan, they made a ſhift, by bending the Body to a fit Poſture, to crowd him into it; and *Berry*, one of the Murderers, and Porter of *Somerſet-Houſe*, was of all Men moſt proper to help them out with Privacy; and therefore it was agreed between them, that whenever a Man ſhould come before and make an Hem, it ſhould be a Sign to *Berry* to open the Gate. And, my Lord, having put him into the Sedan, Mr. *Praunce* and *Girald* firſt carried him out in it to *Covent-Garden*, and there they reſted, (being ſomething wearied with their Burden) and two more ſupplied their rooms, and carried him to *Long-Acre*. Then *Girald* and *Praunce* took him up again, and carried him to the *Grecian* Church near *Soho*: And when they had him there, they got an Horſe ready and mounted him upon it, and *Hill* was ſet behind him to hold him up; by which means they carried him to the Place where he was found; and there, to accompliſh the laſt Part of their Deſign, which was to murder his Reputation, after they had killed his Body, they took his own Sword and run him thro', and left him in ſuch a manner, as that (according to the Weakneſs of their Underſtanding) the World ſhould conclude he had killed himſelf. In that Condition was the Gentleman found. I have but little more at preſent to trouble you with, and that ſhall be to ſhew you what the Murderers did after they had committed this Fact. They gave an Account of it the next Morning to Mr. *Praunce*, who went no further than the Sedan went, which was to the *Grecian* Church: and the Prieſts were ſo far from any Remorſe, and had ſo little Humanity, (I believe there is none can think they had much of Divinity) that they did, in a Paper, ſet down a Narrative of this heroick Act: And I doubt not, but by this time it is ſent to *Rome*, where it finds as great Approbation, and cauſes as great Joy, as their other Acts of a like Nature have heretofore done. Some Days after the Fact was done, and, to their everlaſting Honour, thus by themſelves recorded, ſome of theſe Prieſts had a meeting at the *Queen*'s-*Head* at *Bow*, and there was the Paper produced and read; at which they were very merry, and were ſo loud, that ſome of the Houſe overheard them; and do yet remember, that they read, and were merry at, a Paper which concern'd Sir *Edmundbury Godfrey*.

My Lord, This will be the Courſe of our Evidence; and tho' your Lordſhip and the Jury will eaſily believe that moſt of theſe Particulars muſt ariſe from one who was Party to the Fact, yet, my Lord, I will undertake, before I have done, ſo to fortify almoſt every Particular he delivers, with a concurrent Proof of other Teſtimony, and the Things will ſo depend upon one another, and have ſuch a Connexion, that little Doubt will remain in any Man's Mind, that is come hither without Prepoſſeſſion, but that Sir *Edmundbury Godfrey* was murdered at *Somerſet-Houſe*, and that the Perſons who ſtand now Indicted for it were the Murderers.

* *Mr. Recorder.* My Lord, if your Lordſhip pleaſes, according as Mr. *Attorney* hath opened it, we deſire we may call our Witneſſes; and firſt we will call Mr. *Oates.* * Sir *George Jefferies.*

Crier. Mr. *Oates*, lay your Hand on the Book. The Evidence you ſhall give for our Sovereign Lord the King, againſt *Robert Green*, *Henry Berry*, and *Lawrence Hill*, the Priſoners at the Bar, ſhall be the Truth, the whole Truth, and nothing but the Truth. So help you God.

* *Mr. Sol. Gen.* Pray, Mr. *Oates*, will you give my Lord and the Jury an Account what Tranſactions there were between you and Sir *Edmundbury Godfrey*; and that, my Lord, is all we call him for. * Sir *Francis Winnington.*

Mr. Att. Gen. My Lord, I call this Gentleman to prove what Examinations Sir *Edmundbury Godfrey* had taken, and what was his own Opinion of himſelf about them.

L. C. J. Mr. *Attorney*, I ſuppoſe the Uſe you make of it is this, to ſhew, that that might be one of the Motives to theſe Perſons to do this Act, becauſe he was forward in the Diſcovery of their Plot.

Mr. Att. Gen. It is ſo, my Lord; and that it was his Opinion himſelf that he ſhould have ſome Miſchief from them for it.

L. C. J. Come, Mr. *Oates*, pray tell your Knowledge.

Oates. My Lord, upon the 6th of *September* laſt I did go before Sir *Edmundbury Godfrey*, and there upon Oath gave in ſeveral Depoſitions, and after that I had made Oath of thoſe Depoſitions, we took the Record along with us home again. And on the 28th of *September*, after we had taken two or three Copies of this Record, we went before Sir *Edmundbury Godfrey* again, and ſwore all the Copies we had taken, and ſo made them Records. My Lord, after that, the Buſineſs was made known to the Council by my ſelf, and upon *Monday* Mr. *Godfrey* came to me, which was, I think, the 30th of *September*, and did tell me, what Affronts he had received from ſome great Perſons, (whoſe Names I name not now) for being ſo zealous in this Buſineſs. And, my Lord, he told me, That others, who were well inclin'd to have the Diſcovery made, did think that he had not been quick enough in the Proſecution, but had been too remiſs, and did threaten him, that they would complain to the Parliament, which was to ſit the 21ſt of *October* following. My Lord, that Week before Sir *Edmundbury Godfrey* was miſſing, he came to me, and told me, that ſeveral Popiſh Lords, ſome of whom are now in the *Tower*, had threatned him, and aſked him what he had to do with it. My Lord, I ſhall name their Names when time ſhall come. My Lord, this is all I can ſay: He was in a great Fright, and told me, he went in fear of his Life by the Popiſh Party, and that he had been dogg'd ſeveral Days.

Mr. Att. Gen. Did he tell you that he was dogg'd?

Oates. Yes, he did; and I did then aſk him, why he did not take his Man with him; he ſaid, he was a poor weak Fellow: I then aſk'd him why he did not get a good briſk Fellow to attend him? But he made no great Matter of it; he ſaid, he did not fear them, if they came fairly to work; but yet he was often threatned, and came ſometimes to me to give him ſome Encouragement, and I did give him what Encouragement I could, That he would ſuffer in a juſt Cauſe, and the like; but he would often tell me, he was in continual Danger of being hurt by them.

Mr. Att. Gen. We deſire Mr. *Robinſon* may be ſworn. *Which was done accordingly.*

Mr. Recorder. Pray, Sir, will you tell the Court and the Jury, what Diſcourſe you had with Sir *Edmundbury Godfrey*, and what Apprehenſions he had concerning this Buſineſs.

Tho. Robinſon, Eſq; (Chief Prothonotary of the Court of Common-Pleas.) My Lord, Sir *Edmundbury Godfrey* and I were of a very ancient Acquaintance for above forty Years; we were bred up together at *Weſtminſter*-School, and continued in that Acquaintance all along, except in the

the Times of the War, and were for many Years together in Commiſſion for the Peace, both for this County and this City. We met at the Quarter-Seſſions for *Weſtminſter*, the 7th of *October*, which was *Monday*, as I take it, and meeting there, we went, after the Court was up, and Dined with the Head-Bailiff, as the Cuſtom is; where Sir *Edmundbury Godfrey* and I did diſcourſe ſeveral things about this Plot; I ſaid to Sir *Edmundbury Godfrey*, I underſtand you have taken ſeveral Examinations about this Plot, that is now made publick: Truly, ſaid he, I have; but I think I ſhall have little Thanks for my Pains, or ſome ſuch Words: Saith he, I did it very unwillingly, and would fain have had it done by others. Why, ſaid I, you did but what was your Duty to do, and it was a very good Act: Pray, Sir, have you the Examinations about you, will you pleaſe to let me ſee them? No, I have them not, ſaid he; I delivered them to a Perſon of Quality; but as ſoon as I have them, you ſhall ſee them. But, ſaid I, I ſhould be very glad to underſtand, Sir *Edmundbury*, that the Depth of the Matter were found out. I am afraid, ſaid he, of that, that it is not; but diſcourſing further, he ſaid to me, *Upon my Conſcience, I believe I ſhall be the firſt Martyr*. Why ſo? ſaid I, are you afraid? No, ſaid he, I do not fear them, if they come fairly, and I ſhall not part with my Life tamely. Why do not you go with a Man, ſaid I, if you have that Fear upon you? Why, ſaid he, I do not love it, 'tis a Clog to a Man. But, ſaid I, you ſhould do well to keep a Man; I obſerve you never go with one.

Mr. Att. Gen. But did he tell you, Sir, that he did believe he ſhould be the firſt Martyr?

Mr. Robinſon. Yes, he did ſay, Upon his Conſcience, he did believe he ſhould be the firſt Martyr; and this is all I can ſay of this Buſineſs.

Mr. Att. Gen. Then, if your Lordſhip pleaſe, we will, in the next place, call Mr. *Praunce*, who was drawn in to be preſent at this Buſineſs, and who knew of all the Fact, and will give you an Account of the whole Matter.

Then Mr. *Praunce* was Sworn.

Mr. Att. Gen. Pray, Sir, begin at the very beginning; the Meetings you had at the *Plow-Alehouſe*, and the ſending to Sir *Edmundbury*'s Houſe, and all the Story.

L. C. J. Mr. *Praunce*, Pray tell us the firſt Motives that were uſed to you to do this Thing, and the firſt Time it was mentioned; who they were that firſt mentioned it, and where.

Praunce. My Lord, it was about a Fortnight or three Weeks before he was murdered, we met ſeveral times at the *Plow-Alehouſe*.

L. C. J. With whom?

Praunce. With Mr. *Girald*, Mr. *Green*, and Mr. *Kelly*. *Girald* and *Kelly* did intice me in, and told me it was no Sin.

Mr. Recorder. *Girald* and *Kelly* did?

Praunce. Yes, *Girald* and *Kelly*.

Mr. Recorder. What are they?

Praunce. Two Prieſts: And they ſaid, it was no Sin, it was a charitable Act: They ſaid he was a buſy Man, and had done and would do a great deal of Miſchief, and it was a Deed of Charity to do it; and ſo they told the reſt beſides.

Mr. Att. Gen. Where was it they ſaid thus?

Praunce. They ſaid it at the *Plow*, and by the Water-ſide.

Mr. Recorder. Well ſaid. How long was it before he died?

Praunce. A Week or a Fortnight before he was murdered, and *Green*, *Hill*, and *Girald* met there together.

Mr. Att. Gen. What Diſcourſe had you then?

Praunce. There they reſolved, that the firſt that could meet with him ſhould give notice to the reſt to be ready; and ſo in the Morning, when they went out on *Saturday*——

Mr. Att. Gen. But before you come to that, do you know of any dogging of him into the Fields?

Praunce. Yes, it was before that, I heard them ſay they would, and had dogged him into the Fields.

L. C. J. Who did you hear ſay ſo?

Praunce. *Girald*, *Kelly*, and *Green*.

Mr. Att. Gen. That *Green* is one of the Priſoners.

Mr. Recorder. Which way did they dog him? What Fields?

Praunce. *Red-Lion-Fields*, and thoſe by *Holborn*.

Mr. Att. Gen. Why did they not kill him there?

Praunce. Becauſe they had not Opportunity.

Mr. Att. Gen. Do you know of any ſending to his Houſe, or going to it?

Praunce. One time I do know of, and that was *Saturday* Morning, Mr. *Kelly* came to give me notice, that they were gone abroad to dog him; and afterwards they told me, that *Hill* or *Green* did go to his Houſe and aſk for him, but the Maid told him, he was not up, and then went away, and ſaid he would call by and by.

Hill. What time was that in the Morning?

Praunce. It was about nine or ten o'clock in the Morning.

Hill. And had we been there before or after?

Praunce. You had been there before.

Mr. Recorder. Pray ſtay till ſuch time as we have done with our Evidence, you ſhall have all free Liberty to aſk him any Queſtion; but you muſt ſtay till we have done.

Praunce. As ſoon as they heard he was within, they came out and ſtaid for his coming out, and dogg'd him.

L. C. J. Did all three of them go to his Houſe?

Praunce. No, my Lord.

L. C. J. Who was it did go?

Praunce. Only one, either *Hill* or *Green*.

L. C. J. How do you know that?

Praunce. They told me ſo themſelves, for they came to give me Notice.

L. C. J. Who told you ſo?

Praunce. It was *Girald* and *Green* both.

L. C. J. Did *Green* tell you that he had been there?

Praunce. He told me one of them, but I am not certain which. And ſo, my Lord, after that, when he came out they dogg'd him that Day up and down.

Mr. Juſtice *Jones.* Who dogg'd him?

Praunce. *Girald*, *Green* and *Hill* dogg'd him into St. *Clement*'s; and about ſeven o'clock, *Green* came and gave me notice, that he was at St. *Clement*'s, and I came to *Somerſet-Houſe* as faſt as I could.

L. C. J. Where were you?

Praunce. At my own Houſe.

L. C. J. How far did you live from *Somerſet-Houſe*?

Praunce. I lived in *Princeſs-ſtreet*, not far from *Somerſet-Houſe*.

Mr. *Recorder.* Who was it gave you notice?

Praunce. It was *Green*. He told me, that *Girald* and *Kelly* were watching him, and that he was at St. *Clement*'s.

L. C. J. Where was he?

Praunce. At St. *Clement*'s, my Lord.

L. C. J. Where there?

Praunce. I was not there, they told me ſo, and no more; and about eight or nine o'clock, *Hill* came before, up the Street, and gave us notice that we muſt be ready. And ſo, my Lord, as ſoon as *Hill* had given us notice, he went up to the Gate, and ſtaid there till Sir *Edmundbury Godfrey* came by, and then told him, there were two Men a quarrelling, and deſired him to come and try whether he could pacify them; he was very unwilling. But pray, Sir, ſaith *Hill*, you being a Juſtice of the Peace, may qualify them; and ſo he went down till he came to the bottom of the Rails; and when he came to the bottom of the Rails, *Green* twiſted his Handkerchief, and threw it about his Neck, and threw him behind the Rails, and there throttled him, and punched him, and then *Girald* would have thruſt his Sword through him; but the reſt would not permit him, for fear it ſhould diſcover them by the Blood. And about a quarter of an Hour after I came down, and found he was not quite dead; for I laid my Hand upon him, and his Legs tottered and ſhook, and then *Green* wrung his Neck quite round.

Mr. Att. Gen. Who was it that took him by the Neck?

Praunce. It was *Green*, my Lord.

L. C. J. Did you ſee him?

Praunce. No, but he did tell me afterwards that he did it.

L. C. J. Who, *Green* himſelf?

Praunce. Yes, my Lord, for he boaſted of it.

Mr. Att. Gen. Pray what did he do to him beſides?

Praunce. He punch'd him with his Knee.

L. C. J. Did you ſee him do this? How do you know he did it?

Praunce. He and the reſt told me ſo afterwards.

L. C. J. Where were you at that time the Handkerchief was twiſted about his Neck?

Praunce. As ſoon as I came down I went towards the Gate.

L. C. J. Who ordered you to ſtand at the Gate?

Praunce. It was *Hill*.

Mr. Serj. *Stringer.* You watch'd the Water-Gate, who watch'd the Stairs?

Praunce. That was *Berry*.

Mr. Recorder. Pray give an Account what they did afterwards.

Praunce. Why, afterwards——

Mr. Att. Gen. Who told you that *Green* twiſted his Neck?

Praunce. All ſpoke of it.

Mr. Att. Gen. Did *Hill*?

Praunce. Yes, he and the reſt.

Mr. Att. Gen. How came you to underſtand that he punch'd his Breaſt?

Praunce. *Green* ſpoke of it himſelf, and ſo did the others.

Mr. Att. Gen. Who were about his Body when you came down to the Gate?

Praunce. All Four.

Mr. Att. Gen. Name them.

Praunce. *Hill*, *Green*, *Girald*, and *Kelly*.

Mr. Att. Gen. Was *Berry* there?

Praunce. He came to them a while after.

Mr. Att. Gen. When?

Praunce. Before they carried him into the Houſe.

Mr. Att. Gen. How can you tell that?

Praunce. Becauſe he help'd them to carry him in.

Mr. Sol. Gen. Where was *Berry* before they carried him into the Houſe?

Praunce. He was about the Stairs.

Mr. Recorder. Who was it that carried him up into the Room?

Praunce. We all did.

Mr. Recorder. Pray name all that were in the Company.

Praunce. There was *Girald*, *Green*, *Hill*, *Kelly*, *Berry*, and I.

Mr. Att. Gen. Who ſet their Hands to it?

Praunce. We all did help; *Hill* went before and opened the Door, and we carried him into the Room.

Mr. Att. Gen. Whoſe Room was that?

Praunce. It was a Chamber of *Hill*'s, in Dr. *Godwin*'s Houſe.

Mr. Recorder. Was *Hill Godwin*'s Man?

Praunce. Yes, he had been.

Mr. Juſtice *Jones.* Did *Berry* help to carry him in?

Praunce. Yes, *Berry* did.

Mr. Serj. *Stringer.* Was there any Diſcourſe of a Sword to be thruſt through him at that time?

Praunce. Yes, *Girald* ſaid he would thruſt a Sword through him; but they would not let him, for fear of Diſcovery.

Mr. Att. Gen. What became of the Body?

Praunce. It lay there till *Monday* Night, and on *Monday* it was removed into *Somerſet Houſe*, and upon *Monday* Night *Hill* did ſhew me it with a Dark-Lanthorn.

Mr. Att. Gen. Who were in the Room then?

Praunce. *Girald*, and *Hill*, and *Kelly*, and all were there. And on *Tueſday* Night it was brought back again: Mr. *Hill* would have carried him into his own Lodging.

L. C. J. Whither did they carry him on *Monday* Night?

Praunce. Into *Somerſet-Houſe*.

Mr. Juſt. *Wild.* Is not *Hill*'s Chamber in *Somerſet-Houſe*?

Mr. Serj. *Stringer.* Deſcribe the Room, Mr. *Praunce*, as well as you can.

Praunce. I am not certain of the Room, and ſo cannot deſcribe it.

Mr. Juſt. *Wild.* But was not *Hill*'s Chamber in *Somerſet-Houſe*?

Praunce. 'Tis in the lower part of the Houſe, in a Court.

Mr. Att. Gen. When you ſaw him in this Room, pray, what was thrown over him?

Praunce. There was ſomething, I cannot tell what; for I durſt not ſtay long there.

Mr. Juſt. *Dolben.* What Light was there?

Praunce. Only a Dark Lanthorn.

Mr. Att. Gen. Who carried it?

Praunce.

Praunce. *Hill* carried it.

Mr. Juſt. *Dolben.* Are you ſure you ſaw the Body there?

Praunce. Yes, I am certain of it.

Mr. Atl. Gen. What became of it after that?

Praunce. On *Tueſday* Night it was carried to *Hill*'s, the Chamber where he was firſt brought after he was murdered; but there was ſome body there, and ſo they could not carry it into the Room, but they carried him into a Room juſt over againſt, I think they were Sir *John Arundell*'s Lodgings, I can't tell. There it lay till *Wedneſday* Night, and about Nine o'Clock on *Wedneſday* Night they were removing the Body into the Room where it firſt lay; and I happen'd to come as they were removing it, and they were affrighted, and run away: But I ſpoke, and *Berry* came back again, and got the Body up into the Room, and about Twelve o'clock they carried it away in the Sedan.

Mr. Atl. Gen. Who brought the Sedan?

Praunce. *Hill* did.

Mr. Att. Gen. Who put him into it?

Praunce. We all ſet our Hands to it.

Mr. Att. Gen. Who carried him out firſt?

Praunce. I and *Girald.*

Mr. Att. Gen. Out of which Gate?

Praunce. The Upper-Gate of the Upper-Court.

Mr. Att. Gen. How came you to have the Gate opened?

Praunce. *Berry* opened it.

Mr. Att. Gen. How came he to open it?

Praunce. Somebody hem'd, and that was the Sign.

Mr. Att. Gen. Who was it that carried the Sedan firſt?

Praunce. I and *Girald.*

Mr. Att. Gen. Who went before?

Praunce. *Green* and *Kelly.*

Mr. Recorder, How far did you carry him?

Praunce. Into *Covent-Garden,* and there we reſted.

Mr. Att. Gen. And who took him up then?

Praunce. *Green* and *Kelly.*

Mr. Att. Gen. How far did they carry him?

Praunce. They carried him to *Long-Acre.* Then we took him up, and carried him to *Soho* Church, and there *Hill* met us with an Horſe, and we help'd the Body up.

Mr. Atl. Gen. Who was it that ſid behind him?

Praunce. It was *Hill.*

Mr. Att. Gen. What did you do with your Sedan?

Praunce. We ſet it in a new Houſe till we came back again.

L. C. J. You ſay you ſaw him on Horſeback?

Praunce. Yes, my Lord, I did.

L. C. J. How, in what Poſture?

Praunce. Aſtride; his Legs were forced open, and *Hill* held him up.

Hill. Did I hold him?

Praunce. Yes, you did.

L. C. J. Did the others go with him?

Praunce. Yes, my Lord.

L. C. J. Who did go with him?

Praunce. *Green, Hill, Girald* and *Kelly.*

Mr. Att. Gen. Pray, will you tell my Lord and the Jury, what Account they gave you the next Morning concerning the Body, and how they had diſpoſed of it.

Praunce. They told me——

L. C. J. Who told you?

Praunce. *Hill, Kelly* and *Girald.*

L. C. J. What did they tell you?

Praunce. Firſt, that they had run him thro' with his own Sword; then thrown him into a Ditch, and laid his Gloves and other things upon the Bank.

Mr. Att. Gen. Pray tell now the Story of your meeting at *Bow.* What was the Houſe called you met at?

Praunce. It was the Sign of the *Queen's-Head.*

Mr. Att. Gen. Who was it that did meet there?

Praunce. They were Prieſts; I can't ſo well remember their Names, they are written down in this Paper.

Mr. Recorder. Look on the Paper your ſelf; you can read, I ſuppoſe?

Praunce. There was one *Luſon* a Prieſt, I think.

Mr. Att. Gen. Where did he live?

Praunce. He was with *Vernatt.*

Mr. Att. Gen. What was the Occaſion of your meeting there?

Praunce. *Vernatt* told me it was only to be merry there.

Mr. Att. Gen. What was the Man of the Houſe his Name?

Praunce. One *Caſhes.*

Mr. Att. Gen. Did you dine there?

Praunce. Yes.

Mr. Att. Gen. What had you for Dinner?

Praunce. We had a Barrel of Oyſters, and a Diſh of Fiſh: I bought the Fiſh my ſelf.

L. C. J. What Day was it?

Praunce. The *Friday* after the Proclamation, That all the Papiſts were to be gone out of Town.

Mr. Recorder. Tell what Company you had there, and what Diſcourſe.

Praunce. There was Mr. *Vernatt*, and I, and Mr. *Girald*, and that other Prieſt, and one Mr. *Dethicke.*

Mr. Att. Gen. Who ſent for him?

Praunce. Mr. *Vernatt* ſent a Note for him by a Cobler.

Mr. Att. Gen. Did he come upon that Note?

Praunce. He came preſently. And when he was come, then they read all the Writing of the Murder; for Mr. *Vernatt* ſhould have been one at the doing of it, but ſomething happen'd he could not.

Mr. Att. Gen. Mr. *Vernatt* was very ſorrowful at the reading of it, was he not?

Praunce. If he was, 'twas becauſe he was not there.

Mr. Att. Gen. How did he behave himſelf? Did he read it with any Pleaſure and Delight?

Praunce. We were all very merry.

Mr. Att. Gen. What can you ſay about any body's over-hearing you?

Praunce. There was a Drawer came and liſtened at the Door, and I hearing the Door a little ruſtle, went to the Door, and catch'd him liſtening; and ſaid I to him, Sirrah, I could find in my Heart to kick you down Stairs; and away he went.

Mr. Juſt. *Wild.* Was *Vernatt* with you there that Night he was murdered, the *Saturday* Night?

Praunce. No; there was only the Six I have named.

Mr. Juſt. *Jones.* You ſay that you met at the *Plow* the firſt Night?

Praunce. Yes.

Mr. Juſt. *Jones.* And there you were told, That it was a very charitable Act to kill Sir *Edmundbury Godfrey?*

Praunce. Yes, I was ſo.

Mr. Juſt. *Jones.* Was it agreed there that he ſhould be kill'd?

Praunce. It was agreed there; and the firſt that met him were to give notice to the reſt.

Mr. Juſt. *Jones.* Who were there?

Praunce. *Girald, Kelly, Green,* and I.

L. C. J. When came *Hill* and *Berry* into this Cauſe? How came they acquainted with it?

Praunce. They were in it before I.

L. C. J. Who told you they were in it?

Praunce. Mr. *Girald,* my Lord, told me ſo.

Mr. Juſt. *Jones.* *Hill* and *Berry* were not at the *Plow,* where did you firſt hear them ſpeak of it?

Praunce. *Girald* and I have been at *Berry*'s Houſe divers times.

Mr. Juſt. *Dolben.* But there were two Meetings at the *Plow,* were there not?

Praunce. Yes, there were.

Mr. Juſt. *Dolben.* And *Hill* was at the laſt Meeting, was he not?

Praunce. Yes, he was, my Lord.

Mr. Att. Gen. Now I would aſk you this Queſtion, by the Favour of the Court, Was there any Reward propoſed by theſe Prieſts for the doing of it?

Praunce. *Girald* and *Vernatt* did ſpeak of a great Reward that was to be given for it.

Mr. Att. Gen. Pray, how much?

Praunce. I do not remember what.

Mr. Att. Gen. Cannot you tell how much?

Praunce. There was to be a good Reward from my Lord *Bellaſis,* as they ſaid.

Mr. Juſt. *Dolben.* You had ſeveral Meetings, you ſay: Did you there reſolve what ſhould be the way of doing it?

Praunce. *Girald* was reſolv'd to kill him that Night; and if he could not get him into a more convenient Place, he would kill him with his own Sword, in the Street that leads to his own Houſe.

Mr. Recorder. Who was that that reſolved ſo?

Praunce. It was *Girald.*

Mr. Recorder. The Prieſt, rather than fail, was reſolved to do that Act of Charity himſelf.

Mr. Att. Gen. I would now aſk you a Queſtion, which though it does not prove the Perſons guilty, yet it gives a great Strength to the Evidence. Do you know Mr. *Bedlow,* Mr. *Praunce?*

Praunce. I do now know him.

Mr. Att. Gen. Had you ever any Conference with him before you was committed to Priſon?

Praunce. Never, in all my Life.

Mr. Att. Gen. Were you ever in his Company in your Life before, that you know of?

Praunce. No, not that I remember.

Mr. Att. Gen. Well, you ſhall ſee how far he will agree with you.

Mr. Record. Now they may aſk him any Queſtions, if they pleaſe, for we have done with him.

L. C. J. Let them if they will.

Hill. My Lord, in the firſt place, I humbly pray that Mr. *Praunce*'s Evidence may not ſtand good againſt me, as being perjured by his own Confeſſion.

L. C. J. How?

Hill. I ſuppoſe, my Lord, it is not unknown to you that he made ſuch an open Confeſſion before the King.

L. C. J. Look you, Sir, I will tell you for that, I do not know that ever he made a Confeſſion to contradict what he had ſaid upon his Oath.

Hill. He was upon his Oath before.

L. C. J. Yes, he had accuſed you upon Oath; but afterwards, you ſay, he confeſſed that it was not true: but that Confeſſion that it was not true, was not upon Oath: How is he then guilty of Perjury?

Hill. My Lord, if a Man can ſwear a thing, and after deny it, he is certainly perjured.

L. C. J. If a Man hath great Horrors of Conſcience upon him, and is full of Fears, and the Guilt of ſuch a thing diſorders his Mind, ſo as to make him go back from what he had before diſcovered upon Oath, you can't ſay that Man is perjured, if he don't forſwear it: But I believe no Body did believe his Denial, becauſe his firſt Diſcovery was ſo particular, that every Man did think his general Denial did only proceed from the Diſturbance of his Mind. But have you any mind to aſk him any Queſtions?

Mr. Record. We can prove, that immediately after he retracted his Recantation.

Mr. Juſt. *Dolben.* Try if you can trap him in any Queſtion.

Hill. Pray, what Hour was it that I went to Sir *Edmundbury Godfrey*'s?

Praunce. About nine or ten o'clock, I am not certain in the Hour.

L. C. J. No, no, a Man cannot be preciſe to an Hour; but prove you what you can.

Hill. I have a great many Witneſſes, beſides the Juſtice of my Cauſe, that I was not out of my Houſe that Day.

L. C. J. You ſhall be heard for that; but the preſent Matter is, Whether you will aſk him any Queſtions or no?

Hill. My Lord, 'tis all falſe that he ſays, and I deny every Word of it, and I hope it ſhall not be good againſt me.

L. C. J. Well, Mr. *Berry,* will you aſk him any Queſtions?

Berry. Mr. *Praunce,* who was in my Houſe at that Time you ſpeak of?

Praunce. There was your Wife there, and ſeveral other Perſons beſides.

Berry. Who were they?

Praunce. There were divers People; it is an Alehouſe.

Berry.

Berry. But who? Can you name any of them?

Praunce. There was *Girald*, and *Kelly*, and I.

L. C. J. Why, did you not all know Mr. *Praunce?*

Berry. My Lord, I knew him as he paſs'd up and down in the Houſe.

L. C. J. Why, what an Anſwer is that? What do you mean by his paſſing up and down in the Houſe? Did you never Drink with him?

Berry. Drink with him, my Lord? Yes.

L. C. J. Yes? Why, People don't uſe to drink as they go along.

Berry. It was in other Company that came to my Houſe, no Acquaintance of mine.

L. C. J. Was not Mr. *Praunce* known by you all three? Which of you can deny it? What ſay you, *Hill?*

Hill. My Lord, I did know him.

L. C. J. What ſay you, *Green?*

Green. Yes, I did know him.

Mr. Att. Gen. But yet, my Lord, we ſhall prove in the Courſe of our Evidence, that upon their Examinations, they did deny they ever knew him; but becauſe the Priſoners give us this Occaſion, I deſire Mr. *Praunce* may give an Account of one thing. He was concerned in this very Fact, and there was no other way to get any Proof of it, than by the Diſcovery of one among themſelves. He was once of that Religion, or elſe he had never been concerned in this thing. And your Lordſhip will find that Mr. *Praunce*, while he was of that Religion, and not ſure of his Pardon, was under ſome Diſturbances and Fears, which prevailed with him to come before the King, and deny what he had Sworn.

But, my Lord, which is very obſervable, this Gentleman that had made that Denial before the King, was ſo far convinc'd that he had done amiſs in it, and ſo troubled that he had done it, that he deſired Capt. *Richardſon* (as ſoon as he return'd back to Priſon) to carry him back to the King again; for he muſt go back and make good that Confeſſion which he at firſt had made; for it was every Word true. And being for the King, we deſire Capt. *Richardſon* may be Sworn.

Mr. Juſt. Wild. Can you tell where Sir *Edmundbury Godfrey* was dogg'd?

Praunce. No, my Lord, I cannot.

Mr. Juſt. Wild. You ſay they did tell you, that they dogg'd him up and down: Did not they tell you from whence they dogg'd him, when they kill'd him?

Praunce. No, they did not.

L. C. J. Mr. *Richardſon*, were you by, when Mr. *Praunce* denied all that he had confeſſed?

Capt. Richardſon. My Lord, upon the *Sunday* Night before the Prorogation of the laſt Parliament, I received a Letter from one of the Lords of the Council, to bring up Mr. *Praunce* before the Lords of the Committee for his Examination. When I brought him thither I found Mr. *Praunce* was diſturbed, and deſired to ſpeak with the King; and I carried him into the King's Cloſet, where he fell down on his Knees, and ſaid, *He was Innocent, and they were all Innocent*; and that was the Subſtance of all he ſaid. I then had him up to the Council, where he ſaid the ſame thing. The Lords aſked him, Whether any body had been tampering with him? He anſwered, No. My Lord, when I came home, I was no ſooner got within the Doors, but he begg'd of me (for God's Sake) to go back to the King, and to acquaint him, not only that what he had now ſaid, *was falſe*; but that all which he had ſworn before, *was Truth*. And if his Majeſty would ſend him a Pardon, he would make a great Diſcovery. And, my Lord, more than that, he ſaid, It was Fear, that made him recant; and he gave a full Satisfaction, that it was only out of an Apprehenſion that his Life was not ſecure, that his Trade would be loſt among the *Roman Catholicks*; and in caſe he had his Pardon, and were Saved, he ſhould have been in danger of being murdered by them.

L. C. J. Now you have an Account, Mr. *Hill*, how he came to deny, and how ſoon he recanted his Denial.

Mr. Juſt. Jones. You are upon your Oath, Mr. *Praunce:* Is this all true that he hath ſaid?

Praunce. Yes, my Lord, it is.

Mr. Recorder. How hath he behaved himſelf ſince that time?

Capt. Richardſon. As ſoberly as can be, ſince he had his Pardon.

Mr. Att. Gen. Pray, ſince that time, have you had any Diſcourſe with him? And how did he carry himſelf?

Capt. Richardſon. Very ſoberly.

Mr. Att. Gen. Did he expreſs any Abhorrence of the Practice of that Church?

Capt. Richardſon. Yes, my Lord, he did ſo.

Mr. Att. Gen. I hope it will make all People abhor and forſake them in time, if theſe be their Practices. In the next Place, my Lord, we will call Mr. *Bedlow*, who, tho' he was not preſent at the Murder, yet he ſaw the Body after it was dead in *Somerſet-Houſe*, which goes to the Matter as to the Place; and he will give you ſome Circumſtances which will very much corroborate the Teſtimony of Mr. *Praunce*.

Mr. Juſt. Wild. What time was it before they carried him in, after they had kill'd him?

L. C. J. Brother, I think they ſay, between eight and nine they decoy'd him down thro' the Water-Gate. Was it not ſo?

Praunce. Yes, my Lord.

Mr. Juſt. Wild. How long had they kill'd him before they carried him into the Room?

Praunce. About a Quarter of an Hour.

Mr. Juſt. Wild. Had he his Sword about him?

Praunce. Yes, it was found run thro' him.

Mr. Juſt. Wild. Did Sir *Edmundbury Godfrey* himſelf draw his Sword?

Praunce. No, he was ſtrangled by Surpriſe, by getting a Thing about his Neck, and prevented him of drawing his Sword.

L. C. J. They were Perſons that were ready prepared for him, they would not permit him to defend himſelf.

Mr. Serj. Stringer. My Lord, Before Mr. *Bedlow* be Sworn, I deſire a little to open what we call him to. My Lord, there were four Prieſts that did deſign this Murder; *Le Faire* and *Welſh*, and *Girald*, and *Kelly*, beſides the other Prieſts; and they treated with Mr. *Bedlow* for Four Thouſand Pounds, to undertake to kill a Gentleman. My Lord, he did promiſe to undertake it, but failing of his Promiſe, afterwards *Le Faire* met him, and told him it was done; and told him he ſhould have half that Reward to help to carry him off; and withal, carried him into the Room where the Body was. And he will tell you that *Praunce* was in the Room when he ſaw him; and tho' he never knew *Praunce* before, yet when he met him in the Lobby of the Lords Houſe, he knew him again, and charged him as the Man that committed this Fact. And he will acquaint your Lordſhip, that *Le Faire* ſaw the Body likewiſe, and gave Mr. *Bedlow* an Account of the Murder, with the ſame Circumſtances that *Praunce* now relates it.

Then Mr. Bedlow *was Sworn.*

Mr. Recorder. Mr. *Bedlow*, Pray, do you direct your Diſcourſe to the Jury.

L. C. J. Mr. Attorney, Pray do you aſk him your Queſtions, that you may put him in that Method you would have him take, to give his Evidence.

Mr. Att. Gen. My Lord, I would firſt aſk him this Queſtion: What Conference he had with any Perſons, Prieſts or others, about murdering any Body?

Bedlow. My Lord, and the Jury, I have at other Times, and in other Places, proved what Familiarity I have had with the Prieſts and Jeſuits; and if I have not ſatisfied the Court, and others, about it, yet I have done my Duty in endeavouring ſo to do. My Lord, I have been ſeveral times treated with, not only about the Plot, but by ſeveral Perſons about murdering of a Gentleman. They never told me who it was that was to be murdered; but if I would undertake it, they, that is, *Le Faire* and *Pritchard*, and Mr. *Kaines*, and ſeveral other Prieſts, who diſcourſed with me about it, would find out ſome to aſſiſt me, and my Reward ſhould be very conſiderable.

L. C. J. When was this?

Bedlow. It was in *October* laſt, about the beginning, or latter end of *September*.

L. C. J. Well, Sir, go on.

Bedlow. I did adhere to them all along, for I had a mind to diſcover two Years ago, but was prevented; and I only drill'd them on, to know the Party, that I might prevent them. But they would never diſcover the Party.

Mr. Att. Gen. Pr'ythee come to this particular part of the Story.

Bedlow. Afterwards they ſet me to inſinuate myſelf into the Acquaintance of Sir *Edmundbury Godfrey*, not telling me they had a Deſign upon him.

L. C. J. Who did?

Bedlow. *Le Faire*, and *Pritchard*, and *Welſh*.

L. C. J. *Girald* was not one, was he?

Bedlow. No, my Lord: But they told me, that afterwards they would have me introduce them into his Acquaintance: And I had been, I think, ſix or ſeven Days together with Sir *Edmundbury Godfrey*, at his Houſe; and had got much into his Acquaintance.

Mr. Juſt. Wild. By what Means did you get into his Acquaintance?

Bedlow. Why, I pretended to get Warrants for the Good Behaviour againſt Perſons, that there were none ſuch.

L. C. J. Well, and what then?

Bedlow. This was the Week before the *Saturday* that he was kill'd; and I was there every Day but *Saturday:* On the *Friday* I went to the *Greyhound* Tavern, and I ſent my Boy to ſee if Sir *Edmundbury Godfrey* were at home: Sir *Edmundbury Godfrey* was not at home then.

L. C. J. When was that?

Bedlow. The very Day before he was kill'd: If he had been at home, I would have gone over to him, and would have deſired him to go over to them.

L. C. J. Were the Prieſts there?

Bedlow. Yes, my Lord, there was *Pritchard*, and *Le Faire*, and *Welſh*, and *Kaines*, and another; five Jeſuits: And, as I ſaid, I ſent my Boy to ſee if he were at home, and he brought me word he was not; and if he had, I was to have gone to him, to have fetch'd him thither, that they might inſinuate themſelves into his Acquaintance: And indeed they had Tongue enough to wheedle themſelves into any one's Acquaintance: So he not being at home, we came into the City, two of the Jeſuits and I.

Mr. Att. Gen. Which two?

Bedlow. Le Faire and *Welſh*. The next Morning *Le Faire* came to my Chamber, and I was not then within; but by accident, I met him, about Four of the Clock, in *Lincoln's-Inn-Fields:* We went to the *Palſgrave's-Head* Tavern; where falling into Diſcourſe, he told me there was a Gentleman that was to be put out of the way, that was the Phraſe he uſed, he did not really ſay *Murder* him; for they don't count it Murder.

L. C. J. No, no; they put it into ſofter Terms.

Bedlow. They told me it was to be done to-night. I aſked who it was; they ſaid it was a very material Man: For he had all the Informations that Mr. *Oates* and Dr. *Tongue* had given in; that ſeveral had been employed in the doing of it; that ſeveral Attempts had been made, and that they had miſs'd ſeveral Opportunities, and had not done it till then; but if he ſhould not be taken out of the way, and the Papers taken from him, the Buſineſs would be ſo obſtructed, and go near to be diſcovered, to that Degree, that they would not be able to bring this Deſign to paſs, but muſt ſtay till another Age before they ſhould effect it. I aſked him again, who it was; he ſaid he would not tell me, but it was a very material Man. I told him, that according to my Promiſe, I would aſſiſt: but in ſuch a Caſe, I ſhould need a great many Men to be with me, he being ſo conſiderable a Perſon. I aſked him then, where the Money was, that was formerly promiſed? He told me no worſe a Man was engaged for it, than my Lord *Bellaſis*, and Mr. *Coleman* had Order to pay it.

Mr. Juſt. Jones. What was that Reward?

Bedlow. Four Thouſand Pounds.

L. C. J. Who was it that firſt named this Gentleman to you to be Sir *Edmundbury Godfrey?*

Bedlow. They never named him to me at all.

L. C. J. Let us know when you firſt knew it to be Sir *Edmundbury Godfrey?*

Bedlow. I parted with him then, but came not according to my Promiſe. I was to meet him at the Cloiſters at *Somerſet-Houſe* that Night; but I knew their Deſign was to murder ſome Body, and I would not come. I ſaw him no more till *Monday* Night; then I met him in *Red-Lion-Court*, where he put up his Cane to his Noſe, as who ſhould ſay, I was to blame in not keeping my Promiſe. And we went together to the *Greyhound* Tavern in *Fleet-ſtreet*, where he charged me with my Breach of Promiſe. I told him I was taken up by other Company, and unleſs

leſs they would tell me who it was I was to kill, I would have no Hand in it: For I did not know but that it might be my own particular Friend. And I would not murder any private Perſon, unleſs I knew who it was, and for what Reaſon. Well, ſays he, we will tell you more anon if you meet me to-night at *Somerſet-Houſe*, at Nine o'clock. I did meet him exactly at that time in the Cloiſters, where we walk'd, and talk'd a great while. And then he took me into the middle of the Court, and told me, You have done ill, that you did not help in this Buſineſs; but if you will help to carry him off, you ſhall have half the Reward. Why, ſaid I, *Is he murdered? Yes*, ſaid he. *May I not ſee him*, ſaid I? *Yes, you may*, ſaid he; and ſo took me by the Hand, and led me into the Room through a dark Entry. In the Room were a great many, I can't tell who they all were.

Mr. Att. Gen. How many were there?

Bedlow. There might ſtand a great many behind one another. I ſaw Four or Five.

Mr. Juſt. Jones. What kind of Light had they, Mr. *Praunce?*

Praunce. It was a middle-ſized Lanthorn.

Mr. Juſt. Jones. Was it a ſmall Light, or a great Light?

Bedlow. It was a ſmall Light.

Mr. Juſt. Jones. Had they no Light but that Lanthorn?

Bedlow. No: And they did not open it till I had had a turn about the Room.

L. C. J. Did they diſcourſe of carrying him away then?

Bedlow. Yes, they did.

L. C. J. Did you know him, when he lay dead there?

Bedlow. Yes, your Lordſhip ſhall hear how I came to know him: One ſtepp'd to the Body; and threw off the thing that lay upon him, and I went and look'd upon him; and he had got about his Neck ſuch a kind of a faſhion'd Cravat as this about my Neck; and I went to try, and could not get my finger in betwixt: So I ſaw him, his Boſom was all open, and I knew him preſently; for thoſe Jeſuits that were there, were not thoſe who had employed me to inſinuate myſelf into his Acquaintance; and ſo they thought I had not known him. I aſked who it was, they ſaid it was a Man that belong'd to a Perſon of Quality. I was mightily ſtruck and daunted when I knew him: I would fain have perſuaded them to have tied Weights at his Head and Feet, and thrown him into the River; and afterwards I would have dragg'd for him, and took him up there. But they did not think that ſo ſafe: *No* (ſaid they), *we will put it upon himſelf, there are none but Friends concerned.* I aſked *Le Faire* how they ſhould get him out? They ſaid, *In a Chair.* Then I aſked them, which way they would get him into the Chair, and out of the Gate? They ſaid the Porter was to ſit up to let them out.

Mr. Recorder. What Porter?

Bedlow. The Porter of the Houſe.

Mr. Recorder. Who, *Berry?*

Bedlow. Yes: As for that *Hill*, or the Old Man, I do not know that I ever had any particular Knowledge of them; but only I looked upon them as ill deſigning Men, ſeeing them in the Chapel.

L. C. J. Did you ſee e'er a one of the three Priſoners there at that Time?

Bedlow. No, my Lord: But I have ſuch a Remembrance of Faces, that I could tell if I ſaw them again, any that I did ſee there, tho' the Light was but ſmall. They told me, *They had ſtrangled him*; but how, I did not know. When they preſs'd me to help to carry him out, I then excuſed myſelf, and ſaid, It was too early to carry him out yet; but about Eleven or Twelve o'clock would be a better Time. And I aſſured them I would come again. Said *Le Faire* to me, *Upon the Sacrament you took on Thurſday, you will be at the carrying off of this Man at Night?* I promiſed him I would. And he went away, and left me there. I made what Speed away I could, for I was very unſatisfied in myſelf; having ſo great a Charge upon me, as the Sacrament of the Altar, which, after the Diſcovery of the Plot, was adminiſtered to me twice a Week to conceal it. I could not tell how to diſcover: I went then to *Briſtol*, but very reſtleſs and diſturbed in my Mind; and being perſuaded by what God was pleaſed to put into my Mind, calling to Remembrance that ſome Murders had been already committed, and greater ones were daily intended, I was at laſt convinc'd, and could no longer forbear Diſcovery. I wrote to the Secretary of it, and went to the Parliament and gave in my Information. And one Day I met with Mr. *Praunce* in the Lobby, and knew him, and apprehended him.

Mr. Att. Gen. I will aſk you one Queſtion. Had you any Diſcourſe with Mr. *Praunce* between the Time you ſaw him with the Body, and the Day he was apprehended?

Bedlow. No; I never ſaw him to this Day, to have any Converſe with him.

Mr. Juſt. Wild. Did not you ſee *Hill* that Night, when you were to have carried him away?

Bedlow. No, my Lord.

Mr. Juſt. Wild. Nor *Green*, nor *Berry?*

Bedlow. Green I did ſee about the Court, and *Berry*, I was told, was to open the Gate that *Monday* Night. But, my Lord, when they found I did not come again, they deſiſted that Night, and kept it off longer, for fear I ſhould come again to ſtop them.

Mr. Att. Gen. He did not refuſe to help them, but promiſed to do it, and failed: And they finding that he had failed them, would not let the Body lie where it was, for fear of Diſcovery, but removed it back again.

Mr. Juſt. Dolben. What did *Praunce* ſay, when you firſt took notice of him?

Bedlow. I underſtood afterwards that he was taken upon Suſpicion, becauſe at that Time his Maid had made a Diſcovery, that he was about that time out of his Lodgings. And while he was there in the Conſtable's Hands, Mr. *Oates* came by, and he deſired to ſee him; and preſently after I came thither, and the Conſtable aſked him, Mr. *Praunce*, will you ſee Mr. *Bedlow?* No, he ſaid, he would not: Then he put his Hat over his Eyes, that I might not ſee his Face, and kept it ſo. The Preſs being great, and being deſirous to be private myſelf, I ſpoke to the Guard to put out all that had no Buſineſs there, and they cried out, that all ſhould avoid the Room, but Mr. *Bedlow* and his Friends. And when he was going out with the reſt, he lift up his Hat, to ſee his way; and tho' before I did not mind him, yet I happened at his paſſing by me, to caſt my Eyes upon his Face, and preſently knew him, and cried, Oh! pray, Sir, ſtay; you are one of my Friends that muſt ſtay here. And I preſently charged my Guards to take Charge of him. Saith the Conſtable, He is my Priſoner: Is he ſo? ſaid I; then you have a very good Priſoner, and pray look ſafe to him. And then when I went into the Houſe of Lords, I made out my Charge againſt him.

Mr. Recorder. Now if the Priſoners have any Queſtions to aſk Mr. *Bedlow*, they may have free Liberty to do it.

Hill. I never ſaw him before in my Life.

L. C. J. Do you know any of them?

Bedlow. I know Mr. *Berry* and *Green* very well.

L. C. J. Pray, Mr. *Praunce*; was the Dark Lanthorn at *Hill*'s Lodgings, or at the other Place?

Praunce. At the other Place.

L. C. J. Look you here, Mr. *Praunce*; they carried him to *Hill*'s on *Saturday* Night, and he lay there till *Monday* Night: What time on *Monday* Night was it that they removed him into *Somerſet-Houſe?*

Praunce. I was not there when they did remove him.

L. C. J. What Time did you ſee him there?

Praunce. About Nine or Ten o'clock.

L. C. J. What Time was it that you ſaw him there, Mr. *Bedlow?*

Bedlow. It was after Nine, my Lord.

Praunce. They had then removed him to *Somerſet-Houſe*, and Mr. *Hill* aſked what they intended to do with the Body? They ſaid, They would carry it out that Night; but they did not. But there the Dark-Lanthorn was, and on *Tueſday* Night they removed him back again.

Mr. Att. Gen. Now, my Lord, if you pleaſe, we ſhall go on to call ſome Witneſſes that were not preſent at the Murder; for direct Evidence, as to that, can come only out of the Mouth of ſome that were concerned in it; but to corroborate, by concurrent Circumſtances, the Teſtimony which hath been already given. And firſt we ſhall call the Conſtable, to prove that he found Sir *Edmundbury Godfrey* in the Fields, in the ſame manner which Mr. *Praunce* ſays they told him they left him.

L. C. J. Mr. Attorney, you promiſed you would prove, that when theſe Perſons were examined, they did deny before the Houſe of Lords that they knew *Praunce.*

Mr. Att. Gen. My Lord, in that we were miſtaken. I underſtand now, it was only *Berry* denied that he did know *Girald.*

L. C. J. Why, did you never know Mr. *Girald?*

Berry. Never in my Life.

L. C. J. Mr. *Praunce*, have not you ſeen *Girald* with *Berry?*

Praunce. Yes, I have, but they uſually went by ſeveral Names.

L. C. J. Did you ever ſee *Girald* in *Hill*'s Company?

Praunce. Yes, that I have.

L. C. J. Was there no Centinel ſet that *Monday* Night, that *Saturday* Night, and that *Wedneſday* Night?

Praunce. My Lord, I am not certain, I took notice of none; if there were any, they were at *Berry*'s Houſe, and he opened the Gate when we came out with the Sedan.

Mr. Att. Gen. Mr. *Berry*, I ſuppoſe, could take Order with the Centinel, and give them ſome Entertainment in his own Lodge.

Then Mr. Brown *the Conſtable was Sworn.*

Mr. Recorder. Pray, in what Poſture did you find Sir *Edmundbury Godfrey?*

Brown. I found him, my Lord, in a Ditch, with his Sword through him, and the end of it was two Handfulls out of his Back.

L. C. J. Was he bloody?

Brown. There was no Blood at all, there was no Blood in the Ditch.

L. C. J. Was the Sword ſticking in his Body?

Brown. Yes, my Lord, but there was no Blood at all when it was taken out; they had run it into another Place, but that happened to be againſt a Rib, and ſo it could not go thro'; but there was no Blood there.

Mr. Juſt. Jones. Were there any Bruiſes on his Breaſt?

Brown. He did look black about the Breaſt.

Mr. Att. Gen. My Lord, I would aſk whether his Neck were broken?

Brown. Yes, I ſuppoſe it was.

L. C. J. How do you know it?

Brown. It was very weak, and one might turn his Head from one Shoulder to the other.

L. C. J. Where was his Stick and Gloves?

Brown. They were on the Bank-ſide.

L. C. J. Whoſe Sword was it?

Brown. His Servants ſaid it was his own.

Mr. Att. Gen. Pray, had he any Money in his Pocket?

Brown. Yes; a great deal of Gold and Silver.

L. C. J. Ay, ay, for they count Theft Sin, but not Murder.

Mr. Juſt. Wild. They left that, to let Men think he murdered himſelf.

L. C. J. Well, will you aſk this Witneſs any Queſtions before he goes?

Capt. Richardſon. They ſay they will aſk him none.

Mr. Att. Gen. Then we deſire to call the Chirurgeons that view'd and opened the Body, Mr. *Skillard*, and Mr. *Cambridge*. *Both whom were ſworn.*

Mr. Att. Gen. We begin with Mr. *Skillard*: Pray, Sir, inform my Lord and the Jury, Did you ſee the Body of Sir *Edmundbury Godfrey?*

Skillard. Yes, I did view the Body.

Mr. Att. Gen. When? What Time did you ſee it?

Skillard. About Twelve of the Clock.

Mr. Att. Gen. What Day of the Week was it?

Skillard. On *Friday*, the next Day after he was found.

Mr. Att. Gen. Did you obſerve his Breaſt? How was it?

Skillard. His Breaſt was all beaten with ſome obtuſe Weapon, either with the Feet, or Hands, or ſomething.

Mr. Att. Gen. Did you obſerve his Neck?

Skillard. Yes; it was diſtorted.

Mr. Att. Gen. How far?

Skillard. You might have taken the Chin, and have ſet it upon either Shoulder.

Mr. Att. Gen. Did you obſerve the Wound?

Skillard. Yes, I did: It went in at one Place, and ſtopp'd at a Rib, the other Place it was quite thro' the Body?

Mr. Att. Gen. Do you think he was killed by that Wound?

Skillard. No; for then there would have been ſome Evacuation of Blood, which there was not. And beſides, his Boſom was open, and he had a Flannel Waiſtcoat and a Shirt on; and neither thoſe, nor any of his Clothes were penetrated.

Mr.

Mr. Att. Gen. But are you ſure his Neck had been broken?

Skillard. Yes, I am ſure.

Mr. Att. Gen. Becauſe ſome have been of Opinion, that he hanged himſelf; and his Relations, to ſave his Eſtate, run him through; I would deſire to aſk the Chirurgeon what he thinks of it.

Skillard. There was more done to his Neck than an ordinary Suffocation; the Wound went through his very Heart, and there would have appeared ſome Blood, if it had been done quickly after his Death.

Mr. Att. Gen. Did it appear by the View of the Body that he was ſtrangled or hanged?

Skillard. He was a lean Man, and his Muſcles, if he had died of the Wound, would have been turgid; And then again, all ſtrangled People never ſwell, becauſe there is a ſudden Deprivation of all the Spirits, and a hindering of the Circulation of the Blood.

Mr. Att. Gen. How long do you believe he might be dead before you ſaw him?

Skillard. I believe four or five Days. And they might have kept him a Week, and he never ſwelled at all, being a lean Man. And when we ripped him up, he began for to putrify; we made two Inciſions to give it Vent, and the Liquor that was in his Body did a little ſmell. The very lean Fleſh was ſo near turned into Putrefaction, that it ſtuck to the Inſtrument when we cut it.

Mr. Recorder. My Lord, here is another Chirurgeon, Mr. *Cambridge.* Pray, Sir, are you ſworn?

Cambridge. Yes, I am.

Mr. Recorder. When did you ſee the Body of Sir *Edmundbury Godfrey?*

Cambridge. Upon *Friday*, the very ſame Day the Gentleman did. I found his Neck diſlocated, and his Breaſt very much beaten and bruiſed. And I found two Punctures under his left Pap, the one went againſt the Rib, and the other quite through the Body, under the left Pap.

Mr. Att. Gen. Do you believe that Wound was the Occaſion of his Death?

Cambridge. No; I believe it was given him after his Death.

L. C. J. And his Neck was broke?

Cambridge. His Neck was diſlocated, Sir.

Mr. Att. Gen. Why, that is broken. Now, my Lord, we ſhall call Sir *Edmundbury Godfrey*'s Maid, *Elizabeth Curtis.* Swear her. *Which was done.*

Mr. Recorder. Your Lordſhip knows, that Mr. *Praunce* did ſay in the Beginning, that they had been ſeveral times at his Houſe, enquiring for him: Now we call this Perſon to tell you what ſhe knows about that.

Mr. Att. Gen. Elizabeth Curtis, look upon the Priſoners, and tell my Lord and the Jury whether you know any of them or no.

Elizabeth Curtis. This Man that I now hear called *Green*, my Lord, was at my Maſter's about a Fortnight before he died.

L. C. J. What to do?

Eliz. Curtis. I don't know, but he aſked for Sir *Edmundbury Godfrey.*

L. C. J. What time of the Day was it?

Eliz. Curtis. It was in the Morning.

Mr. Att. Gen. What did he ſay?

Eliz. Curtis. He aſked for Sir *Edmundbury Godfrey*, and when he came to him, he ſaid, Good Morrow, Sir, in *Engliſh*, and afterwards ſpoke to him in *French*, I could not underſtand him.

Mr. Recorder. I deſire ſhe may conſider well; look upon him.

Eliz. Curtis. That is the Man.

Green. Upon my Soul, I never ſaw him in all my Life.

Eliz. Curtis. He had a dark-coloured Periwig when he was there, and was about a Quarter of an Hour talking with my Maſter.

Mr. Att. Gen. Are you ſure this was the Man?

Eliz. Curtis. Yes, I am; and that other Man, *Hill*, was there that *Saturday* Morning, and did ſpeak with him before he went out.

L. C. J. That you will deny too?

Hill. Yes, I do.

L. C. J. How do you know he was there?

Eliz. Curtis. I was in the Parlour at that Time, making up the Fire.

L. C. J. Had you ever ſeen him before that time?

Eliz. Curtis. No, never before that time. I went into the Parlour to carry my Maſter's Breakfaſt, and brought a Bunch of Keys with me in, and there *Hill* was with him. And I went up Stairs about ſome Buſineſs, and came down again, wanting the Keys, which I had left upon the Table, and *Hill* was all that time with my Maſter.

Mr. Sol. Gen. How do you know he was there?

Eliz. Curtis. I was in the Parlour, and ſtirred up the Fire, and he was there a good while.

Mr. Juſt. Jones. How long after did you ſee him again?

Eliz. Curtis. Not till I ſaw him in *Newgate.*

Mr. Juſt. Jones. How long was that afterwards?

Eliz. Curtis. A Month ago. But it is not the Man that brought the Note to my Maſter.

Mr. Att. Gen. What Note?

Eliz. Curtis. A Note that a Man brought to my Maſter that Night before.

Mr. Att. Gen. What is become of that Note?

Eliz. Curtis. My Lord, I cannot tell, my Maſter had it.

Mr. Att. Gen. Pry'thee tell us the Story of it.

Eliz. Curtis. There was a Man came to my Maſter's Houſe, and aſked if Sir *Edmunbury Godfrey* were within. He ſaid he had a Letter for him; and ſhewed it me; it was tied up in a Knot. I told him my Maſter was within, but buſy; but, ſaid I, if you pleaſe, I will carry it in to him. He did ſo, and I gave it to my Maſter; when I went out again, the Man ſtaid and aſked for an Anſwer: I went in again, and told my Maſter, that the Man required an Anſwer. Pr'ythee, ſaid he, tell him, I don't know what to make of it.

Mr. Juſt. Wild. When was that?

Eliz. Curtis. On *Friday* Night.

Mr. Juſt. Wild. When? The *Friday* Night before he was murdered?

Eliz. Curtis. Yes.

Mr. Att. Gen. But you ſwear, that *Hill* was there the *Saturday* Morning.

Eliz. Curtis. Yes, he was.

Mr. Sol. Gen. In what Clothes was he then?

Eliz. Curtis. The ſame Clothes that he hath now.

Mr. Juſt. Wild. Are you ſure they are the ſame Clothes?

Eliz. Curtis. Yes.

Mr. Sol. Gen. Here is a great Circumſtance, my Lord. I aſked her what Clothes he was in, when he came to Sir *Edmundbury Godfrey*'s? and ſhe ſaith, the ſame that he hath now.

L. C. J. Have you ever ſhifted your Clothes?

Hill. No, indeed, I have not.

Eliz. Curtis. But for the Man that brought the Note, I cannot ſwear it is he.

Hill. But ſhe did ſay, when ſhe came to ſee me in *Newgate*, that ſhe never ſaw me in my Life; and, my Lord, I hope I have ſufficient Witneſſes to prove where I was that Morning.

L. C. J. She ſays, ſhe cannot ſwear you were the Man that brought the Note.

Hill. My Lord, I deſire ſhe will tell me about what Time it was I was there.

Eliz. Curtis. It was about nine or ten o'Clock.

Mr. Att. Gen. That agrees with Mr. *Praunce*'s exactly in point of Time. Now, if your Lordſhip pleaſe, we will proceed, and call Mr. *Lancellot Stringer*, and Mr. *Vincent.*

Mr. Recorder. My Lord, we do call theſe Witneſſes to prove, that theſe Men had Meetings with Mr. *Praunce* at the *Plow.*

Then was Lancellot Stringer *ſworn.*

Mr. Recorder. Pray tell my Lord and the Jury, whether you know Mr. *Praunce.*

L. Stringer. Yes, Sir, I do.

Mr. Recorder. Have you ſeen him at the *Plow* at any Time?

L. Stringer. Yes, Sir, I have.

Mr. Recorder. In what Company there? Was Mr. *Green* there?

L. Stringer. Yes, he was.

Mr. Recorder. Which was he? [*He points to him.*]

Mr. Recorder. And who elſe?

L. Stringer. There was that *Hill.*

Mr. Att. Gen. How often?

L. Stringer. Several Times.

L. C. J. How long before Sir *Edmundbury Godfrey* was murdered?

L. Stringer. I cannot tell, my Lord.

L. C. J. Do you remember any other Company was with him?

L. Stringer. Yes, there were ſeveral other Company.

Mr. Recorder. Name them.

L. Stringer. There was Mr. *Fitz-Girald* and Mr. *Hill.*

Mr. Att. Gen. And yet *Hill* ſaith, he never ſaw *Girald.*

L. Stringer. And there was *Kelly*, he was another of them, and *Praunce.*

L. C. J. Did you know *Vernatt?*

L. Stringer. Yes, my Lord.

L. C. J. How now? What ſay you to it, Mr. *Hill*, and Mr. *Green?* Were you never at the *Plow*, drinking with Mr. *Praunce?*

Hill. Yes, my Lord, ſeveral Times.

L. C. J. What ſay you, Mr. *Green?*

Green. I have drank with him there.

L. C. J. Do you know *Girald?*

Hill. I know one *Girald.*

Mr. Sol. Gen. Now, will your Lordſhip pleaſe to let me prove, that at the Council he owned he knew *Girald* and *Kelly*, and now 'tis proved he hath been in *Kelly*'s Company, he ſays he does not know *Girald.*

Hill. My Lord, That was a Miſtake, for I do know *Kelly* by Sight; that is, I knew two Men that uſed the Chapel very much, and he was one of them.

L. C. J. But you, Witneſſes, ſay you have ſeen *Girald* and them together?

L. Stringer. Yes, I have.

L. C. J. How many Times?

L. Stringer. I cannot tell how many, my Lord; ſeveral Times.

L. C. J. Have you ſeen them twice together?

L. Stringer. Yes, I have.

Mr. Recorder. Now to ſettle it, I would aſk him, with your Lordſhip's Favour, when he came to live with his Maſter. You, young Man, when did you come to live with your Maſter at the *Plow?*

L. Stringer. Why, I have been with him two Years.

Mr. Recorder. But when was it you came laſt to live at the *Plow?*

L. Stringer. In *Bartholomew*-Tide laſt.

Mr. Recorder. It was but five Weeks before Sir *Edmundbury Godfrey* was murdered.

L. C. J. Do you, *Green*, know Mr. *Girald?*

Green. Yes, I do.

Mr. Recorder. Then pray ſwear Mr. *Vincent.* *Which was done.*

Mr. Recorder. Come, pray, Sir, do you live at the *Plow?*

Vincent. Yes, Sir, I do.

Mr. Recorder. Then pray, do you tell my Lord and the Jury, if you know any of the Priſoners at the Bar, and which of them.

Vincent. I know Mr. *Green.*

Mr. Recorder. Do you know any Body elſe?

Vincent. Yes, I know *Hill*, and I know *Berry.*

Mr. Recorder. Have you ſeen theſe Perſons at your Houſe?

Vincent. Yes, I have.

L. C. J. With whom?

Vincent. I can't tell every Body with whom they were.

L. C. J. Were they there with *Praunce?*

Vincent. Yes, Sir.

L. C. J. Did you know one *Girald?*

Vincent. Yes, Sir.

L. C. J. Hath he been at your Houſe?

Vincent. Yes, Sir, he hath.

L. C. J. Who was with him?

Vincent. I can't tell juſtly.

L. C. J. Did you know *Kelly?*

Vincent. Yes, I did.

L. C. J. Hath he been there?

Vincent. Yes, he hath.

L. C. J. In what Company?

Vincent. With *Praunce.*

L. C. J. And with any of the Priſoners?

Vincent. Yes, but I can't tell particularly with whom.

Mr. Att. Gen. Now, my Lord, as theſe were Meetings before the Fact was committed, to conſult how to do it; ſo we at the Beginning told you of a Meeting after it was done, and that was at *Bow.* We ſhall therefore call ſome Witneſſes as to that; and they are *Richard Cary*, and *William Evans.* Firſt ſwear *Richard Cary.* [*Which was done.*

Mr.

Mr. Recorder. Do you remember you were ſent of a Meſſage from the *Queen*'s-*Head* at *Bow*, and whither? Pray tell my Lord and the Jury.

Cary. I remember it very well; there were three Gentlemen that ſent for me to the *Queen*'s-*Head*, and I being ſent for did come; and when I came up Stairs, they aſked me if I knew *Poplar*; I ſaid, I knew it very well. Then they aſked me, if I knew Mr. *Dethick*; I told them, I thought I did. Then, ſaid they, you muſt carry this Letter to *George Dethick*, Eſq; at *Poplar*, and deliver it to his own Hands, and to nobody elſe. Accordingly, away I went and carried the Letter: I went to the Door, and aſk'd if he were within; his Man ſaid he was above Stairs, but they would call him to me; and calling him to me, Sir, ſaid I, there are ſome Gentlemen at the *Queen*'s-*Head* at *Bow*, that have ſent me with a Letter to you. So he looked upon the Letter, and, ſaith he, go and tell them I will be with them preſently. So, may it pleaſe you, my Lord, I came again, and when I came, the Gentlemen were there ſtill. Well, ſaid they, go and drink a Glaſs of Claret, which ſtood upon the Table, and they gave me Six-pence, and I went away.

Mr. Recorder. Pray look upon Mr. *Praunce*, can you remember whether that Man was there?

Cary. There were three of them, and he looks like one.

Mr. Recorder. Mr. *Praunce*, do you remember this was the Man you ſent?

Praunce. Yes, my Lord, this was the ſame Man that was ſent.

L. C. J. Well, call the other.

Then William Evans, *the Boy of the Houſe at the* Queen's-Head, *was ſworn.*

Mr. Recorder. Hark you, do you remember any Company that was at your Maſter's Houſe two or three Months agone?

W. Evans. Yes, I do.

Mr. Recorder. Do you remember that you heard them talk any thing there?

W. Evans. They pull'd out a Paper, and read it.

L. C. J. You Boy, do you know Mr. *Dethick?*

W. Evans. Yes, I do.

L. C. J. Was he there?

W. Evans. He did come to them, my Lord.

Mr. Recorder. What had they to Dinner there?

W. Evans. They had Flounders.

Mr. Recorder. Who bought them?

W. Evans. One of them, I can't tell who.

Mr. Recorder. What had they elſe?

W. Evans. A Barrel of Oyſters.

Mr. Recorder. Pray give my Lord an Account what you obſerved and heard.

W. Evans. Sir, I know nothing but that they pull'd out a Paper and read it, and named Sir *Edmundbury Godfrey*'s Name. And while I was at the Door, ſome body came and threatened to kick me down Stairs.

L. C. J. He ſaith juſt as Mr. *Praunce* ſaid in every Particular.

Mr. Att. Gen. Now if it pleaſe your Lordſhip, we deſire to call Sir *Robert Southwell*, to prove what Mr. *Praunce* ſaid before the Council, and how particular he was; and did, to ſome of the Lords who were ſent with him to *Somerſet-Houſe*, point out the Places.

Mr. Sol. Gen. We call him to ſhew, that when *Praunce* was examined before the King, he was ſent with ſome of the Lords, and Sir *Robert Southwell*, to *Somerſet-Houſe*, where he pointed with his Finger, and ſhewed the Places where all was done; ſo we ſhall ſhew your Lordſhip and the Jury, how exact he was in every Thing.

Then Sir Robert Southwell *was ſworn.*

Mr. Recorder. Pray, Sir *Robert*, will you tell your Knowledge?

Sir Robert Southwell. My Lord, I was upon the 24th of *December* waiting upon his Majeſty in Council, and Mr. *Praunce* was ſent for, to ſpeak his Knowledge concerning this Murder, and he then gave a general Account of Things, which, becauſe it did relate to that Bench, and this Corner, and that Room, and that Paſſage and that Gallery, it was not underſtood by the Board, and thereupon his Majeſty thought fit to appoint my Lord Duke of *Monmouth*, and the Earl of *Offory*, and Mr. Vice-Chamberlain to the Queen, to go thither, and take the Examination upon the Place, and report it to the Board: And I, being Clerk of the Council, tho' not in waiting at that Time, and having taken notice of what Mr. *Praunce* had there depoſed, I did wait upon thoſe Lords, and took the Examination upon the Place. And what I did take upon the Place, This was done here, and That there, I drew up into a Report, and the Report is ſigned by thoſe two Noble Lords, and was read that Afternoon at the Board; and to that I refer myſelf.

Mr. Att. Gen. Pray, Sir *Robert*, Did he ſhew the particular Places to thoſe Lords?

Sir Robert Southwell. Yes, he did. Firſt, the Bench whereon they were ſitting when Sir *Edmundbury Godfrey* was coming down; then the Corner into which they drew him when they had ſtrangled him; then the Place where one *Berry* went to ſtay, which was at the Stairs that lead to the upper Court; then a little Door at the End of the Stables, which led up a Pair of Stairs, and at the Head of the Stairs, a long dark Entry, and at the Top of thoſe Stairs, a Door on the left Hand, which being opened, ſhewed us eight Steps, which lead up to the Lodgings that were Mr. *Godwin's*; in which *Hill* was ſaid to be Inhabitant for ſeven Years before. And aſſoon as we were gone two Steps, there was a little Cloſet or Cabinet on the right Hand, in which there was a Bed, and there he ſhewed my Lords, This is the Place where we handed him up firſt, and here we left him, ſaid he, in the Care of *Hill* for two Nights.

Mr. Juſt. Wild. You were there, Sir *Robert Southwell*, upon the Place, when he ſhewed them theſe Things?

Sir Robert Southwell. Yes, Sir, I was there.

Mr. Juſt. Wild. Was it anſwerable to what he had declared to the King and Council?

Sir Robert Southwell. Yes, it was anſwerable to all Things he had ſaid in the Morning.

Mr. Juſt. Jones. And ſuitable to what he ſays now?

Sir Robert Southwell. Yes, ſuitable to what he ſays now, but only now he ſays more than he ſaid then. And as to what he ſays about the Chambers of Sir *John Arundel*, they could not be Sir *John*'s Lodgings, for they were not capable of receiving a Perſon of that Quality.

Praunce. I ſaid, I did believe they did belong to Sir *John Arundel.*

L. C. J. They were Lodgings, perhaps, that belong'd to his Servants, tho' not to him.

Mr. Att. Gen. Sir *Robert*, I deſire to know, whether Mr. *Praunce*, when he ſhew'd theſe Places, and made theſe Deſcriptions, did he do it with any Heſitancy, or did he do it readily?

Sir Robert Southwell. Hitherto, my Lord, he went directly and poſitively, as if any body ſhould walk to *Weſtminſter-Hall* Door. But afterwards, when the Lords did deſire to know whither the Body was carried, he ſaid, it was into ſome Room of the Houſe by the Garden; for this is an outer Part of the Houſe, which any body may do any thing in, without their Knowledge that are within. And he undertook to lead them to the Place as well as he could; and ſo away we went thro' the long dark Entry that leads into the outer Court of the great Houſe; and croſſing the Quadrangle, he leads us to the *Piazza*, and down a Pair of Stairs, and ſo far, ſaid he, I am ſure I went; then, aſſoon as we were down Stairs, there is a great Square Court, then he began to ſtagger, as if he did not know his way; but there was no way but to go on, however, and on he went, and coming croſs the Court, we came into ſeveral Rooms; and going thro' them we came up Stairs again, and ſo into ſeveral other Rooms again. Sure, ſaid he, we were here, but I can't tell, and he was in a Diſtraction what Room he ſaw the Body in; but, ſaid he, thus far I am certain I am right; which was according to the Paper, and I refer myſelf to that.

Mr. Juſt. Wild. But you ſay, that what he had ſaid to the Lords in the Council, was the ſame that he ſaid when you were by upon the Place?

Sir Robert Southwell. Yes.

L. C. J. His doubtfulneſs of the Room does aſſert and give Credit to his Teſtimony, and confirms it to any honeſt Man in *England.* Here, ſaith he, I will not be poſitive, but having ſworn the other Things which he well remembered, poſitively, he is made the more credible for his Doubtfulneſs of a thing which he does not remember, which a Man that could ſwear any thing would not ſtick at.

Mr. Juſt. Jones. Beſides, he was not there but by Night, and all the Light he had was a Dark-Lanthorn.

Mr. Sol. Gen. Now, Sir *Robert*, I would aſk you one Queſtion, if you pleaſe, Do you remember that *Hill* was examined at the Council about this Matter?

Sir Robert Southwell. My Lord, theſe are the Notes that I took upon theſe Men's Examinations, if your Lordſhip pleaſes they may be read.

Mr. Recorder. Sir *Robert*, We aſk you but as to one particular thing, therefore if you pleaſe to look upon it, and refreſh your Memory, you may read it to your ſelf, and tell us only the Subſtance. *Which he did.*

Mr. Sol. Gen. Now, Sir, if you pleaſe, Do you remember that *Hill* was there?

Sir Robert Southwell. Yes, I find he was examined.

Mr. Sol. Gen. Did not he deny there that he knew *Kelly*, but that he knew *Girald?*

Sir Robert Southwell. Yes, I do find it here ſet down, that he did deny he knew *Kelly*, but that he knew *Girald.*

Hill. I ſaid I knew one *Girald*, but not that.

Mr. Recorder. But before the Council he ſaid he knew *Girald*, not one *Girald.*

L. C. J. This way of anſwering is like the Examination that was taken lately amongſt ſome of them. A Perſon was aſked when he ſaw ſuch a Prieſt? He denied that he had ſeen him in fourteen Days. But then comes one and proves to his Face, that he was with him in Company all Night, within a Week and leſs. Ay, ſays he, that's true; but I ſaid I had not ſeen him in fourteen Days. And ſo they may take Oaths to ſerve the King faithfully all the Days of their Lives, but in the Nights they may murder him, and keep their Oaths for all that.

Mr. Juſt. Dolben. I would know, whether the *Girald* you know be a Prieſt or no?

Hill. He is not.

Mr. Juſt. Dolben. Then you do not know *Girald* the Prieſt?

Hill. No, I do not.

Mr. Recorder. Call *Mr. Thomas Stringer.* *And he was ſworn.*

Mr. Recorder. Pray, Mr. *Stringer*, will you tell my Lord and the Jury what it was that Mr. *Berry* ſaid about any Directions he had to keep all Perſons out of *Somerſet-Houſe*, about the twelfth or fourteenth of *October* laſt?

T. Stringer. My Lord, Upon his Examination before the Lords of the Committee, *Berry* did ſay he had Orders from the Queen, or in the Name of the Queen, That he ſhould ſuffer no Strangers nor any Perſons of Quality to come into *Somerſet-Houſe.*

Mr. Att. Gen. When was it he was to keep them out?

T. Stringer. The twelfth, thirteenth and fourteenth of *October.*

Mr. Att. Gen. What, three Days?

T. Stringer. Two or Three Days. And he ſaid that the Prince did come, and he did refuſe him, and ſent him back again.

Mr. Recorder. Did he ſay he ever had any ſuch Directions before?

T. Stringer. No: He ſaid he never before had any.

L. C. J. It was a very unlucky thing that he had it then.

Berry. The Prince might have gone in if he would.

T. Stringer. You ſaid you did refuſe him, you had Order to let none come in.

L. C. J. Had you any ſuch Order?

Berry. Yes, my Lord, I had ſuch an Order from the Queen's Gentleman-Uſher.

L. C. J. Had you never had ſuch before?

Berry. Yes, I have had before, ſince the Queen came to *Somerſet-Houſe.*

L. C. J. Mr. *Stringer* ſwears you ſaid you had not any before.

Berry. Yes, I had.

L. C. J. Why did you deny it then?

Berry. I did not deny it; beſides, there were ſeveral went in.

Mr. Recorder. We have proved, indeed, five or ſix did go in.

L. C. J. For how many Days had you that Order?

Berry. Two Days.

L. C. J. Which two Days?

Berry. The eleventh and twelfth, I think thereabouts.

Mr.

Mr. Recorder. Did you say before the Lords, that you never had such Orders before?

Berry. No, I did not.

L. C. J. Mr. *Berry*, When you were examined before the Lords, did you not say you never had such Orders before?

Berry. No, I did not say so, my Lord, as I know of; for they did not examine me about that.

L. C J. You said you would prove it under his own Hand. Prove that.

Mr. Att. Gen. Mr. *Stringer*, Did he write his Name to his Examination?

T. Stringer. Yes, he did to one Examination.

Mr. Att. Gen. Pray look upon that: Is that his Hand?

T. Stringer. This was read to him before he signed it, and then he did sign it.

Mr. Att. Gen. I would fain shew it to him, to see whether he would own it or no.

Berry. Yes, that is my Hand.

Then the Clerk of the Crown read it.

Cl. of the Cr. This is subscribed by *Henry Berry*. *The Information of* Henry Berry, *Porter at the Gate of* Somerset-House; *taken before the Right Honourable the Marquis of* Winchester: *This Deponent saith, That about the twelfth, thirteenth and fourteenth of* October *last, he had Order to tell all Persons of Quality, that the Queen was private, and that they were not to come in: And this Deponent saith, The Queen continued so private for two Days.*

L. C. J. Where is that Part of the Examination wherein he said, he never had any such Order before?

T. Stringer. He did say so, but it is not in that that hath his Hand to it.

Mr. Just. Wild. Pray, my Lord, observe this is a kind of reflecting Evidence, and I would have no more made of it than the Thing will bear.

L. C. J. They only bring it, and make use of it against *Berry* as a Pretence of his.

Mr. Just. Wild. But it is a very reflecting Evidence.

Mr. Att. Gen. Surely there is no body here that offers it as such: We use it only to this Purpose, to shew that *Berry*, who was a Party to this Murder, did use all the means that he could to keep it private; and endeavoured to prevent Strangers coming in that Night to discover it; and therefore pretended these Orders.

If he had any such Orders, I suppose he will prove them, we do not say he had them; but 'tis a great Evidence, when he pretended to such Privacy, that he and his Fellows had something to do that was not fit to be known by every body.

Mr. Recorder. He may make use of any body's Name, and pretend what he will; but I suppose he will prove it from the Gentleman-Usher, if it be true.

Mr. Att. Gen. We have one Witness more to call, my Lord, and that is one *Farr*. Call *Stephen Farr*. *Which was done, and he sworn:*

Mr. Att. Gen. He is a Neighbour to *Berry*, and will give your Lordship an Account what Applications have been made to him, to tamper with him for Money, to keep away, and not give Evidence in this Cause. Pray, Sir, are you Mr. *Berry*'s Neighbour?

Farr. Yes, Sir, I am.

Mr. Att. Gen. Pray then tell what you know.

Farr. I know him very well, his Wife hath been with me last Week, and asked me if I knew what time he was with me on *Wednesday*, the 16th of *October*. I desired time to recollect my self: And she called four or five times after, and I did recollect my Memory and told her, that I was not with him all that *Wednesday*.

L. C. J. Why, this was reasonable, and fair enough to do.

Mr. Att. Gen It was so, my Lord; but pray had you no Money offered you?

Farr. No, Sir, none at all; and I told her I could not remember that I was with him that Day.

Berry. But you may remember it very well, when I came from the Queen I came to you.

Farr. My Lord, I was out of Town that *Wednesday*, from Two o'Clock in the Afternoon, till Nine at Night.

L. C. J. Well, well, this is nothing: The Woman was willing, if she could, to have counterproved the Evidence, and what she did was fair; she offered no Money, nor did it in an indirect way.

Mr. Att. Gen. My Lord, We have now done with our Evidence for the King, and leave it till we hear what they say.

L. C. J. What do you say for your selves? You shall have all the free Liberty you will desire.

Hill. In the first Place, I take God to be my Witness, that I am wholly innocent, as to the Matter that is charged upon me: and as to what is said that I dogg'd Sir *Edmundbury Godfrey*, I can prove that I went into my Lodging at Eight o'Clock, and did not stir out.

L. C. J. Come, call your Witnesses.

Hill. Mary Tilden, *Catharine Lee*, Mrs. *Broadstreet*, and *Daniel Gray*.

L. C. J. Let them come in, there.

Then Mary Tilden *was first examined.*

Mr. Att. Gen. This is Doctor *Godwin*'s Niece, and his Housekeeper.

L. C. J. Well, what do you ask her?

Hill. I desire to know what you can say about my being in my Lodging, and not going out.

Mary Tilden. He hath lived in our Family Seven or Eight Years.

L. C. J. Your Family, what is your Family?

Mary Tilden. With my Uncle.

L. C. J. Who is your Uncle?

Mary Tilden. Doctor *Godwin*: we left him in the House always, when we were absent from it; he was always a trusty Servant, never kept ill Hours, always came home by Eight o'Clock at Night.

Mr. Just. *Dolben.* Alway! For how long?

Mary Tilden. Ever since we came over last into *England*.

Mr. Just. *Dolben.* When was that?

Mary Tilden. In *April* last.

L. C. J. Were you there that Night Sir *Edmundbury Godfrey* was kill'd?

Mary Tilden. I was.

L. C. J. What Night was that?

Mary Tilden. I don't know, my Lord, I heard of it in the Town.

L. C. J. When did you first hear of it?

Mary Tilden. The *Thursday* that he was found.

L. C. J. Did you not hear of it on the *Wednesday*?

Mary Tilden. Yes, I did.

L. C. J. Who could tell you the *Wednesday* before?

Mary Tilden. Why, my Lord, in the Town it was said he was missing from *Saturday*, and a *Thursday* he was found.

L. C. J. What can you say concerning *Hill*, that he was not out after Eight o'Clock that Night?

Mary Tilden. He was a very good Servant to my Uncle, and never kept ill Hours, but always came in by Eight o'Clock, or before.

Mr. Just. *Dolben.* Were you not out your self that Night?

Mary Tilden. No not I, never out after that Hour.

L. C. J. Pray how can you give such an Account of Mr. *Hill*, as if he was always in your Company?

Mary Tilden. He came in to wait at Table, and did not stir out afterwards.

L. C. J. Pray, what Religion are you of? are you a Papist?

Mary Tilden. I know not whether I came here to make a Profession of my Faith.

L. C. J. Are you a *Roman* Catholick?

Mary Tilden. Yes.

L. C. J. Have you a Dispensation to eat Suppers on *Saturday* Nights?

Mr. Recorder. I hope you did not keep him Company, after Supper, all Night.

Mary Tilden. No, I did not, but he came in to wait at Table at Supper.

L. C. J. I thought you had kept fasting on *Saturday* Nights.

Mary Tilden. No, my Lord, not on *Saturday* Nights.

Mr. Just. *Jones.* How many Dishes of Meat had you to Supper?

Mary Tilden. We had no Meat, though we did not fast

L. C. J. Can you speak positively as to this Night, the *Saturday* that he was kill'd?

Mary Tilden. He was at home that Night.

L. C. J. And where was he the *Sunday*?

Mary Tilden. He was at home.

L. C. J. And you are sure he was at home every Night?

Mary Tilden. Yes, while we were in Town.

L. C. J. Where was you all that *Wednesday* Night you speak of?

Mary Tilden. I was at home in my Lodging.

Mr. Just. *Wild.* How is it possible for you to say, that *Hill*, who was not your constant Companion, did not go out afterwards?

Mary Tilden No, he was not my constant Companion.

Mr. Just. *Wild.* How then can you charge your Memory that he was at home?

L. C. J. Come, you are to speak truth, tho' you are not upon your Oath. Can you charge your Memory to say that he came in constantly at Eight o'Clock at Night?

Mary Tilden. Yes, I can, because I saw him come in constantly; and when he came in, I always sent my Maid to bar the Door.

L. C. J. Maid, can you say that he was always at home at Night?

Mary Tilden. I can say he never was abroad after Eight at Night.

Mr. Recorder. Why, you did not watch him till he went to Bed, did you?

Mary Tilden. We were always up till Eleven o'Clock at Night.

Mr. Att. Gen. Was he in your Company all that while?

Mary Tilden. I beg your Pardon; if your Lordship saw the Lodgings you would say it were impossible for any to go in or out, but that they must know it within. We were constant in our Hours of going to Supper; our Doors were never open'd after he came in to wait at Supper.

L. C. J. You may say any thing to a Heretick, for a Papist.

Mr. Just. *Dolben.* This is a mighty improbable Business.

Mr. Just. *Wild.* Where was he a *Wednesday* Night?

Mary Tilden. At home.

L. C. J. They have a general Answer for all Questions.

Mr. Just. *Jones.* Who kept the Key of your Lodgings?

Mary Tilden. The Maid.

Mr. Just. *Jones.* Hath *Hill* never kept the Key?

Mary Tilden. No, my Lord, the Maid.

Mr. Just. *Jones.* How do you know but that the Maid might let him out?

Praunce. My Lord, Mrs. *Broadstreet* said at first there was but one Key; but before the Duke of *Monmouth* she said there were six or seven Keys.

L. C. J. Look you what Tricks you put upon us to blind us: You come and tell us that he was every Night at home by Eight o'Clock, and did not stir out, for there was but one Lock, and the Maid kept the Key; and yet there were three or four Keys to it.

Mary Tilden. There was but one Key to that which kept the Door fast.

L. C. J. Praunce, how many Keys were there?

Praunce. She confessed there were four or five.

Mr. Just. *Wild.* What time was it that you carried him out of *Somerset-House* on *Wednesday* Night?

Praunce. It was about Ten or Eleven of the Clock. *Hill* went to fetch the Horse.

Mary Tilden. We had never been out of our Lodgings after Eight o'Clock, since we came to Town.

Mr. Just. *Jones.* When were you out of Town?

Mary Tilden. In *October*.

Mr. Just. *Dolben.* Nay, now Mistress, you have spoiled all; for in *October* this Business was done.

Mr. Just. *Jones.* You have undone the Man, instead of saving him.

Mary Tilden. Why, my Lord, I only mistook the Month.

L. C. J. You Woman [speaking to Mrs. *Broadstreet*], what Month was it you were out of Town?

Broadstreet. In *September*.

L. C. J. 'Tis apparent you consider not what you say, or you come hither to say any thing will serve the turn.

Mary Tilden. No, I do not, for I was out of Town in *September*, came to Town the latter end of *September*.

L. C. J. You must remember what you said, that you came to *England* in *April* last, and from that time he was always within at Eight o'Clock at Night.

Mary

Mary Tilden. Except that time that we were out of Town, which was in *September*, the Summer-time. And it is impoſſible but if the Body was in the Houſe, as *Praunce* ſaid it was, but I muſt ſee him, or ſome of us muſt. I uſed to go every Day into that little Room for ſomething or other, and I muſt needs ſee him if he were there.

L. C. J. You told me juſt now you were not upon Confeſſion; and I tell you now ſo, you are not. *Then Mrs.* Broadſtreet *was examined.*

Mr. Juſt. *Jones.* Well, Woman, what ſay you?

Broadſtreet. We came to Town upon a *Monday*, *Michaelmas* Day was the *Sunday* following; and from that time neither he nor the Maid uſed to be abroad after Eight o'clock: we kept very good Hours, and he always waited at Supper, and never went abroad after he came in to wait at Supper: and the Lodging was ſo little, that nothing could be brought in, but they muſt know that were within.

L. C. J. This is a lower Room than the Chamber, is it not?

Praunce. 'Tis even with the Dining-Room, my Lord.

L. C. J. What ſay you, Sir *Robert Southwell?*

Sir *Robert Southwell.* My Lord, it is an extraordinary little Place; as ſoon as you get up eight Steps, there is a little ſquare Entry, and there is this Room on the one Hand, and the Dining-Room on the other. I think there is a Pair of Stairs to go down at one corner of the Entry, as I think, but the Body was laid in a little ſquare Room at the Head of the Steps.

L. C. J. And muſt you go into the Room to go to the Dining-Room?

Broadſtreet. No, 'tis a diſtinct Room; but the Key was always in the Door, and every Day ſome Body went into it for ſomething or another.

L. C. J. Will you undertake to ſay it was always in the Door?

Broadſtreet. Yes, it conſtantly was.

Mr. Juſt. *Wild.* For my own Part, I will not judge you: but that his Body ſhould be carried there about Nine o'clock at Night a *Saturday* Night, and remain there 'till *Monday* Night, 'tis very ſuſpicious, that if you were in the Houſe, as you ſay you were, and uſed to go into that Room every Day, you muſt either hear it brought in, or ſee it.

Broadſtreet. But we did neither, my Lord.

Mr. Juſt. *Dolben.* It is well you are not Indicted.

Broadſtreet. Mr. *Praunce*, you know all theſe Things to be falſe, Mr. *Praunce.*

Praunce. I lay nothing to your Charge; but you ſaid before the Duke of *Monmouth*, that *Hill* was gone from his Lodgings before that Time.

L. C. J. What ſay you, Sir *Robert Southwell?*

Sir *Robert Southwell.* There aroſe a little Quarrel between them, about the Time that Mr. *Hill* did leave thoſe Lodgings. *Praunce* ſaid it was a Fortnight after; *Hill* ſaid, when he was upon his Examination, that the ſame *Saturday* Night that Sir *Edmundbury Godfrey* was miſſing, he was treating with his Landlord, and from that time, to the time he went to his new Houſe, it was about a Week or a Fortnight.

L. C. J. But he did pretend he was gone before?

Broadſtreet. No, my Lord, I did not.

L. C. J. Two Witneſſes upon Oath ſware it, and you ſaid it your ſelf, and gave it under your Hand.

Broadſtreet. My Lord?——

L. C. J. Nay, you will not hear, but you will talk; you ſay one thing now, and you ſet another under your Hand.

Mr. Att. Gen. Have you not a Brother that is in the Proclamation, one *Broadſtreet* a Prieſt?

Broadſtreet. I have a Brother, whoſe Name is *Broadſtreet.*

Mr. Att. Gen. Is he not a Prieſt, and in the Proclamation?

Broadſtreet. I hope I muſt not impeach my Brother here. I ſaid upon my Oath, he came to Town on *Monday*, and *Michaelmas* Day was the *Sunday* following, and *Lawrence Hill* went away a Fortnight after.

Sir *Robert Southwell.* She ſwore then, two or three Days after *Michaelmas* Day.

L. C. J. You muſt know we can underſtand you through all your Arts. It was not convenient for you at that time to ſay, that Mr. *Hill* went away about a Fortnight after *Michaelmas*, for then the thing that was charged to be done, part of it in your Houſe, would have been within the Fortnight, for it was the 12th of *October*, but then you ſaid only two or three Days.

Sir *Robert Southwell.* She did ſay, my Lord, that about *Michaelmas* two or three or four Days after he went away.

Broadſtreet. I beg your Pardon, I only ſaid, I could not tell the Time exactly.

L. C. J. Well, have you any more to ſay?

Mary Tilden. There was never a Day but I went into that Room for ſomething or other, and if any Body came to ſee me, there was ſo little Space that the Footmen were always forced to be in that Room.

Mr. Juſt. *Dolben.* Were you there upon *Sunday?*

Mary Tilden. Yes, my Lord, I was.

Mr. Juſt. *Dolben.* Well, I will ſay no more; call another Witneſs.

Hill. Catharine Lee.

L. C. J. What can you ſay, Maid?

Lee. My Lord, I did never miſs him out of the Houſe at thoſe Hours.

L. C. J. May be you did not look for him.

Lee. I did go down every Night to the Door, to ſee if it were lock'd, and I went into the Parlour to ſee that things were ſafe there.

L. C. J. You are a *Roman* Catholick, are you not?

Lee. Yes, I am.

Mr. Juſt. *Dolben.* Might not he go out of the Houſe, and you never the wiſer?

Lee. Yes, for I did not watch him continually.

Capt. *Richardſon.* All that ſhe ſays may be true by the Place. The Servants keep down a Pair of Stairs in the Kitchen, and any one may come in, or go out, having ſo many Keys, and they not know it that are below.

Lee. I went into the Chamber every Morning, as I went to Market.

Mr. Juſt. *Wild.* Have a care what you ſay, and mind the Queſtion I aſk you: Were you there on the *Sunday*, in that Room where they ſay Sir *Edmundbury Godfrey*'s Body was laid?

Lee. I cannot ſay, that I was in that Room, but I called in at the Door every Day, and I was the laſt up every Night

Mr. Juſt. *Wild.* I'll ſay that for thee, thou haſt ſpoke with more care than any of them all.

Then Daniel Gray *was Examined.*

L. C. J. What can you ſay? What Queſtions do you aſk him?

Hill. I deſire him to ſpeak what he can ſay, where I was thoſe five Days that Sir *Edmundbury Godfrey* was miſſing.

Gray. I kept my Brother *Hill* Company, from the 8th of *October*, till he took his Houſe, which was about the 22d or 23d.

L. C. J. What Time did you uſe to go to Bed?

Gray. About Nine or Ten o'clock at Night.

L. C. J. What Time did he go?

Gray. When I did, but I did not ſee him go to Bed.

L. C. J. Where did you lie?

Gray. At my own Houſe.

L. C. J. And you went home about Eight or Nine o'clock at Night to go to Bed?

Gray. Yes, I did.

Mr. Juſt. *Jones.* You ſay he took his Houſe the 8th of *October*, when did he go thither?

Gray. Yes, he took his Houſe the 8th of *October*, but he did not go thither till the one or two and twentieth.

Mr. Juſt. *Dolben.* But you cannot tell what he did at Night?

Gray. No, not I.

Mr. Juſt. *Dolben.* But you were in his Company till Eight or Nine o'clock at Night?

Gray. Yes, my Lord, I was.

L. C. J. How far did you live off of him?

Gray. About a Bow's ſhoot.

L. C. J. Look you, Mr. *Hill*, he does you no Service at all, for he ſays he left you about Eight or Nine o'clock at Night, and he does not know what you did afterwards. Have you any more?

Hill. Robert How.

L. C. J. Come, what ſay you?

How. My Lord, I met with Mr. *Hill* the 5th of *October*, he aſked me whither I was going? I told him, Home. I wiſh, ſaid he, you would go a little back with me; I am about taking of an Houſe, and I would have you view the Repairs; accordingly we did go, and treated in the Houſe about an Agreement; for, ſaid he, I will not agree with you (to the Landlord) till we know what muſt be repaired. On *Tueſday* Morning we met again, about Eight o'clock.

L. C. J. What Day of the Month was that?

How. The 8th. And a *Wedneſday* about Noon we began to work for him, to repair his Houſe, and we wrought that Week every Day, and for twelve Days and an half in all, and he was every Day with us, looking after Coals, or Beer, or ſomething. On *Saturday* the 12th of *October*, we dined together, and parted with him about One or Two o'clock, and about Two o'clock I went back again to my Work, and he ſaid he was going towards *Covent-Garden* in St. *James*'s, but he came back again, and I was gone firſt; I aſked my Man whether he was gone, or no; he ſaid, he was there, but did not ſtay.

L. C. J. What Time was that?

How. A little before Night.

L. C. J. What Hour did your Man ſay that he was there?

How. About an Hour before they left Work.

L. C. J. What Time was that?

How. About Four o'clock, I think it was.

L. C. J. Can you ſay where he was that Night?

How. No, I cannot.

L. C. J. What Religion are you of, are you not a Proteſtant?

How. Yes, my Lord, I think ſo.

Mr. Recorder. My Lord aſks you, are you a Proteſtant?

How. I was never bred up in the Proteſtant Religion.

Praunce. He is a Catholick, my Lord, he was the Queen's Carpenter.

Mr. Juſt. *Dolben.* Nay, now you ſpoil all; you muſt do Penance for this; what! deny your Church?

Hill. What Time was it on *Saturday* Morning I was with you?

How. About Nine o'clock.

L. C. J. How long did he ſtay?

How. From Nine to Two.

L. C. J. Are you ſure 'twas Nine?

How. No Man can ſwear punctually to an Hour.

L. C. J. What think you of Ten?

How. It was thereabouts.

Mr. Recorder. If I am rightly informed by the Clerks, he is Outlawed for Recuſancy.

L. C. J. Is he ſo? Pray let us know that.

Harcourt. (One of the Clerks of the *Crown-Office.*) My Lord, I have made out ſeveral Writs againſt him, for ſeveral Years together, and could never get any of them Returned.

Hill. He tells you, that I was with him from Nine o'clock on *Saturday* Morning, till One.

Mr. Juſt. *Jones.* But that is but as true as he is a Proteſtant, and how true that is, you know.

Hill. Here is another Witneſs; Mr. *Cutler.*

Tho. Cutler. Upon the 12th of *October*, *Lawrence Hill* did come into my Houſe, about Four or Five o'clock in the Evening, and he ſtaid there till between Seven or Eight, and then his Wife came for him and ſaid ſome Gentlewoman was ready for her Supper, and ſo he went home; and I ſaw him no more, till the Day after he was taken.

L. C. J. Look you here, he ſpeaks only about Seven or Eight o'clock. Well, have you any thing more to ſay?

Hill. There is one *Richard Lazinby.*

Lazinby. My Lord, I was with him on *Saturday* the 12th of *October*, at the Door, about Twelve o'clock.

L. C. J. And you dined with him and *How?*

Lazinby. Yes, Sir.

L. C. J. But you did not ſee him afterwards?

Lazinby. Yes, I did ſee him on *Wedneſday* Night, From Five to Seven at Night.

L. C. J. What Time was he carried out of *Somerſet-Houſe?*

Mr. Att. Gen. About Eleven or Twelve o'clock at Night.

Lazinby. That is the laſt Time I was with him.

L. C. J. Well, have you any more?

Hill. Here is one Mr. *Archbold*, my Lord. *Archbold.*

Archbold. My Lord, I had occaſion for a Taylor, and I came to this Man's Houſe to ſeek for one Mr. *Gray*, that had formerly wrought for me.

L. C. J. When was that?

Archbold. That was on *Monday* Night. And he having formerly wrought for me, I found him at this Man's Houſe; ſo Mr. *Gray* aſked me, what News? I told him, Very good News; for *Praunce* was taken for the Murder of Sir *Edmundbury Godfrey*. Says *Hill* I am glad of that; I wiſh they were all taken. I came the next Day after, and they told me he was taken out of his Bed, for the Murder of Sir *Edmundbury Godfrey*.

L. C. J. Was it that very Night that you came, that he was taken?

Archbold. Yes, it was.

L. C. J. You ſaid he ſpoke of it before you at Seven o'clock, and you left him about Nine, and he was taken that Night; what then?

Hill. Why, then I had time enough to make my Eſcape, if I had thought myſelf Guilty.

L. C. J. As no doubt you would, if you had thought they would have been ſo nimble with you.

Archbold. He knew it the Day before.

L. C. J. Well, have you any more to ſay?

Mrs. Hill. There is Mr. *Ravenſcroft*, my Lord.

L. C. J. What, that *Ravenſcroft* that was ſent away?

Mrs. Hill. Yes, my Lord.

L. C. J. Then the Marſhal muſt ſend for him, if he be a Witneſs for the Priſoner. In the mean time, what can you ſay for your ſelf, Mr. *Green?*

Green. My Lord, I would call my Landlord and his Wife.

L. C. J. What are their Names?

Green. James Warrier, and his Wife.

L. C. J. Call in *Green*'s Wife, and all her Witneſſes.

Then Mrs. Hill, *the Priſoner's Wife, offered a Paper to the Court, containing Obſervations upon the Indictment, which ſhe deſired them to read; but it was refuſed, and ſhe bid to give it her Huſband.*

Then James Warrier *was Examined.*

L. C. J. What ſay you to your Landlord?

Green. I aſk him no Queſtions at all, but deſire him to tell what he knows.

Warrier. I will ſay, that the 12th of *October*, he was at my Houſe, half an Hour after Seven, and he was not out of my Houſe till after Ten.

L. C. J. How can you remember that Day? What Day of the Week was it?

Warrier. It was a *Saturday*.

L. C. J. How do you remember it was ſo?

Warrier. I have recollected my Memory.

L. C. J. By what?

Warrier. By my Work, and every thing exactly.

L. C. J. When did you begin to recollect yourſelf?

Warrier. A pretty while ago.

L. C. J. How long after Sir *Edmundbury Godfrey* was murdered?

Warrier. A Month after.

L. C. J. What made you recollect your ſelf a Month after?

Warrier. Becauſe he was in Priſon in the *Gate-houſe*.

L. C. J. When was he taken up?

Warrier. He was taken up in *Somerſet-Houſe*, and not in my Houſe.

L. C. J. But when did you recollect your ſelf?

Warrier. When he was in Priſon.

L. C. J. But I pray remember the Time when you did recollect your ſelf, and the Occaſion that made you recollect your ſelf when he was taken up.

Warrier. I remember it very well, for he had been in my Houſe but fourteen Days, before he was taken up.

Sir Thomas Stringer. He was not taken up for the Murder of Sir *Edmundbury Godfrey*, till the 24th of *December*.

Mr. Juſt. Wild. Pray, did you never think of this till he was in Priſon?

Warrier. It was when he was taken up.

L. C. J. But, pray, when you came to recollect your ſelf, how did you come to do it?

Warrier. I recollected it by my Work.

L. C. J. But what gave you occaſion to recollect your ſelf ſince he was in Goal?

Sir Tho. Stringer. My Lord, he was put into Goal for refuſing to take the Oaths; but he was not at all charged with the Death of Sir *Edmundbury Godfrey* at that Time.

L. C. J. When was he put in for the Death of Sir *Edmundbury?*

Sir Tho. Stringer. The 24th of *December*.

L. C. J. Then there is all the remaining part of *October*, all *November*, and the former part of *December*, was paſt, how could you recollect your ſelf of the particular Day?

Warrier. I call'd it to mind by my Work.

Capt. Richardſon. My Lord, I will rectify this Miſtake: Since their Arraignment, I went to them, to know what Witneſſes they had, and *Green* told me of his Landlord and Landlady; I then aſked them, if they could ſay any thing as to this particular Day? and they ſaid they could not do him any good at all.

Warrier. I did not then call it to Memory.

L. C. J. When did you call it to Memory?

Warrier. I did ſay I could not do it then preſently, as I have done ſince, in five or ſix Days.

L. C. J. How could you recollect it then?

Warrier. By the Time he came into my Houſe, which was a Week before, and by the Work that was done.

L. C. J. What could the Work do as to this? Can you tell by that any Thing that is done at any Time? Where were you the 9th of *November* laſt?

Warrier. Truly, I can't tell.

L. C. J. Why, how came you then to recollect what you did the 12th of *October*, when you did not know where you were the 9th of *November?*

Worrier. I can tell a great many Tokens, he was but fourteen or fifteen Days in our Houſe.

L. C. J. What did he do the twelfth of *October*, that you remember ſo particularly that Day?

Warrier. Sir, I remember other Days beſides that; but I ſay, I never knew the Man out after Nine o'clock, in my Life.

L. C. J. Have you any body elſe? for this Man, I can't tell what to make on't.

Green. Here is the Man's Wife to give Evidence.

L. C. J. Firſt conſider what you ſay.

Mrs. Warrier. To tell you the Truth, I thought the Man was ſo clear of this Fact, that I never troubled my Head with it; but when Captain *Richardſon* came to my Houſe, I told him, that he was never in our houſe by Day-time, except being Cuſhion-layer in the Chapel, he uſed to come at half an Hour after Eleven, and many times he did deſire me, becauſe we were Proteſtants, to put in a little Fleſh Meat with ours; ſometimes he would ſit down and eat his Meat in the Kitchen, and his Wife with him; and his Wife would ſay to him, 'Tis a troubleſome Time, pray ſee that you come home betimes. I did not at all remember the Day of the Month at the firſt, nor the Action; but my Huſband and I have ſince remembred. We were deſired by them once to eat a Fowl with them; and my Huſband did command me the *Sunday* after to invite them to Dinner with us, and I went in the Morning very early, I think, and bought a dozen of Pigeons, and put them in a Pye, and we had a Loin of Pork roaſted; and when he was gone to the Chapel on *Saturday* in the afternoon, his Wife came to me, and ſaid, My Huſband is not well, and when he comes home will aſk for ſomething of Broth; and away ſhe went to Market, to buy ſomething to make Broth of. While ſhe was at Market, her Huſband came home, and aſked where his Wife was? Why, Mr. *Green*, ſaid I, ſhe is gone to Market: What an old Fool, ſaid he, is this, to go out ſo late, ſuch a Night as this is! But, ſaid he, again, I will go to the Coffee-houſe, and drink a Diſh of Coffee, and pray tell my Wife ſo. In the mean time ſhe returned, and by that time ſhe had been above a little while, he came in again. And Mr. *Green* being there, my Huſband came in, and called to me, Pr'ythee, Sweetheart, what haſt thou got for my Supper? Pr'ythee, ſaid I, Sweetheart, thou art always calling for thy Victuals when thou comeſt in. Then Mr. *Green* goes to the Stairs, and calls to his Wife, and bids her bring him down ſome Victuals, and ſhe brings down the Bread and Cheeſe, and he ſtayed there till it was Nine o'clock; and then ſaith Mr. *Green* to his Wife, Let us go up, for there is a Fire.

L. C. J. What Day was this, all this while?

Mrs. Warrier. Why, it was the *Saturday* Fortnight after *Michaelmas* Day.

L. C. J. Why might it not be that Day three Weeks?

Mrs. Warrier. It was that Day he was miſſing.

Mr. Att. Gen. Why, there was no Alarm taken of it a *Sunday*.

L. C. J. When did you begin to recollect what Day it was, that they ſaid he was miſſing?

Mrs. Warrier. On *Friday* Morning our Milk-man came and told us that one Mr. *Godfrey* was found murdered; now I knew one of the *Exchange* of that Name, and thought it might be he. And when we went up with him to his Chamber, we ſat there till the Tattoo beat.

L. C. J. All the Thing is, how do you know it was this *Saturday?*

Mrs. Warrier. It was the *Saturday* Fortnight after *Michaelmas* Day.

Mr. Juſt. Dolben. Are you ſure it was the *Saturday* Fortnight after *Michaelmas* Day.

Mrs. Warrier. Yes, we did look upon the Almanack, and reckon it ſo.

Mr. Juſt. Dolben. Then that was the 19th of *October*.

L. C. J. Why, you told him, you could do him no Good, and indeed you do not.

Mr. Juſt. Jones. You and your Wife ſpeak of the ſame Time, don't you?

Warrier. Yes.

L. C. J. Have you any more, *Green?*

Captain Richardſon. There is the Maid, let her come in.

L. C. J. What ſay you, Maid?

Maid. I can ſay, that he came in the *Saturday* Fortnight after Quarter-Day, pretty betimes.

L. C. J. Can you ſpeak of any other Time beſides that *Saturday* Fortnight?

Maid. I can tell he came in every Night before Nine o'clock.

Green. I can take my Oath, I was never out of my Lodging after Nine o'clock.

Hill. My Lord, here is Mr. *Ravenſcroft* now.

L. C. J. Mr. *Ravenſcroft*, what can you ſay?

Mr. Ravenſcroft. What I can ſay, my Lord, is this: This *Lawrence Hill*, I have known him Thirteen or Fourteen Years, and he ſerved my elder Brother ſo long, very faithfully. Afterwards he lived with Dr. *Godwin*, towards the latter end of the two laſt Years, and he married my Mother's Maid.

L. C. J. What Religion are you of?

Mr. Ravenſcroft. My Father and Mother were Proteſtants.

L. C. J. But you are a Papiſt, are you not?

Mr. Ravenſcroft. I have not ſaid I am a Papiſt, yet.

Mr. Juſt. Dolben. In the mean time, I ſay you are one.

Mr. Ravenſcroft. Do you ſo? Then pray go to *Southwark* and ſee.

Mr. Att. Gen. My Lord, I think he hath taken the Oaths of Allegiance and Supremacy.

L. C. J. Well, pray, Sir, go on with your Story.

Mr. Ravenſcroft. If it pleaſe you, upon a *Saturday*, a little before *Chriſtmas*, there was ſomebody taken, I think it was one Mr. *Praunce*, for I never ſaw the Man, neither do I know him at all: And it was reported that he was taken upon the Death of Sir *Edmundbury Godfrey*, and I was glad to hear it. My Houſe was in the *Savoy*, and my Father's Houſe is in *Holbourn*; and I uſed often to go and ſee my Father, and coming home again, I went to ſee the Maid at her new Houſe, ſhe had not been long there, and ſhe was ſtanding at the Door of the Houſe. I aſked her what News? Says ſhe, Here hath been a Man here that tells us, that *Praunce* hath diſcovered ſeveral of the Murderers of Sir *Edmundbury Godfrey*; and they talk up and down ſtrangely of it, and aſk me whether my Huſband be acquainted with him? Then ſaid I to her, Is he? She anſwered me, Very well, they have been often together; and ſo ſhe told me the People did mutter, and talk of her Huſband. But, ſaid I, what ſays your Huſband to it? Says ſhe, He defies *Praunce* and all his Works. Said I, Where is your Huſband? Said ſhe, He is within. I was very glad to hear it; for, ſaid I, he living in *Somerſet-Houſe*, and being acquainted with *Praunce*, I am glad to hear that your Huſband can be ſo courageous; ſo I went away, and came again thither the next Morning, and found he was taken the Night before. All that I ſay then, is, that it was a good Evidence of his Innocency, that when he had Notice of it, he did not fly.

L. C. J. So then, your Diſcourſe was after *Archbold* had been there?

Mr. Ravenſcroft. *Archbold* was there before me, and had ſpoken this in their Company. I ſpake with her that Night, and the next Morning too; and all that I ſay is, if Flight be a Sign of Guilt, as no doubt it is, *Adam, ubi es?* and Courageouſneſs is a Sign of Innocency, then this Man is innocent.

L. C. J. But you ſay, ſhe told you they were acquainted?

Mr. Ravenſcroft. My Lord, I have one thing more to ſay. Upon the Occaſion of theſe Things, this Woman hath been often with me, and hath deſired to know of me what defence ſhe ſhould make, for I ſaw *Hill*'s Wife and *Berry*'s Wife were all ſimple People, without Defence for themſelves, and they did deſire that I would examine and ſee ſome of the Witneſſes, and ſee how it was, and ſhe had gotten me ſome Papers, and I conferred them together, there are Witneſſes that will atteſt the Copy.

Mr. Att. Gen. What is all this to the Purpoſe? Only this Gentleman hath a mind to ſhew that he can ſpeak *Latin*.

Mr. Ravenſcroft. I thank God I can ſpeak *Latin* as well as any Man in the Court.

L. C. J. Well, all this is nothing.

Mr. Ravenſcroft. I declare it my ſelf, if this Man were guilty, rather than I would ſpeak for him, if there wanted a Hangman, I would do it my ſelf.

L. C. J. Well, *Berry*, what have you to ſay?

Berry. I deſire *Nicholas Trollop*, and *Nicholas Wright*, and *Gabriel Haſket*, and *Elizabeth Wilks*, and Corporal *Collet* may be called.

Corporal William Collet *firſt Examined.*

Berry. Did not you place a Centinel on *Wedneſday* Night?

Collet. What *Wedneſday* do you ſpeak of, Sir?

Berry. That Night the Queen went from *Somerſet-Houſe* to *White-hall.*

Collet. Yes, this *Nicholas Trollop* I placed there firſt, the 16th of *October.*

L. C. J. How do you remember that?

Collet. Becauſe I have been called to an Account before, and have given good Reaſons for it. Our Company was at *Somerſet-Houſe* when the King came from *New-Market*, and the Queen went to *White-hall.* Afterwards we were bid to fetch our Centinels off about three or four of the Clock in the Afternoon.

L. C. J. Did you leave any Soldiers there?

Collet. No, we did not, all our Company went to *Whitehall.*

Mr. Juſt. Dolben. Are you ſure there were no Soldiers that Night there?

Collet. Yes, we were commanded with a Party to go thither again that Night.

L. C. J. What did you do then?

Collet. I placed the Centinels by the Porter's Order.

L. C. J. Who was that, *Berry?*

Collet. No, it was one that uſed to go about, and give Orders where we ſhould ſet them.

L. C. J. How did you place them?

Collet. This Man I placed from Seven to Ten, then *Nicholas Wright* relieved him at Ten, and ſtay'd till One.

L. C. J. At what Place?

Collet. To the *Strand*-ward.

Mr. Juſt. Wild. That was the Gate they carried him out at.

L. C. J. Do you hear; whereabouts did you ſet the Centinels? Within the Gate?

Collet. Yes, within the Wicket.

L. C. J. That way he was carried out?

Nicholas Wright. There was no Sedan came out in my Time.

Trollop. There was one came in, in my Time, while I ſtood there.

L. C. J. Was it an empty Sedan?

Trollop. I ſuppoſe it was, but we had no Order to keep any out.

Mr. Juſt. Wild. But you might know whether it was an empty Sedan or no, by the going of it through the Wicket.

Collet. There is an empty Sedan that ſtands there every Night.

Trollop. It was ſet down within the Gate.

Mr. Juſt. Jones. If any Sedan had gone out, you would not have ſtaid them, would you?

Collet. No, my Lord, we had no Order to ſtop any.

Mr. Juſt. Dolben. How can you then be poſitive that no one did go out?

Trollop. None did go out again in my Time.

Mr. Juſt. Dolben. Could not the Porter open the Gate, as well as you?

Collet. Yes, my Lord, he could, but I ſhould have ſeen him then: He did not open it in my Time.

Mr. Juſt. Wild. Let me aſk you but one Queſtion; Did not you go to drink nor tipple all that time?

Trollop. No, nor walk a Pike's Length off the Place of Centry.

Mr. Juſt. Wild. Has not *Berry* an Houſe there hard by?

Trollop. Yes, but I did not drink one Drop.

Mr. Juſt. Dolben. How can you remember ſo particularly, ſo long ago?

Trollop. Why, I was twice before the Committee.

Mr. Juſt. Dolben. But how long was it ago that you were queſtioned about this thing, after this Night?

Trollop. A matter of a Month or ſix Weeks.

Collet. For we were examined before *Praunce* was taken up.

L. C. J. You, *Trollop*, can you ſay whether it was the Sedan that uſed to be within?

Trollop. No, I cannot, but it was brought in in my Time, and did not go out again.

Then Gabriel Haſket *was examined.*

Berry. You ſtood there, Sir, from One to Four.

Haſket. Yes, after the Clock ſtruck One, I was put Centinel, and ſtood till Four.

L. C. J. What Night?

Haſket. That Night the King came from *New-Market*, and the Queen went from *Somerſet-Houſe.*

L. C. J. What Day of the Month was that?

Haſket. The Sixteenth.

L. C. J. What Day of the Week?

Haſket. *Wedneſday.*

L. C. J. Did you not drink at *Berry*'s then?

Haſket. No, I did not.

L. C. J. Did you ſee *Berry* then?

Haſket. No, I did not.

L. C. J. He was gone before you came?

Berry. I was faſt enough a-bed at that Time.

L. C. J. Well, what ſay you more?

Berry. Here is my Maid, *Elizabeth Minſhaw*, to give her Evidence where I was that Night the Queen went from *Somerſet-Houſe.*

Mr. Juſt. Jones. What can you ſay?

Minſhaw. May it pleaſe you, my Lord, my Maſter was within Doors and about the Gate, when the Queen went away.

L. C. J. Who is your Maſter?

Minſhaw. Mr. *Berry.* He was about the Gates all the Forenoon.

L. C. J. When was that?

Minſhaw. The 16th of *October*, *Wedneſday.* And as ſoon as the Queen was gone, my Maſter went out to Bowls; and when he came home again, he ſaid he had been at Bowls.

L. C. J. What time did he come home?

Minſhaw. It was duſky, and he was not abſent all Night an Hour, till he went to Bed.

Mr. Juſt. Wild. When did he go to Bed?

Minſhaw. My Lord, I ſuppoſe he went to Bed about Twelve o'clock.

Mr. Juſt. Wild. They do not charge him with any thing, but what was done about the Gate.

Mr. Juſt. Dolben. What time did you go to Bed that Night?

Minſhaw. Why, I went to Bed about Twelve o'clock.

Mr. Juſt. Dolben. And you ſaw him no more that Night?

Minſhaw. No, my Lord, but he muſt go thro' my Room to go to Bed at Night, and therefore I ſuppoſe he was a-bed.

Mrs. Hill. I deſire Mr. *Praunce* may ſwear why he did deny all this?

L. C. J. Stand up, Mr. *Praunce*; that Gentlewoman does deſire to know, what induced you to deny what you had ſaid.

Praunce. It was becauſe of my Trade, my Lord; and for fear of loſing my Employment from the Queen, and the Catholicks, which was the moſt of my Buſineſs, and becauſe I had not my Pardon.

Mrs. Hill. I deſire he may ſwear whether he were not tortured?

Mr. Juſt. Dolben. Anſwer her; were you tortured to make this Confeſſion?

Praunce. No, my Lord, Captain *Richardſon* hath uſed me as civilly as any Man in *England*; all that Time that I have been there, I have wanted for nothing.

L. C. J. See what he ſays; that he did not make this Confeſſion by any Fortune; but he made his Recantation thro' Fear, and the Thoughts of Death, becauſe he had no Pardon; and Fear that he might live in Want, by the Loſs of the Trade, prevailed with him to deny what he had confeſſed.

Mrs. Hill. It was reported about Town, that he was tortured.

Mr. Juſt. Jones. No, it was no ſuch Thing; it was only the Tortures of his Conſcience, for being an Actor in ſo great a Sin.

Mrs. Hill. There are ſeveral about the Court, that heard him cry out: And he knows all theſe Things to be as falſe as God is true; and you will ſee it declared hereafter, when 'tis too late.

L. C. J. Do you think he would ſwear three Men out of their Lives for nothing?

Mrs. Hill. I deſire he may be ſworn to that particular Thing.

Mr. Juſt. Jones. He is upon his Oath already, and ſwears all this upon his Oath.

Mrs. Hill. Well, I am diſſatisfied; my Witneſſes were not rightly examined, they were modeſt, and the Court laugh'd at them.

Berry. The Centinels that were at the Gate all Night, let nothing out.

L. C. J. Why, you could open the Gate your ſelf.

Berry. He ſays, he could have ſeen if the Gate had been open; and that, as he ſaw, the Gates were never open'd.

Mr. Juſt. Dolben. Well, the Jury have heard all, and will conſider of it.

Mrs. Hill. Here is another Witneſs, my Lord, Mr. *Chevins.*

L. C. J. Well, Sir, What ſay you?

Chevins. I have nothing to ſay, but that I heard Mr. *Praunce* deny all.

L. C. J. Why, he does not deny that now. Well, have you any more?

Chevins. We have no more.

Mr. Att. Gen. My Lord, I muſt crave leave to ſpeak a Word or two; and the Evidence having been ſo very long, I ſhall be exceeding ſhort. I intended (when I began to open the Evidence) to have made ſome Obſervations after the Evidence ended; to ſhew how each part of it did agree, and how the main was ſtrengthened by concurrent Circumſtances. But, in truth, the King's Evidence did fall out much better than I could expect, and the Defence of the Priſoners much weaker than I could foreſee. So that, I think, the Proof againſt the Priſoners is ſo ſtrong, and ſo little hath been alledged by them in their Defence, that it would be but loſs of Time to do what I at firſt intended. Only I will obſerve, That Mr. *Bedlow* doth agree with Mr. *Praunce* as far forth as is poſſible; that is, in thoſe parts of the Fact, of which he pretends to have any Knowledge. Yet had they never any Communication one with another, as both have ſworn. And your Lordſhip will obſerve in how many Particulars they do agree; namely, as to the Dark-Lanthorn, as to the covering of the Body in the Room; how they intended to carry the Body out in a Sedan, and the reſt. So that if they had laid their Heads together to contrive a Story, they could hardly have agreed in ſo many Circumſtances; and yet this they do, without diſcourſing with each other before-hand.

My Lord, I muſt likewiſe obſerve to you, that the Servants of the *Plow*-Alehouſe concur as to Meetings there: The Maid agrees as to the Priſoners coming to Sir *Edmundbury Godfrey*'s Houſe, and to the Time, *viz.* that *Saturday* Morning; nay, to the very Hours of Nine or Ten o'clock; That the Conſtable's Relation of the Poſture in which the Body was found in the Field, doth perfectly agree with the Account that the Murderers gave thereof to Mr. *Praunce* the next Morning. The Chirurgeons do agree with Mr. *Praunce*, as to the manner of Sir *Edmundbury Godfrey*'s being killed, the Strangling, the bruiſing of his Stomach, the twiſting of his Neck. And the Witneſſes from *Bow* make it out, that *Dethick* was ſent for; that they had a Dinner

Dinner there. The Boy proves that he overheard them reading ſomething about Sir *Edmundbury Godfrey*, and that they were very merry; and that for his liſtening he was threatned to be kick'd down Stairs.

So that, I think, there never was an Evidence that was better fortified with Circumſtances than this: My Lord, I ſhall be bold to ſay, here is certainly as much Evidence as the Matter is capable of. It is not to be expected, that they ſhould call Witneſſes to be by, when they do ſuch foul Facts; ſo that none can ſwear directly the very Fact, but ſuch a one as was an Actor in it. All Circumſtances relating to the Fact, both before and after, are made out by concurrent Teſtimony. And, my Lord, I muſt obſerve, that this was a Murder committed thro' Zeal to a falſe Religion, and that Religion was a Bond of Secrecy. We all know, his Majeſty hath been graciouſly pleaſed, by his Proclamation, to propoſe a Pardon, and a Reward to the Diſcoverers. And yet almoſt without Effect: Their Zeal to their falſe Religion was a greater Obſtacle, than the Proclamation was an Incitement to the Diſcovery. And I do believe, if Mr. *Praunce* had not had ſome inclination to change his Religion, you had ſtill been without ſo clear a Diſcovery of this Work of Darkneſs, as now you have. I ſhall ſay no more, but conclude to the Jury with that Saying, that I remember in the Book of *Judges* (in the Caſe of a Murder too, tho' of another Nature), *Judges* xix. 30. *The People ſaid there was no ſuch Deed done, nor ſeen, from the Day that the Children of Iſrael came out of Egypt:* And I may ſay there was never ſuch a barbarous Murder committed in *England*, ſince the People of *England* were free from the Yoke of the Pope's Tyranny; and, as 'tis ſaid there, ſo ſay I now, *Conſider of it, take Advice, and ſpeak your Minds.*

Mr. Sol. Gen. My Lord, I would only make one Obſervation to your Lordſhip, which is this: I do not find they do in the leaſt pretend to tax Mr. *Praunce*, that any Perſon hath bribed him to give this Evidence; nor that there was the leaſt Reward ever propoſed to him to bear Witneſs againſt them, not ſo much as the Hopes of that Reward contained in the King's Proclamation; yet Mr *Praunce*, if he had had a mind to bear falſe Witneſs, might have laid hold of that Opportunity; but ſo far was he from pretending to diſcover any thing, that he denied all when he was firſt apprehended. But after he was in Hold, and likely to be brought to Juſtice, and lying under the Conviction of a guilty Conſcience, then, and not till then, does he diſcover it.

There is no Objection in the World to be made, but that ſince this Diſcovery, Mr. *Praunce* hath retracted what he ſaid before, but he gives you a very good Account of it; the Terrors of Conſcience he then lay under, the Fears that he ſhould not be pardoned, and the Apprehenſions he had from the Threats on their Side, and the Danger of his utter Ruin, put him upon that Denial.

But, my Lord, he tells you likewiſe, That as ſoon as ever he was brought back to the Priſon, he owned all he had ſaid at firſt, and deſired he might be carried back again to teſtify the Truth of what he had firſt ſworn to. This, my Lord, he gives you an Account of, and the ſame Account does the Keeper of the Priſon give too. I have nothing to ſay more, but only juſt to obſerve the many Circumſtances whereby Mr. *Praunce*'s Teſtimony is fortified. Mr. *Bedlow* does agree with him in every Circumſtance, as far as his Knowledge went: The Maid of the Houſe agrees with his Teſtimony; that ſays, ſhe ſaw *Green* at Sir *Edmundbury Godfrey*'s ſeveral Times, though here he denies he knew him. That ſhe ſaw *Hill* there that very Morning her Maſter was miſſed; That he talked with her Maſter a Quarter of an Hour; That ſhe knew him by a very good Token; not only by his Face, but alſo that he had the ſame Clothes on then he hath now.

Mr. *Praunce* hath likewiſe told you of another Circumſtance, the meeting at the *Plow*-Alehouſe, where they laid the whole Deſign of Intrapping Sir *Edmundbury Godfrey*; and herein he is Fortified by the concurrent Teſtimony of the Maſter of the Houſe, and the Servant too, tho' they now deny that ever they had been in his Company there; or that they ſo much as knew *Girald*; tho' when they were examined at the Council-Board, they ſaid they knew *Girald*, but not *Kelly*; and now they are preſt with it here, *Hill* retreats to this, that he knows one *Girald*, but not *Girald* the Prieſt.

My Lord, I think the Matter is ſo fully and ſo plainly proved beyond Exception, that there needs no Repetition in the Caſe: It is impoſſible that Mr. *Praunce*, a Man of that mean Capacity, ſhould invent a Story with ſo many Circumſtances, all ſo conſiſtent, if there were not Truth at the Bottom of it. He ſhews you the particular Places, from Place to Place, where they decoy'd him in, and how they diſpoſed of him, to the Time they carried him out. And in each of theſe Circumſtances there is not the leaſt Improbability or Cauſe to diſbelieve him. It hath been already ſo fully repeated, and the Plainneſs of the Evidence is ſo convincing, that I need not make more Obſervations upon it; but ſubmit it to your Lordſhip and the Jury.

Then the Lord Chief Juſtice directed the Jury in this manner:

Look you, Gentlemen of the Jury, this is an Inquiſition for Innocent Blood that hath been ſhed, and your Buſineſs is to ſee if you can find out the Murderers.

We would not add Innocent Blood to Innocent Blood: But on the other Side, if you have received Satisfaction ſo much as the Nature of the Thing can bear, then the Land is defiled, unleſs this be ſatisfied.

Now for that I will urge the Witneſs and Teſtimony no further than it does appear; for you and we are all upon our Oaths to do uprightly, neither to ſpare Murderers, nor condemn the Innocent.

In the firſt Place, We began with Mr. *Oates*, and he told you, that he had ſome Converſe with Sir *Edmundbury Godfrey*, and that he was threaten'd by ſome, and had no good Will for his Pains, in taking thoſe Examinations he had taken, and he was afraid his Life was in Danger. This he tells you was the Diſcourſe before-hand, and this is produced to lead you to conſider what ſort of Perſons they were, of whom he was likely to have theſe Fears; for his Fears did ariſe from his having done his Part as a Juſtice of Peace, in taking the Examinations upon Oath.

For the Teſtimony of the Fact, they produce firſt Mr. *Praunce*, wherein you will do well to obſerve all the Degrees that he goes by before the Fact; and all the Circumſtances in the Tranſaction of that Affair, and the Parties by whom it was to be acted: Firſt he tells you, how long it was before they could entice him to conſent to ſuch a Villany as this was, to murder a Man; he tells you by whom he was thus enticed, which makes the Story more probable; that is, by *Girald* and *Kelly* (two Prieſts); and he tells it you ſtill more probably by their Doctrine, that it was no Sin; but it was rather an Act of Charity to kill a Man that had done, and was like to do them Miſchief: So that if you conſider the Perſons that preached to him, and the Doctrine they taught, it carries a great Shew and Preſumption of Truth in itſelf. When they had met together at the *Plow* ſeveral times (which was denied by ſome of them, but is moſt manifeſtly proved by the Maſter of the Houſe and the Boy), and the wiſhed-for Time was come; for they were to watch the Opportunity, and Mr. *Praunce* was to be at home, and they would call him to give his helping Hand; he tells you, That Mr. *Hill* did go that Morning; for though he talks of an Errand before, yet to keep to that which was moſt preſſing in the Evidence, he went to Sir *Edmundbury*'s Houſe. This he ſeems to deny; but the Maid does ſwear it expreſly upon him; and ſays, She came firſt to him, and went up Stairs, and then came back again, and ſtill he was there. And ſhe ſwears poſitively ſhe knows him by his Face, and by the Clothes he then had on, which are the ſame Clothes he hath on now, and that is the Man that was with her Maſter; and this, which they cannot diſprove, half proves the Matter.

What had he to do at Sir *Edmundbury Godfrey*'s Houſe? But that would be an hard puzzling Queſtion to be put to him: What did you there? And therefore he is to deny it; but the Maid proves it upon him, as well as *Praunce*. So that I would have you conſider how many Witneſſes you have to one thing or another, all conducing to this Point.

You have firſt Mr. *Oates*, that tells you the Diſcourſe that paſſed between Sir *Edmundbury Godfrey* and him; the Maid tells you, that both theſe Men were there, one at one time, and the other at another; and you have Mr. *Praunce*, that knew the whole Affair, who tells you ſo likewiſe, and that they were reſolved to do the Work that Day, in ſo much, that if they could not do it, as they had before contrived it (and Sir *Edmundbury Godfrey* was ſenſible that he was dogged up and down), *Girald* did reſolve to dogg him to his own Door, and kill him in the Lane that leads to his Houſe; he would have run him through himſelf; and this *Girald* is one of thoſe Prieſts, whoſe Church counts it no Sin, but an Act of Charity to murder a Chriſtian, to propagate Chriſtianity.

When they had way-laid him, and watched his coming, from what Place Mr. *Praunce* cannot tell; for he knows nothing but what they told him, and they only named in general, that he was lodged in St. *Clement*'s; and thereupon one comes to acquaint him, that they would entice him in at the Water-gate by *Somerſet*-Houſe, and they would do it with Art enough, for they never want a Contrivance for ſo charitable an Act; and it was upon this Pretence that there were two Men a-wrangling and fighting, and then he being a Juſtice of the Peace, was a Perſon that would part the Fray eaſily.

And it was a probable Invention: For Sir *Edmundbury Godfrey* was a Man that was as willing to do all Acts of Juſtice as any one, and as little afraid to do it; for the Witneſs tells you before, that he ſaid, if they did do him a Miſchief, they muſt do it baſely, for he did not fear the beſt of them upon fair Play. Then when he was deſired to get himſelf a Man to follow him, he ſlighted the Advice: And we all know, that he was a Man of ſingular Courage, and therefore it was the eaſier to lay a Trap for him. Then, ſaith *Praunce*, when he was got in, *Berry* and I were to have ſeveral Poſts, which we were to go to, I to one Place, and *Berry* to another; and I ſtaid, ſaith he, till *Green* threw the Cravat about his Neck, and was aſſiſted by *Girald* and the reſt that were there. And then, as ſoon as we could imagine the Thing to be done, *Berry* comes in, and *Praunce* comes back from his ſtanding, and by ſome Motions finds that he was alive, and that till *Green* twiſted his Neck round; which the Chirurgeons ſay was plainly a broken Neck, and nothing of the Wounds which were in his Body were given him while he was alive.

When they had done this, he tells you, they carried him to Mr. *Hill*'s Chamber: *Berry*, *Girald*, *Kelly* and the reſt, all help'd him in, and there they leave him. Then *Praunce* goes away. This was on *Saturday* Night. Then *Praunce* comes again on *Monday* Night, and finds him removed to another Chamber hard by, where he ſaw him by the Light of a Dark-Lanthorn, with ſomething thrown over his Face; and afterwards on *Tueſday* Night following they did remove him back to *Hill*'s Lodgings, and there he lay till *Wedneſday* Night, when they carried him out.

Saith *Praunce*, I ſaw him that Night: I was the Man that help'd to carry him out, for it was *Praunce* and *Girald* that carried him firſt, and it was *Green* and *Kelly* who went before, and took him up afterward. He tells you, they ſet him upon an Horſeback, and *Hill* behind him. They carried him out in a Chair, which was a thing that uſed to come in and go out there, and ſo the leſs Notice would be taken of it. I will obſerve to you afterwards, on the Priſoners behalf, what is ſaid for them to all this.

But as to *Praunce*, you ſee he hath given you an Account from the top to the bottom, from the firſt Tranſaction between them, from the Time of his being called by them to help in the Murder, and from his ſeeing the Handkerchief twiſted about his Neck, his Neck twiſted round; how they diſpoſed of his Body at firſt, what removes they made, and when they carried him out, who were in Company, who relieved them, and what became of him at laſt.

He ſays, he ſaw him ſet up before *Hill* on Horſeback, and they told him, they had thrown him in a Ditch, and *Girald* had run him through with his own Sword; and in that Poſture, and in that Place the Conſtable found him: The Chirurgeons tell you that it was by the twiſting of his Neck, and the Strangling, that he was kill'd, and not by the Wounds; and the very Bruiſings which *Praunce* ſpeaks of, were found

upon the view of the Body. So that here is not any one Thing that is not back'd either in some particular Circumstance or other; besides Mr. *Praunce*'s Testimony, who (alone) could give the Narrative of the Fact.

And it is no Argument against Mr. *Praunce* in the World, that he should not be believed, because he was a Party, or because he after denied what he first said: First, Because you can have no Body to discover such a Fact, but only one that was privy to it: So that we can have no Evidence, but what arises from a Party to the Crime. And, in the next place, his Denial after he had confessed it, to me, does not at all sound as an Act of Falshood, but Fear. It is not a good Argument to say, that he is not to be believed, because he denied what he once said; for he tells you he had not his Pardon, he was in great Consternation; the Horror of the Fact itself, and the Loss of his Trade and Livelihood was enough to do it. But how short was his Denial, and how quick was his Recantation! For he denied it before the King, not upon Oath: He swore it upon Oath, but he denies it upon his Word only; but by that time he got home to *Newgate*, with Captain *Richardson*, he fell down on his Knees, and begg'd him for God's sake to carry him back to the King, for what I did say at first, said he, is true, and this Denial is false. And here could be no Tampering, no Contrivance made use of; no, 'tis plain there could be no Art used to make him retract from his first Testimony. And these are the Particulars, as to *Praunce*'s Evidence.

Then comes Mr. *Bedlow*, and tells you, that he was commanded by *Le Faire*, and the Priests he was acquainted with, to insinuate himself into the Acquaintance of Sir *Edmundbury Godfrey*; they did not tell him why; they themselves knew privately wherefore, and they did intend him as an Instrument to do it, as appears afterward. He tells you, he got into his Acquaintance, by pretending to go for Warrants for the good Behaviour and the Peace, as he knew Sir *Edmundbury Godfrey* was willing to have the Peace kept; and he was with him every Day almost, for a Week or more.

Then the Priests come a little nearer, and tamper'd with him to kill a Man, an ill Man for their turn, and that Mr. *Bedlow* should be very well rewarded, he should have Four Thousand Pounds to kill that Gentleman; but still they kept the Name secret. He promised them fair, but broke his Word. Afterwards he meets this Companion that he had most Confidence in, and being tax'd with his Breach of Promise, said he, I had Business, I could not come. Well, said his Companion, you should have been as good as your Word; but the Thing is done, the Person is killed, and I would have you help to carry him away. He promises to do it, and to meet him at *Somerset-House*; accordingly he comes up on *Monday* in the Evening, and about Nine or Ten of the Clock at Night Mr. *Bedlow* swears, that in this Chamber that *Praunce* says he was laid in, he did see the Body by the Help of a Dark-Lanthorn; and his Face was covered with a Cloke or Mantle, or some such thing thrown over him.

And these two Men, *viz.* Mr. *Praunce* and Mr. *Bedlow*, as the Council have observed, had not any Confederacy together, for they both swear, that they never had any Converse at all; and if it be so, then it is impossible for two Men so to agree in a Tale, with all Circumstances, if they never conversed together, but it must be true.

It is hardly possible for any Man to invent such a Story; for *Praunce* it is, I believe. I find it is no hard thing for the Priests to contrive such an Action; but for two Witnesses to agree in so many material Circumstances with one another, that had never conversed together, is impossible.

If all this had been a Chimera, and not really so, then *Praunce* must be one of the notablest Inventors in the World: And there must have been the mightiest Chance in the World, that Mr. *Bedlow* and he should agree so in all Things; and that the Maid should swear, that *Hill* was there that Morning; and that the Constable should find the Body, just as they told *Praunce* they had left him.

So that upon the Matter, you have two Witnesses almost in every Thing: for Mr. *Bedlow*, seeing him in the Place murdered, is a plain Evidence that the Thing was done; and all the other Witnesses, speaking to Circumstances both before and after, make the Evidence plain, that these were the Persons who did it. And I see nothing incoherent in all Mr. *Praunce*'s Testimony.

I would not urge this so, if I was not satisfied in my own Conscience that the Relation is true. In the Prisoners Defence, there is but one Thing that hath any sort of Weight; for the young Gentlewoman talking of his being constantly at home at Eight of the Clock, is nothing; for she says they always go to Bed about Nine o'Clock; and they give no Answer to this, but that it could not be done in their House but they must know of it; but do not shew how that must needs be; so that all their Evidence is slight, and answers itself, or else not possible to be true. All the Testimony that is considerable in this Matter, is that which *Berry* produces; and that is concerning the Centinels who kept the Guard that *Wednesday* Night the Body was carried out; and he says, there was no Sedan carried out. And altho' this Evidence be produced but by one of them, yet 'tis to the Benefit of them all three; for if it were certain and infallibly true, that the Centinels did so watch at the Gate, that no Mortal could go out of the Place, and if the Darkness of the Night might not hinder him from seeing what might go out, or that Mr. *Berry*'s Voice being known to him, he might not call to him, and so Mr. *Berry* might open the Gate without any great Caution, or more particular Observation by the Centinel, so that this might escape his Observation or Remembrance, and yet that the Centinel be an honest Man, and speak true, as he thinks, to his best Remembrance, which I leave to your Consideration. But there is one Thing the other Centinel tells you, that about Eight or Nine o'Clock (for he went off at Ten) there was a Sedan brought in, and he did not see it go out; and so says he that watched from Ten to One; and this is the only thing which hath any Colour in it, in Behalf of the Prisoners. But he that says there was no Body went out, says also, that he never saw the Sedan; but the Centinel that was relieved, says, that he saw it go in. Now how far that single Testimony of *Nicholas Wright* the Centinel will weigh, who says that none went out, I leave with you, which may be mistaken, either by reason of the Darkness of the Night, or those other Particulars I have observed to you.

But this is all that can overthrow the whole Series of the Evidence that hath been given by Mr. *Praunce*, upon whom I find not the least Reflection, except you will call that one, which to me, as it is circumstanced, is rather an Argument for him, than against him, *viz.* his going off from what he said. And what Sir *Robert Southwell* says is regardable, that when he shewed them the Place where he was strangled, the House to which he was first carried, he did it very readily and confidently, but was puzzled to find out the Room where he was removed, when he saw him by the Dark-Lanthorn, and would not positively assert where it was; which shews the Integrity of the Man, who would else have gone thro' without boggling; for if all were a Lye, why should he stick at one Thing more than another, but have shewen some Room or other? But when he was confident he appeared so, and when he was doubtful he appeared so, and so shewed himself an honest Man.

These are the particular Matters, and, as near as I can remember, all that hath been materially offered for the Prisoners, against the King's Evidence. For the Testimony of the Landlord, *Warrier*, and his Wife, it is plainly spoken of another Time, for it was the *Saturday* after the *Thursday* he was found, the 19th of *October*. So that they speak nothing but what is true, and yet nothing to the Purpose; for the Question is, of that which was done the 12th; but they speak of a Time when the Tragedy was passed, so that there is only the single Evidence of one Witness, the Centinel, which must be opposed to all the concurring Evidence given against them.

Berry. There was Centinels placed at every one of the Gates.

L. C. J. That is nothing, for we speak only of this Gate, the great Gate; but I will tell you what there is that does not arise from these Witnesses, but from the Nature of the Thing they were about, and the Persons that transacted it, that gives Credit to the Testimonies of the Witnesses, so as to incline any one to believe them, as Things stand at this Day, in reference to the known Design of the Priests to subvert our Religion, for they must justify one Ill by another, and the Mischiefs they have done will not be safe, unless they do more.

And for the Priests being the Preachers of Murder, and your Sin, that 'tis Charity to kill any Man that stands in their Way; their Doctrine will make you easily believe their Practice, and their Practice proves their Doctrine. Such Courses as these we have not known in *England*, till it was brought out of their Catholick Countries; what belongs to secret Stranglings and Poisonings, are strange to us, tho' common in *Italy*. But now your Priests are come hither to be the Pope's Bravo's, and to murder Men for the Honour of his Holiness: and as they are Inhumane, so they are Unmanly too; for Sir *Edmundbury Godfrey* had not been afraid of two or three of your Priests, if they would have dealt fairly with him.

Berry. He was a Gentleman that I never spoke with in all my Life.

L. C. J. You must say and believe, as your Priest will have you, and in such Actions as these, as your Priests suggest to you, so does the Devil to your Priests; if you are upon the Matter necessitated to what they will have you think; for tho' your Priests preach up Freedom of Will, yet they allow none to the Understanding. They hold you may do Good or Evil, but will not suffer you to understand Right and Wrong, for you cannot be perfectly theirs, if you have any thing of your own to guide yourselves by.

I know that every Body of that Party is apt to say their Priests own no such thing, but it is notoriously known to all the World, that they both Print it, and practise it. *What, shall any of you dispute the Power of a Pope?* saith a Jesuit: Or, *of a Pope and Council?* say the most moderate Priests. Have you Power to say how far you will be a Papist, and how far not? You may as well bound the Sea, and bid it go thus far, and no farther, as limit the Pope's Authority. I wonder any Man should be of that Persuasion, and yet keep his Reason; much less turn from our Religion to theirs, if he considers how they impose, and what Mischiefs and Blood you are involved in by your Priests, that have alarmed the Nation. For I will affirm, the greatest Mischief the Papists have received, come from their Priests, who have such unworthy and unmanly Ways of setting up their Religion: What! do they think it an Act of Charity to kill Men; or is the Christian Religion, or yours, to be promoted by such Means as these? No, Gentlemen, 'tis the Fault of your Doctrine, and 'tis a monstrous Mistake in you, if you think that you have any Power of your own whilst you continue in their Persuasion.

I know some will ascribe all to Conscience that guides them, and that even these Mischiefs are but the Effects of their Religious Obedience; but they are indeed the Consequences of the Blindness of their Obedience. I wonder how any Man can have the Face, thus to disorder a whole Nation, and yet pretend Conscience for it. Let no Man tell me, O, Sir, we desire none of these Mischiefs you talk of: What, not if Religion requires it, or if the Pope says it does? Hath not the Council of *Lateran* decreed, That every Popish Prince ought to root out Heresy upon Pain of Damnation? You must: Can you go and tell the Pope how far you will believe, or what you ought to do? You may as well tell me, that if he were once with us, and had the Power he once had, he would leave us to ourselves, and that if he had the same Ability, he would not have the same Tyranny.

And therefore all the *Roman* Catholick Gentlemen in *England* would do very well to consider, how much it concerns Christianity not to give Offence; and if they cannot at this Time live in a Protestant Kingdom with Security to their Neighbours, but cause such Fears and Dangers, and that for Conscience sake, let them keep their Consciences, but leave the Kingdom. If they say, Why should not we stay here, while we do no Mischief? Alas, that's not in your Power. You cannot be quiet in your own Religion, unless you disturb ours; and therefore, if to shew your Consciences you acquit the Country, and let the Inconveniencies light on yourselves only, I should then think you had Zeal, though not according to Knowledge; and not ascribe it to any Plot, but to the Simplicities of Understanding.

But,

But, in ſhort, there is a monſtrous Evidence of the whole Plot itſelf by this Fact; for we can aſcribe it to none, but ſuch Ends as theſe, that ſuch a Man muſt be killed; for it muſt be either becauſe he knew ſomething the Prieſts would not have him to tell, or they muſt do it in Defiance of Juſtice, and in Terror to all them that dare execute it upon them; which carries a great Evidence in itſelf, and which I leave to your Conſideration; having remembred, as well as I could, the Proofs againſt them, and all that is conſiderable for them. Add to this the Condition that we are in at this Time, and the Eagerneſs of the Purſuit that theſe Prieſts make to gain the Kingdom, that, for my own Part, I muſt put it into my *Litany, That God would deliver me from the Deluſion of Popery, and the Tyranny of the Pope:* For it is a Yoke which we, who have known Freedom, cannot endure, and a Burden which none but that Beaſt who was made for Burden, will bear. So I leave it to your Conſideration upon the whole Matter, whether the Evidence of the Fact does not ſatisfy your Conſciences, that theſe Men are guilty. And I know you will do like honeſt Men on both Sides.

Then the Jury withdrew, to conſider of their Verdict, and after a ſhort Space returned again.

Cl. of the Cr. Gentlemen, anſwer to your Names. Sir *William Roberts.*

Sir William Roberts. Here. *And ſo the reſt.*

Cl. of the Cr. Gentlemen, are you all agreed of your Verdict?

Omnes. Yes.

Cl. of the Cr. Who ſhall ſay for you?

Omnes. Our Foreman.

Cl. of the Cr. Robert Green, hold up thy Hand (which he did). Look upon the Priſoner; how ſay you, is *Robert Green* guilty of the Felony and Murder whereof he ſtands indicted, or Not Guilty?

Foreman. Guilty.

Cl. of the Cr. What Goods or Chattels, Lands or Tenements?

Foreman. None, to our Knowledge.

Cl. of the Cr. Henry Berry, hold up thy Hand (which he did). Look upon the Priſoner. How ſay you, is *Henry Berry* guilty of the Felony and Murder whereof he ſtands indicted, or Not Guilty?

Foreman. Guilty.

Cl. of the Cr. What Goods or Chattels, Lands or Tenements?

Foreman. None, to our Knowledge.

Cl. of the Cr. Lawrence Hill, hold up thy Hand (*which he did*). How ſay you, is *Lawrence Hill* guilty of the Felony and Murder whereof he he ſtands indicted, or Not Guilty?

Foreman. Guilty.

Cl. of the Cr. What Goods or Chattels, Lands or Tenements?

Foreman. None, to our Knowledge.

Cl. of the Cr. Hearken to your Verdict, as the Court hath recorded it. You ſay that *Robert Green* is guilty of the Felony and Murder whereof he ſtands indicted. You ſay that *Henry Berry* is guilty of the Felony and Murder whereof he ſtands indicted. You ſay that *Lawrence Hill* is guilty of the Felony and Murder whereof he ſtands indicted; and that neither they, nor any of them, had any Goods or Chattels, Lands or Tenements, at the Time of the Felony committed, or at any Time ſince, to your Knowledge. And ſo you ſay all.

Omnes. Yes.

L. C. J. Gentlemen, you have found the ſame Verdict that I would have found if I had been one with you; and if it were the laſt Word I were to ſpeak in this World, I ſhould have pronounced them Guilty.

At which Words the whole Aſſembly gave a great Shout of Applauſe.

Mr. Att. Gen. Will your Lordſhips pleaſe to give Judgment this Evening? I know it is not uſual the ſame Day.

Mr. Juſt. Wild. My Lord, I am ready.

L. C. J. No, Brother, I am to ſit at *Niſi Prius* this Afternoon, and 'tis time we broke up the Court.

Cl. of the Cr. Captain *Richardſon*, you ſhall have a Rule to bring them To-morrow. And then the Court broke up.

On Tueſday *the eleventh of* February, *the Priſoners were brought again to the Bar, in order to receive their Sentence; and the Court proceeded thus:*

Mr. Recorder. MY Lord, as I was directed by Mr. Attorney, theſe Priſoners being convicted of Murder, I do, for the King, pray Judgment upon them; but I muſt firſt acquaint your Lordſhip, that immediately after their Conviction, one of the Officers, a Tipſtaff, pretending it was his Fee, took their Clothes off their Backs.

L. C. J. Who is that Officer?

Mr. Recorder. One *Aſhby.*

L. C. J. Call him. Why do you offer to meddle with theſe Men's Clothes?

Aſhby. It hath been an ancient Cuſtom this forty Years, ſome of us have known it, that the Marſhal hath the upper Garment of all Priſoners tried at this Bar.

Speaking to a Clerk of the Crown Office.

L. C. J. Is there any ſuch Cuſtom, Mr. *Waterhouſe?*

Waterhouſe. No, my Lord, not that I know of.

L. C. J. Here is Mr. *Waterhouſe*, that hath known the Practice of the Court this three-ſcore Years, ſays there is no ſuch thing. Either reſtore them their Clothes, or we will take ſome other Courſe with you. Are they in your Cuſtody, pray?

Mr. Juſt. Dolben. I do not know that, my Lord; I think they always plead in Cuſtody of the Marſhal.

Mr. Juſt. Wild. But this ſeems a very barbarous Thing, to take their Clothes off their Backs.

Mr. Juſt. Dolben. It doth ſo, Brother, and they muſt be reſtored.

L. C. J. Yes, yes, you muſt reſtore them.

Aſhby. They ſhall be, my Lord.

Mr. Recorder. I pray your Judgment.

L. C. J. Aſk them what they can ſay to hinder Judgment.

Cl. of the Cr. Robert Green, hold up thy Hand (*which he did*). Thou haſt been indicted of Felony and Murder, thou haſt been thereupon arraigned, thou haſt pleaded thereunto Not Guilty, and for thy Trial thou haſt put thyſelf upon God and thy Country, which Country hath found thee Guilty; what haſt thou to ſay for thyſelf, why the Court ſhould not proceed to give Judgment of Death upon thee, and award Execution according to the Law?

Capt. Richardſon. What have you to ſay for yourſelf?

Green. I declare to all the World, that I am as innocent of the Thing charged upon me, as the Child that is in the Mother's Womb. I die innocent, I do not care for Death. I go to my Saviour, and I deſire all that hear me to pray for me. I never ſaw the Man to my Knowledge, alive or dead.

Cl. of the Cr. Henry Berry, hold up thy Hand (*which he did*). Thou haſt been indicted of Felony and Murder, *&c.* What canſt thou ſay, *&c.*

Berry. I do declare, I am not guilty of any thing in the World of this.

L. C. J. We do not expect much from you, and it is no great Matter; for your Confeſſion will do us little good, but only for yourſelves. We regard it not otherwiſe, becauſe the Evidence was ſo plain, that all Mankind is ſatisfied, there is no Scruple in the Thing; and we know you have either downright Denials, or Evaſions, or equivocating Terms for every thing; yet in Plain-dealing, every one that heard your Trial hath great Satisfaction; and for my own particular, I have great Satisfaction that you are every one of you guilty.

Cl. of the Cr. Lawrence Hill, hold up thy Hand (*which he did*). Thou haſt been indicted of Felony and Murder, *&c.* What canſt thou ſay, *&c.*

Hill. I have nothing to ſay for myſelf, but that God Almighty knows my Innocence.

Cl. of the Cr. Crier, make an O Yes.

Crier. O Yes! Our Sovereign Lord the King doth ſtrictly charge and command all Manner of Perſons to keep ſilence, whilſt Judgment is giving upon the Priſoners convicted, upon pain of Impriſonment; Peace about the Court.

Then Mr. Juſtice Wild, *who, as ſecond Judge in that Court, pronounced the Sentence in all criminal Matters (except High-Treaſon) ſpoke to the Priſoners thus:*

Mr. Juſt. Wild. You that are the Priſoners at the Bar, you have all three been indicted for a deteſtable Murder, and thereunto have pleaded Not Guilty, and put yourſelves for your Trial upon your Country; and your Country, upon a clear and pregnant Evidence, I believe to the Satisfaction of all good Men, that were indifferent, have found you Guilty. I have little Comfort to ſay any thing to you, becauſe I obſerve your Obſtinacy at the Bar; but it is ſo generally among you all, you will confeſs nothing to the Death.

Green. God forbid, Sir.

Mr. Juſt. Wild. But though I am of another Perſuaſion than you, and know you have no Charity for me, yet I have Charity for you. And if I ſhall ſay any thing, it is out of a zealous Affection I have for your Souls; God knows I ſpeak it upon no other Grounds; though the Offence be horrid, yet I commiſerate your Perſons.

For the Nature of your Offence, it is Murder: *He that ſheds Man's Blood, by Man ſhall his Blood be ſhed*; for *in the Image of God created he him.* So ſaith God to *Noah*, intimating and declaring thereby, That the Intention of God Almighty, in the making of that Law, was the Preſervation of Mankind; and that he will not admit or ſuffer his Image to be defaced or deſtroyed. If it ſhall be accounted Treaſon againſt earthly Princes to deface their Images, is it not much more Treaſon againſt the great God of Heaven and Earth, to deface his Image, who is the *King of Kings, and Lord of Lords?* The greatneſs of this Sin ſtruck ſuch a Damp and Horror upon the Soul of *Cain*, that it made him cry out, *His Puniſhment was greater than he could bear*; or, as our Bibles have it in the Margin, *His Iniquity was greater than could be forgiven*; *and it ſhall come to paſs, that whoſoever meeteth me, ſhall ſlay me:* Being conſcious to himſelf, that it was juſt and lawful, that whoſoever did meet with him ſhould ſlay him. And God himſelf doth ſet forth the Heinouſneſs of this Offence, when he tells him, *His Brother's Blood cried to him*; that is, cried unto God from the Earth for Vengeance. Blood, it is of a crying Nature, and will never ceaſe crying, till it find out the Manſlayer.

It is an Offence ſo heinous in the Eye of God, that he will not endure it in a Beaſt; God ſaith, he will require it of a Beaſt. And doth God require Blood of a Beaſt, a brutiſh Creature void of all Reaſon, and will he not require it much more of Man, whom he hath endued with thoſe two great Faculties of Reaſon and Underſtanding? And certainly, if Murder in general be enquired after, I may well ſay this of yours, there hath not been committed a more impudent and barbarous Murder in this civilized Nation, by one Subject upon another. And obſerve how you did effect this Murder, with Baſeneſs enough. See the Baſeneſs of it; as the Devil was the Father of Lies, ſo he was a Murderer from the Beginning; and you firſt begun your Murder with an helliſh, ſtudied, and premeditated Lie. Knowing that this Gentleman was a Perſon very vigorous in the Execution of his Place, that would omit no Opportunity of doing his Office; you pretend you have Occaſion for him, and by this Means draw him into your Snare; where what you do, you do cowardly and baſely, firſt diſarm him, then fall upon him, and murder him; as the Prophet *David* ſaith of the ungodly Man, *firſt gets the righteous Man in his Net, and then raviſheth him.*

Had ſuch a Thing as this been acted by us Proteſtants in any Popiſh Country in the World, I doubt there would ſcarce have been one of us left alive. They would not have taken this Courſe that hath been taken with you, to admit us to a fair Trial; no, they would have made their own Hands their Avengers: But, God be praiſed, we are of another Religion, and of another Perſuaſion. We leave Vengeance to God, and, under him, to the Magiſtrate, *who beareth not the Sword in vain*, as you now find.

If I could abſtract Folly from Wickedneſs, certainly it was one of the greateſt Pieces of Folly and Sottiſhneſs in the World: For what could be your End in it? Did you think that all the Magiſtrates in *England* were

were lodged in Sir *Edmundbury Godfrey*? That, if he were taken out of the Way, there were not Men of Spirit and Courage, as faithful and diligent as he was? Trouble not yourſelves, nor let thoſe of your Perſuaſion trouble themſelves, there are a numerous Company of Magiſtrates in this Kingdom, that will do the ſame thing, and act in it, and execute their Offices with the ſame Courage.

And as to the Manner of the Murder: Whom have you deſtroyed? A Magiſtrate. For what? For the Execution of his Office. One that was a Conſervator of the Peace; and whoſe Study it was to preſerve you in Peace, on him you have violated the Peace; and nothing leſs would ſatisfy you than his precious Life: An Affront to the Law, to the Magiſtrate, to the King, to the Nation; yea, to God himſelf; upon whom an higher Affront could hardly have been put. For the Magiſtrate is God's Ordinance; God hath ſet him up to avenge himſelf upon the Wicked, and to reward the Good; *and he doth not bear*, as it is a Sign by you he hath not born, *the Sword in vain.*

I might ſay much more concerning the Heinouſneſs of this Offence; but had I the Tongue of Men and Angels, I could not ſay enough to ſet out the Horror of it. And now let me tell you, I do not ſpeak this to inſult and domineer over you; I praiſe God I am of another Spirit; he knows I have another End in what I ſay, and my End is merely this, to perſuade you from the Foulneſs of your Fact, to make a good Uſe of it; that the Horridneſs of your Sin may make the greater and deeper Impreſſions on your Spirits; and ſo make your Repentance more ſevere and efficacious. Had you as many Years to live as you have Hours, it were little enough to bewail this horrid Offence. But on the other Side, as that will be little enough, yet let me give you this Comfort, you have Time enough, if you make a good Uſe of it, to make your Peace with God.

Pray let me dehort you from one Thing; and that is this, Do not be of the Opinion of thoſe wicked Miſcreants the Jeſuits, that have put you upon this Matter; for I have ſo much Charity for you as to believe they made it a Matter of Religion to you, and juſtifiable upon that Account. Do not think ſo, for the Law of God is indiſpenſible, and no Power under Heaven can licenſe to murder. So that though the Offence in them is abominable, yet in you 'tis an Offence too, and an horrid one. And when you have conſidered it as ſuch, I then deſire you to take a right Courſe to make your Peace with God: For you muſt paſs under another Judgment than that of Man, and that ſhortly; you muſt ſtand before the Judge of Heaven and Earth. And therefore, if by this Means you can prevent that future Judgment, you will have juſt Cauſe to thank God that you had your Puniſhment here on Earth. Therefore let me adviſe you to ſpend every Minute you have left, in a free Acknowledgment of all your Offences: For certainly ſome Sin went before, or this had never come after. One Sin doggs another, and makes Way for the Commiſſion of another.

And what muſt you rely upon? Not upon any Traſh or Trumpery, not upon any Merit of your own; there is but one Saviour and Mediator, the Lord Jeſus Chriſt. And I would adviſe you, in the Words of that great Cardinal, one that was one of the greateſt Men of your Religion, *Bellarmine* I mean, who having made a Scrutiny, which was the ſafeſt Way for ſecuring Heaven, made the Concluſion thus: *To truſt only upon the Lord Jeſus Chriſt for Life and Salvation*; which I adviſe you to do.

I have now done what I intended to ſay to you; and what I have ſaid, I ſpoke to deliver my own Soul, and upon no other Account. I now pronounce the Judgment which the Law hath appointed to paſs upon ſuch Malefactors; and that is this:

That you go from hence to the Place from whence you came, and from thence to the Place of Execution, where you ſhall be ſeverally hanged by the Neck, till you are ſeverally dead; and the Lord have Mercy upon your Souls.

Hill. I humbly beg one Favour, that I may have the Privilege to ſee my Wife and Children, and my Brother, before I die, ſome times.

L. C. J. God forbid elſe.

Hill. Any Day, I hope, my Lord?

L. C. J. Captain *Richardſon*, let them have the Liberty of ſeeing their Friends, but do it with Care and Caution.

Mr. Juſt. Wild. And I will ſay this more to you, if you will have any religious Proteſtant Divines to come to you, they ſhall be ſent you, but none of your Prieſts.

Hill. I deſire only my Relations.

Mr. Juſt. Wild. You ſhall have them, and we offer you the others.

Green. I have no Relations that are Catholicks, but two, and they are not Prieſts. God bleſs the King: And I deſire all good People to pray for us.

L. C. J. Mr. *Aſtry*, let the Rule be entred for their Execution on *Monday* next.

Cl. of the Cr. Captain *Richardſon*, you ſhall have the Rule for their Execution on *Monday* next.

Then the Keeper carried away the Priſoners to the Goal, to be reſerved till their Execution.

On *Friday* the 21ſt of *February*, the Priſoners, *Robert Green*, *Henry Berry*, and *Lawrence Hill*, were executed according to the Sentence pronounced againſt them; they all perſiſted to the laſt in denying the Fact for which they ſuffered. See the Account of *Hill* and *Berry*'s Behaviour, *State Trials*, Vol. 8. p. 435, 436.

LXXX. *The Trial of Mr.* Samuel Atkins, *at the* King's-Bench, *for being acceſſary to the* Murder *of Sir* Edmundbury Godfrey, February 8, 10, *and* 11, 167⅘. 31 Car. II.

ON *Saturday* the eighth of *February*, 1678, Mr. *Samuel Atkins* was brought from *Newgate* to the Bar of the Court of *King's-Bench* at *Weſtminſter*, to be arraigned as acceſſary to the Murder of Sir *Edmundbury Godfrey*, which was done in this Manner:

Cl. of the Cr. Samuel Atkins, hold up thy Hand *(which he did)*. Thou ſtandeſt indicted by the Name of *Samuel Atkins*, late of the Pariſh of *St. Mary le Strand*, in the County of *Middleſex*, Gent. for that whereas on the Morrow of the Purification of the Bleſſed Virgin *Mary*, before our Sovereign Lord the King, at *Weſtminſter*, by the Oath of twelve Jurors, good and lawful Men of the ſaid County, tried, ſworn, and charged to enquire for our Sovereign Lord the King, and the Body of the ſaid County, *Robert Green*, late of the Pariſh aforeſaid, in the County aforeſaid, Labourer; *Henry Berry*, late of the ſame Pariſh and County, Labourer; *Lawrence Hill*, late of the ſame Pariſh and County, Labourer; —— *Girald*, late of the ſame Pariſh and County, Clerk; *Dominick Kelly*, late of the ſame Pariſh and County, Clerk; and *Philibert Vernatt*, late of the ſame Pariſh and County, Labourer; are indicted, for that they not having the Fear of God before their Eyes, but being moved and ſeduced by the Inſtigation of the Devil, the twelfth Day of *October*, in the thirtieth Year of the Reign of our Sovereign Lord *Charles* II. by the Grace of God of *England*, *Scotland*, *France*, and *Ireland*, King, Defender of the Faith, *&c.* at the Pariſh of *St. Mary le Strand* aforeſaid, in the County of *Middleſex* aforeſaid, in and upon Sir *Edmundbury Godfrey*, Knt. in the Peace of God, and of our ſaid Sovereign Lord the King, then and there being, feloniouſly, voluntarily, and of their Malice aforethought, did make an Aſſault; and that he the aforeſaid *Robert Green*, a certain Linen Handkerchief, of the Value of Six-pence, about the Neck of the ſaid Sir *Edmundbury Godfrey*, then and there feloniouſly, voluntarily, and of his Malice aforethought, did fold and faſten; and that he the ſaid *Robert Green*, with the Handkerchief aforeſaid, by him the ſaid *Robert Green* on and about the Neck of the ſaid Sir *Edmundbury Godfrey*, in Manner and Form aforeſaid folded and faſtened, then and there him the ſaid Sir *Edmundbury Godfrey* did choke and ſtrangle; of which ſaid choking and ſtrangling of him, the ſaid Sir *Edmundbury Godfrey*, in Manner and Form aforeſaid, he the ſaid Sir *Edmundbury Godfrey* then and there inſtantly died; and that the ſaid *Henry Berry*, *Lawrence Hill*, —— *Girald*, *Dominick Kelly*, and *Philibert Vernatt*, then and there feloniouſly, voluntarily, and of their Malice aforethought, were preſent, aiding, abetting, comforting, and maintaining the aforeſaid *Robert Green*, the aforeſaid Sir *Edmundbury Godfrey*, in Manner and Form aforeſaid, feloniouſly, voluntarily, and of his Malice aforethought, to kill and murder; and ſo they the ſaid *Robert Green*, *Henry Berry*, *Lawrence Hill*, —— *Girald*, *Dominick Kelly* and *Philibert Vernatt*, in Manner and Form aforeſaid, the aforeſaid Sir *Edmundbury Godfrey*, feloniouſly, wilfully, and of their Malice aforethought, did kill and murder, againſt the Peace of our Sovereign Lord the King, his Crown and Dignity. And that thou the ſaid *Samuel Atkins*, at or upon the ſaid twelfth Day of *October*, and divers Days and Times before, the ſaid *Robert Green*, *Henry Berry*, *Lawrence Hill*, —— *Girald*, *Dominick Kelly*, and *Philibert Vernatt*, the Felony and Murder aforeſaid, at the Pariſh aforeſaid, in the County aforeſaid, to commit feloniouſly, wilfully, and of thy Malice aforethought, didſt command, counſel and abet; and knowing the ſaid *Robert Green*, *Henry Berry*, *Lawrence Hill*, —— *Girald*, *Dominick Kelly*, and *Philibert Vernatt*, the Felony and Murder aforeſaid, in Manner and Form aforeſaid, feloniouſly to have done and committed, at or upon the ſaid twelfth Day of *October*, and divers Days and Times after, at the Pariſh aforeſaid in the County aforeſaid, feloniouſly the ſaid *Robert Green*, *Henry Berry*, *Lawrence Hill*, —— *Girald*, *Dominick Kelly*, and *Philibert Vernatt*, didſt harbour, comfort, and maintain, againſt the Peace of our Sovereign Lord the King, his Crown and Dignity. How ſayeſt thou, *Samuel Atkins*, art thou guilty as acceſſary to the ſaid Felony and Murder whereof thou ſtandeſt indicted, and haſt been now arraigned, or Not Guilty?

Sam. Atkins. Not Guilty.

Cl. of the Cr. Culprit, How wilt thou be tried?

Sam. Atkins. By God and my Country.

Cl. of the Cr. God ſend thee a good Deliverance.

Sam. Atkins. My Lord, I do humbly deſire, that the ſeveral Examinations taken concerning this Buſineſs, may at my Trial be brought into the Court.

L. C. J. This is to be left to Mr. Attorney to do in it as he pleaſeth; for he is to take care of the King's Evidence. *Sir* William Scroggs.

Sam. Atkins. I only deſire, my Lord, that they may be brought in. Mr. Recorder had ſome of them taken before him.

Mr. Recorder. To ſatisfy this Gentleman, my Lord, whatever Examinations were taken before me ſhall be brought. *Sir* George Jefferies.

L. C. J.

L. C. J. Why, Mr. *Atkins*, do you know nothing of this Buſineſs, that you are ſo willing to have all the Evidence brought in againſt you?

Sam. Atkins. My Lord, I know nothing of it at all.

L. C. J. Are you a Papiſt, Mr. *Atkins?*

Sam. Atkins. No, my Lord, I am not.

L. C. J. Were you never one?

Sam. Atkins. No. I never was one, nor I hope never ſhall be. When is it that your Lordſhip pleaſeth to have me tried, for I have lain theſe ſixteen Weeks in Priſon, and do earneſtly deſire my Trial.

L. C. J. You ſhall be tried as ſoon as we can, when Mr. Attorney thinketh fit. We muſt try the others on *Monday*, and if there be Time afterwards, you may be tried then: However, Captain *Richardſon* ſhall have a Rule to bring you up then.

Sam. Atkins. I humbly thank your Lordſhip.

Then he was carried back by the Keeper, and accordingly on Monday *following he was brought up; and after the Trials of* Green, Berry, *and* Hill, *were over, he was ſent for to the Bar.*

Lunæ 10 *Februarii*, 1678-9.

L. C. J. Mr. *Atkins*, have you any Bail ready?

Sam. Atkins. No, my Lord, I am prepared for my Trial, if your Lordſhip pleaſeth, but not with Bail.

L. C. J. Ay, but, Mr. *Atkins*, 'tis the latter End of the Term, and many People's Livelihoods lie at Stake. We can't lay aſide all Buſineſs for yours.

Sam. Atkins. My Lord, my Life lies at Stake, and I have been under ſevere Impriſonment a long Time. I humbly pray I may be tried; beſides, I have many Witneſſes, who have remained in Town on purpoſe to give Evidence for me ever ſince the laſt Term. I hope my Trial will not take up much Time.

Mr. Juſt. Dolben. If you have ſo many Witneſſes, it cannot be ſoon over.

Sam. Atkins. I have many ready, but hope I ſhall have Occaſion to uſe only a few.

L. C. J. Mr. *Atkins*, we cannot do it, you muſt be content; you ſhall be tried at the Seſſions. Pray how long is it to it?

Mr. Recorder. It is about three Weeks, my Lord.

L. C. J. That indeed will be too long, but in the mean time you ſhall be bailed.

Sam. Atkins. I ſubmit, my Lord; I think I have Bail here. [*Mr.* Atkins *was here calling his Bail.*]

L. C. J. Come then, name them.

Capt. Lloyd. My Lord, I am a Witneſs on Behalf of this Gentleman, and cannot poſſibly be in *England* a Fortnight hence.

Sam. Atkins. My Lord, this is a Captain of one of the King's Ships, and his Occaſions will indiſpenſibly call him away, and this is the Caſe of ſeveral others of my Witneſſes.

L. C. J. Well, I don't know; if it be ſo, you ſhall be tried to-morrow; and ſo bring him up very early. [*Speaking to Captain* Richardſon.]

And ſo Mr. Atkins *went from the Bar, and was brought up thither again on the Morrow, being* Tueſday, *when his Trial proceeded thus:*

Martis 11 *Februarii*, 1678.

Cl. of the Cr. Crier, make Proclamation.

Crier. O yes! If any one can inform our Sovereign Lord the King, the King's Serjeant at Law, the King's Attorney General, or this Inqueſt, now to be taken of *Samuel Atkins* the Priſoner at the Bar, his being Acceſſary to the Felony and Murder whereof *Robert Green*, *Henry Berry*, *Lawrence Hill*, and others, ſtand indicted, and as Acceſſary of which ſaid Felony and Murder the ſaid *Samuel Atkins* ſtands indicted, and hath been arraigned, let them come forth, and they ſhall be heard, for now the Priſoner ſtands at the Bar upon his Deliverance.

Sir William Jones. *Mr. Att. Gen.* My Lord, I muſt inform your Lordſhip, that there is another Indictment againſt Mr. *Atkins* as Principal, which was preferred heretofore, but we have ſince thought fit to prefer another as Acceſſary. Now to diſcharge him of the firſt, I deſire he may be arraigned on that before his Trial.

Cl. of the Cr. I did ſo intend to do, Mr. Attorney. *Samuel Atkins*, hold up thy Hand. (*which he did*) Thou ſtandeſt indicted by the Name of *Samuel Atkins*, late of the Pariſh of St. *Clements Danes*, in the County of *Middleſex*, Gentleman, for that thou, together with —— *Welch*, and —— *Le Faire*, of the ſaid Pariſh and County, Gentlemen, not having the Fear of God before your Eyes, but being moved and ſeduced by the Inſtigation of the Devil, the twelfth Day of *October*, in the thirtieth Year of the Reign of our Sovereign Lord *Charles* II. by the Grace of God of *England*, *Scotland*, *France* and *Ireland* King, Defender of the Faith, &c. with Force and Arms at the Pariſh aforeſaid, in the County aforeſaid, in and upon Sir *Edmundbury Godfrey*, Knight, in the Peace of God and of our ſaid Sovereign Lord the King, then and there being, felonioufly, wilfully, and of your Malice aforethought, did make an Aſſault, and that thou the ſaid *Samuel Atkins*, a certain Linen Cravat, of the Value of one Penny, about the Neck of the ſaid Sir *Edmundbury Godfrey* then and there felonioufly, wilfully and of thy Malice aforethought, didſt fold and faſten, and that thou the ſaid *Samuel Atkins*, with the ſaid Cravat, ſo by thee the ſaid *Samuel Atkins*, about the Neck of the ſaid Sir *Edmundbury Godfrey* faſtened and folded as aforeſaid, then and there the ſaid Sir *Edmundbury Godfrey*, felonioufly, wilfully, and of thy Malice aforethought, didſt choke and ſtrangle; of which ſaid choking and ſtrangling of the ſaid Sir *Edmundbury Godfrey* by thee the ſaid *Samuel Atkins*, in Manner and Form aforeſaid done and committed, the ſaid Sir *Edmundbury Godfrey*, in the Pariſh aforeſaid, in the County aforeſaid, inſtantly died, and that the aforeſaid —— *Welch*, —— *Le Faire*, felonioufly, wilfully, of their Malice aforethought, were then and there preſent, aiding, aſſiſting, abetting, comforting and maintaining thee the ſaid *Samuel Atkins*, the Felony and Murder aforeſaid, in Manner and Form aforeſaid, to do and commit. And that ſo thou the ſaid *Samuel Atkins*, with the aforeſaid ----- *Welch* and --- *Le Faire*, the ſaid twelfth Day of *October*, at the Pariſh aforeſaid, in the County aforeſaid, the ſaid Sir *Edmundbury Godfrey*, felonioufly, wilfully, and of your Malice aforethought, did kill and murder, againſt the Peace of our Sovereign Lord the King, his Crown and Dignity. How ſay'ſt thou, *Samuel Atkins*, art thou guilty of the Felony and Murder whereof thou ſtandeſt indicted, and haſt been now arraigned, or not Guilty?

Sam. Atkins. Not Guilty.

Cl. of the Cr. Culprit, how wilt thou be tried?

Sam. Atkins. By God and my Country.

Cl. of the Cr. God ſend thee a good Deliverance. *Samuel Atkins*, hold up thy Hand (*which he did*). Thoſe Men that you ſhall hear called and ſhall perſonally appear are to paſs between our Sovereign Lord the King, and you, upon the Trial of your Life and your Death. If therefore you will challenge them, or any of them, your time is to ſpeak unto them as they come to the Book to be ſworn, and before they be ſworn. Call the Jury, Crier, and make an O yes.

Crier. O yes! You good Men that are impannelled to enquire between our Sovereign Lord the King and *Samuel Atkins* the Priſoner at the Bar, anſwer to your Names.

Cl. of the Cr. Sir *John Cutler*.

Crier. *Vous avez.* Sir *John Cutler*, look upon the Priſoner. You ſhall well and truly try, and true Deliverance make between our Sovereign Lord the King, and the Priſoner at the Bar, whom you ſhall have in your Charge, and a true Verdict give according to your Evidence. So help you God. And ſo the reſt were ſworn. The Names of the twelve were theſe:

Sir *John Cutler*,	*Thomas Goſtwick*,	*John Searle*,
Michael Arnold,	*John Wells*,	*Richard Pagett*,
James Partridge	*Ambroſe Arnold*,	*William Waite*,
Thomas Caſſee,	*Rainsford Waterhouſe*,	*Arthur Blyth.*

Cl. of the Cr. Crier, count theſe. Sir *John Cutler*.

Cr. One, &c.

Cl. of the Cr. Arthur Blyth.

Crier. Twelve good Men and true, ſtand together and hear your Evidence; you that are ſworn hearken to the Record, you that are not ſworn ſtand down.

Cl. of the Cr. Samuel Atkins, hold up thy hand (*which he did*). You that are ſworn, look upon the Priſoner, and hearken to his Cauſe. You ſhall underſtand that he ſtands indicted by the Name of *Samuel Atkins*, late of the Pariſh of St. *Clement Dane* in the County of *Middleſex*, Gentleman; for that he, together with ---- *Welſh* ---- *LeFaire*, &c. (*prout* in the Second Indictment *mutatis mutandis*) againſt the Peace of our Sovereign Lord the King, his Crown and Dignity. Upon this Indictment he hath been arraigned, and thereunto hath pleaded Not Guilty, and for his Trial hath put himſelf upon God and the Country, which Country you are. Your Charge is to enquire whether he be guilty of this Felony and Murder whereof he ſtands indicted, or not guilty. If you find him guilty, you are to enquire what Goods and Chattels, Lands or Tenements he had at the time of the Felony and Murder committed, or at any time ſince. If you find him not guilty, you are to enquire whether he did fly for the ſame; and if you find that he fled for it, you are to enquire of his Goods and Chattels, as if you had found him guilty; if you find him not guilty, nor that he did fly for it, ſay ſo and no more, and hear your Evidence.

Mr. Att. Gen. My Lord, I am informed by Mr. *Ward* of the *Crown-Office*, the Proſecutor's Clerk, that they have not ſued forth a *venire facias* upon this Indictment as Principal; and therefore the Jury cannot enquire of that at all, but muſt be diſcharged of it. Our Writ is only for the Indictment for being Acceſſary.

Cl. of the Cr. If you make the Writ *de quibuſdam feloniis & acceſſariis*, and Seal it a-new (which may be done preſently, the Seal being in the Hall), it will do for both.

L. C. J. Do ſo, then, Mr. *Ward*, that both may be diſpatched. [*Which was done accordingly.*]

Cl. of the Cr. Samuel Atkins, hold up thy Hand again (*which he did*). You of the Jury, look upon the Priſoner, and hearken to his Cauſe. You ſhall further underſtand, that he ſtands indicted by the Name of *Samuel Atkins*, late of the Pariſh of St. *Mary le Strand*, &c. (*prout* in the firſt Indictment *mutatis mutandis*) againſt the Peace of our Sovereign Lord the King, his Crown and Dignity. Upon this Indictment he hath been arraigned, and thereupon pleaded Not Guilty, and for his Trial hath put himſelf upon God and his Country, which Country you are. Your Charge is to enquire whether he be guilty of this Felony as Acceſſary to the ſaid *Robert Green*, &c. or not guilty. If you find him guilty, &c. (*ſicut antea.*) Crier, make Proclamation.

Crier. O yes! If any Man will give Evidence on the behalf of our Sovereign Lord the King againſt Samuel *Atkins*, the Priſoner at the Bar, let them come forth, and they ſhall be heard, for the Priſoner ſtands at the Bar upon his Deliverance; and all others that are bound by Recognizance to give Evidence againſt the Priſoner at the Bar, let them come forth and give their Evidence, or elſe they forfeit their Recognizance.

Mr. Serj. *Stringer.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, *Samuel Atkins* the Priſoner at the Bar ſtands indicted here of two Facts by two Indictments; the one as Principal in this Murder, the other as Acceſſary. The firſt of which we ſhall lay aſide, and of his being the Murderer give no Evidence; and ſo, Gentlemen, you muſt find him not guilty of that. But as to the Indictment as Acceſſary, that ſets forth, that whereas *Robert Green*, *Henry Berry*, *Lawrence Hill*, and others, on the 12th of *October* laſt, at the Pariſh of St. *Mary le Strand*, in your County, did make an Aſſault on the Perſon of *Sir Edmundbury Godfrey*, and that *Robert Green* did throw about the Neck of Sir *Edmundbury* a Linen Handkerchief, and twiſted and folded it about his Neck, by which twiſting and folding the ſaid *Green* did ſtrangle the ſaid Sir *Edmunbury*, of which ſtrangling he inſtantly died: and we ſay, Gentlemen, that the Priſoner at the Bar is indicted as one that was privy, knowing, conſulting, and abetting to the Commiſſion of this Murder, and that after the Murder committed (for the Acts are connected) he did receive, harbour, comfort, and maintain the Murderers. To this he hath pleaded Not guilty. If we prove him Guilty, we doubt not you will find him ſo.

Mr. Att. Gen. May it pleaſe your Lordſhips, and you Gentlemen of this Jury, Mr. *Atkins* the Priſoner is indicted upon two Indictments; the one is for being a Principal in this Murder, but upon that we can give no Evi-

dence, for that was preferred before we had that full and plain Evidence, which now we have of this Fact by the Teſtimony of Mr. *Praunce*. And I muſt ſay thus much to Mr. *Atkins*, that he hath cauſe to bleſs God, that ever Mr. *Praunce* made this Diſcovery; for I aſſure you, without that, there are thoſe Circumſtances, Probabilities, and Preſumptions, that he might have gone in great danger of being accounted a Principal in the Murder. But now, my Lord, that Matter being fully and plainly diſcovered by Mr. *Praunce*'s Teſtimony, that no Man may bear a greater Burden than he deſerves, we acquit him as to that Indictment, and now charge him only as Acceſſary. And in that you will find the Evidence to be ſuch, as might give us juſt Cauſe to prefer the firſt Indictment.

For, my Lord, we ſhall make it out, that Mr. *Samuel Atkins* did come to a Gentleman of his own Sirname, one Mr. *Charles Atkins* (who I think was of kin to him, but whether he was, or not, is not material), and to him he did complain of the Proceedings of Sir *Edmundbury Godfrey*, that he was a Man too active, and that he was in no ſort to be permitted to live; for if he were, he would be very prejudicial to ſome he was concerned for. And at the ſame time he did enquire after ſome bold Man, I think one *Child* particularly, who had been with that *Charles Atkins* aboard the Fleet, whether he had behaved himſelf ſtoutly there; and finding him to be a reſolute Perſon, he deſired Mr. *Charles Atkins* to ſend for him, and ſend him to him, and he would employ him; and afterwards *Child* owned to Mr. *Atkins*, that he had been there.

L. C. J. To which Mr. *Atkins?* To the Priſoner?

Mr. Att. Gen. To Mr. *Charles Atkins*, who is the Witneſs, *Samuel Atkins* is the Priſoner. It was *Samuel* that Complained to *Charles* of Sir *Edmundbury Godfrey*; enquiring after the Courage and Reſolution of *Child*, and ordered *Charles* to ſend him thither; and afterwards *Child*, as he ſaid, went thither; and when he came back he did diſcourſe with *Charles Atkins*, deſiring him to join with him in the killing of a Man, and did propoſe a great Reward to him ſo to do.

This, my Lord, was the Diſcourſe precedent to the Fact. But now to ſhew to your Lordſhip and the Jury, that as the Priſoner *Samuel Atkins* and he did deſign, the thing ſhould be done, ſo he did purſue that Deſign, and bear a Part in it, and was privy to it, and knew of it; we ſhall prove, that Mr. *Bedlow*, when he ſaw the Body after it was murdered, which happened, as was proved to you Yeſterday, on the 12th of *October* laſt, found it removed from the Place where by the Teſtimony of Mr. *Praunce* he was firſt carried, into another Room, and there by the help of a Dark-Lanthorn ſeveral People then in the Room ſaw him: Amongſt whom, I ſay, Mr. *Bedlow* was one, and Mr. *Praunce* ſpeaks to the ſame Matter, and this was on the *Monday* Night following. And I think we have a ſufficient Proof, that Mr. *Samuel Atkins* was one in the Room, that did ſee the Body, and was conſulting with them how to diſpoſe of it: For we have this Proof againſt him. *Bedlow* finding a young Man there, whom he did not know, he went up to him, deſiring to know his Name; he tells him who he was, one *Atkins*, and deſcribes himſelf by a particular Circumſtance to whom he had relation, and Mr. *Bedlow* will tell you ſo much, that though the Light was not very great, yet it was enough to let him ſee the Faces of thoſe he took notice of, and that this Priſoner was there. And if this be true, it will have the effect of proving him guilty as Acceſſary, either before or after the Fact.

This will be the Courſe of our Evidence, our Witneſſes are not many, and therefore our Proof will not be long. We ſhall now call them, and when they have done, ſubmit it to your Lordſhip and the Jury; and firſt we call Mr. *Charles Atkins*.

Crier. Mr. *Charles Atkins*, lay your Hand upon the Book. The Evidence which you ſhall give for our Sovereign Lord the King againſt *Samuel Atkins*, the Priſoner at the Bar, ſhall be the Truth, the whole Truth, and nothing but the Truth; ſo help you God.

Mr. Recorder. My Lord, this is *Charles Atkins*, whom we deſire to begin withal. It was he that had the Diſcourſe firſt with *Samuel Atkins* about *Child*, and afterwards with *Child* about the Murder. Pray, Sir, tell the Diſcourſe you had with the Priſoner at the Bar, and what Diſcourſe you had with *Child*, and the Time when.

Cha. Atkins. My Lord, it was much about the time that his Majeſty went to *Newmarket*.

L. C. J. That was in *September*, I think.

Cha. Atkins. No, my Lord, it was in the beginning of *October*. I cannot ſpeak to a Day, I cannot very well tell that, but it was much about that Time. I had been with Sir *John Williams* about the ſame Buſineſs that I came to ſpeak with Mr. *Atkins* about (this Gentleman whom I am forced to be Witneſs againſt on the King's Account; but otherwiſe I have a great Regard for him), and coming there I aſked the Porter below Stairs whether Mr. *Atkins* were in the Houſe.

L. C. J. At what Houſe was it?

Cha. Atkins. At *Derby* Houſe in *Channel-Row*. He ſaid, Yes. So I went up Stairs, and found him there all alone in the Study, where he generally writes near another Study, where was the Clerk that uſually wrote with him, but he was alone; it was in the Afternoon: And after I had ſpoken to him, I deſired him that he would walk out into the other Room. And at the Window, which is next the Door that is to the Office, he and I ſtood talking together. After we had diſcourſed a little about the Plot, he told me, that Sir *Edmundbury Godfrey* had very much injured his Maſter; and if he lived would be the Ruin of him. And thereupon I have heard that his Maſter was queſtioned in the Houſe of Commons, aſked him whether he were a Parliament Man, thinking that might be the Occaſion of their Queſtioning him: *No*, ſaid he. But then he went off from what we were then diſcourſing, and he deſired me to be ſecret, and went on upon that Account in ſeveral Particulars, that I cannot now exactly remember. And as we were talking he broke off his Diſcourſe ſhort, and aſked me if I knew Mr. *Child:* What *Child?* ſaid I. He that I uſed to meet at the *Three Tobacco-Pipes?* Said he, It is that *Child* that you recommended to me; For I had recommended ſuch a one to him to be Purſer of a Ship, by the means of one *Owen*. Said he, Is he a Man that is Stout, or to be truſted with a Secret? Said I, As to his Valour I know nothing of it, but he has a very good Character. Then ſaid he, When you ſee him, ſend him to my Maſter; but as for myſelf, I deſire not to have him aſk for me when he comes thither. I could not meet *Child* that Night, but I did the next Night; and ſo he ſaid he would go thither. And afterwards I met him again, and he ſaid he had been there, and falling into Diſcourſe, he would have engaged me to join in the Murder of a Man.

L. C. J. What did *Child* ſay to you? What is Mr. *Atkins*'s Maſter's Name?

Cha. Atkins. Mr. *Pepys*.

L. C. J. What, Mr. *Pepys* of the Navy?

Cha. Atkins. Yes, my Lord.

L. C. J. Had *Child* been with him?

Cha. Atkins. My Lord, he told me ſo.

L. C. J. What did he ſay when he came from Mr. *Pepys?*

Cha. Atkins. He told me nothing of Mr. *Pepys*, but he would have engaged me to join in the Murder of a Man. I was then juſt coming from walking, and met him in *Holbourn* Fields, near the *Three Tobacco-Pipes*, and he deſired me to walk with him, which I was unwilling to do. He told me he had ſomething private to ſay to me: I told him there was a Shed in the back Part of the Houſe that was private enough; and thither we went; and I ſat with my Back to the Houſe, and he with his to the Garden. And as ſoon as the Maſter of the Houſe had brought a Pot of Ale, he fell into Diſcourſe, and told me he believed, that by Reaſon of the Neceſſity of my Fortune, and the Troubles I lay under, and my want of Money, I would undertake a Buſineſs that might relieve my Wants. I replied, Any thing that was honourable I would undertake, or that became a Gentleman; but to rob on the Highway, or any thing of that Nature, that was baſe. I would not do it. He anſwered me, that it was a Thing of greater Moment than that; he told me it was the killing of a Man. I immediately utterly denied to join with him in it; he gave me eight or nine Days to conſider of it, and I ſhould have a great Reward, if I would join with them. I heard of him no more for a conſiderable while, and then I met him at the *Three Cans* or the *Six Cans* in *Holbourn*, and renewing his Diſcourſe, he told me, if I would not agree with them to help to murder him, yet if I would conceal it, I ſhould have 100*l.* brought to my Chamber; but if I did reveal it, I ſhould not outlive it.

L. C. J. This *Child* ſaid?

Cha. Atkins. Yes, my Lord.

L. C. J. Who were *them* were to be with you, Captain *Atkins*, do you know?

Cha. Atkins. I do not know, my Lord, he did not tell me who they were.

L. C. J. Pray tell us again: What was the firſt Diſcourſe you had with Mr. *Samuel Atkins?*

Cha. Atkins. I came to borrow a little Money of him, and it was at the great Window in the great Room above Stairs, the very Window next the Office where the Priſoner writes, and there he began his Diſcourſe. We were talking of this Plot that was diſcovered, and ſomething about *Coleman*, but the Particulars I cannot remember, and then he fell into Diſcourſe about Sir *Edmundbury Godfrey*.

L. C. J. What Diſcourſe was it?

Cha. Atkins. That he had injured his Maſter, and if he lived, he would ruin him. I aſked him whether he was a Member of the Houſe of Commons, becauſe I knew his Maſter had been there queſtioned for his Religion. No, ſaid he; but then he went off from that, which he was then talking of, which was concerning the Plot and Sir *Edmundbury Godfrey*, and aſked, if I knew where there was a ſtout Man, and particularly enquired about *Child*, and bid me ſend him to his Maſter.

L. C. J. Did he fear Sir *Edmundbury Godfrey* would ruin his Maſter, by diſcovering ſomething about the Plot?

Cha. Atkins. I underſtood ſo.

L. C. J. Why, he did not ſay that his Maſter knew of it, did he?

Cha. Atkins. No, not to me.

L. C. J. And what did he talk of killing any Body?

Cha. Atkins. No, he did not mention it to me.

L. C. J. Then all that he ſaid to you was, that Sir *Edmundbury Godfrey* had very much injured his Maſter, and if he lived would ruin him; and then aſked, if you knew a Man that would be ſtout and ſecret, and bid you ſend him to his Maſter, but not aſk for him.

Sam. Atkins. Pray, Mr. *Atkins*, will you tell what time that Diſcourſe was?

Cha. Atkins. I cannot tell that exactly. It was two Days before Sir *John Williams* went into the Country. It was about the time of the Dutcheſs her going beyond Sea.

Sam. Atkins. Was there no Body by when we had that Diſcourſe?

Cha. Atkins. There was another in a Study hard by, I cannot tell exactly who.

Sam. Atkins. Do you know his Name when you hear it? Was it Mr. *Lewis?*

Cha. Atkins. I think it was ſo, I cannot exactly tell.

L. C. J. What Day was it, as near as you can?

Cha. Atkins. I cannot ſay what Day it was; it was about ſeven or eight Days in *October*, as I can remember.

L. C. J. You ſay it was about the time of the Dutcheſs her going over into *Holland*.

Cha. Atkins. I think ſo. I cannot poſitively remember.

Mr. Sol. Gen. Had you any Reward offered to you for killing of a Man?

Cha. Atkins. Yes, I had by *Child*.

Sam. Atkins. By whom was the Reward to be paid?

Cha. Atkins. He did not tell me.

Mr. Att. Gen. Now, my Lord, becauſe it ſeems a ſtrange thing, that Mr. *Atkins*, who ſays he is a Proteſtant, ſhould be engaged in this Buſineſs, we have a Witneſs here to prove, that he hath been ſeen often at *Somerſet-Houſe* at Maſs, and ſo he is a Party concerned; for thoſe that are of that Party, it was their Intereſt to cut him off. And that is this Boy. [*Pointing to a Boy that was then brought in.*]

L. C. J. How old are you, Child?

Boy. About Seventeen.

Mr. Juſt. Wild. Do you know what, if you ſwear falſe, will become of you?

Boy. I will not ſwear falſe.

Mr. Juſt. Wild. What, if you do ſwear falſe, will become of you?

Boy. I ſhall be damned.

Mr. Att. Gen. He is as like to ſpeak Truth as another.

Sam. Atkins. What Religion are you of, Boy?

Boy. A Proteſtant.

Sam. Atkins. Do you know me?

Boy. No.

Mr. J. Wild. Sir, you are too bold with the Witneſſes.

L. C. J. Swear him.

Mr. Att. Gen. Pray hold. My Lord, this is a Witneſs that Mr. *Ward* brings from below. I have him not in my Brief. I deſire, before they ſwear him, that he would give an Account whether he knows the Priſoner or no.

Boy. No, I do not. [*And ſo the Boy was carried off, with ſome Expreſſions of Mr.* Attorney's *Diſpleaſure to Mr.* Ward *for bringing him in.*]

Mr. Recorder. My Lord, I perceive it was a Miſtake; it was ſome body elſe. We will proceed to other Evidence.

* Sir *Francis Winnington.*

* *Mr. Sol. Gen.* We have hitherto gone upon the Evidence to prove, that Mr. *Atkins* ſought out for a ſtout Man, and when he had found one he thought was for his Purpoſe, he bid him ſend him to his Maſter. This ſtout Man, *Child*, would have engaged the other Witneſs in a Murder; and it is very probable what that Murder was, to wit, the Murder of Sir *Edmundbury Godfrey*; for we ſhall prove that the Priſoner was aiding and aſſiſting to carry off the Body. And for this we call Mr. *Bedlow*.

Then Mr. *Bedlow* was ſworn.

Mr. Recorder. Pray, Sir, will you tell my Lord and the Jury, whether you were in the Room where the Body lay, and in what Company you ſaw it?

Bedlow. Your Lordſhip had an Account Yeſterday, how *Le Faire* came to acquaint me, that ſuch an one was murdered, and that they intended ſo and ſo to diſpoſe of the Body. When I came to meet him at *Somerſet-Houſe*, I aſked him who were to be concerned in carrying him off. He told me, it was a Gentleman, one Mr. *Atkins*. I thought it might have been this Gentleman [*pointing to Captain* Atkins] whom I had known ſeveral Years ſince, and ſo I enquired no further, but remembred he told me ſo; and when I came into the Room, there was a great many there, and ſome of them their Faces I did ſee. I aſked a young Gentleman whether his Name was not *Atkins*, and he ſaid *Yes*; then I aſked him, if he were Mr. *Pepys*'s Clerk. He anſwered *Yes*, and added, *I have ſeen you often at my Maſter's Houſe*. There was a very little Light, and the Man was one I was not acquainted with, though I had been often at the Houſe, but could never meet with him, and yet the Man ſaid, *he had ſeen me often there*: So that 'tis hard for me to ſwear that this is he. And now I am upon one Gentleman's Life, I would not be guilty of a Falſhood to take away another's. I do not remember that he was ſuch a Perſon as the Priſoner is; as far as I can remember he had a more manly Face than he hath, and a Beard.

L. C. J. You do well to be cautious, Mr. *Bedlow*.

Mr. J. Wild. Pray, what ſtore of People were there?

Bedlow. I believe there were ſeven or eight. Some there were that I knew.

L. C. J. Who were thoſe?

Bedlow. Le Faire and *Praunce*. I remember very well, I aſked Mr. *Atkins* this Queſtion, Are you Mr. *Pepys*'s Clerk? He ſaid Yes: I have ſeen you often at my Maſter's Houſe.

L. C. J. And that was all the Diſcourſe you had with him?

Bedlow. Yes, for I was but a very little while there.

L. C. J. But you cannot charge the Priſoner to be him?

Bedlow. I do think he had a more manly Face than the Priſoner has, and a Beard.

L. C. J. So you think it rather was not he, than it was he?

Bedlow. I can't ſay it was he, nor I could not at firſt. I did not know but it might be ſome one that did aſſume his Perſon to put me off.

Mr. J. Wild. Mr. *Bedlow*, pray let me aſk you one Queſtion. Did you never know of any Deſign to murder Sir *Edmundbury Godfrey*, till *Le Faire* ſpoke to you to carry him off.

Bedlow. I knew not till I ſaw him murdered. They told me I ſhould help to carry off the Body of one that was murdered, but I could not imagine whom.

L. C. J. But you knew that they were to murder a Man?

Bedlow. Yes, my Lord, but I knew not whom.

Mr. J. Wild. But you were appointed to inſinuate yourſelf into Sir *Edmundbury Godfrey*'s Acquaintance?

Bedlow. Yes, my Lord.

Mr. J. Wild. And upon what Errands were you ſent?

Bedlow. To take out Warrants for the Peace.

Mr. J. Wild. And did you take out any?

Bedlow. Yes, againſt ſome Perſons, and there were none ſuch.

Mr. Recorder. Now, if your Lordſhip pleaſes, I deſire Mr. *Bedlow* to let us know, whether he did aſk the Perſon that ſaid he was Mr. *Atkins*, any other Queſtions?

Bedlow. No, I did not.

Mr. Recorder. How came you to aſk him no other Queſtions, but only whether he were Mr. *Pepys*'s Clerk?

Bedlow. Becauſe I never heard of any of that Name, but he and this Gentleman [*pointing to Captain* Atkins], whom I know very well, and I could not tell but it might be he.

L. C. J. Here is the Thing. *Le Faire* told him one *Atkins* ſhould help him to carry the Body off; and when he came into the Room, that Perſon told him his Name was Mr. *Atkins*; and then he aſked, if he were Mr. *Pepys*'s Clerk, for he could not tell but that it was *Charles Atkins*.

Mr. Recorder. We have another Reaſon, my Lord, for the aſking that Queſtion. Pray what Diſcourſe had you about any Commiſſion?

Bedlow. I had often been with Captain *Ford* at Mr. *Pepys*'s about his Commiſſion, and I had often deſired to ſpeak with Mr. *Pepys* or Mr. *Atkins* his Clerk, but I could never find either of them at home; and therefore when I met that young Gentleman there, I aſked him whether he were *Pepys*'s Man, and he ſaid Yes. I aſked him if he knew me, and he told me Yes. I had been often at his Maſter's Houſe with Captain *Ford*, but I had never ſeen Mr. *Atkins*.

Mr. Recorder. What did he tell you beſides?

Bedlow. That was all the Diſcourſe we had.

Mr. Sol. Gen. Did you ever hear of any other *Atkins* that lived with Mr. *Pepys*?

Bedlow. No, none at all. And the ſame Teſtimony I give now, I gave at the firſt. And, my Lord, I could not be poſitive before the Lords of the Committee, and I cannot be poſitive now.

Mr. Att. Gen. Indeed he was never poſitive at the firſt. Now, my Lord, if you pleaſe, we will call a Witneſs to prove, that that Day, when this was ſuppoſed to be done, Mr. *Samuel Atkins* had beſpoke a Dinner at Mount *Horeb*, but he had ſome other Buſineſs, and did not come, and loſt the Price of a good Dinner. Pray ſwear *Thomas Walton*. [*Which was done.*]

Mr. Recorder. Pray, Sir, what can you ſay?

Walton. As to the Body of the Cauſe, I have nothing to ſay. I have not ſeen Mr. *Atkins* theſe two Years; but there having been ſome Friendſhip between us, I had a Mind to ſee him, and ſent a particular Friend to deſire him to appoint a Meeting.

L. C. J. When?

Walton. At Mount *Horeb*.

Mr. Att. Gen. My Lord doth not aſk where, but when, at what time?

Walton. At Two of the Clock.

Mr. Att. Gen. What Day?

Walton. The Twelfth of *October*.

L. C. J. How come you to remember the Day?

Walton. I will tell you my Reaſon, my Lord. When I heard that this Gentleman was in this unhappy Affair, I ſaid, How much better had it been for him to have been in my Company, that I might have vouched for him! But you [*pointing to the Priſoner*] did appoint, you know, Sir, to meet me. And I took Cognizance of this Affair, ſpeaking to a particular Friend.

L. C. J. How long after this?

Walton. When the Tidings were, he was taken Priſoner.

Mr. Att. Gen. A great while agone, my Lord.

L. C. J. How long after Sir *Edmundbury Godfrey* was murdered?

Mr. Att. Gen. About a Fortnight.

L. C. J. Was there a Dinner beſpoke?

Walton. I beſpoke one for him; he knew nothing of it.

Mr. Att. Gen. Did he appoint to be there that Day?

Walton. Yes, he did. I think he will not deny it.

Mr. Att. Gen. Did you ſend a Meſſenger to him?

Walton. Yes, I did.

Mr. Att. Gen. What Anſwer had you?

Walton. He brought me word, he would come at two of the Clock to me.

Mr. Att. Gen. Did you beſpeak the Dinner for him, and did you pay for it?

Walton. I never gave him any Account what was to be for Dinner.

Mr. Att. Gen. But let this Evidence go as far as it will. This Gentleman had a mind to meet him; ſent a Meſſenger to him to meet him; he appointed at two of the Clock; and he beſpoke a Dinner for him, but he came not. Now we uſe it thus. I deſire to know of him, when was the Meſſage ſent? How long before that Day? Or was it the Day before?

Walton. It was a Week before.

Mr. Att. Gen. What Day before?

Walton. It was a Week before.

Mr. Att. Gen. Can you remember what Day?

Walton. I do not, for I had no Diſſatisfaction becauſe he did not come.

Sam. Atkins. Will your Lordſhip give me Leave to aſk him one Queſtion? I own, Sir, you ſent to me by a School-fellow, about a Week before, and deſired me to appoint a Day to meet you, and I appointed this Day, and that for this Reaſon; I knew my Maſter would be then out of Town, and ſo I thought I could conveniently meet you; but it being ten Days before, I entirely forgot it; but can prove by ſeveral Witneſſes where I did dine that Day, which I deſire may be called. But now, my Lord, this Gentleman is upon his Oath, who is a Proteſtant, and was my School-maſter, I deſire him to declare whether I was bred a Proteſtant, or no; and whether my Friends were ſo or no?

L. C. J. How was he bred, Sir?

Walton. He was bred up in the Proteſtant Religion, my Lord.

L. C. J. Were his Father and Mother Proteſtants?

Walton. Yes, my Lord, they were ſo, and I know them very well.

Sam. Atkins. Pray, Sir, declare whether I was not only bred a Proteſtant, but whether I was not ſo alſo when I left your School?

Walton. Yes, my Lord, he was always a Proteſtant, and a very zealous one too.

L. C. J. There is very much in that.

Mr. Juſt. Wild. Where is this Mount *Horeb?*

Mr. Recorder. It is in *Pudding-lane*, at one Mr. *Appleby*'s.

L. C. J. Well, have you any thing more, Mr. *Attorney?*

Mr. Att. Gen. No, my Lord, I have no more to ſay, till I hear what Defence the Priſoner makes.

L. C. J. Then, Mr. *Atkins*, you have Liberty to defend yourſelf.

Sam. Atkins. My Lord, and Gentlemen of the Jury, I hope I ſhall in my Defence proceed very inoffenſively towards God, and towards this Court. Firſt, towards God (before whom I am, in whoſe Preſence I muſt appear, and before whom I can proteſt my Innocence as to what is charg'd upon me), in that I ſhall declare nothing but what is true: And towards this Court in the next Place, becauſe I intend to deliver myſelf with all the Reſpect and Submiſſion to it that becomes a Priſoner. My Lord, this Gentleman, Mr. *Atkins*, who hath brought this Accuſation againſt me, is a Man whom I have kept from periſhing, I ſuppoſe he will own it himſelf; I petitioned, ſolicited for him, and was inſtrumental in getting him out of Priſon, for a Fact which I ſhall by and by tell you. And though this, my Lord, may ſeem againſt me, yet by and by——

L. C. J. Hold, you miſtake, Mr. *Atkins*, he does you no Miſchief at all, for he ſaith no more than, *that he hath been diſcourſing with you about the Plot, and you ſaid Sir* Edmundbury Godfrey *had very much injured your Maſter; and that you deſired to know if he were acquainted with a ſtout Man; and aſked particularly of Mr.* Child, *and bid him ſend him to your Maſter; and he ſaid afterwards, he had been there, and would have engaged him to join in a Murder.* All which is nothing to the Purpoſe.

Sam.

Sam. Atkins. But I never had any ſuch Diſcourſe with him, my Lord.

L. C. J. If you had, or had not, it is no matter; you need not labour your Defence as to any thing he ſays.

Sam. Atkins. I proteſt before God Almighty, I know nothing of it.

Mr. Juſt. *Dolben.* But what ſay you to Mr. *Bedlow*'s Teſtimony? Did you ſee the Body of Sir *Edmundbury Godfrey* at *Somerſet-Houſe?*

Sam. Atkins. No, my Lord; I am ſo far from that, that in all my Life I was never in the Houſe.

L. C. J. Then call a couple of Witneſſes to prove where you were that *Monday* Night, the 14th of *October*, and you need not trouble yourſelf any further.

Sam. Atkins. There is Captain *Vittles*, and his whole Company.

L. C. J. Can any of theſe ſay where you were the 14th of *October?* If they can, a couple of them is enough. Who is this?

Sam. Atkins. This is the Captain, my Lord.

L. C. J. What is your Name?

Capt. Vittles. My Name is *Vittles.*

L. C. J. Do you know Mr. *Atkins* the Priſoner?

Capt. Vittles. Yes, very well.

L. C. J. How long have you known him?

Capt. Vittles. Theſe Fourteen Years.

L. C. J. Can you tell where he was the 14th of *October?*

Capt. Vittles. I can tell you by ſeveral Circumſtances, that your Lordſhip ſhall underſtand, that I do remember the Day.

L. C. J. Why, you cannot tell what Day of the Week it was?

Capt. Vittles. Yes, I can, it was of a *Monday.*

L. C. J. Where was he on *Monday?*

Capt. Vittles. The King was pleaſed to command me to go to *Antwerp*, to carry over ſome Officers of the King's to the Garriſon; I return'd back the 6th of *October*, which was *Sunday.*

Mr. Juſt. *Jones.* How come you to remember the Days ſo exactly?

L. C. J. Mariners are very exact and punctual; they keep Accounts of every Day, and have Journals of all Paſſages.

Capt. Vittles. Ay, my Lord, and I have it here in my Pocket: The 6th Day I arrived at *Greenwich*, which was Sabbath-Day, and that Day I would not come a-ſhore, but I let it alone while *Monday*, which was the 7th Day; then, my Lord, I went and appeared, and gave an Account to the Secretary of what I had done, according to my Inſtructions, to ſee whether he had any further Service to command me. At preſent, the Secretary told me, No; ſo I told him I would go down to the Yatch, and wait his Majeſty's Commands; and there I ſtayed till *Thurſday*; and on *Friday* the Secretary, I think, was going out of Town to *Newmarket*, and ſo I could receive no Orders from him, but was to ſtay till he came back. On the *Monday* following I came up about Eleven of the Clock, and I met with Mr. *Atkins* at the Office he had at his Maſter's the Secretary's; ſaid I, I am glad you are at home; and, ſaid he, I am glad you are not gone, for there are a couple of Gentlewomen that deſire to ſee a Yatch, and if you will go down I will come down too, and bring down my Friends by and by: Said I, I am glad I am in a way to ſerve you, and you ſhall be welcome to what I have. So I diſappointed two or three Friends that I had appointed to meet at *Billingſgate*, that I might get my Boat ready. When I came a-board, I order'd my Men to clean it, and I got ready ſome Proviſions, ſuch as I had: But in the mean time my young Lord *Berkely* and his Men came to ſee the Yatch in the Afternoon, where ſhe lay then at *Greenwich*, over-againſt the College; and I being glad of ſuch a Gentleman's Company, entertained him with a Bottle or two of Wine, and what the Ship would afford, and when he went away, I fired five Guns. And when he was gone, I was walking upon the Deck; and I wonder, ſaid I to my Men who were with me, that Mr. *Atkins* doth not come; he told me he would be here with ſome Friends; I will go a-ſhore if he does not come quickly. And ſo, if it ſhall like your Honour, I ſtay'd an Hour longer; and, ſaid I, if he doth not come in half an Hour, I will go a-ſhore; and I was ready to go, when I ſaw a Boat at a diſtance, and then, ſaid I, I will ſtay, for I believe that is the Boat; and it proved ſo. It was two of the Clock when my Lord went away, and it was then half an Hour paſt Four, or thereabouts. So when he came a-board, his two Friends came a-board with him, and went down into the Cabbin, and drank a Glaſs of Wine, ſuch as we had; and the Wine being good, and juſt come from beyond Seas, we drank till Seven of the Clock, and I would not let them go. Then, ſaid he, I will not keep the Boat upon Charge here. No, you need not, ſaid I, my Boat ſhall ſee you a-ſhore. So he diſcharged the Boat, which was, I ſay, about Seven o'clock, and ſo about Eight or Nine o' clock we had drunk till we were a little warm; and the Wine drinking pretty freſh, and being with our Friends, we did drink freely, till it was indeed unſeaſonable: I muſt beg your Lordſhip's Pardon, but ſo it was; and at half an Hour paſt Ten, I ordered my Men to go off with the Boat of four Oars, that belonged to the Yatch, and that would go much ſwifter than any other Boats, and I put him into the Boat very much fuddled. Now, my Lord, away goes he, with four of my Men (they are here), and I ordered them, Pray, ſaid I, put a-ſhore Mr. *Atkins* and his Friends where they will go a-ſhore. So I went to ſleep when he was gone; and the next Day in the Morning, when the Boat came a-board, ſaid I, Where did you put a-ſhore Mr. *Atkins* and the two Gentlewomen? At *Billingſgate*, ſaid they. Why ſo, ſaid I? Which way would they get home? for I knew Mr. *Atkins* was very much in drink. Why, ſaid they, the Tide was ſo ſtrong at the *Bridge*, that we could not get thro' with our Boat. Now it flowed that ſame Night till twelve Minutes paſt Ten; ſo that it muſt be near half an Hour paſt Ten when they went away.

Mr. Juſt. *Wild.* What, it flowed there at paſt Ten?

Capt. Vittles. Yes, it did.

L. C. J. Mr. *Bedlow*, what Time of the Night was it that you were at *Somerſet-Houſe?*

Bedlow. It was betwixt Nine and Ten.

L. C. J. He was on Shipboard then.

Mr. Juſt. *Wild.* He was very ſober, that you ſpoke withal, was not he?

Bedlow. Yes, very ſober, my Lord.

L. C. J. Then call another Witneſs, one of your Men, and we have done.

Capt. Vittles. Give the Word for the Boatſwain *Tribbett.*

L. C. J. Did the Women pledge you, Captain?

Capt. Vittles. Pledge me, my Lord!

L. C. J. Ay, did they drink with you?

Capt. Vittles. Ay, and drink to us too, my Lord.

L. C. J. Thoſe be your Men that ſtand there? [*He, and ſeveral other of the Ship's Company were there.*] Whither did you carry Mr. *Atkins* when your Captain commanded you to ſet him a-ſhore?

Tribbett. To *Billingſgate.*

L. C. J. What Time of Night came you there?

Tribbett. At half an Hour paſt Eleven.

L. C. J. What Time did you carry him from the Yatch?

Tribbett. It was about half an Hour paſt Ten o'clock.

L. C. J. What Day of the Week was it?

Tribbett. It was on a *Monday.*

L. C. J. Well, you need not trouble yourſelves any more.

Mr. Att. Gen. My Lord, in this Matter, it is in vain to contend in a Fact that is plain. But I would deſire (becauſe ſome perhaps will make an ill Uſe of it) that they would pleaſe to take notice, here is no diſproving the King's Evidence. For Mr. *Bedlow* did not at firſt, nor doth he now, charge him directly to be the Man: So that whoever reports, That the King's Evidence is diſproved, will raiſe a very falſe Rumour.

L. C. J. No, no; it is ſo much otherwiſe, that for all he hath ſaid herein, he is the more to be credited in his Teſtimony; and Mr. *Atkins* needed not to make any Defence, but muſt have come off without any, upon what Mr. *Bedlow* ſays for him.

Mr. Att. Gen. So likewiſe for the firſt Man, all that he ſays conſiſts together, and may be true, and yet Mr. *Atkins* innocent.

L. C. J. So it may.

Mr. Att. Gen. I deſire the Company may not go away with a Miſtake, as if the King's Evidence were diſproved.

L. C. J. Not in a Tittle.

Mr. Att. Gen. Then I have done, my Lord.

L. C. J. No, I will tell you how it did ariſe. It aroſe from the Jealouſy of the Murder of Sir *Edmundbury Godfrey*, and Perſons were willing to lay hold on any Opportunity to find it out. And Mr. *Bedlow* was told ſuch a Man ſhould be his Fellow to help him to carry away the Body; and hearing of ſuch a Name, thought it poſſible it might be ſuch a one; and he owning himſelf to bear that Name, and to be Mr. *Pepys*'s Clerk, when he gave in his Information, the People, who were put into ſuch Alarms as theſe, were very ready to catch at it. Therefore no Body was to blame for purſuing *Bedlow*'s Evidence. He ſaid nothing then, but what he ſays now, and that is nothing at all poſitive, which is all true, and yet Mr. *Atkins* doth appear to be a very innocent Man in this Matter.

Then the Jury conſulted together at the Bar, and agreed.

Cl. of the Cr. Gentlemen, are you all agreed of your Verdict?

Omnes. Yes.

Cl. of the Cr. Who ſhall ſpeak for you?

Omnes. Our Foreman.

Cl. of the Cr. Samuel Atkins, hold up thy Hand. [*Which he did.*] Look upon him. How ſay you; is he Guilty of the Felony and Murder whereof he ſtands Indicted, or Not Guilty?

Foreman. Not Guilty.

Cl. of the Cr. Did he fly for it?

Foreman. Not that we know of.

Sam. Atkins. God bleſs the King, and this honourable Bench. [*On his Knees.*]

Cl. of the Cr. Samuel Atkins, hold up thy Hand. [*Which he did.*] Look upon the Priſoner. How ſay you, is he Guilty of the Felony, as Acceſſary to the Murder, as he ſtands Indicted, or Not Guilty?

Foreman. Not Guilty.

Cl. of the Cr. Did he fly for it?

Foreman. Not that we know of.

Sam. Atkins. God bleſs the King, and this Honourable Bench. [*On his Knees.*]

Cl. of the Cr. Then hearken to your Verdict, as the Court hath recorded it. You ſay, that *Samuel Atkins* is not Guilty of the Felony and Murder whereof he ſtands Indicted; nor that he did fly for it. And you ſay that he is not Guilty, as acceſſary to the Felony and Murder whereof he ſtands Indicted, nor that he did fly for the ſame; and ſo you ſay all?

Omnes. Yes.

L. C. J. Mr. *Atkins*, I ſhould have been very glad that the reſt, who have been condemned, had been as innocent as you are; and I do aſſure you, I wiſh all Mankind had been innocent. For, if any Proteſtant had been guilty of ſuch a thing as this, it would have grieved me to the very Heart, that any Proteſtant ſhould do ſuch things, as thoſe Prieſts provoke their Proſelytes to at this Day.

Capt. Vittles. My Lord, here is his School-maſter will give your Lordſhip an Account how he was bred and brought up, and what a good-condition'd young Man he was.

L. C. J. Well, well, Captain, go you and drink a Bottle with him.

Then Mr. Atkins *went from the Bar.*

LXXXI. *The Trial of* David Lewis, a *Jesuit*, *(pretended Bishop of* Landaff) *at* Monmouth *Assizes, for* High-Treason, March 28, 1679. 31 Car. II. *Wrote by Himself.*

THE 28th of *March*, 1679, the Assizes began at *Monmouth*, Sir *Robert Atkins* being sole Judge. A Grand Jury of Gentlemen was returned by the Sheriff, and called, against several of whom Mr. *Arnold* and Mr. *Price* excepted, and so put by, as such they conceived might befriend me; a Challenge not known before; for in the Case between the Marquis of *Worcester*, and the Tenants of *Wentwood*, upon a Riot, *Henry Williams*, Esq; and others would have excepted against some of that Grand-Jury, the same Judge *Atkins* then positively said, It was ridiculous and not usual to challenge out of a Grand-Jury. At last a Jury was sworn, and an Indictment drawn up against me, upon the Statute of the 27th *Eliz.* and preferred to the Grand-Jury. That Evening, being *Friday*, I was arraigned upon that Bill, to which I pleaded, Not guilty. The next Day, about ten of the Clock in the Morning, the Judge came from the *Nisi prius* Side, and sat at the Crown Side, and I at the same Time being brought to the Bar, the Crier made Proclamation for Silence, that a Jury for Life and Death might be impannelled, and I made my Challenges; presently a Jury from the other Bar was called, which was not usual, and I to challenge, the Judge telling me, I might challenge without Hindrance; by guess I challenged three; but out of that *Nisi prius* Jury called to the Crown Bar, and that by Mr. *Arnold*'s own Suggestion, who had a strong Influence upon the Judge as being his Kinsman, and sitting at his right Hand, divers were excepted by Mr. *Arnold*; whereupon, to make up the Jury, the Judge commanded the High-Sheriff to call in some, and he called many, and of those, still Mr. *Arnold* excepted, as either being of my Neighbourhood, or Acquaintance, for there being many in the Country; the Sheriff seeing so many of his calling excepted, he desired Mr. *Arnold* himself should call whom he pleased; whereat the Judge checked the Sheriff, and he said he was saucy: At last, with much Difficulty, a Jury was impannelled, a Jury now contriv'd, of none but such as pleased Mr. *Arnold*, principal Prosecutor against me, which was very hard, and an ignorant Jury it was withal: The Jury being impannell'd, it was sworn, the Indictment read, and Witnesses called, thus:

Clerk of the Assizes. David Lewis, Hold up thy Hand.

Here thou standest indicted of High-Treason, by the Name of *David Lewis*, for that thou, being a natural Subject of the King of *England*, hast pass'd beyond Seas, and hast taken Orders from the Church and See of *Rome*, and hast returned back again into *England*, and continued upwards of forty Days, contrary to the *Statute* 27 *Eliz.* in that Case made and provided, which by the said Statute is High-Treason. What hast thou to say for thy self? Art thou Guilty, or Not Guilty?

Prisoner. Not Guilty.

Clerk. By whom wilt thou be try'd?

Prisoner. By God and my Country.

Clerk. God send thee a good Deliverance.

Clerk. Crier, call *William Price*, *Dorothy James*, *Maney Trott*, *John James*, *Catharine Thomas*. He calls them, and they all appear. Then says the Clerk to the Crier, Swear them: And he sware them all.

Judge. (Sir *Robert Atkins.*) *William Price*, Look on the Prisoner, do you know him?

Price. Yes, my Lord, I do know him.

Judge. What have you to say of him?

Price. My Lord, about a Year and a half ago I saw him at Mrs. *Bartlet*'s House, at a Place called *Castle-Morton* in *Worcestershire*, and there I heard him read Mass, I was at Confession with him, and I received the Sacrament from him, according to that Way.

Judge. Was there any Altar, or any Crucifixes or Copes?

Price. Yes, my Lord, that there were.

Judge. How many Times did you see him?

Price. But that once, my Lord.

Judge. Were you of that Way then?

Price. Yes, my Lord, upwards of Eighteen Years.

Judge. What are you now?

Price. A Protestant, my Lord.

Judge. Well, Mr. *Lewis*, what have you to say to this?

Prisoner. With your Lordship's Leave, I will answer all together.

Judge. Very good, you do well, it will be so much the shorter. *Dorothy James*, look on the Prisoner, do you know him?

Dorothy. Yes, my Lord.

Judge. What have you to say of him?

Dorothy. My Lord, I saw him say Mass, take Confessions, give the Sacrament, Marry, Christen, and heard him Preach in the *English* and *Welch*.

Judge. Were there Altar and Crucifixes?

Dorothy. Yes, my Lord, Altars, Crucifixes, Chalices, and such other Things belonging to that Way.

Arnold. Did you see him give that they call *Extreme Unction?*

Dorothy. Yes, that I did, to my Uncle, my Father's Brother.

Judge. Do you know what Extreme Unction is?

Dorothy. Yes, that I do, it is anointing sick People with Oil, when they are dying.

Judge. It's right; that's another Sacrament of their Church, grounding themselves upon these Words of St. *James*, as I take it, *If any be sick among you, let him be anointed:* But that was in the Times of Miracles only.

Arnold. Did he take upon him to free Souls from Purgatory?

Dorothy. Yes, that he did, and he had of me eight Pounds in Silver, and one Piece of Gold, to free my Father's Soul.

Prisoner. God is my Witness, to my best Knowledge, I never had one single Piece of any Money from her, or her Husband, upon any Account whatsoever.

Judge. Have you any more to say?

Dorothy, No, my Lord. [*And with that she laughed at the Bar.*]

Judge. How now, Woman! do you make a Laughing-game of it? Carry your self more modest, for the Gentleman is for his Life, and it is no jesting matter. Well, *William James*, look upon the Prisoner. Do you know the Prisoner? and what have you to say of him?

William James. Yes, my Lord, I do know him, and I have seen him read Mass many Times, and take Confessions, and give the Sacrament, and Christen, and Marry.

Judge. Have you any more to say?

William James. No, my Lord.

Judge. Mr. *Trott*, what have you to say of the Prisoner? Did you ever hear him read Mass? Was he reputed commonly a Jesuit, or Popish Priest?

Trott. Yes, my Lord, he was commonly reputed so, and I heard him often read Mass; and I saw him marry Mr. *Gunter*'s Daughter to Mr. *Body*.

Judge. Were you then of that Religion?

Trott. My Lord, I was deluded by my Wife out of the Protestant Religion, and was a Papist during her Life-time.

Judge. Are you of that Religion still?

Trott. No, my Lord. When I saw their wicked Designs to kill my Gracious King, I abhorr'd their Traiterous Proceedings, and left them, and am now a Protestant, in which I shall continue.

Judge. You do well.

Arnold. My Lord, there is Mr. *Roger Sayes*, a very material Witness.

Judge. Crier, swear him. Mr. *Sayes*, what have you to say against the Prisoner?

Sayes. My Lord, I was employed with others, on the 16th of *November* last, to go and search for him, and we found him, and took him, with several Popish Things, which we carried away, *&c.*

Judge. Did you see him at Mass?

Sayes. No, my Lord.

Judge. Then sit down. What have you to say, *John James?* What, are you dead, or afraid to be whipt? Look upon me, and speak out.

John James. He married me and my Wife.

Judge. Is that all you know? Did you see him at Mass?

John James. I know no more.

Judge. *Catharine Thomas*, did you see him at Mass? Why do not you speak, Woman? Speak, Woman.

Catharine Thomas. Yes. I have no more to say, do what you please with me.

Arnold. My Lord, there is one *Cornelius* in Court, I see him, who was Clerk.

Judge. Crier, call him, swear him. Well, *Cornelius*, did you ever see the Prisoner at Mass?

Cornelius. I am an ignorant Fellow, I know not what Mass is.

William James. My Lord, he was his Clerk.

Cornelius. No, I was his Servant.

Judge. Well, sit down. Mr. *Lewis*, now what have you to say to all these Witnesses, for your self?

Prisoner. My Lord, my Indictment was, That being a Natural Subject of the King of *England*, I was Ordained beyond the Seas, by a Jurisdiction derived from the See of *Rome*, and returned back again into *England*, &c. contrary to the Statute in that Case made and provided, 27 *Eliz.* Under your Lordship's Favour, I conceive that there has not been here any one Witness, who hath proved the Indictment, or any Part thereof.

Judge. What then? Do you expect that we should search the Records at *Rome*, or should bring Persons to prove, that they saw you ordained there? No, Sir; it is enough that you have exercised the Function of a Priest, in Copes and Vestments used in your Church, and that you have read Mass, taken Confessions, given Absolutions, Married, and Christened; if all this will not make you a Priest, what will? I have tried several Popish Priests, but never met with so full a Proof as this now.

Prisoner. All these Things supposed proved, will not make me a Priest, unless proved to be performed by me, as one Ordained beyond the Seas, by the Jurisdiction derived from the See of *Rome*; for the very Ministry of the Church of *England* take special Confessions, and give formal Absolutions; many, in case of Necessity, Christen, tho' no Priests; and lately, the Country knows it, one, no Popish Priest, solemnly married a Couple; neither can one prove to have seen me read Mass, unless it be proved first, That I was Ordained beyond the Seas, by a Jurisdiction derived from the See of *Rome*; for, no such Ordination, no Priest; and, no Priest, no Mass.

Judge. To disprove all these Witnesses, by saying, it cannot be proved you were ordained beyond the Seas, by a Jurisdiction derived from the See of *Rome*, is as much as that saying, *Bellarmine*, thou lyest.

Prisoner. My Lord, were it proved that I read Mass, that were not Treason in me, for I am inform'd, that it were but the Forfeiture of 200 Marks, by a Statute of 23 *Eliz.*

Judge. 'Tis true, who hears Mass, forfeits one Hundred Marks, *But he that uses to read it, commits Treason:* But these are the Tricks of you all, yet all will not do: Have you any thing else to say?

Prisoner. With your Lordship's Leave, now I desire to speak something to the Evidence of every particular Witness.

Judge. Speak then.

Prisoner. My Lord, as to the first Witness, *Price*; as I hope to be saved, to the best of my Memory, I never saw him, till this very Day, before. I never knew or heard before now of that Mrs. *Bartlet*, or of that Place *Castle-Morton*; I never was in that Place all my Life-time; nay, I never was in *Worcestershire*, or in any House in *Worcestershire*, but twice,

the laſt Time whereof was about five Years ago; and that was but at my Inn in *Worceſter* Town, where, with a Servant, I lighted, beſpoke my Supper, went to the Coffee-houſe, drank two Diſhes of Coffee, read the *Gazette*, returned to my Inn again, Supped, went to Bed, next Morning bought ſome few Books at the Stationers, Dined, took Horſe, returned home again: This is all the being I ever was in *Worceſterſhire*.

Judge. Look upon him, do you know him?

Price. Yes, my Lord, he is the Man.

Judge. Have you any more to ſay?

Priſoner. Yes, my Lord. Mr. *Trot* was married to a Kinſwoman of mine, and ſhe was a conſiderable Fortune to him, which he having ſpent very idly, and ſhe dying, he went to *London*, where finding an Employment at Court, and there having done ſome unhandſome Things, he was baniſhed the Court, and now lives upon the Charity of Gentlemen and Friends for his Bread; ſo that with good Reaſon it may be believed, it is rather Poverty and hope of Gain, than any thing elſe, that brings him here to accuſe me.

He was a Dwarf. *Judge. Paupertas ad Turpia Cogit.* Little Gentleman, what can you ſay to this?

Trot. My Lord, I was over with the King, and he commanded me to attend him at *Whitehall* on his Reſtoration, where I came when I returned, and I was received into his Service, but was never baniſhed the Court, only I came away upon Diſcontent, and ſtill I may go there when I pleaſe: My Lord, I am deſirous to do my King and Country good Service, but I am in danger of my Life amongſt them, and muſt look to my ſelf.

Judge. Ay, Mr. *Trot*, have a care of yourſelf, you do well. Mr. *Lewis*, have you any more to ſay for yourſelf?

Priſoner. My Lord, *Dorothy James*, and *William James* her Huſband, their Evidence is grounded upon plain Malice, and that Malice thus grounded: They pretending I owed them Money, they ſued me in *Chancery*; but after a conſiderable Charge at Law, finding themſelves not like ſo to prevail, then they fell to threatning me, that they would have me in Hand, that they would make me repent, that ſhe would never give over to proſecute againſt me, till ſhe had waſhed her Hands in my Heart's Blood, and made Pottage of my Head.

Judge. Can you prove that?

Priſoner. Yes, my Lord, that I can.

Judge. Call your Witneſſes then.

Priſoner. Crier, call *Richard Jones*, *Anne Williams*, *Anne James*, and *Catharine Cornelius*.

Judge. What can you ſay, *Richard Jones*?

Richard Jones. I heard *William James* ſay, he would make Mr. *Lewis* repent.

Judge. *Anne Williams*, what can you ſay?

Anne Williams. I heard from ſeveral Perſons, that *Dorothy James* ſaid to ſeveral Perſons, in and about *Carlion*, that ſhe would waſh her Hands in Mr. *Lewis* his Blood, and that ſhe would have his Head to make Pottage of, as of a Sheep's Head.

Catharine Cornelius. My Lord, and I heard the ſame.

Judge. *Anne James*, what can you ſay?

Anne James. I heard *Dorothy James* ſwear, that ſhe would waſh her Hands in Mr. *Lewis*'s Heart's Blood.

Judge. Where did you hear her ſay ſo?

Anne James. I heard her ſay ſo in her own Houſe, at the Fire-ſide, when I lived with her.

Judge. Well, Mr. *Lewis*, all this will not do, all will not excuſe you from being a Prieſt; or were you a Hypocrite?

Priſoner. My Lord, I am a Native of this Country.

Judge. What, of this Country?

Priſoner. Yes, my Lord, of this Country; and thoſe Years I lived in this Country, I lived with the Reputation of an honeſt Man, amongſt all honeſt Gentlemen and Neighbours.

Judge. Well, Mr. *Lewis*, have you any more to ſay?

Priſoner. My Lord, Mr. *Sayes* was ſworn Witneſs againſt me, I deſire to aſk him one Queſtion.

Judge. Do ſo.

Priſoner. Mr. *Sayes*, when you took me, was there a Juſtice of Peace with you, at taking of me?

Sayes. No.

Priſoner. My Lord, with this Opportunity I humbly beg leave to clear my ſelf from a foul Aſperſion, wherewith I am calumniated over the whole Nation, in a Printed Pamphlet, which Pamphlet I can here produce; and wherein there is not one Line of Truth. For it ſays at the End of it, that I was taken by a Juſtice of Peace, and others, in a Place cunningly contriv'd, under a Clay-Floor, which Mr. *Sayes* knows to be untrue; and whereas it alledges, That I cheated a Poor Woman of Thirty Pounds, to redeem her Father's Soul out of Purgatory, the Pamphlet names neither the Woman nor her Huſband, nor her Father, nor the Place nor Time, when nor where.

Judge. Does it not?

Priſoner. No, my Lord; ſo that the whole Pamphlet is one entire Lye, deviſed by ſome fooliſh Malice.

Judge. Mr. *Lewis*, I, for my part, do not believe it to be true. Have you any more to ſay?

Priſoner. No more, my Lord.

Judge. Then withdraw and repoſe. Gentlemen of the Jury, Here he ſtands indicted, &c. [*And ſummed up the whole Evidence*] If you believe what the Witneſſes ſwore, you muſt find the Priſoner guilty of High-Treaſon; you have heard what was proved againſt him, therefore go together.

Priſoner. My Lord, before the Jury go, I deſire to ſpeak ſomething, which now occurs unto me, and is material againſt the Evidence of *Price*.

Judge Jury, ſtay.

Priſoner. This very Morning that *Price* came to my Chamber, with the Goaler (it ſeems it was to view me), he took a Turn about the Room, all the Time eyeing me; at his going out, he was aſk'd by the Goaler, whether I was the Man he meant? and he anſwered, If I was he, I was much changed, and if I was he, I had black ſhort curled Hair.

Judge. Can you prove that?

Priſoner. Yes, my Lord.

Judge. Where are your Witneſſes?

Priſoner. Crier, call *Elizabeth Jones*, and *Charles Edwards*.

Judge. Woman, what can you ſay to this?

Eliz. Jones. My Lord, *Price* this Morning, after he had view'd the Gentleman in his Chamber, as he was going out he ſaid, If he be the Man, he is much changed, and hath black curled ſhort Hair; which is not ſo.

Judge. *Charles Edwards*, what can you ſay?

Edwards. I heard *Price* ſay the ſame Words ſhe relates.

Judge. Where is *Price?* Crier, call him. *But he was not to be found, being gone out of the Hall.* (This was the Trick of *Coleman*, to aſperſe the Witneſſes.)

Here the Jury went out, and immediately returned again.

Clerk. Are you agreed of your Verdict?

Jury. Yes.

Clerk. Who ſhall ſpeak for you?

Jury. Foreman.

Clerk. *David Lewis*, hold up thy Hand. Do you find the Priſoner Guilty, or not Guilty?

Jury. Guilty.

Judge. Have you any more to ſay?

Priſoner. No more, my Lord.

Clerk. *David Lewis*, hold up thy Hand.

Judge. Give me my Cap. *David Lewis*, thou ſhalt be led from this Place, to the Place from whence thou cameſt, &c. [*As uſual in Caſes of High-Treaſon.*] So the Lord have Mercy on thy ſoul.

Then I made a Bow to the Judge, and the Court aroſe.

Afterwards, *Aug.* 27, 1679, he was executed according to the Sentence, at *Uſke* in *Monmouthſhire*, where he ſpake as follows:

HERE is a numerous Aſſembly, I ſee; the great Saviour of the World ſave every Soul of you all; I believe you are here met not only to ſee a Fellow-Native die, but alſo with Expectation to hear a dying Fellow-Native ſpeak. If you expected it not, at leaſt I intended it, I hope the Favour will not be denied me, it being a Favour ſo freely granted to ſeveral late dying Perſons in *London* it ſelf. I ſhall endeavour to ſpeak inoffenſively; I hope the ſame Favour will not be denied me.

Let none of you ſuffer as a Murderer or a Thief, but if as a Chriſtian, let him not be aſhamed: St. *Peter*'s Words, 1 Pet. iv. 15, 16. I hope by God's Holy Spirit now whiſper'd to my Memory, and that to my abundant Conſolation; for I ſuffer not as a Murderer, Thief, or ſuch-like Malefactor, but as a Chriſtian, and therefore am not aſhamed.

I diſtinguiſh two ſorts of Life on Earth, Life-moral, and Life-natural; Life-moral is that by which we live with good Repute in the Eſteem of other Men of Integrity; Life-natural is that by which we breathe; in the firſt ſort or kind, I thank God I have ſuffer'd lately, and exceedingly, when maliciouſly, falſly, and moſt injuriouſly, I was branded for a publick Cheat, in Pamphlet, in Ballad, on Stage, and that in the Head City of the Kingdom, yea, and over the whole Nation, to the huge and great Detriment of my good Name, which I always was as tender of, as the other I am now quitting.

The Pamphletical Story (believe my dying Words) had no Truth in it, neither to Subſtance, nor Circumſtance of the Thing; a Story ſo falſe, that I could have eaſily defied the Face that had attempted to juſtify it to my Face; ſo ſordid a Buſineſs, a Story ſo ridiculous, that I wonder how any ſober Chriſtian, at leaſt who knew me, could as much as incline to believe ſo open an Improbability; who that Proteſtant young Man there mention'd was, I know not; who that Popiſh young Woman; who the Father dead a Year and a half before; in what County, what Pariſh, were all tranſacted, I know not, none of all theſe there particularized; and when in the Face of the Country at laſt *Lent*-Aſſizes, I vindicated my Innocency herein, to the Satisfaction of the then Judge himſelf, why appear'd not there then ſome one to make good the Charge, and diſable my Defence? But none of this offer'd; a plain Demonſtration to all candid Minds, the Whole was a meer Fiction of ſome malicious Perſon againſt me: God forgive them or him, I heartily do. How forward my Endeavours always have been to my Power to relieve the Poor, and not directly to defraud them, impartial Neighbours that know me can tell you; beſides this, during my nine Months Impriſonment, ſeveral foul and falſe Aſperſions were caſt out againſt me, and that by thoſe unto whom, for full thirty Years, I had been charitably ſerviceable: God forgive them, I heartily do. Yet notwithſtanding all theſe Calumniations, I hope I ſtill retain the Character of an honeſt Man amongſt Gentlemen of Worth, with whom I converſed, and with all Neighbours of Honeſty, with and amongſt whom I lived.

And now I am parting with the other Life by which I breathe, behold that within theſe few Moments of Time is to unbreathe me; but why thus ſledg'd to this Country-*Tyburn?* Why this ſo untimely Death of mine? Have Patience, and I'll tell you; not for any Plotting, I aſſure you; and what I ſhall now ſay, as to that, God is my Witneſs, I ſhall ſpeak without any Equivocation, mental Reſervation, or Palliation of Truth whatſoever.

By all that is ſacred in Heaven and Earth, I here ſolemnly proteſt, that I am as innocent from any Plot whatever againſt his Majeſty's Perſon or Government, as the Infant that left the Mother's Womb but Yeſterday; neither did I ever hear or know any thing directly or indirectly of any ſuch Plot, 'till publick Fame had ſpread it over the Country between *Michaelmas* and *All-Saints* Day laſt: This is true, as God ſhall judge and ſave my Soul; neither was there any Guilt of any ſuch black Crime found in me by Mr. *Oates*, Mr. *Bedlow*, Mr. *Dugdale*, and Mr. *Praunce*, when by them I was ſtrictly examin'd on that Point, laſt *May*, in *Newgate*, *London*; nay, had I had the leaſt knowledge or hint of ſuch Plot, I had been as zealouſly nimble in the Diſcovery of it, as any the moſt loyal Subject his Majeſty hath in his Three Kingdoms; wherefore, when I am dead and gone, if ſome Malevolent give out,

out, I loſe my Life for Plotting, by Charity ſtrive to diſengage him of his Miſtake; do that Right to my dead Aſhes.

I was never taught that Doctrine of King-killing; from my Soul I deteſt and abhor it as execrable, and directly oppoſite to the Principles of the Religion I profeſs; what that is, you ſhall know by-and-by; it being the poſitive Definition of the Council of *Conſtance*, That it is damnable for any Subject, or private Perſon, or any Subjects in Council joined, to murder his or their lawful King or Prince, or uſe any publick or clandeſtine Conſpiration againſt him, tho' the ſaid King or Prince were a Turk, Apoſtate, Perſecutor, yea, or a Tyrant in Government: Never tell me of *Clement* the Murderer of *Henry* the Third of *France*; never tell me of *Ravilliac*, Murderer of *Henry* the Fourth of *France*; they did ſo, but wickedly they did ſo, and for it they were puniſh'd to Severity, as Malefactors; and for it, to this very Day, are ſtigmatiz'd by all *Roman* Catholicks for very Miſcreants and Villains. I hope you will not charge the whole *Roman* Catholick Body with the Villanies of ſome few Deſperadoes: By that Rule, all Chriſtianity muſt be anſwerable for the Treaſon of *Judas*; for my part, I always lov'd my King, I always honour'd his Perſon, and I daily pray'd for his Proſperity; and now, with all unfeign'd Cordiality, I ſay it, God bleſs my gracious King and lawful Prince, *Charles* II. King of *England*, and Prince of *Wales*, God bleſs him temporally and eternally, God preſerve him from all his real Enemies, God direct him in all his Counſels, that may tend to the greater Glory of the ſame great God; and whatever late Plot hath been, or is, the Father of Lights bring it to Light, the Contrivers of it, and the Actors in it, that ſuch may be brought to their condign Puniſhment, and Innocence preſerved.

But why again this untimely Death? My Religion is the *Roman* Catholick Religion, in it I have liv'd above theſe Forty Years, in it I now die; and ſo fixedly die, that if all the good things in this World were offered me to renounce it, all ſhould not move me one Hair's Breadth from my *Roman* Catholick Faith; a *Roman* Catholick I am, a *Roman* Catholick Prieſt I am, a *Roman* Catholick Prieſt of that religious Order call'd *The Society of Jeſus* I am; and I bleſs God who firſt call'd me; and I bleſs the Hour in which I was firſt called both unto Faith and Function.

Pleaſe now to obſerve, I was condemn'd for reading Maſs, hearing Confeſſions, adminiſtring the Sacraments, anointing the Sick, Chriſtening, Marrying, Preaching: As for reading the Maſs, it was the old, and ſtill is, the accuſtomed and laudable Liturgy of the Holy Church; and all the other Acts, which are Acts of Religion, tending to the Worſhip of God; and for this dying, I die for Religion: Moreover know, that when laſt *May* I was in *London*, under Examination concerning the Plot, a prime Examinant told me, that to ſave my Life and increaſe my Fortunes, I muſt make ſome Diſcovery of the Plot, or conform; diſcover Plot I could not, for I knew of none; conform I would not, becauſe it was againſt my Conſcience; then by conſequence I muſt die, and ſo now dying, I die for Conſcience and Religion; and dying upon ſuch good Scores, as far as humane Frailty permits, I die with Alacrity interior and exterior; from the abundance of the Heart, let not only Mouths, but Faces alſo ſpeak.

Here, methinks, I feel Fleſh and Blood ready to burſt into loud Cries, Tooth for Tooth, Eye for Eye, Blood for Blood, Life for Life; No, crieth holy Goſpel, *Forgive, and you ſhall be forgiven*; *pray for thoſe that perſecute you*; *love your Enemies*; and I profeſs myſelf a Child of the Goſpel, and the Goſpel I obey.

Whomever preſent or abſent, I have ever offended, I humbly deſire them to forgive me; as for my Enemies, had I as many Hearts as I have Fingers, with all thoſe Hearts would I forgive my Enemies, at leaſtwiſe; with all that ſingle Heart I have, I freely forgive them all, my Neighbours that betray'd me, the Perſons that took me, the Juſtices that committed me, the Witneſſes that prov'd againſt me, the Jury that found me, the Judge that condemn'd me, and others whoever, that out of Malice or Zeal, covertly or openly, have been contributive to my Condemnation; but ſingularly and eſpecially, I forgive my capital Perſecutor, who hath been ſo long thirſting after my Blood; from my Soul I forgive him, and wiſh his Soul ſo well, that were it in my Power, I would ſeat him a Seraphim in Heaven, and I pray for them in the Language of glorious St. *Stephen* the Protomartyr; *Lord, lay not this Sin unto them*; or better yet, in the Style of our great Maſter, Chriſt himſelf, *Father, forgive them, they know not what they do.*

And with Reaſon I love them alſo; for though they have done themſelves a vaſt Soul-prejudice, yet they have done me an incomparable Favour, which I ſhall eternally acknowledge; but chiefly I love them for his ſake, who ſaid, *Love your Enemies*; and in Teſtimony of my Love, I wiſh them, and it is the beſt of Wiſhes, from the Center of my Soul, I wiſh them a good Eternity. O Eternity, Eternity! How momentanean are the Glories, Riches, and Pleaſures of this World! and how deſirable art thou, endleſs Eternity!

And for my ſaid Enemies attaining thereunto, I humbly beſeech God to give them the Grace of true Repentance, before they and this World part.

Next to my Enemies, give me leave to lift up my Eyes, Hands, and Heart to Heaven, and drop ſome few Words of Advice unto, and for my Friends, as well thoſe preſent as abſent. Friends, *Fear God, Honour your King*, be firm in your Faith, avoid mortal Sin, by frequenting the Sacraments of holy Church, patiently bear your Perſecutions and Afflictions, forgive your Enemies, your Sufferings are great; I ſay, be firm in your Faith to the End, yea, even to Death, then ſhall ye heap unto your ſelves Celeſtial Treaſures in the heavenly *Jeruſalem*, where no Thief robbeth, no Moth eateth, and no Ruſt conſumeth; and have that bleſſed Saying of the bleſſed St. *Peter*, Prince of the Apoſtles, always in your Memory, which I heartily recommend unto you, *viz. Let none of you ſuffer as a Murderer or a Thief, but if as a Chriſtian let him not be aſhamed, but glorify God in his Name.*

Now it is high time I make my Addreſſes to Heaven, and ſupplicate the Divine Goodneſs in my own Behalf, by ſome few ſhort and cordial Ejaculations of Prayers.

His Prayers being ended, he was turn'd off.

LXXXII. *The Trial of* Nathanael Reading*, *Eſq*; *for a* Treſpaſs *and* Miſdemeanour, April 14, 1679. 31 Car. II.

ON *Wedneſday* the 16th of *April*, 1679, His Majeſty's Commiſſioners of *Oyer* and *Terminer* did meet at *Weſtminſter-Hall*, in the Court of *King*'s-*Bench*, when and where the Commiſſion was read; and Proclamation for Attendance being made, and the Grand-Jury ſworn, Sir *James Butler*, Her Majeſty's Attorney General, and Chief Commiſſioner that then appeared, gave them their Charge thus:

Gentlemen,

His Majeſty, upon the Addreſs of the Honourable Houſe of Commons, hath been pleaſed to give Order for this Commiſſion of *Oyer* and *Terminer* that hath been read, to iſſue out; and the Court thereby hath Authority to inquire of, hear and determine ſeveral other Offences: Yet, at this preſent, you ſhall have no other in Charge than the particular Offence recited in the Indictment in my Hand. It is a Crime of an unuſual and rare Nature: The Indictment is againſt *Nathanael Reading*; it ſets forth the Plot againſt the King, the Government, and the Religion eſtabliſhed here by Law, the horrid and pernicious Miſchiefs and Conſequences of it: It ſets forth likewiſe, that ſeveral Perſons, (and names them) as *Coleman*, *Ireland* and *Grove*, were Tried, Condemned, and Executed for the ſame: That ſeveral Lords in the *Tower* do ſtand Impeached in Parliament of the ſaid High-Treaſon, and other High-Crimes and Miſdemeanours; and this was well known to Mr. *Reading*, and that notwithſtanding he hath ſo miſbehaved himſelf, in endeavouring to leſſen and ſtifle (as much as in him lay) the King's Evidence, that if it had not been happily prevented, might have been of moſt miſchievous Conſequence. I ſhall not take upon me to recite the whole Indictment to you, being very long, and not ſeen or peruſed by me till now; but you ſhall have the ſame along with you, it ſhall be read to you. Your Duty is, to examine and conſider of the Evidence to be offered you, on the Behalf of the King, for the Proof of the Charge againſt the Offender: If you find it amount to a Proof of what is laid therein, nay, I muſt tell you, if you have but probable Evidence, you ought to find the Bill, becauſe your Preſentment and Verdict is not a Conviction, but in the Nature of an Accuſation, in order to bring the Priſoner to a fair Trial: And if you do not find the Bill, he ſhall never be brought to his Trial; but if you (having probable Evidence) find it, he ſhall receive his Trial by the petty Jury; and upon the Merits, be either Acquitted or Convicted. This is as much as I think is fit for me to ſay to you at this Time, upon this Occaſion. You may pleaſe to go together, and take the Witneſſes along with you.

Then the Witneſſes were ſworn, and the Grand-Jury withdrew, and after the Space of about half an Hour, returned, finding it Billa Vera. *After which, the Court adjourned to* Thurſday, *the 24th Day of* April, *at Eight o'clock in the Morning, in the ſame Place.*

On which Day the Commiſſioners here-under-named being met, viz.

Sir *Francis North*, Knight, Lord Chief Juſtice of His Majeſty's Court of *Common-Pleas.*
William Mountague, Eſq; Lord Chief Baron of His Majeſty's Court of *Exchequer.*
Sir *William Wylde*, Kt. and Bart. one of His Majeſty's Juſtices of the *King's-Bench.*
Sir *Hugh Wyndham*, Kt. one of His Majeſty's Juſtices of the *Common-Pleas.*
Sir *Robert Atkins*, Knight of the *Bath*, another of the Juſtices of the *Common-Pleas.*
Sir *Edward Thurland*, Kt. one of the Barons of the *Exchequer.*
Vere Bertie, Eſq; another of the Juſtices of the *Common-Pleas.*
Sir *Thomas Jones*, Kt. another of the Juſtices of the *King's-Bench.*
Sir *Francis Bramſton*, Kt. another of the Barons of the *Exchequer.*
Sir *William Dolben*, Kt. another of the Juſtices of the *King's-Bench.*
Sir *William Jones*, Kt. His Majeſty's Attorney-General.
Sir *James Butler*, Kt. one of the King's Council, and the Queen's Attorney.
Sir *Philip Mathews*, Bart.
Sir *Thomas Orby*, Kt. and Bart.
Sir *Thomas Byde*, Kt.
Sir *William Beiwles*, Kt.
Sir *Thomas Stringer*, Serjeant at Law.
Sir *Charles Pitfield*, Kt.
Thomas Robinſon, *Humphrey Wyrley*, *Thomas Haryot*, and *Richard Gower*, } Eſquires.

Proclamation was made for Attendance, and the Grand Inqueſt being called, Sir Francis North, *Lord Chief Juſtice of the* Common-Pleas, (*the Lord Chief Juſtice being out of Town*) *ſpoke to them thus:*

Lord Chief Juſtice North. You of the Grand Jury, This Seſſion is upon a particular Occaſion, and that which lay upon you was to find the Bill;

* *He had been Secretary to* Maſſianello, *at the Inſurrection at* Naples, *about Thirty Years before.*

and

and that you have done, and we do not see any thing further for you to do, and therefore the Court discharges you from any further Attendance this Session.

Then Mr. Reading *was sent for, and brought to the Bar by Captain* Richardson, *Keeper of* Newgate; *and Silence being Proclaimed, the Clerk of the Crown read the Indictment to him.*

Cl. of the Cr. Mr. *Reading*, hearken to your Indictment.

You stand Indicted by the Name of Nathanael Reading, *late of the Parish of St.* Margaret Westminster, *in the County of* Middlesex, *Esq; That whereas* Edward Coleman, William Ireland, *and* John Grove, *and other (unknown) false Traitors against our most Serene Lord King* Charles II. *the 24th Day of* April, *in the Thirtieth Year of his Reign, at the Parish of St.* Margaret's Westminster, *in the County of* Middlesex, *had Traiterously, among themselves, Conspired, Consulted, and Agreed, our said most Serene Lord the King to bring and put to Death and final Destruction; and to move War against him our Lord the King, within this Realm of* England, *and the Religion in the same Kingdom rightly and by the Laws of the same Realm Established to Change and Alter to the Superstition of the* Romish *Church, and the Government of the same Kingdom to Subvert; for which certain most wicked Treasons, and Traiterous Conspiracies, Consultations, and Agreements aforesaid, They, the said* Coleman, Ireland, *and* Grove, *in due Manner, and according to the Laws of this Kingdom of* England *afterwards were Attainted, and had therefore undergone the Pains of Death: And whereas* William *Earl of* Powis, William *Viscount* Stafford, John *Lord* Bellasis, Henry *Lord* Arundel *of* Warder, William *Lord* Petre, *and Sir* Henry Tichburn, *Bart. the 30th Day of* November *in the aforesaid 30th Year of the Reign of our said Lord the King, at the said Parish of St.* Margaret's Westminster, *in the County aforesaid, were of the aforesaid Treasons in a lawful manner Accused, and thereupon, according to the due Form of Law, to the* Tower *of* London *(being the Prison of our said Lord the King) were Committed, there safely to be kept, to Answer the aforesaid Treasons, whereof the same* William *Earl of* Powis, William *Viscount* Stafford, John *Lord* Belasis, Henry *Lord* Arundel, *and* William *Lord* Petre *in Parliament, by the Commons in the same Parliament assembled, are Impeach'd: But you, the said* Nathanael Reading, *the aforesaid Premises sufficiently knowing, and being Devilishly affected against our most Serene Lord the King, your Supreme and Natural Lord, and devising, and with all your Might intending, to disturb the Peace and common Tranquillity of this Realm, and the Government of the same Kingdom, and the sincere Religion of God in the same, rightly and by the Laws of the said Realm Established, at your Will and Pleasure to Change and Alter; and the State of this Kingdom, thro' all its Parts well Instituted and Ordained, wholly to Subvert; and to obstruct, hinder and stifle the Discovery of the said Treasons, and as much as in you lay, the due Course of Law in that Part to shift off, and retard in the Prosecution of Justice against the said* William *Earl of* Powis, William *Viscount* Stafford, William *Lord* Petre, *and Sir* Henry Tichburn: *You, the said* Nathanael Reading, *the 29th Day of* March, *in the 31st Year of our said Lord the King, at the said Parish of St.* Margaret's Westminster, *in the County aforesaid, on the Part of the aforesaid* William *Earl of* Powis, William *Viscount* Stafford, William *Lord* Petre, *and Sir* Henry Tichburn, *falsly, advisedly, corruptly, and against the Duty of your Allegiance, did unlawfully solicit, suborn, and endeavour to persuade, one* William Bedlow, *(who, on the 29th Day of* March, *in the said 31st Year, in due Manner did give Information of the said Treasons; and whom You, the said* Reading, *the Day and Year last aforesaid, did well know the Information of the said Treasons as aforesaid to have given, on the Part of our Lord the King) upon the Trial of the aforesaid* William *Earl of* Powis, William *Viscount* Stafford, William *Lord* Petre, *and Sir* Henry Tichburn, *for the Treasons aforesaid, to be had, to lessen and stifle, and to omit to give in Evidence the full Truth, according to his Knowledge, of the aforesaid Treasons, against Them, the said* William *Earl of* Powis, William *Viscount* Stafford, William *Lord* Petre, *and Sir* Henry Tichburn, *and to give such Evidence, as You, the said* Nathanael Reading, *should direct: And You, the said* Nathanael Reading, *sooner and more effectually to persuade the aforesaid* William Bedlow *to lessen and stifle, and to omit to give in Evidence the full Truth, according to his Knowledge, against the said* William *Earl of* Powis, William *Viscount* Stafford, William *Lord* Petre, *and Sir* Henry Tichburn, *upon their Trials, and to give such Evidence as You, the aforesaid* Nathanael Reading, *would direct: You, the said* Nathanael Reading, *afterwards, on the said 29th Day of* March, *in the 31st Year aforesaid, at the aforesaid Parish of St.* Margaret's Westminster, *in the said County, falsly, advisedly, corruptly, and against the Duty of your Allegiance, unlawfully did give to the same* William Bedlow *Fifty-six Pieces of coined Gold of this Kingdom, called* Guineas: *And also falsly, advisedly, corruptly, unlawfully, and against the Duty of your Allegiance, the Day and Year aforesaid, at the aforesaid Parish of St.* Margaret's Westminster, *in the said County of* Middlesex, *did promise to the said* Bedlow, *that He, the said* Bedlow, *within a certain Time, by You, the aforesaid* Nathanael Reading, *to the said* Bedlow *proposed, should have and receive divers other great Sums of Money, and other great Rewards, for lessening and stifling, and omitting to give in Evidence the full Truth, according to his Knowledge, of the aforesaid Treasons against the said* William *Earl of* Powis, William *Viscount* Stafford, William *Lord* Petre, *and Sir* Henry Tichburn, *and for giving such Evidence, as You, the said* Nathanael Reading, *to the said* William Bedlow *should direct, to the great Hindrance, Obstruction, and Suppression of Justice, in manifest Contempt of the Laws of this Realm, to the evil and pernicious Example of all others in the like Case offending; and against the Peace of our Lord the King, his Crown and Dignity,* &c.

How say you, Mr. *Reading*, are you Guilty of this Trespass and Misdemeanor, or Not Guilty?

Reading. Not Guilty, in Thought, Word or Deed.

L. C. J. Not Guilty, is your Plea?

Reading. Yes, my Lord.

Cl. of the Cr. Crier, make Proclamation. You good Men of this County of *Middlesex*, summoned to appear here this Day, to try the Issue joined between our Sovereign Lord the King, and *Nathanael Reading*, answer to your Names, and save your Issues.

Then the Pannel was called over, and Proclamation for Information in usual Form was made.

Cl. of the Cr. Mr. *Reading*, look to your Challenges. Will your Lordship please to have Sir *John Cutler* to be Foreman?

L. C. J. Yes.

Reading. My Lord, I have a very great Honour for this worthy Person, Sir *John Cutler*; he is in Commission of the Peace, I do therefore humbly desire he may be excused at this Time.

L. C. J. Mr. *Reading*, you cannot challenge him peremptorily in this Case, it not being for your Life; and therefore you must shew Cause if you have any. He is not in this Commission at all; and for his being in Commission of the Peace, that signifies nothing, for we oftentimes in the Circuits take them off the Bench to be Jurymen; but if you can shew any Cause of Challenge, it must be allowed you.

Reading. My Lord, I look upon myself Indicted for Treason; (I desire God to give me Strength, and I am sure of your Lordship's Patience) and I look upon the Indictment which hath been read to me, and upon which I have been arraigned, to be expresly Treason; and I do humbly pray your Lordship's Judgment in it, whether it be so or not: For, my Lord, (if your Lordship please) if it be so, as I understand my own Innocency, so your Lordship understands my Charge better than I do. And God knows I have neither strength of Body, nor presence of Mind to manage my own Defence; but my Happiness is, that I am alive at this Day, and am to be tried here before so Honourable a Bench. My Lord, I have not had the Advantage of any Counsel to assist me, nor the Benefit of any Common Friend, no, not my Wife to come to me. I have not been able to help myself thro' the great Indisposition which I have been under, reduced to it by that barbarous and illegal Usage which I have had: For (my Lord) I hope I may say I am the first *English* that in my Circumstances hath ever been used as I have been; and my Hopes are, whatsoever becomes of me (the Lord's Will be done), I shall be the last that ever shall be so used. My Lord, upon the Weakness of my own Apprehension, I do take it, that 'tis as high a Treason, nay a greater Treason, and that in the Words of the Indictment, than ever Mr. *Coleman*, or any of the others that have been Executed, died for; or the Lords now in the *Tower* stand Charged with; and therefore, my Lord, I pray your Direction in it, if it is but a Misdemeanor (for truly what the Crime is I know not); but in Construction of Law, admitting the Indictment true, the whole does contain in it the blackest Treason that ever Villain was guilty of. If it is so in your Lordship's Judgment, whatever should become of it now, I may be Indicted for it again; and should this Indictment be found upon me, I am as certainly in the Eye of the Law a dead Man, as thro' the Mercy of God I am now alive: And (my Lord) if it be so, I desire your Lordship's Judgment, whether I may not be allowed a peremptory Challenge.

L. C. J. Mr. *Reading*, you speak in due time, for 'tis pertinent to the Matter of peremptory Challenge, to consider whether this be an Indictment of Treason; for if it be, the Law does allow in favour of your Life a peremptory Challenge to such a Number; and I will tell you, your Apprehensions have something in them: That the Fact as 'tis laid in the Indictment, might have been laid so as to have made it an Indictment of Treason; and if you are Guilty of this Fact, and not Indicted for Treason, but only for a Misdemeanor, 'tis a Favour to you, and that of which you cannot take Advantage or complain of. I'll now shew you that this Indictment is not an Indictment of Treason, nor can the Judgment of Treason be given upon you for it; and so thereby your Life is not in danger. First, here is not the Word *Proditorie*, which is necessary in all Indictments of Treason: Next, you must observe that all Treasons are expresly particularized in the *Statute* of 25 *Ed.* III. And nothing is Treason but what is contained in that Act, *as Compassing the Death of the King, Levying War against the King*, and other Facts mentioned in that *Statute*. Now if this Fact had been here laid as an Overt-Act for the Evidencing of the Imagination of your Heart in Compassing the Death of the King, and the Destruction of the Realm, there it had been an Indictment of Treason: But being there is no Treason formally laid, nor the Word *(Proditorie)* which is necessary in all Indictments of Treason, 'tis only a Misdemeanor you stand Charged with; which I must tell you is a great Ease and Favour to you in such Circumstances as we are now; and if it be so, you must shew Cause if you challenge any Juror.

Reading. If I may (with your Lordship's Favour) I am very highly disposed for the taking of the least of Favours that can be shew'd me, with the deepest Acknowledgment that an Innocent Man and one in Distress can make: But (my Lord) among the greatest of Misfortunes, this I own as my Happiness, that I am now on my Trial before your Lordship. But pray (my Lord) may not I (having this Favour shew'd to me, and should it be only found a Misdemeanor) afterwards be Indicted for Treason? And pray (my Lord) does there want any one Circumstance of the Formality of an Indictment for Treason in this against me, but that one of *Proditorie?*

L. C. J. No, it is not laid that you did Compass the Death of the King.

Reading. Then (with Your Lordship's Pardon) I do not understand it: for the Indictment does set forth, *That* Coleman *and others did Conspire the Death of the King, Levying War, the Altering of Religion and Subversion of the Government; for which they justly suffered Death.* And further, as to the several Lords in the Indictment mentioned, they are accused for the same Treason; *And justly, and according to Law sent to the* Tower, *to Answer what they stand justly impeached of by the Commons:* And it sets forth further, that I *præmissa prædicta satis sciens*, did so and so: Were there no other Expression, that, my Lord, is expresly Treason, or no doubt Misprision of Treason; for, my Lord, it does charge me that I am *satis sciens* particularly, sufficiently well apprized of those Treasons they were Executed for, these Accused. And that I did not this out of the Weakness of my own Apprehension, but falsly, advisedly and maliciously. My Happiness is, I shall have your great Judgments to determine this Matter for me.

L. C. J. Mr. *Reading*, you exercise great Elocution and Eloquence; but if I do apprehend you aright, what you say is this: That the Indictment

dictment ſets forth, that you *ſatis ſciens* of thoſe Treaſons did ſo and ſo, which will amount to a Miſpriſion of Treaſon. I muſt tell you, there is a difference between the Knowledge of a Treaſon that is ſecret, for the concealing of that, and endeavouring to ſtifle the Evidence, is Miſpriſion of Treaſon; but the knowing of a Treaſon that is revealed and diſcovered is knowing no more than all the World knows; and not laid as a Fault, but to aggravate the Fault afterwards charged. This Diſcourſe is nothing to the matter; if you would have our Opinion, whether you may afterwards be queſtioned for Treaſon, 'tis that we are not to give you; anſwer the Indictment as now it is: You have favour enough that it is laid this way, and not the other. An Indictment of Treaſon or Miſpriſion muſt not be laid ſo as that the Crime muſt be collected out of the Matter of Fact only, but it muſt be formally laid. How you ſhall be proſecuted hereafter, muſt depend upon the Juſtice of the Kingdom. We ſit here now to determine upon what Matter lies before us, and ſo we cannot grant you a peremptory Challenge in this Caſe, which is only allowed in Matters Capital in favour of Life.

Reading. My Lord, I do deſire to know whether this be Treaſon or no, *That being deviliſhly affected to the King my Supreme and Natural Lord, and intending to levy War in the Kingdom, and to change the Government, and to alter the Religion, and ſubvert the Peace of* England; whether that be not Treaſon?

L. C. J. Mr. *Reading*, We will anſwer none of thoſe Queſtions: But this I will ſay to you, no Judgment of Treaſon can be given upon you upon this Indictment; and tho' theſe Acts (if formally laid) might have been Treaſon, yet it not being ſo, we muſt proceed as it lies before us: And therefore if you have any particular Cauſe to challenge Sir *John Cutler*, ſhew it, and we will hear you.

Reading. My Lord, I have this Cauſe, I have been but a little time acquainted with this worthy Gentleman; but, my Lord, I have ſeen him in Company with Mr. *Bedlow*, mine Accuſer, I know there is not a common Intimacy and Friendſhip between them: I am very certain, my Lord, that Sir *John* hath too much Honour to do me wrong; but I do humbly deſire that he may have his Eaſe, and be excuſed at this time: not that I do diſtruſt his Juſtice, but for the Reaſons I have humbly offered.

L. C. J. Look you, Mr. *Reading*, your Accuſers are Witneſſes for the King, and are neither to gain nor loſe by your Trial; and therefore cannot be preſumed to make any Party for your Conviction. And do you challenge a Juryman becauſe he is ſuppoſed to know ſomething of the Matter? For that reaſon the Juries are called from the Neighbourhood, becauſe they ſhould not be wholly Strangers to the Fact. If you can ſhew that he hath already given his Verdict by his Diſcourſe, and that you are already condemn'd in his Opinion, that may be ſome Cauſe of Challenge; but that he hath diſcourſed with Neighbours as others do, it may be he believes it, and may be does not believe it, he is now to give his Verdict upon what he hears upon Oath.

Reading. My Lord, I am very glad to ſee Sir *John Cutler* here, for I did intend to have his Evidence for me.

L. C. J. That you may have, tho' he be ſworn.

Then the Jury were ſworn, and their Names were as followeth, viz.

Sir *John Cutler*,	*Thomas Caſſe*, Eſq;
Joſhuah Galliard, Eſq;	*Rainsford Waterhouſe*, Eſq;
Edward Wilford, Eſq;	*Matthew Bateman*, Eſq;
Thomas Henſlow, Eſq;	*Walter Moyle*, Eſq;
Thomas Earſby, Eſq;	*Richard Paget*, and
John Erle, Eſq;	*John Haynes*, Eſq;

L. C. J. If Sir *John Cutler* deſires Pen, Ink and Paper, or any other Convenience, let him have it.

Cl of the Cr. Gentlemen of the Jury, hearken to the Indictment. He ſtands indicted by the Name of *Nathanael Reading*——

L. C. J. You need not open the Indictment, let the Counſel do that.

Then Edward Ward, *Eſq*; *being of Counſel for the King in this Cauſe, opened the Indictment.*

May it pleaſe your Lordſhip, and you Gentlemen of this Jury, *Nathanael Reading*, Eſq; ſtands indicted for this Offence: That whereas *Edward Coleman*, *William Ireland*, and *John Grove*, and other unknown Perſons, (Traitors againſt our Sovereign Lord the King) the 24th Day of *April*, in the Thirtieth Year of the King, did traiterouſly contrive the King's Death, the Subverſion of the Government of the Kingdom, and the Religion in the ſame Kingdom by Law eſtabliſhed, to alter and change to the Superſtition of the Romiſh Church; for which Treaſons they have been in due manner attainted and executed: And it farther lays, That whereas *William* Earl of *Powis*, *William* Lord Viſcount *Stafford*, *John* Lord *Bellaſis*, *Henry* Lord *Arundel* of *Wardour*, *William* Lord *Petre*, and Sir *Henry Titchburn*, Baronet, were the 30th of *November* laſt, in a lawful manner, accuſed of thoſe Treaſons, and for them committed to the *Tower*; and thereof the ſaid Lords were and ſtand impeached by the Commons in Parliament: The ſaid Mr. *Reading* well knowing of theſe Things, and being deviliſhly affected to the King, his Supreme and Natural Lord, and deviſing to diſturb the Peace of the Kingdom, and the Government and Religion thereof rightly eſtabliſh'd, to change and alter; the State of the Kingdom well inſtituted, to ſubvert; and to obſtruct and ſtifle the Diſcovery of theſe Treaſons, and as much as in him lay to ſhift off and retard the Courſe of Law and Proſecution of Juſtice againſt the ſaid Lord *Powis*, Lord *Stafford*, Lord *Petre*, and Sir *Henry Titchburn*; the ſaid Mr. *Reading*, the 29th of *March* laſt paſt, at St. *Margaret's Weſtminſter*, on the part of theſe three laſt mentioned Lords, and Sir *Henry Titchburn*, did falſly, corruptly, adviſedly, and againſt his Allegiance, unlawfully ſollicit, ſuborn, and endeavour to perſuade one Mr. *William Bedlow* (who before had given Information of theſe Treaſons againſt the ſaid Perſons, and whom Mr. *Reading* knew ſo to have done) to leſſen, ſtifle, and omit to give in Evidence the full Truth according to his Knowledge of the ſaid Treaſons againſt the ſaid three Lords, and Sir *Henry Titchburn*, upon their Trial to be had, and to give ſuch Evidence as he the ſaid Mr. *Reading* ſhould direct; and to that purpoſe, falſly, corruptly, adviſedly, and againſt the Duty of his Allegiance, unlawfully did give to Mr. *Bedlow* fifty-ſix Guineas, and promiſed him, that within a certain Time (by the ſaid *Reading* propoſed) he ſhould have and receive divers other great Sums of Money and Rewards, for leſſening, ſtifling, and omitting to give in Evidence the full Truth, according to his Knowledge of thoſe Treaſons, againſt the ſaid three Lords and Sir *Henry Titchburn*; and for giving ſuch Evidence as he ſhould direct: And this is laid to be to the hindrance and ſuppreſſion of Juſtice, in manifeſt Contempt of the Laws of this Realm, to the evil Example of others in the like Caſe offending, and againſt the Peace of our Lord the King, his Crown and Dignity. To this Indictment Mr. *Reading* hath pleaded Not Guilty. If we prove the Offences aforeſaid againſt him, we doubt not but you will find him Guilty.

Sir Creſwel Levinz, *one of the King's Learned Counſel in the Law, thus opened the Charge.*

May it pleaſe your Lordſhips, and you Gentlemen of the Jury, I am of Counſel for the King in this Caſe: Gentlemen, This Indictment is not an Indictment of High-Treaſon, nor of Miſpriſion of Treaſon; and truly the Gentleman at the Bar hath ſomething wondred at the King's Lenity to him; the Fact in the Indictment does indeed found of another Nature, than what it bears the Name of; it does in this Indictment carry the moſt moderate Character that the Fact will bear: It is only an Indictment of Treſpaſs and Miſdemeanor, but 'tis a very high Miſdemeanor; 'tis to ſtifle the King's Evidence, and that not in an ordinary Caſe, but where it is attended with the greateſt Aggravations that can be in any Caſe whatſoever. If a Man ſhould endeavour to ſtifle the Evidence in an Action betwixt Party and Party, in the Courts of *Weſtminſter-Hall*, for a Buſineſs of about 40*s.* thoſe Courts of Juſtice would find a ready way to puniſh him. This is a Crime of another Nature, for it is ſet forth in the Indictment, That *Coleman*, *Ireland*, and *Grove* had a Traiterous Deſign in hand, for the which they were Executed, that is, the Plot; and when I have ſaid that, I have ſaid all, That implies all; you all know what was thereby deſigned. 'Tis ſet forth in the Indictment, That ſuch Lords, and Sir *Henry Titchburn*, were privy to the Plot, and accuſed for it, and to prevent the Evidence to be given againſt theſe Lords, three of them, (for the Bargain was only made for three, *viz.* my Lord *Stafford*, my Lord *Powis*, and my Lord *Petre*; the reſt were out of the Bargain, and had not, it ſeems, found out the Way of Commerce now uſed by theſe Perſons) was this Gentleman, Mr. *Reading*'s Buſineſs. It was to diminiſh and leſſen the Evidence that was to be given againſt them, who were charged and accuſed to be as highly Guilty of the Plot as any that were Executed for it. And when I have told you this, you will ſurely conclude 'tis an high Offence, and an high Miſdemeanor: For if the Life of the King, if the Law of the Land, if the Religion Eſtabliſhed, if the ſettled Government be valuable; if your own Lives, your own Liberties, and your own Fortunes, have any Conſideration with you, this is a very high Miſdemeanor; for you muſt look upon theſe as all at Stake: This Plot, as it was laid, did reach to all; ſo that an Endeavour to conceal the Evidence that ſhould diſcover, and thereby prevent the Execution of ſo horrid a Conſpiracy, is a very heinous Miſdemeanor; and you will eaſily believe, that the Gentleman at the Bar, the Priſoner whom you are to Try, had reaſon to doubt within himſelf, why it ſhould be called ſo ſmall an Offence as an high Miſdemeanor: But I will not, I need not aggravate this Offence, and the rather becauſe the Gentleman that ſtands accuſed for it, is of a Profeſſion (for which I am ſorry) which obliges him to know and underſtand all the Aggravations of his own Crime. I will not open the Evidence, nor tell you what the Witneſſes will ſay, I had rather you ſhould have it from themſelves; but if I am rightly informed, you will have the Matter fully proved; and therefore we will call the Wineſſes, and let them tell you what it is they have to ſay.

Mr. Ward. There are ſome things laid in this Indictment, that are to be previouſly proved, in Order to the Charging of the Priſoner; as the Execution of *Coleman*, and the reſt; and the Impeachment of the Lords. If Mr. *Reading* ſtands upon it, we have thoſe here that will prove it.

L. C. J. Mr. *Reading*, Thoſe Publick Paſſages that are laid in the Preamble of the Indictment, do you inſiſt they ſhould be proved firſt?

Reading. My Lord, I am very willing to ſave your Lordſhip's Time.

L. C. J. Do you admit that *Coleman* and *Ireland*, &c. were Executed for Treaſon?

Reading. Yes, my Lord, and very juſtly.

L. C. J. Do you admit that the Lords in the *Tower* are Accuſed and Impeached in Parliament for this Plot?

Reading. Yes, my Lord, I do.

L. C. J. Then you eaſe them of the reading thoſe Records.

Reading. And, my Lord, I do further ſay, I do verily believe there never was a greater Plot laid in Hell than this. I have abhorr'd it in my Thoughts, and have not only endeavoured to encourage the Diſcovery, but always gave it as my Counſel, that nothing that was true ſhould be left out in the Evidence. And I do, and will, ſave your Lordſhip's Time as much as I can.

Sir Cr. Levinz. Then, if your Lordſhip pleaſe, we will call our Witneſſes, and prove the Fact; and if there be any thing that Mr. *Reading* doubts of, we will prove it afterwards. Swear Mr. *Bedlow*. *Which was done.*

Mr. Ward. Mr. *Bedlow*, I ſhall only aſk you the general Queſtion. Will you be pleaſed to tell my Lords and the Jury, what you know of this Buſineſs? Tell the whole Story, what Diſcourſe and Bargainings there have been between you and Mr. *Reading*, for the diminiſhing and leſſening of your Evidence.

Bedlow. My Lord, Mr. *Reading* was altogether a Stranger to me, till Sir *Trevor Williams* brought me acquainted with him; he was always very juſt to me in whatſoever he did for me, and wherein he was employed by me. I found him very honeſt, in reference to my own Concerns. And tho' Mr. *Reading* will bring a great many People, perhaps, that he hath preſs'd me to diſcover the whole of the Plot; I do confeſs, he did it in a very high meaſure in all publick Company, and that I would not be baulk'd in any Point:

Point: And for the Diſcovery and Convicting, and Executing, of thoſe that had died about this Plot, he never deny'd but they ſuffered juſtly and lawfully enough: But in private Counſels where we have been together, he hath ſpoken to me to be cautious. Indeed he hath never endeavoured to have me ſtifle the whole Plot, but only for ſome particular People that he ſolicited for; not but that he believed them guilty, as well as the reſt; but he deſired me that I would not be ſo hot againſt them. And after he had made me Eaſy, (that was his Word that he himſelf uſed) he would have had me made Mr. *Dugdale* Eaſy too. At ſeveral Times, when we have been together, his very Expreſſions have been to me, Mr. *Bedlow*, Tho' there has been ſo damn'd a Deſign on foot, and ſo terrible a one, yet it is not for your Safety nor Credit to run at the whole Herd of Men: For I was this Day, or Yeſterday, he ſaid, with my Lord Chief Juſtice, and he told me, That at this Rate that Mr. *Bedlow* accuſes Men, none are ſafe, for he runs at the whole Herd; and ſeemed to me to intimate, that my Lord Chief Juſtice was not pleaſed with my Forwardneſs. And he told me likewiſe, You gain your Point with the Parliament, and with the King, and with the Kingdom, if ſome ſuffer, as I believe you can do it, and not run at the whole Herd; and 'tis an indifferent Thing to you, ſo you make the Parliament your Friend, by proving there is a Plot, and the King your Friend, in not charging all theſe Lords, and you'll make all the Lords your Friends, by your Kindneſs to them. You ſhall take my Inſtructions, I will never adviſe you any thing that is ill, but I'll tell you how far you ſhall proceed. If you can fix any thing for them, you ſhall be ſure to be well gratified.

L. C. J. Did he name any Lords to you?

Bedlow. This was the Beginning of the Diſcourſe, my Lord; and I anſwered him, Mr. *Reading*, This is a very nice Point, and I know them to be guilty of all the Things I charge them with, and I can prove it. If your Advice be ſo, I'll conſider of it. I think it was after the Prorogation of the laſt Parliament, and then my Encouragement for Diſcovery was not ſo great. But, ſaid I, if any of them deny it to you, that they are guilty, then they muſt expect no Kindneſs from me at all, for I will ſwear all that I can againſt them; but if they acknowledge that I do them a Piece of Service in not ſwearing too ſeverely againſt them, then I will be ready to take your Advice and Inſtructions. He told me many Times, that Sir *Henry Tichburn* did think he had ſeen me in *Paris*, but he did not uſe this Expreſſion to me, That I charged him with bringing Commiſſions over from *Rome*. I anſwered again, You may tell Sir *Henry Tichburn*, if he denies any thing of the Fact that I have ſworn againſt him, he does me and himſelf a great Injury. And to take him off as an innocent Man, I cannot do it, I will never do it. But upon Acknowledgement, I may do them ſome Kindneſs. So likewiſe my Lord *Powis* and *Caryll*. The Gentlemen that he moſt ſolicited for, were, my Lord *Powis*, my Lord *Petre*, my Lord *Stafford*, Sir *Henry Tichburn*, Mr. *Roper*, Mr. *Caryll*, and one Mr. *Corker* a Jeſuit. And likewiſe he made me eaſy, upon that Day that Mr. *Whitebread* and Mr. *Fenwick* were upon their Trials; for I have enough againſt them, becauſe I could be no Stranger to *Whitebread* and *Fenwick*, two ſuch conſiderable Men, being ſo much concerned as I was in their Affairs. It was impoſſible I ſhould be ſo much a Stranger to them, as I ſaid I was, but it was becauſe Mr. *Reading* had then made me eaſy, and I intended to carry on the Intrigue with him, till it could be handſomely diſcovered. But my Lord Chief Juſtice aſked me whether that was all I could ſay? And I told him, My Lord, I have ſomething more to ſay, when Time and Place require it, and when I can be ſafe in telling it; that is, when I had found out all that Mr. *Reading* intended to do, how far he would go, and then I thought it would be a proper Time, when I could make out ſome ſuch Information as I now do; but I would not ſtifle that Treaty that was between him and me, about the Lords in the *Tower*, which I knew was of greater Conſequence than two old Prieſts. After the Diſſolution of the Parliament, he told me, We muſt ſee other Times and other Changes, and that the Lords did not think themſelves in ſo much Danger as when the Parliament was ſitting. But at ſeveral Places, the *Palſgrave*-Head Tavern, and others, we have had Diſcourſe to the like Effect. He would very frequently come to me, and talk with me about it. Now I aſked Counſel of no Man, for I have no need of it in my Matter; 'tis not Matter of Law, but Matter of Fact, that I am to make out, therefore I had no need of his Advice, but he would be at my Bed-ſide very often in a Morning, and before I was dreſſed, and then we uſed to diſcourſe together about this Buſineſs, and the Manner and Form how it ſhould be done, and how well I ſhould be rewarded if I got off thoſe Lords; that is, my Lord *Petre*, my Lord *Powis*, my Lord *Stafford*, and Sir *Henry Tichburn*; theſe were the Four that made the Promiſes: But Mr. *Reading* ſolicited for the other Lords too; they did promiſe a noble Reward, but I could never ſettle or fix what it ſhould be, but I ſhould have Acknowledgments both in Money and Eſtate, from the Lords, for ſhortning the Evidence, and bringing them off from the Charge of *High-Treaſon*. We had ſeveral Conſultations about this. The *Monday* that my Lord *Danby* was ſent for by the Black Rod, Mr. *Reading* came to me in the Speaker's Chamber, and told me, Mr. *Bedlow*, here is a great Turn, my Lord Treaſurer is ſent for by the Black Rod, and Things are like to go quite another way. Well, ſaid I, when were you with the Lords in the *Tower?* Said he, I have not been there theſe two or three Days, but ſaid he, I intend to go to-morrow, and then I'll bring you word what they ſay. And the next Day, or the Day following, he came to me, and told me, That the Lords did think, that I was in a great meaſure capable of ſerving them now; and they would have an Account of what I could ſay againſt them, that ſo they might view it and correct it. Accordingly he did go, and appointed to meet the 28th of *March*. I omit ſeveral other Times that we had Conſultations, and now come homeward to the Buſineſs. I had then a Command from the Lords to inſpect the Papers of the *Spaniſh* Ambaſſador at *Wild-Houſe*, and I could not meet Mr. *Reading* according to Promiſe, and I think the other Witneſſes will give you Reaſons better than I This Appointment was on *Friday* Night; on *Saturday* Morning, he, having miſs'd of me the Night before, came to my Lodging, where I had placed Mr. *Speke* and my Man ready againſt he came. None of all theſe Conferences did I conceal, but revealed them to ſome of the Members of the Privy Council, to the Prince, and to my Lord of *Eſſex*. As ſoon as ever I had diſcourſed with Mr. *Reading* about this Matter, I did write it in the very Words, as near as I could, and gave it to the Prince, and my Lord of *Eſſex*, and I think your Lordſhips are very well ſatisfied that the Prince and my Lord knew it. And I told it to ſeveral others, as Counſellor *Smith*, Mr. *Kirby*, and ſeveral others, who I was certain would be true to the Secret, fearing that Mr. *Reading* had laid a Trap to catch me with, and therefore I was very cautious, that no Particular of Conſequence ſhould be unknown to them. Indeed, my Lord, I was very ſorry to ſee Mr. *Reading* ſhould do ſo, for I had a very great Reſpect for him; and he did uſe to give me publick Advice in general, for the Diſcovery of the Plot; only for ſome particular People he did ſolicit me that I would be a little Eaſy, theſe he did ſolicit for. Upon the 29th of *March*, which was *Saturday* Morning, when he came into the Room, he aſked me, is there no Body here can overhear us? I told him, no, there was not. Now I had planted that Gentleman, Mr. *Speke*, behind my Hangings, and made an hollow place in my Bed, and therein laid my Man, and cover'd him with the Rug ſo ſmooth, that it did appear as if it were but newly made, and he could not perceive there was any Body there; he would have ſpoke to me in the Dining-Room, but I excuſed it, telling him, That Madam *Greves*, who lay in the next Room, had over-heard ſeveral Diſcourſes that I had with ſome Perſons there, and therefore it would not be ſafe, but he had better go into my Chamber (not that ſhe could hear thro' the Wall, but it was to bring him into my Chamber); he commended my Caution, and came in with me thither; and his firſt Word, as I ſaid, was, Is there no Body that can over-hear? No, ſaid I, 'tis my Concern to look to that, that all be private: But, ſaid I, what ſay the Lords in the *Tower?* What ſays my Lord *Stafford*, what do they intend to do? I muſt know ſpeedily, for I am to give in my Information to the Secret Committee of what I can ſay againſt them this Night. And I can ſtay no longer, but muſt have their final Anſwer, that I may know what to ſay when I come to the Secret Committee. Saith he, I will go and get their final Anſwer, but pray put it off till *Wedneſday*, if you can. Saith I, I cannot do that, put it off ſo long, but I'll do what I can to put it off till *Monday*. Well, ſaid he, on *Monday* you ſhall be ſure to hear from me then, and I will have all Things ready, as to what you have to ſay, and you ſhall have it from me. Accordingly I did ſtay till *Monday*, but the Committee of Secrecy knew it all this Time; and when I met him on *Monday*, I had ordered the Witneſſes that were by to over-hear us, to be preſent at the Delivery of the Paper; accordingly they were there, and Mr. *Reading* did bring it in his own Hand-writing.

Reading. What Room was it you were in, pray, Sir?

Bedlow. In the Painted Chamber. And as he gave me the Paper, pretending to put my Hand in my Pocket, I clapp'd it with my Hand privately behind me thus, and Mr. *Speke* took it out of my Hand, and he and my Man went into my Lord *Privy-Seal*'s Chamber, and there they read it, and had it three Hours before I ever ſaw it. Well, ſaid I, what will the Lords do? Why, ſaith he, tho' I have not a full Anſwer as to what they will do, yet you may expect a noble Reward; and I have Order to draw up blank Deeds.

Reading. Who did you give that Paper to, Sir?

Bedlow. To Mr. *Speke*; the reſt will juſtify it, 'tis your own Hand-writing. But ſaith he, I have Order to draw blank Deeds to be ſigned in ten Days after their Diſcharge. And you may be ſure that they ſhall be ſigned. Mr. *Reading*, ſaid I, this is but a verbal Promiſe, and they may perhaps hereafter charge me, for all my bringing them off, and do me a great deal of Injury. That cannot be, ſaith he, my Soul and my Life for it, I have taken their Words, and, if there be any Faith, Honour and Conſcience in Men, it ſhall be done: I dare anſwer for them. And, Mr. *Bedlow*, your Safety doth moſt conſiſt in it; for as they muſt never be falſe with you, ſo they muſt never be at Enmity with you; for at laſt, if you charge them with corrupting of you, you will be able to ruin them, and it will not look ill upon you, ſo much as upon them. But, take my Word for it, you ſhall have a noble and worthy Acknowledgment. I have Authority to draw blank Deeds, both for Sums and Eſtates, which they will ſettle upon you, and likewiſe a ſpeedy Supply of Money, as ſoon as they can get it in; for my Lord *Stafford* ſaid, He is now cutting down Wood and ſelling it, and when he hath raiſed the Money, you ſhall have it; but he proteſts, at preſent he hath not now Money to defray the Charges of his Family; but I have Order at any time to give you what you need for preſent Occaſions. And indeed accordingly I have had a great deal of Money from him, ſeveral Guineas. I had all I aſked for, and many times Gold I did not aſk for; upon what Terms, other Witneſſes will prove better than I hereafter. When we had done, ſaid he, Let me ſee what Papers you have, the Copy of what you have accuſed the Queen about, and the Lords, that I may carry them to the Lords, and have their Anſwer. Said I, they are at my Mother's. I muſt needs have them, ſaid he. So, that I might give the Witneſſes leave to come out, I went with him to my Mother's Lodgings, and pretended to look for them, but found them not, for none but the Secret Committee knows what is in them. But when I had look'd over my Papers, ſaid I, My Brother, perhaps, hath got them away with him, I'll go back to my Lodgings and ſee. Oh! ſaid he, you ſhould make ſure of ſuch Copies as you have, in ſome Friend's Hands, to ſecure them as well as the Original. I told him, I ſhould be ſure of them at Night; ſo he was ſatisfied: Tho' I never intended he ſhould have them, becauſe there was Buſineſs of ſo great Conſequence in them. When we came back again, we found Mr. *Speke* and my Man in the Chamber, writing. I aſked Mr. *Speke* how long they had been there? He told me, as ſoon as I went out. Then ſaid I to Mr. *Speke*, Pray withdraw, for now I am to have Mr. *Reading*'s Inſtructions; if you'll go before by Water, I'll meet you at *Weſtminſter* by and by. Then I lock'd up the Street Door, and came back to Mr. *Reading*, and then to work we fell to write out thoſe Things that he and I did conclude upon.

Reading.

Reading. You ſay that you and I were then alone, and your Man gone away.

Bedlow. I ſaid, that then you and I concluded upon what I ſhould ſay, and what I ſhould pitch upon they were to correct, according to what they thought would moſt conduce to their own Safety. And when there were any Words that ſeemed to urge any thing home upon them, then he would tell me what was Law, and that, perhaps, would reach them, and then altered it. And the *Monday* after brought a Copy to me, of his own Hand-writing, far from the Words that were ſet down in the Paper that he and I concluded of together, and delivered it to me privately, and I delivered it to this Gentleman, carrying it behind me thus, and he came after me and took it from me.

Sir C. Levinz. Mr. *Bedlow*, This, you ſay, was for the ſhortning of the Evidence; how was it to be ſhortned?

Bedlow. To take off the whole Charge of Guilt, that I had ſworn againſt them.

Sir C. Levinz. Did that, which you agreed upon to ſhorten, take off from the Treaſon?

Bedlow. That which the Witneſſes had in writing did take off the Charge of Treaſon wholly.

Sir C. Levinz. Was it leſs than the Information you had given in againſt them?

Bedlow. I told him, that it was not delivered into the Secret Committee, but indeed I had a great while before——

L. C. J. I'll tell you what I apprehend he did ſay; if I miſtake, he will ſet it right. He ſaith, When he came back with Mr. *Reading*, he found Mr. *Speke* and his Man in the Chamber together; he aſked Mr. *Speke* how long he had been there, and how chanced he was up ſo ſoon? Mr. *Speke* ſaid to him, I have been here ever ſince you went away. That, upon Mr. *Bedlow*'s Deſire, he went away before him to *Weſtminſter*, and they went together to conſult, and great Care was uſed, that they might not be hindered or ſurprized. Then Mr. *Bedlow* was to pen his Teſtimony, and it was to be carried to the Lords in the *Tower*, and they were to conſider how to have it minced, that they might be out of Danger. And Mr. *Reading* underſtanding the Law; whenever Mr. *Bedlow* ſpoke plain, or dictated any thing that would come home to them, would tell him of it, and that Mr. *Bedlow* might correct and mitigate it himſelf. I underſtand you ſo, Mr. *Bedlow*.

Bedlow. Yes, my Lord, it was ſo. And that Paper, which he brought me back, was ten times ſhorter than that he had of mine, which was forty times ſhorter than what I had given in to the Secret Committee.

Ward. Mr. *Bedlow* hath fully proved the Diſcourſe and Bargain between him and Mr. *Reading*, for the leſſening of his Evidence.

Bedlow. All Mr. *Reading*'s Words were, That I would ſo ſhorten and leſſen the Charge againſt them, that they might come off.

L. C. J. Mr. *Reading*, if you have a mind to it, you have Liberty to aſk him any Queſtions.

Reading. My Lord, I humbly deſire I may do it, when the Evidence for the King is all given.

L. C. J. It is moſt proper to do it now.

Reading. With your Lordſhip's Favour, I have this Reaſon for it, I do deſire that the Witneſſes may be examined apart.

Mr. Juſt. Wild. Mr. *Bedlow*, Pray let me aſk you one Queſtion. I am upon the Indictment, for the Jury is charged upon that, and we muſt judge upon that, Was the Agreement between you and him, that you ſhould ſwear what he ſhould direct you?

Bedlow. It was, to what he and the Lords would direct.

Mr. Juſt. Wild. Did the Lords correct your Paper?

Bedlow. As he ſaid, they have done it.

Mr. Juſt. Wild. Did he acknowledge it?

Bedlow. Yes, he did.

L. C. J. Mr. *Bedlow*, I don't underſtand that you were to have any Conference with the Lords, but you were to be ſhy of that, leſt it ſhould be diſcovered, but what Conference you were to have was with Mr. *Reading*.

Bedlow. Yes, my Lord, and he was to give me an Account what they would have me ſay.

Mr. Juſt. Jones. Shew him the Paper, I ſuppoſe he will own his own Hand.

L. C. J. Is that your Hand, Sir?

Reading. My Lord, this is my Hand, and this is that Paper that I did deliver to Mr. *Bedlow* before Mr. *Speke* in the Painted-Chamber.

Ward. We deſire it may be read, if your Lordſhip think fit.

Mr. Juſt. Atkins. Methinks it ſhould be material to read the Paper that he gave to *Reading* firſt.

L. C. J. Have you it here, Mr. *Bedlow?*

Bedlow. No; he carried that Paper to the Lords, and brought me this again.

L. C. J. But had you never that other Paper again?

Bedlow. No, I had not.

L. C. J. Did you ever take a Copy of it?

Bedlow. No, I did not. But this is that corrected Paper that I was to give in to the Secret Committee, and corrected by the Lords.

Sir C. Levinz. We do prove it in Fact, that he had before given further Evidence, and by this Agreement he did contract to give leſs.

L. C. J. Mr. *Reading*, what do you ſay to Mr. *Bedlow?*

Reading. My Lord, if I have your Lordſhip's Direction that I may not examine my Witneſſes apart, I'll go on.

L. C. J. But what ſay you to the Paper?

Reading. I do own, the Paper that was ſhewn to me, is my Hand, and that I delivered it to Mr. *Bedlow*.

L. C. J. Then it muſt be read.

Sir C. Levinz. My Lord, we don't deſire it ſhould be read, for we cannot ſhew the former Paper, that did contain more; and therefore what will the reading of the latter, which contains leſs, ſignify?

L. C. J. If you do not deſire to have it read, we won't read it.

Sir C. Levinz. Mr. *Bedlow*'s Evidence is, That there was a Paper much more large than this, and yet both thoſe ſhort of the Information he had given in; now what will the reading of the one ſignify, without the other?

L. C. J. Do you conſent to the reading of it?

Reading. My Lord, I would ſave your Time, and make it plain.

L. C. J. Mr. *Reading*, You muſt not come to make your Defence yet, till the King's Evidence is over.

Reading. My Lord, I do it to open his Evidence, and for your Information. My Lord, Mr. *Bedlow* charges me, That I did write in his Chamber, when his Man and Mr. *Speke* were gone, a Paper that was much larger than the Paper your Lordſhips have before you; he does ſay, that he did deſire me to go with that to the Lords, and that they did correct it in ſeveral Places, and being ſo corrected, I did bring him this Paper back; and delivered it to him in the Painted-Chamber, before Mr. *Speke*. My Lord, I do pray your Lordſhip's Favour in it; when I had the King's Directions for giving in to the Secret Committee what Information I had to give, I did deliver it into the Chamber, where were Mr. *Sacheverell* and others, that very Paper, which was written at his Chamber. My Lord, I have ſent to him ſeveral Times, that he would deliver that to me in order to my own Juſtification at my Trial. I did deſire likewiſe, that ſome other Papers which I did receive from Mr. *Bedlow* under his own Hand, and which would be very material to my Defence, might be brought to me, but I have not had the Favour of an Anſwer from Mr. *Sacheverell*, to this very Hour. I do humbly deſire that he may be ſent to, for the Delivery of them.

L. C. J. I do not know how we can ſend for them, if the Committee will not deliver them.

Reading. Will your Lordſhip give me leave to ſend to him?

L. C. J. But not by our Direction, to bring them as by our Command.

Reading. No, My Lord, but by my own Intreaty.

L. C. J. Do what you will, as from your ſelf. Mr. *Reading*, your Wife was with me Yeſterday, and ſaid, you could not get *Subpœna's* for your Witneſſes; and I ſent for the Clerk about it, and he told me, there never was any *Subpœna's* denied you, but you might have had them at any Time. But what ſay you to this Paper, you of the King's Counſel?

Sir C. Levinz. My Lord, we do not deſire to have it read without the other.

L. C. J. Look you here, this Paper muſt be read, for we would ſee whether there was a Paper under your Hand, expreſſing what Evidence Mr. *Bedlow* was to give in this Matter, and whether you did one way or other put any thing in writing which he ſhould ſwear, to leſſen his Evidence. As for the other Matter of tampering, we ſhall hear from others concerning it; but let us have this read, not for comparing it with the other Paper, to ſhew the Teſtimony is leſs in this than in the other, but as an Evidence of the Fact in it ſelf; for we will expect a good Account from you, Mr. *Reading*, what you had to do to preſcribe him his Evidence in writing; therefore pray read the Paper.

Then the Paper was read, in hæc verba.

Lord STAFFORD.

On Diſcovery of the Plot, to me, I aſked *Harcourt* and *Le Faire* how things were to be managed, they told me that his Lordſhip was to be Treaſurer, and he, and *Ireland*, and *Coleman*, had Money to defray all Charges; I then ſaid, I never heard that his Lordſhip was engaged before; they ſaid he had not been long concerned, nor was he acquainted with the Affair much; but that the Money which was lodged with him was to be diſpoſed of by him for the Uſe of the Church and the Catholicks, and they had bound his Lordſhip up by Sacraments not to diſcover what the Money lodged with him was to do till the time of uſing it, and then his Lordſhip ſhould know what great Truſt he had upon him for them; and till Things were ripe he was not to be acquainted with the Depth of the Plot, for they knew he would never conſent to the King's Death till it was done. His Lordſhip always promiſed to be ready to ſerve the Church with his Life and Fortune.

Lord POWIS.

That the Lady Abbeſs of *Panthois* told me, That his Lordſhip had ſent his Daughters over to be educated in the Monaſtery, but that his Lordſhip's Lady had declared to her by Letter, that ſhe meant them as Pledges according to her Promiſe, to aſſure her that her Lord was real to carry on what he had promiſed concerning the introducing the *Roman* Catholick Religion into *England*. I brought over a Letter from the Monks in *Paris*, directed to his Lordſhip, with ſeveral other Letters to other Popiſh Gentlemen, tending to the Death of the King, and ſubverting of the Government; but what was in that Letter to his Lordſhip I know not, for that I did not open it, as I had done the others, it being directed to a Peer; but I believe it might be to the ſame Effect, the Monks having informed me ſo at the delivering them to me; ſeveral other Letters to the ſame Effect (as the Prieſts told me) I ſaw in the Prieſts Hands, directed to his Lordſhip; but I never did read any of them, nor can I ſay that his Lordſhip ever received any of them; but I ſaw them put into the Poſt-houſe to ſend forwards, and I never ſaw his Lordſhip at any Conſultation, neither did I ever hear his Lordſhip named at any Conſultation where the killing of the King was mentioned or debated of: But I verily believe that his Lordſhip was acquainted with the Deſign of introducing Popery, for that the Lady Abbeſs and the Prieſts have ſeveral Times told me ſo, or to that Effect.

Lord PETRE.

Mr. *Tyrrel* a Prieſt, and Madam *Thimbleby* his Lordſhip's Siſter told me, that Mr. *Thimbleby* was gone to my Lord *Petre*'s Houſe to conſult with him how to proceed in the managing of their Buſineſs. Mr. *Thimbleby* having received Letters from beyond Sea in order to the introducing the *Roman* Catholick Religion into *England*, and that his Lordſhip would not in any ſort be perſuaded to bring it in by Force, but rather by Policy; and tho' his Lordſhip had truly engaged himſelf never to quit the Deſign, yet ſhe was ſure he would not do it by foul Means. I told her at her Huſband's Houſe at *Ernly*, that where a Deſign was to be carried on for ſo general a Good, no particular Way was to be pitched upon, but any Thing, and all Means was to be uſed to bring it to paſs, rather than loſe the Deſign: To which ſhe replied, that ſhe believed and approved the ſame, but that ſhe well knew his Lordſhip's Mind, that he would never agree to do it by Force; but as he would not hinder it, ſhould it go on by Force, ſo he would further it by any other means whatſoever.

L. C. J.

L. C. J. Here is an Evidence indeed, but ſo minced, that it would have ſignified nothing as to the Charge againſt them.

Bedlow. In the Information that I gave into the Secret Committee, there is ten Sheets of Paper in every Evidence againſt every Lord.

L. C. J. Now go to the other Witneſſes.

Ward. Pray ſwear Mr. *Speke.* *Which was done.*

Ward. Come, Mr. *Speke*, declare your Evidence, and pray come over on this Side.

L. C. J. I would have him ſtand on the other Side, becauſe Mr. *Reading* deſires to examine them apart.

Speke. My Lords, and you Gentlemen of the Jury, I ſhould have been very loth and unwilling to have made my ſelf ſo publick as to have appeared here as a Witneſs againſt Mr. *Reading* the Priſoner at the Bar, upon any other Account than this: But at ſuch a Time as this, and in ſuch an Intrigue as this was, in which both the King and Kingdom was concerned, I thought my ſelf bound both in Duty and Allegiance to appear in what I have done, and to teſtify the Truth of what I know, for the Preſervation and Defence of both; and therefore ſhall declare to you the Treaty that was in my hearing the 29th of *March* laſt, between Mr. *Bedlow* and Mr. *Reading* now at the Bar, and I ſhall not for the World atteſt any thing but what I heard diſcourſed between them, but will relate it to you in their own Expreſſions, as near as poſſibly I can remember; and as to the Matter and Subſtance of what I ſhall declare to you to be diſcourſed between them, I will and can both poſitively ſwear.

But before I acquaint you thereof, I muſt beg leave to tell you, that I knew almoſt daily from Mr. *Bedlow*, for ſome conſiderable Time before, what was in the Treaty between him and Mr. *Reading*, and how they proceeded in this Affair, and therefore could the better charge my Memory with their Diſcourſe, and with the Paſſages which paſſed between them; and Mr. *Bedlow* having himſelf told you that he acquainted two or three Perſons likewiſe of very great Quality all along with this Treaty between him and Mr. *Reading*, and with Mr. *Reading*'s conſtant and almoſt daily Conſultation and Advice to him upon this Account, and with his large Promiſes to him from theſe Popiſh Lords and other Gentlemen accuſed and in Cuſtody upon the Account of this horrid Plot.

I ſhall not now tire your Patience ſo much as to acquaint you with what I had from Mr. *Bedlow* from Time to Time, after Mr. *Reading* had been with him diſcourſing of this Affair; but I ſhall be as ſhort as I can in coming cloſe to the Point, and therefore ſhall only acquaint you with the Matter and Subſtance of what I my ſelf heard diſcourſed between Mr. *Reading* and Mr. *Bedlow* the 29th of *March* laſt.

The 28th of *March* laſt, I met with Mr. *Bedlow* here at *Weſtminſter*, who privately told me, that Mr. *Reading* had appointed to be with him in the Evening about the old Affair, and therefore deſired me to come to his Lodgings about ſeven o'clock, and there ſhould be ſome private Place found out for me advantageouſly to hear their Diſcourſe: I went to Mr. *Bedlow*'s Lodgings at *Whitehall* about the Time he deſired me to come; where I met with Mr. *Reading*, who was then juſt come, and aſking *Henry Wiggins* whether his Maſter was at home, who told him, that he was not; upon which Mr. *Reading* went away, and left Word with this young Man that he would come again preſently, and deſired him to acquaint his Maſter with it as ſoon as he came home: I ſtaid there with this young Man a ſhort Time after Mr. *Reading* was gone, aſking him whether he could tell where his Maſter was, who told me he could not, but told me that there was ſome Company at the *King's-Head* Tavern at *Charing-Croſs* which ſtaid there for him, and that his Maſter would call there before he came home; upon which I immediately went to the *King's-Head* Tavern, and aſked whether Mr. *Bedlow* was there; but I underſtood that there was ſome Company ſtaying there, expecting to ſpeak with Mr. *Bedlow*, but that he was not then come to them; upon which I went then to *Man*'s Coffee-houſe, and ſtaid there a while, but had ordered one of the Boys of the Tavern to come and acquaint me as ſoon as Mr. *Bedlow* came; but finding that no one came from the Tavern, after ſome time I went thither again, and underſtood that he had not been there, and that the Company was gone which ſtaid for him; and then I went back again to Mr. *Bedlow*'s Lodgings, where as ſoon as I came, this young Man came out and told me, Mr. *Reading* was above, and ſtaid there to ſpeak with his Maſter; on which I call'd him out to me, and told him I was deſired by his Maſter to come to be hid in ſome private Place conveniently to hear the Diſcourſe between them, and therefore I contrived ſome way to get Mr. *Reading* out, that I might in the mean time convey my ſelf into ſome private Place, where I might be able to hear their Diſcourſe; whereupon I ordered this young Man (whilſt I was walking without at ſome Diſtance) to go up and tell Mr. *Reading* that there was one which came from the *King's-Head* Tavern at *Charing-Croſs* to acquaint him that his Maſter was there with ſome Company, and to tell Mr. *Reading*, that his Maſter would not be able to get away from them, if he did not go to him; whereupon this young Man went immediately to Mr. *Reading*, and acquainted him with it according to my Deſire and Direction, and then Mr. *Reading* went preſently to the Tavern, and in the mean time I got up into the Bed-chamber, and placed my ſelf between the Hangings of the Bed and the Wall; but Mr. *Reading* finding not Mr. *Bedlow* at the Tavern, went away home, and left Word with this young Man that he would be with his Maſter by ſeven o'clock in the Morning, and ordered him to acquaint his Maſter with it, that he might be up when he came; and as ſoon as *Henry Wiggins* returned back and acquainted me that Mr. *Reading* was gone home, and had left Word with him that he would be with his Maſter by ſeven o'clock in the Morning, I went home, but left Word with this young Man, that I would be with his Maſter by five or ſix o'clock in the Morning, and deſired him to acquaint his Maſter with it. I got up the next Morning by five o'clock, and went immediately down to Mr. *Bedlow*'s Lodgings.

Reading. Sir, You are pleaſed to ſay, that the twenty-eighth of *March* you was told, that I would be there about ſeven of the clock in the Morning, and that you at firſt met me there, and that the Appointment failing, then you came the next Morning, which was the twenty-ninth.

L. C. J. I'll tell you how I apprehend him: The firſt Appointment was the twenty-eighth of *March*, which was on *Friday*, and then failing, the other was the next Morning, which was the twenty-ninth.

Speke. As ſoon as I came to Mr. *Bedlow*'s Lodgings, I cauſed the Centinel to knock hard at the Door to raiſe them up; and in the mean time I went into *King-ſtreet*, expecting to have got into ſome Coffee-houſe or other for to drink a Diſh of Coffee, whilſt they were riſing, but it was ſo early that there was no Coffee-houſe open; upon which I was forced to return back again to Mr. *Bedlow*'s Lodgings, and then this young Man and Maid were both got up, and did let me in, and I went up immediately to Mr. *Bedlow*, and raiſed him out of his Bed; and ſomewhat before ſeven o'clock we plac'd this young Man upon the Bed, with the Rug only on him, and prepar'd a Place for me on the Inſide of the Bed, between the Hangings of the Bed and the Wall.

L. C. J. You ſay he was on the Bed, and you between the Bed and the Wall?

Speke. Yes, my Lord, between the Bed and the Wall I was, and he on the Bed; and as ſoon as ever I heard ſome body knock at the Door (the Door being lock'd by Mr. *Bedlow*'s Order, to give me Notice of his coming) I ran immediately into my Station before he came up, and preſently after the Door was open, I heard Mr. *Reading*'s Voice as he was coming up Stairs, (which I know almoſt as well as his Perſon) as he was ſpeaking to the Maid, and afterwards to Mr. *Bedlow*, who met him either in the Paſſage or at the Stair-Head, and then they came both into the Bed-Chamber, (where, I believe, Mr. *Reading* little thought any body was) tho' he was ſo cautious as to aſk whether there was no body there that could over-hear him; to which Mr. *Bedlow* reply'd, *No, no*, or ſome Words to that Effect. And then Mr. *Bedlow* began, and ſaid to Mr. *Reading*, *What ſay the Lords in the* Tower *now? and what ſays my Lord* Stafford *as to the Eſtate in* Glouceſterſhire? To which Mr. *Reading* then reply'd, and ſaid, *My Lord has faithfully promiſed me to ſettle that Eſtate upon you, and I have Orders from my Lord to draw up a Blank Deed in order to ſettle it on you; which Deed my Lord hath engaged me to Sign and Seal ten Days after he ſhall be diſcharged, you bringing him off from this Charge of High-Treaſon, by ſhortning and contracting of your Evidence.* And Mr. *Reading* ſaid, *My Lord* Powis, *my Lord* Petre, *and Sir* Henry Tichburn, *have faithfully engaged and promiſed me, that they will every one of them give you a very large and noble Reward, which ſhall be ſuitable to the Service you ſhall do them, by ſhortning and contracting of your Evidence againſt them, and in bringing them off likewiſe from this Charge of High-Treaſon.* To which Mr. *Bedlow* reply'd and ſaid, *I will not rely upon their Promiſes only, but do expect to have ſomething under their Hands.* To which Mr. *Reading* then reply'd and ſaid, *They do not think it fit and convenient for them to do that as yet, but you may ſafely and ſecurely take my Word, as I have done theirs, they having all ſo faithfully promiſed me to perform all I have told you from them.* And Mr. *Reading* finding that Mr. *Bedlow* doubted their Performances, according to their Words, did moreover uſe theſe very Expreſſions, and ſaid, *I'll engage my Life for it.* To which Mr. *Bedlow* then reply'd, *I'll then take your Word, as you have done theirs.* And alſo told him, *The Committee do preſs upon me to deliver in what I have to ſay againſt the Lords, and therefore I deſire I may have their Anſwer ſpeedily, that I may know what they intend to do, and what they do reſolve upon, becauſe I cannot well defer delivering in what I have to ſay againſt them any longer than this Night, becauſe I hear they come very ſpeedily upon their Trials.* To which Mr. *Reading* then reply'd, That he was ſure they could not be brought to their Trials before *Eaſter*, telling Mr. *Bedlow* what the Parliament muſt do firſt, and how they were to proceed in this Caſe: That they muſt come down to be arraigned, and after that, they muſt have Time to give in their Anſwer, and after that they muſt have Time to prepare for their Trials; and told him, that he might very well defer it till *Wedneſday*; but Mr. *Bedlow* told him, that he could not defer it till *Wedneſday*, but he would put it off till *Monday*, and longer he could not: And then Mr. *Reading* ſaid, that he would go preſently to the Lords and acquaint them with what he ſaid, and that he ſhould not fail of having their Anſwer by him on *Monday*, and that it ſhould be ready for him to deliver it into the Committee that Night. And after this Dialogue was over between Mr. *Reading* and Mr. *Bedlow*, they went out into the Dining-Room, and there Mr. *Reading* ſtay'd till Mr. *Bedlow* had quite dreſs'd himſelf, and afterwards went out both together, and ſtay'd away about half an Hour; and when they return'd, I and this young Man were both together in the Dining-Room, and then Mr. *Bedlow* ſpoke to me as if I were but juſt come, aſking me how long I had been there; I told him I juſt call'd on him as I was going to *Weſtminſter*, or ſomewhat to that Purpoſe, ſo that Mr. *Reading* might not any ways ſuſpect my being there before-hand, to hear the Dialogue which paſſed between them. Mr. *Reading* then call'd for a Sheet of Paper and Pen and Ink, and went into the Bed-Chamber, ſpeaking and deſiring Mr. *Bedlow* to follow him; but after Mr. *Reading* was gone into the Bed-Chamber, Mr. *Bedlow* came to me, as I was ſtanding by the Chimney, and whiſpered to me, that they were then juſt going to draw up what they had concluded on, that the Lords might ſee it and correct it as they thought fit, and that they might ſend him on *Monday*, in writing, what he ſhould deliver into the Committee to ſwear againſt them; which I ſaw deliver'd by Mr. *Reading*, according to his Promiſe to Mr. *Bedlow*, on the *Monday* Morning following, in the Painted-Chamber at *Weſtminſter*, which Paper was writ by Mr. *Reading*'s own Hand, Mr. *Bedlow* delivering it to me as ſoon as ever Mr. *Reading* left him; and then I and another Gentleman of Quality went up immediately into the Room they call the Lord Privy-Seal's Room, where the Committee of Lords uſe to ſit, and there Mr. *Wharton* and I read the Paper ſo delivered, being writ by Mr. *Reading*'s own Hand.

Jury. Did you ſee Mr. *Reading*'s Face?

Mr. Speke. Ay, between the Door and the Wicket, but not in the Room. On the *Monday* Morning following, Mr. *Bedlow* deſired that I would be here at *Weſtminſter* before-hand, and he would come thither. And he told me they were to correct the Paper, and he was to bring it corrected, and, ſaid he, pray follow me, and ſee the Paper delivered.

Reading. What Day was that he deſired you?

Speke. It was upon *Saturday*, the 29th of *March*, that I over-heard what was ſaid, and it was upon the *Monday* morning following that I met with Mr. *Bedlow*, and he bid me go to *Weſtminſter* before. And I did ſo, and when we met at *Weſtminſter* I went after Mr. *Bedlow* at a diſtance: And in the middle of the Court of Requeſts he met with Mr. *Reading*, and they went together into the Painted Chamber, and I followed them at a diſtance; my Eye was very much upon them, but I ſaw Mr. *Reading* was very cautious that I ſhould not ſee the Paper delivered; and indeed I was as ſhy as he, that he ſhould not ſee that I took Notice of it, but I did direct my Eye ſomewhat careleſly that way, and at laſt I ſaw the Paper delivered by Mr. *Reading* to Mr. *Bedlow*, and as Mr. *Bedlow* told you, I and another Gentleman of Quality went away to the Lord Privy-Seal's Lodgings, where we opened the Paper, and ſaw what was delivered to him, and read it: and this is all I have to ſay.

L. C. J. Shew him the Paper. Is this that Paper, that you ſaw him deliver to Mr. *Bedlow?*

Sir *Creſwel Levinz.* Look upon it, Sir, is that the Paper?

Speke. Yes, my Lord, certainly I take it ſo to be.

Mr. Juſt. *Atkins.* He hath owned it.

L. C. J. Mr. *Reading*, if you would aſk this Gentleman any Queſtions, this is your proper time.

Reading. I hope your Lordſhip will give me the favour to examine them apart.

Mr. Juſt. *Wild.* Mr. *Reading*, you do confeſs what Mr. *Speke* ſays to be true?

Reading. My Lord, I did deliver that very Paper to Mr. *Bedlow* in the Painted Chamber in the Court of Requeſts before Mr. *Speke*, and 'tis every word of it of my own Hand-writing.

Mr. Juſt. *Dolben.* Did you ſee Mr. *Reading* in the Room?

Speke. I did not ſee him, till he was between the Wicket and the Door.

Mr. Juſt. *Wild.* Mr. *Speke*, let me aſk you one Queſtion; did not you know his Voice?

Speke. I knew his Voice almoſt as well as his Perſon.

L. C. Baron. You are ſure it was he?

Speke. Yes, I am very confident it was he.

L. C. J. And the Diſcourſe was, that he would have it put off till *Wedneſday*, but Mr. *Bedlow* would not, but only put it off till *Monday*, and then they agreed upon a Paper, an Account of which Mr. *Reading* promiſed to give on the *Monday* following.

Speke. Yes, my Lord, it was ſo.

L. C. J. So that the Fact does anſwer the Diſcourſe, for on the *Monday* following the Paper was delivered.

Mr. Ward. Here is only one other Evidence, and that is Mr. *Bedlow*'s Servant, that was put in the Bed, as Mr. *Bedlow* tells you. Pray ſwear *Henry Wiggins.* *Which was done.*

Sir *C. Levinz.* Come on, Young-man, ſpeak your Knowledge of this matter.

Wiggins. My Lord, what I have to ſay is this.

L. C. J. Speak out.

Wiggins. What I have to ſay, is only what Mr. *Speke* hath ſaid before; and indeed he hath been ſo very plain, and ſo exact in all Particulars, that I need ſay but little, and therefore ſhall be very ſhort. My Lord, on *Saturday* the 29th of *March* laſt, Mr. *Reading* came to my Maſter's Lodging between Seven and Eight in the Morning. I was placed on the Bed, with the Rug only on me; and Mr. *Speke* was behind the Bed, between the Hangings of the Bed and the Wall. As ſoon as Mr. *Reading* came into the Room, he aſked my Maſter, if there were no Body there that could hear them? My Maſter ſaid, *No.* Then my Maſter aſked, *What ſay the Lords in the* Tower *now?* And, *What ſays my Lord* Stafford, *as to the Eſtate in* Glouceſterſhire? Saith he, *My Lord hath promiſed faithfully to ſettle it upon you; and has given me Order to draw up Blank Deeds, which in Ten Days after his Diſcharge, he will Sign:* And this was for the leſſening the Evidence. I think thoſe were the Words. And juſt then the Rug troubling me, that I could not hear well, I put it off my Head; and, my Lord, I ſaw Mr. *Reading* ſtand by my Maſter in the Chamber. Saith he, *My Lord* Powis, my *Lord* Petre, *and Sir* Henry Tichburn, *have all promiſed you a ſuitable Reward to the good Service you ſhall do them, in bringing them off from their Charge.* Saith my Maſter, *I don't think fit to rely upon their Promiſes only; but do expect ſomething under their Hands,* *No,* ſaid he, *they don't think it convenient for them to do that, as yet; but you may ſafely take my Word, as well as I have done theirs: And I will engage my Life for it.* (Which were the Words Mr. *Reading* uſed.) Saith my Maſter, *The Committee do preſs upon me to give in my Evidence, and I cannot defer it any longer than this Night.* Saith Mr. *Reading*, *They cannot come to their Trial till* Eaſter; *becauſe ſuch and ſuch Things are to be done,* (as Mr. *Speke* hath told you) *before they can come to their Trials, which cannot be done till then: And you may very well defer it till* Wedneſday. *No,* ſaid my Maſter, *I cannot; but I will do what I can to defer it till* Monday. Saith Mr. *Reading*, *I will then go to the Lords, and acquaint them with what you ſay; and bring you an Anſwer from them on* Monday *Morning.*

And that Day, when he came to the *Painted Chamber*, I ſaw him deliver that Paper to my Maſter, and my Maſter carrying it behind him; and I ſaw Mr. *Speke* take it from him; and Mr. *Speke* and another Gentleman went afterwards together, up into my Lord *Privy-Seal*'s Room to read it.

Jury. How long was it ere you ſaw Mr. *Reading*, after the Diſcourſe in the Room?

Wiggins. I got up preſently after they were gone out, and I ſaw them together at the Door; and as ſoon as they were gone, (as I told you) we both went out into the Dining-Room, and went to write down what was ſaid: And within half an Hour, they came back again into the Room. And ſaith my Maſter to Mr. *Speke*, *What makes you ſo early here? How long have you been here?* Said he, *I called upon you as I was going to* Weſtminſter. And then my Maſter deſired Mr. *Speke* to go before to *Weſtminſter:* And Mr. *Reading* called for Pen, Ink, and Paper; and went into the Bed-Chamber, ſpeaking to my Maſter to follow him: And ſo we went away.

Jury. You ſay, That you ſaw him there? and not only heard him talk, but ſaw him?

Wiggins. When he came into the Room, the Rug was over my Head; and they ſpoke ſo ſoftly, that I could not hear him very well; but I put it off, without his perceiving me, and ſaw him then, and heard him plain: And when they went out again, I ſaw them both.

Speke. We open'd the Hangings, my Lord, a little at the Bottom, that he might not ſuſpect any thing, and the Curtains were but half drawn, or a little more: So that, when he put off the Rug, he might eaſily ſee him.

L. C. J. Have you any further Evidence for the King?

Sir *C. Levinz.* My Lord, if your Lordſhip pleaſe, we ſhall trouble you with no further Evidence: We have proved it by three Witneſſes.

L. C. J. Then, Mr. *Reading*, now is the time for you to make your Defence: They have concluded, that are for the King.

Reading. My Lord, I am very unwilling to ſpend any of your Lordſhip's time in vain. There is one Part of the Indictment, which I do humbly take notice of to your Lordſhip before-hand: they are ſo far from Charging me to be of the Plot, or knowing of the Plot, that Mr. *Bedlow* hath declared the Preſſingneſs of my Perſuaſions to him, from time to time, that he would be very full and poſitive, in Charging any Man according to his Knowledge. Therefore, I ſhall not ſpend any time, my Lord, in ſpeaking to that. I am obliged to Mr. *Bedlow*, that he hath done me ſo much Right, in ſaying what he hath ſaid of me about that: But I ſhall apply my ſelf ſingly to what he hath given in Evidence againſt me; and what hath been ſpoken to, by Mr. *Speke*, and his Servant.

My Lord, the Indictment is, That I ſhould endeavour to perſuade to leſſen his Evidence againſt thoſe Lords, and Sir *Henry Tichburn*; that is to ſay, my Lord *Powis*, my Lord *Stafford*, and my Lord *Petre:* They prove nothing againſt me, as to the other. And, my Lord, becauſe the Indictment doth likewiſe ſet forth, that this was done on the Behalf of theſe Lords, and on their Account, as it ſays, I ſhall humbly (before I go on to cenſure the Evidence) give your Lordſhip an Account, upon what Occaſion it was, and how I went to ſee any of theſe Lords, and Sir *Henry Tichburn*, here mentioned.

My Lord, within a few Days after the Lords were ſent to the *Tower*, Mr. *Bulſtrode*, a Gentleman of the Privy-Chamber to his Majeſty, did come to me, from my Lord *Stafford*; telling me, That my Lord *Stafford* deſired to be remembred to me, and to pray me to come to him.

My Lord, I did tell that Gentleman, That tho' I had a very great Reverence for my Lord, having known him long, and having been my Client for ſeveral Years; yet, conſidering how his Circumſtances then were, I ſhould not venture to go to him, till I had acquainted ſome of the Lords of the Cloſe Committee with it, and had their Leave.

Mr. *Bulſtrode* ſaid, I acted very prudently in it: And accordingly I did go, and acquainted the Prince, my Lord Treaſurer, the Marquis of *Worceſter*, and ſome other Lords with it: And they told me, That my Profeſſion did privilege me to go; and God forbid, but that Reſpect ſhould be ſhewn him, and the reſt of the Lords. Hereupon, my Lord, I did go; and when I was there, I acquainted the Lieutenant of the *Tower* with it; who invited me to Dinner with him: I did ſo, my Lord, and my Lord *Stafford* was there: And afterwards he did deſire me to go to his Quarters with him: And being there, he told me, That I was not ignorant of what he was charged with, and upon what account he was there: And he was pleaſed to ſay much concerning his own Innocency. I told his Lordſhip, I heartily wiſhed, it might appear he was as innocent as he ſaid he was.

Then he deſired me to move for his *Habeas Corpus*. I told him I thought it not ſeaſonable yet to do it: I alſo told him, I would not at all admit my ſelf to be of Counſel for him, but for his Innocency, and as an innocent Man; with this, that I did ſo expreſly abhor and deteſt the Crime that he was charged with, that tho' I were of Counſel with him, or in the very higheſt Degree of Friendſhip imaginable, ſhould I diſcover he was guilty of it, I would be ſo far from continuing of Counſel for him, that I would come in as a Witneſs againſt him.

My Lord, upon theſe Terms it was, that my Lord took my Advice, and he gave me my Fee, which was two Guineas.

My Lord, afterwards I was deſired by ſeveral of the Lords to ſpeak with Sir *Henry Goring*, and Sir *John Gage*, then Priſoners in the *Tower:* And, my Lord, they did deſire me, that I would move for their *Habeas Corpus's*; and, my Lord, I did ſo. I was then ſent to by my Lord *Brudnel*, and ſeveral other Gentlemen in the *King's-Bench*, Priſoners upon this Account: And, my Lord, I did, at this Bar, move for ſeveral of their *Habeas Corpus's*. And having the Direction of the Court, that tho' they did not deny the granting of the Writ; yet notwithſtanding, no Benefit ſhould be had of that Writ, unleſs Mr. Attorney being attended in it, ſhould give Conſent to their being Bailed. Accordingly, my Lord, Mr. Attorney did attend in it, and he was pleaſed to ſay, That he would not do any thing for the Bailing of any, for all that the Writ was granted, till he knew what their Accuſers charged them with. I then knew it was in vain to bring them up, till Mr. Attorney was ſatisfied.

Mr. *Scroggs* and I did go from Mr. Attorney to Mr. *Bedlow* and Mr. *Oates:* And the ſeveral Perſons for whom we were of Counſel, being ſet down in a Liſt, we did alſo ſet down our Directions from Mr. Attorney about them; and did pray them to let us know what they had to charge any of them with. And if they were eaſy in their Conſenting to their being Bailed, then we did go to Mr. Attorney, to let him know it; and he being ſatisfied from their own Mouths, did conſent to the Bailing of ſeveral of them.

My Lord, this did occaſion my diſcourſing ſeveral times with Mr. *Bedlow*, and Mr. *Oates*, concerning the Nature of the ſeveral Charges, againſt the Gentlemen they had accuſed. My Lord, during the whole time of my being converſant with Mr. *Bedlow*, (and he hath given your Lordſhip an Account how I came acquainted with him) tho' I did deſire Sir *Trevor Williams* might be here, and did ſend him a *Subpœna*, becauſe I knew he was unwilling to come, unleſs he were Summon'd; and I ſhould be glad to ſee him here.

Bedlow. My Lord, Sir *Trevor Williams* is in the *Houſe of Commons*; and ordered me to ſend for him, if there were Occaſion.

L. C. J. Then pray ſend for him, becauſe Mr. *Reading* deſires it. (*Which was done.*) In the mean time, pray, Mr. *Reading*, will you go on in your Defence. But all that hath been ſpoken, is not much to the Purpoſe. I would have you apply your ſelf to the Fact ſworn, which is comprehenſive of all the Indictment; and that is, what happened in the Chamber, the 29th of *March* laſt: Anſwer that Fact.

Reading. I ſhall, my Lord; but I deſire Mr. *Bulſtrode* may be Examined to thoſe Points I have ſpoken to.

Bulſtrode. My Lord, I deſire you would hear me, for he is very much miſtaken in what he hath ſaid concerning me: For he ſeems to ſay, I came to him, which I did not do; but accidentally met him at *Whitehall*.

L. C. J. Look you, unleſs he calls you, you are not to be called by us, as a Witneſs for the King.

Bulſtrode. My Lord, he ſerved me with a *Subpœna*.

L. C. J. Mr. *Reading*, Would you have Mr. *Bulſtrode* examined?

Reading. Yes, my Lord, if you pleaſe; I did pray him to be here to that End.

L. C. J. In this Caſe, tho' he be a Witneſs for Mr. *Reading*, he muſt be Sworn: Therefore ſwear Mr. *Bulſtrode*. (*Which was done.*) Well, what do you aſk him?

Reading. My Lord, all I do humbly deſire is, That he will give your Lordſhip an Account whether he did not come unto me in the Name of my Lord *Stafford?*

Bulſtrode. My Lord, I happened, one Day, to go ſee Sir *William Goring*, who was my Neighbour in the Country: And as I was going out, I ſaw my Lord *Stafford* walking: And ſaluting him, he aſked me, *Do you know one Mr.* Reading, *a Lawyer?* I aſked him, *What* Reading? He anſwered, *That uſed to be at the Parliament Houſe.* I ſaid, *I did.* Then ſaid he, *Pray tell him, when you ſee him, I would ſpeak with him, and ſhould be glad to ſee him:* And in two or three Days after, I met with him; and ſaid I, *Mr.* Reading, *my Lord* Stafford *aſked me, If I knew you; and deſired me to tell you, He would be glad to ſee you. My Lord* Stafford! ſaid he; and ſeemed ſurprized at the Name; and I repeated it to him: And this was all that paſt between me and him. And this was ſome time in *Michaelmas* Term laſt.

L. C. J. Look you, Mr. *Reading*, we know that the Acquaintance you had with *Bedlow*, and your going to the Lords, was in *Michaelmas* Term: The *Habeas Corpus's*, and the matter of Bailing was in *Hillary* Term, which ended the 12th of *February*; and therefore, the Buſineſs between Mr. Attorney and you, muſt be during *Hillary* Term. But this Fact charged upon you in the Indictment, and ſworn by the Witneſſes, being on the 28th, 29th, and 31ſt of *March*, that is a quite other thing: And therefore, I would have you apply your ſelf to that.

Reading. My Lord, I ſhall humbly obſerve your Lordſhip's Directions in that: But I deſire to be heard in this other Thing alſo, which was in *Michaelmas* Term. I ſay, my Lord, they were deſiring of me to adviſe them, whether they ſhould move in the *Houſe of Lords*, whence moſt of the Commitments were iſſued. For as to ſome, the Charge was againſt them in the *Houſe of Commons*, ſome in the *Houſe of Lords*, ſome were generally Committed by my Lord Chief Juſtice *Scroggs*; and according to the Nature of the Caſes, ſo they did deſire me, that I would adviſe them how to addreſs themſelves, by one way or other, for procuring their Liberty by Bail, or otherwiſe. And as to the Writs obtained, and the Bailing of ſeveral of them, it was in *Hillary* Term, which was before the Fact charged upon me. But I did give your Lordſhip an Account how it was, in order to have it appear naked before you; and then I ſhould be in your Lordſhip's Judgment, which, I am ſure, will be right. And I do ſay, my Lord, that afterwards I met ſeveral times with my Lord *Powis*, and my Lord *Petre*, at the Lieutenant of the *Tower*'s Houſe.

L. C. J. Here is now Sir *Trevor Williams*; do you deſire he ſhould be Sworn?

Reading. I do, my Lord.

L. C. J. Then give him his Oath. *Which was done.*

Reading. My Lord, with your Lordſhip's Favour, that which I deſire Sir *Trevor Williams* to give your Lordſhip an Account of, is this, Whether he was not pleaſed to bring Mr. *Bedlow* to my Chamber, and to recommend me to him about his Pardon?

Sir *Tr. Williams.* My Lord, Mr. *Reading* was an Acquaintance of mine; and upon what I knew, I had a great Opinion of his Knowledge in the Law; and Mr. *Bedlow* was a Countryman of mine, and I was very deſirous he ſhould have his Pardon as perfect as could be: And in order to that, I recommended him to Mr. *Reading*, and deſired him to be careful about it. And that is all that I can ſay.

L. C. J. What further Queſtions would you aſk him?

Reading. My Lord, I deſire to know of him, What Advice he hath heard me give Mr. *Bedlow* in order to his dealing ingenuouſly, and my preſſing of him to a full Diſcovery of the Plot.

L. C. J. Mr. *Reading*, as to that, Mr. *Bedlow* hath already clear'd it himſelf, that in all publick Diſcourſes between you and him, you did carry it very plauſibly; yet we will not preclude you from having your Witneſſes ſpeak to that, if you will have them examined to it.

Reading. My Lord, I will trouble Sir *Trevor Williams* with no more Queſtions.

L. C. J. You need not, as to this Point; Mr. *Bedlow* hath teſtified, that publickly you did adviſe him to make full Diſcoveries, and ſpare no Perſon.

Bedlow. I did ſay ſo at firſt, and I will do him Juſtice, he did really, and honeſtly, I believe, give me that Advice, as to all in publick, and only ſpoke about thoſe Men he was concerned for, towards whom he would make me eaſy.

L. C. J. Pray, Mr. *Reading*, will you come to the Fact?

Reading. My Lord, at the time of my being examined before the Committee, I did deliver ſome Papers, which I had from Mr. *Bedlow*, and under his Hand, and which do concern the Evidence I am to give in my own Defence: Theſe I do beg the Favour may be ſent to me, to make uſe of them for my ſelf, and I ſhall, as ſoon as the Court hath looked upon them, return them again.

Bedlow. There was a Propoſition about it, in the *Houſe of Commons*; and the main Paper, which, I ſuppoſe, Mr. *Reading* deſires to produce, is in Mr. *Clare*'s Hand, to be produced, when called for, if the Court think fit.

L. C. J. Have you it there, Mr. *Clare?*

Clare. Yes, my Lord, I have.

L. C. J. Mr. Attorney, when the Priſoner calls for a Paper, which he himſelf delivered in, I think it is but fair it ſhould be produced.

Mr. Att. Gen. [Sir *William Jones.*] Yes, my Lord, I do not oppoſe it.

Sir *C. Levinz.* My Lord, Mr. *Reading* muſt underſtand, that this is no Hinge from us, but he deſires ſuch a Paper, which let him make what Uſe of it he can.

Bedlow. I ſuppoſe it is about the Protection for *Prickman*.

Reading. Mr. *Bedlow*, if you pleaſe to anſwer it by and by, when it is read, and let me open it my ſelf.

L. C. J. Here is now Mr. *Sacheverel*; what have you to ſay to him?

Mr. *Sacheverel.* My Lord, in the *Houſe of Commons* we have received a Letter from Mr. *Reading*, by which he doth deſire, for his own Juſtification, to have ſome Papers ſent him, which were delivered to the Secret Committee; I ſuppoſe he means a Paper about Mr. *Prickman*, and a Letter concerning him, and likewiſe a Paper that contained a State of the Evidence againſt the Lords, which he pretended Mr. *Bedlow* had dictated to him: That, I ſuppoſe, Mr. *Clare* hath; for the other two, the Houſe of Commons hath ordered me to bring them here, that if he can uſe them, or any other, in his own Defence, he may have free Liberty ſo to do.

L. C. J. Is there any other thing you would have with Mr. *Sacheverel?*

Reading. Nothing, my Lord; I humbly thank him for this Favour, and the Houſe too.

L. C. J. Mr. *Sacheverel*, theſe Papers you have brought, ſhall be put into the Hands of Mr. *Clare*, to carry to the Secret Committee, when the Trial is over.

Mr. Juſt. *Wild.* Mr. *Reading*, pray ſpare me one Word; You are a Lawyer, and you know how to make your Defence, ſpeak *ad idem*, the Thing you are charged with, the tampering with *Bedlow* to take off his Evidence againſt thoſe Lords, or elſe you do nothing; for we are not about the Plot in general, nor are you charged with it.

Reading. My Lord, I ſhall do nothing elſe; I ſhall not give you the Trouble of ſpeaking to any thing elſe; my Lord, Mr. *Bedlow* will give your Lordſhip an Account of the Diſcourſe that I had with him, at the Time that I had been to wait upon my Lord Chief Juſtice *Scroggs*; I went to him upon this Occaſion, Mr. *Bedlow* deſired me to go wait upon my Lord Chief Juſtice, to give him an Account about the particular Evidence he had given; I think it was againſt Mr. *Coleman*, and that he being with my Lord Chief Juſtice, my Lord was pleaſed to treat him, not as he expected from him; whereupon he fell into great Expreſſions of Paſſion, and went down Stairs, and ſaid, It would never be well in *England*, till there was an honeſter Man than the Lord Chief Juſtice. When he had told me this, I told him, at what rate his Lordſhip had endear'd himſelf to the whole Nation, by his Zeal againſt the Plot; however, ſaith he, do me the Kindneſs to beg my Lord's Pardon, and pray him to accept of this Paper. My Lord, I was extremely ſorry, that Mr. *Bedlow* had ſo miſbehaved himſelf; I had a great Kindneſs for Mr. *Bedlow*, I have ſufficiently teſtify'd it, and now ſufficiently ſuffer for it: And in Kindneſs to him, I went to wait upon my Lord, and delivered him the Paper; I told his Lordſhip, that I was heartily ſorry, that he had carried himſelf in ſuch a manner towards his Lordſhip, but I did deſire his Lordſhip to paſs it by, for I did believe Mr. *Bedlow* was very ſorry for it. My Lord ſaid, It was ſufficiently known that he was not a Man of Paſſion, but that he pitied Mr. *Bedlow*, and deſired he would be more careful and diſcreet for the time to come, for his own ſake, and for the Kingdom's; I return'd to him, and gave him this Account, and what was my Lord's Advice to him. My Lord, when he had his Pardon a drawing, and when he was aſked by the King and my Lord Chancellor, Who was his Friend? Who was his Counſel? he was pleaſed to ſay, that I was his Counſel, and his Friend, recommended by Sir *Trevor Williams*, as hath been proved; and when his Majeſty was pleaſed to aſk him, What advice I had given him? he returned the King this Anſwer; That I had bid him ſpeak the Truth with Courage; to ſpare no Man, where he could juſtly charge any Man; and to truſt God and his Majeſty for a Reward. The King was pleaſed to ſay, the Advice was honeſt; and bade him follow it. What I did in this matter, I did in Friendſhip to him, becauſe I had a great Kindneſs for him: I have ſupply'd him with ſeveral Guineas, with a Guinea or two, when he told me he has not had Bread. He was pleaſed to tell me, that he was very ſenſible of the Service I had done him. I appeal to him, whether ever I ſaw a Penny of Money from him in my Life; he was pleaſed to tell me, that upon the receiving of the 500*l.* in the Proclamation, he would give me a Third Part, for that Service I had done him, and would certainly repay me whatſoever I had lent him, and the Fees that were due to me. And, my Lord, upon this I did likewiſe tell him, That he had not carried himſelf well, that he had been a very great Scandal, Abroad and at Home, and that he would not do himſelf Right, till he had adviſed with Dr. *Stillingfleet*, Dr. *Tillotſon*, and Dr. *Lloyd*. I did adviſe him to go to the Chapel, and, upon Conference with thoſe worthy Men, I deſired him ſeriouſly to conſider, how he could digeſt ſo many as Thirty Sacraments, which he had taken as Obligations of Secrecy; my Lord, Mr. *Wharton* was at that time by, and he hath often heard me give him Advice to this Effect. Mr. *Wharton* undertook to go to Dr. *Stillingfleet*, but he deſired to be excuſed; I did then pray him to go to Dr. *Tillotſon*; Mr. *Bedlow* told me, it was no great matter, and ſo likewiſe for Dr. *Lloyd*. He told me, they were all mercenary Men, that valued 10*s.* above any Man's Soul: And at this rate he was pleaſed to treat them. I told him, I was very ſorry, and diſpleaſed to hear him to ſpeak ſo ill of Men of ſo great Eminency in the World for Learning and Piety. My Lord, in further diſcourſing with Mr. *Bedlow*, he told me he was overjoyed, that his Majeſty had been pleaſed to take off the Confinement they were under,

under, for they had not Liberty to ſpeak to one another; he, and Mr. *Oates*, and Mr. *Dugdale*; but when it was ſo granted, that they might now ſpeak together, he told me, with exceeding Rejoicing, that they could now lay their Stories together. He did further tell me, that he had now by him ſeveral Witneſſes, that whatſoever he bid them ſwear, they would ſwear; and he did confeſs he had not done well in ſome things, particularly in charging Mr. *Griffith*. Now, my Lord, that Mr. *Griffith* was Steward to Mr. *Sheldon*.

L. C. J. Before you go on in this kind, Mr. *Reading*, I muſt tell you, 'tis not fair: Here is Oath made of ſuch and ſuch Facts againſt you, and you talk of Diſcourſes between you and Mr. *Bedlow*; either produce Mr. *Bedlow* to ſay upon his Oath what he hath told you, or elſe produce ſome other Witneſſes to prove it, if you think it material: Do you think your Word ſhall paſs for Truth, by telling this Story? All this matter will be nothing in the Caſe, unleſs you apply it to diſcredit the Witneſſes, therefore pray produce ſome Proof, and we will hear it; if you'll aſk Mr. *Bedlow* any Queſtions, whereby you may entrap him, and make him contradict himſelf; or if you will produce any other Witneſſes againſt him, do it; but you muſt not be ſuffered to go in ſuch Diſcourſes as theſe, and ſpend Time to no purpoſe.

Bedlow. My Lord, if your Lordſhip pleaſe to give me leave, I will anſwer him.

L. C. J. Mr. *Reading*, I muſt tell you, I have as much Patience as another Man, and when you are charged with a Crime, which you your ſelf know, and at firſt ſaid, cannot be aggravated, I thought it fit you ſhould have all fair Liberty of ſpeaking to defend your ſelf; I have had a great deal of Patience to hear you already, and ſo have my Brothers: I cannot ſay you have ſpoke unſkilfully; I confeſs your Defence is Artificial, becauſe 'tis nothing to the purpoſe: But, we muſt hold you to the Point; if you can ſay any thing to diſprove the Fact of the 28th, 29th, and 31ſt of *March*, that's the whole matter that lies upon you; as to all other Things, they ſignify nothing.

Reading. My Lord, if I underſtand any thing in my own Defence, I did look upon this as ſo material, as nothing more. My Lord, when I did find this, I appeal to Mr. *Bedlow*, and aſk him this Queſtion upon his Oath, Whether I did not deſire him, as I had deſired him before, to ſpeak home, in what he knew for Truth; that he would do well to remember, that this Land groaned for the ſhedding of innocent Blood; and whether I did not tell him, That if he ſhould go on to add Sin to Sin, and charge any Man unjuſtly, to take away his Life, whether, inſtead of preſerving the Nation, by which he thought he might well deſerve of it, he might not ruin it?

L. C. J. Do you deſire that he ſhould be aſked that Queſtion?

Reading. My Lord, I do.

L. C. J. Mr. *Bedlow*, you hear the Queſtion, pray anſwer it.

Bedlow. My Lord, I do not deny, but that he hath publickly given me ſuch Advice, and hath charged me with doing of Wrong, in particular, to Mr. *Griffith*; and I do acknowledge, that Mr. *Griffith* had a great deal of Wrong; but, How was it? It was by the Miſtake of them that took him; the Uncle was taken for the Nephew, who was really concerned in the Plot, and that occaſioned his Trouble: And I told him I was very ſorry for that.

Reading. Pray, Sir, did he give you a Gold Watch?

Bedlow. Yes, he did, and I told the Committee and the Prince of it preſently.

Mr. Juſt. *Wild.* Mr. *Bedlow*, you received ſeveral Sums of Money from Mr. *Reading*, by the Oath you have taken, were thoſe lent to you, or did you take them to be given?

Bedlow. Whereas he ſays, That I told him I wanted Bread, it was an unreaſonable Thing for me to ſay ſo, for I have five Diſhes of Meat every Day allowed me, and, How could I then want Bread?

Mr. Juſt. *Atkins.* And you had good Sums of Money too given to you.

Mr. Juſt. *Wild.* But, as I underſtood you, you ſaid, whenever you wanted Money, he ſupplied you.

Bedlow. And ſometimes gave me Money when I did not aſk it.

Mr. Juſt. *Wild.* But anſwer my Queſtion. Did he give you that Money for the Intent that you ſhould leſſen your Evidence againſt the Lords in the *Tower?*

Bedlow. This Money that I received of Mr. *Reading*, he told me, that he had received Orders from the Lords, that I ſhould have what Money I came for; that at preſent I could not have any great Sum, becauſe they could not have Money, for my Lord *Stafford*, ſaith he, is ſelling his Wood, and 'till that be come in, he hath not wherewithal to provide for his Family, but I have Order to let you have what you want.

Mr. Juſt. *Wild.* And he gave you Money after that?

Bedlow. Yes, he did.

Mr. Juſt. *Wild.* And upon that Occaſion?

Bedlow. Yes, I thought ſo. And whereas he ſays, my Lord, that I was to pay him the Money again, I muſt confeſs he was to have 100 *l.* a Year out of every 1000 *l.* a Year of my Reward.

Reading. By the Oath you have taken, was that the Reward?

Bedlow. Yes, by the Oath I have taken, ſo it was agreed.

L. C. J. I never knew any Man go about ſuch a Buſineſs as this without ſome Invention to palliate it with; they don't uſe to go downright in ſuborning Witneſſes, and ſay, Here is ſo much Money for you, pray forſwear your ſelf, or pray be a Knave; but, Pray remember that you ſpeak nothing but the Truth, and be cautious that you don't ſwear too much; and ſo 'tis all gilded with Pretence of the Deſire of Truth, but then they add, You ſhall have a very good Reward for your Care in it; but if this way ſhould be allowed, to Bribe Witneſſes to ſpeak the Truth, or upon colour of ſpeaking nothing but the Truth, I cannot tell what will be Subornation. For it is always done upon this Pretence.

Mr. Juſt. *Atkins.* Mr. *Reading*, there fell ſomething from your own Mouth that was Diſcouragement enough; you aſked him how he could digeſt 30 Sacraments, which he received as Obligations of Secrecy, and adviſed him to go to Divines to receive Satisfaction about it. That was a Diſcouragement.

Reading. My Lord, I did not mean it ſo; I did as a Chriſtian, and a Loyal Subject, adviſe him not to ſhed Innocent Blood. Mr. *Bedlow*, you have brought me here to this Bar, pray remember you and I muſt be at a Greater.

Bedlow. I always remember it.

Reading. Pray, Sir, anſwer this Queſtion upon your Oath. Did I ever directly or indirectly deſire you to leſſen any one Syllable of your Evidence you knew to be true?

Bedlow. I ſuppoſe there is no need to prove that, for there are two other Witneſſes have prov'd it already.

Reading. But pray, Sir, anſwer my Queſtion upon your Oath.

Bedlow. Yes, my Lord, I do upon my Oath declare, That upon my bringing the Lords off from the Charge that was upon them, I was to have ſuch a Reward, and you told me, you had order to draw up blank Deeds.

Mr. Juſt. *Wild.* Mr. *Reading*, pray hear me; he hath gone farther than that, and hath Sworn that he did leſſen his Evidence againſt *Whitebread* and *Fenwick* upon your Inſtigation, which is not indeed in the Indictment.

Bedlow. I did then ſay at the *Old-Baily* (becauſe I would not ſpoil the Deſign I had upon him, when my Lord Chief Juſtice aſked me, if that were all I could ſay), I told him, it was all I could ſay at preſent, but in Time and Place convenient I could ſay more.

L. C. J. That is not the Matter in queſtion now here, but the other Witneſſes have ſworn it ſufficiently. The young Lad ſwears expreſly, that he remembers his Maſter aſked about the Land in *Glouceſterſhire*, and you anſwered you had Order to draw up a Blank Deed for the Settlement: and as for the other Lords, you told him, he ſhould have a good Reward ſuitable to the Service he ſhould do them. And you, as to that, make no kind of Defence, but think we ſhould forget it by your long Diſcourſe to other purpoſe.

Reading. I would not deſire to ſpend your Lordſhip's Time in vain Diſcourſes. It lies purely on my Negation, and his Affirmation.

Mr. Juſt. *Wild.* No, no, it is not; here are two more, Mr. *Speke* and his *Man*, that ſwear the ſame.

Reading. My Lord, I come to that; and I take it for granted the Law is this, That in Caſes of this Nature, nay, of a much leſs Nature, no Man ſhall be accuſed but by lawful Witneſſes: And, my Lord, I do inſiſt upon it as Law: So is my Lord *Lovelace*'s Caſe, and 1 & 5 *Ed.* VI. If mine is not Treaſon, yet it is a very heinous Crime; and I am in your Lordſhip's Judgment, whether there is a Poſſibility of having theſe, Mr. *Bedlow*, and the others, to be lawful Witneſſes. Mr. *Speke*, how worthy a Gentleman ſoever he is, is one to whom I have done particular Service, I have lent him Money, and to this Day have it not. That he ſhould go, my Lord, and place himſelf behind an Hanging, and put a Servant on a Bed, to over-hear, and to Eves-drop, which is the Term of a Crime in Law: That ſuch ſhould paſs for lawful Witneſſes, my Lord, I hope it was never pretended to before, nor will be admitted againſt me: But, my Lord, all my Comfort is, that when I went to him, I did never propound ſuch a thing to Mr. *Bedlow* ſince I was born. And God deal with me here, and in the next World, according to the Integrity of my Heart, and the Truth of what I ſpeak now. Yeſterday Sevennight, when I did not hope to ſee another *Sunday*, ſo ſpent I was with the barbarous Uſage I have received, I did deſire Dr. *Tillotſon* to give me the Sacrament, for I did not expect to live till the next Morning. And I did pray him to remember, againſt the Time when he and I were to meet before the great God, that what I was charged with in this Indictment, is as expreſly falſe, as ever any thing that was ſworn againſt an Innocent Man. I can but ſay this now, come Life, come Death, the Will of his *Majeſty* and of your Lordſhips be done. There never ſtood a more Innocent Man at this Bar than I am of this Fact I am charged with. And I do ſay, my Lord, that having ſaid this, I muſt, with your Favour, proceed to tell you, that I deſire Mr. *Bedlow* will be pleaſed but to give an Anſwer to theſe two Queſtions, and I have done. Pray, Sir, by the Oath you have taken, did you lay in Proviſions of Fire, Coal, and Billets behind the *Palſgrave*'s-Head Tavern, and hard by *Charing-Croſs*, to burn the City of *Weſtminſter?*

L. C. J. Mr. *Reading*, we muſt ſee Juſtice done on all ſides: if you offer to aſk him any Queſtion upon his Oath, to make him accuſe himſelf, we muſt oppoſe it.

Mr. Juſt. *Dolben.* He hath his Pardon, my Lord, and it ought not to be objected againſt him, if ſo.

Reading. The Pardon of the King doth remit the Puniſhment, but it doth not hinder its being objected to invalidate his Teſtimony.

L. C. J. It doth ſo far ſet him right, that you ſhall not make him calumniate himſelf.

Mr. Juſt. *Wild.* No, you ſhall never object it againſt him to accuſe himſelf.

L. C. J. Mr. *Reading*, we are in a Court of Law, and you are ſkilled in the Law; you have no Evidence to defend your ſelf by, and ſo you think your Proteſtations muſt ſerve for Evidence: When that will not ſerve your turn, you ſtrive to lead us out of the way. Upon this Queſtion to Mr. *Bedlow* there lies this *Dilemma* againſt you: Either he hath his Pardon for what you object againſt him, or he hath not: If he hath not his Pardon, then he is in danger of Death for the Crime, and muſt not accuſe himſelf; if he hath his Pardon, it doth take away as well all Calumny as Liableneſs to Puniſhment, and ſets him right againſt all Objection. So, you know, after an Act of general Pardon, 'tis a Scandal to reproach a Man for that which he is thereby pardoned for. So that if he have not his Pardon, his Life is in danger; if he hath, neither his Life nor Name muſt ſuffer, and therefore ſuch Queſtions muſt not be aſked him. But if you have any other Queſtions that are pertinent to the Buſineſs, propound them, and they ſhall be heard and anſwered.

Reading. My Lord, I took the Law to be, that no Man ſhould be accuſed but by lawful Witneſſes, which I took him not to be, tho' he hath his Pardon.

L. C. J. I underſtand Lawful Witneſſes, or Accuſers, to be ſuch whoſe Teſtimony is not taken away by the Law; if a Man ſtands ſo in

Cour:

Court that he cannot be received to give Evidence, he is no lawful Witneſs; as if a Man be convicted of Perjury, he is not a lawful Witneſs, becauſe he cannot be heard at all. But every thing that leſſens the Credit of his Teſtimony doth not make but that he is a lawful Witneſs; for I take him to be a lawful Witneſs as long as he can be heard at all. And as for the Eves-dropping which you from the Term of Law would infer a Scandal upon Mr. *Speke*; I take it to be a thing that makes much for the Credit of the Gentleman. For he was not the Man that did firſt detect you, you were detected before by Mr. *Bedlow*; and as it ſtood only upon his Teſtimony, ſhould you deny it, it was but your Negation and his Affirmation; and therefore it concerned him (being a deed of Darkneſs in its own Nature, when he engaged himſelf by his Diſcourſe as much as you) to have ſome of unqueſtionable Integrity and Credit to detect you further in it, and for his own Vindication. And it is therefore a Credit to Mr. *Speke* that he was thought ſuch a Perſon, whoſe Credit was not to be ſuſpected, and ſo was ſet to convict you. So that it is ſo far from detracting from his Credit, that it ſhews him a Man reputed to be of undoubted Integrity.

Bedlow. I ſay this, my Lord, we did deſign to propoſe it to another Gentleman of Quality, who had been before acquainted with the Deſign in general, but we could not find him out to acquaint him with it.

Speke. As for what he ſays of Money he lent me, I will acquaint your Lordſhip how it was. There was a Double-Return in the Caſe of my Brother's Election for this Parliament, and he and the other Gentleman that ſtood with him (for there were four returned) had gotten Order for the hearing of their Cauſe, and I had taken a Copy out before, and paid Six Shillings and Eight Pence for it, or thereabouts, and afterwards Mr. *Reading* comes to my Chamber and brings me another Order, and I told him I had one already, and aſked him what he paid for it, he told me Ten Shillings. Now I knew it was but Six Shillings and Eight Pence, for I had paid ſo before: ſaid I, What need I have another? but I ſuppoſe my Brother will pay you. I had before recommended him to my Brother, to manage his Buſineſs in Parliament, and I did deſire he might be of Counſel for him. I knew what paſſed concerning the Treaty between Mr. *Bedlow* and him daily; but becauſe he ſhould not ſuſpect me, I did carry my ſelf very fairly and friendly to him, and, as I ſaid, I deſired my Brother to employ him, and let him be of his Counſel; but my Brother refuſed, and told me he would have nothing to do with him; for, ſaid he, I hear an ill Character of him. And the Ten Shillings for the Order is the Money he ſpeaks of.

L. C. J. Is that all the Money he lent you?

Speke. Yes, that is all.

Mr. Juſt. *Atkins.* Mr. *Reading*, this I muſt ſay to you, your Aſperſion of theſe Perſons with being Eves-droppers, is no Aſperſion at all. For it was neceſſary for Mr. *Bedlow* to take this Courſe, and it was prudent for him to make uſe of unſuſpected Perſons, to have it underſtood by the Mouth of more than one Witneſs what your Practices were. For if he had not done it, and it had been otherwiſe diſcovered, he had been in the ſame danger that you are in now.

Reading. My Lord, I have done. Since Mr. *Speke* hath been pleaſed to give you an account of this Matter, I deſire I may aſk him one Queſtion: Whether he did not come to me to be of the Counſel with his Brother?

L. C. J. He hath ſaid ſo already.

Reading. Did not you bring this Gentleman, your Brother, to my Chamber?

Speke. Yes, I did.

Reading. Did not you deſire me to draw up his Caſe?

Speke. Yes, I think I did.

Reading. I ſpent moſt of a whole Morning in it: Pray did I ever receive a Penny of Money of you?

Speke. No. I ſpoke to my Brother to employ you, but he ſaid he had heard an ill Character of you, and he would have nothing to do with you. And you aſked Ten Shillings for an Order which I had before for Six Shillings and Eight Pence.

Reading. Here is this Gentleman, Mr. *Hayes*, who had been a Clerk there, and knows it to be Ten Shillings every Order.

L. C. J. It is not at all pertinent to the Buſineſs we are upon.

Reading. He hinder'd me from receiving a Fee from the other Side, and I am Twenty Shillings out of Pocket, and yet am thus treated for my Kindneſs. There were three Orders I paid for.

Speke. There were more concern'd than my Brother: You deliver'd but one to me, I know not how many you deliver'd to the reſt.

Mr. Juſt. *Wild.* I am ſorry you diſgrace your Profeſſion by making ſo weak a Defence. What ſay you to that which paſt on *Saturday* morning at Mr. *Bedlow*'s?

Reading. Mr. *Bedlow* did deſire me to go to the Lords in the *Tower*, to tell them that he was called upon to give in his Evidence againſt them, and that he could delay it no longer; and he bid me tell them, that is to ſay, my Lord *Stafford*, my Lord *Powis*, and my Lord *Petre*, that if they did not aſſure him of a good Reward, he would give in ſuch an Evidence againſt them as ſhould take away their Lives, and he had Witneſſes to do it, as well as he himſelf; but he bid me tell them, if they would give him a Reward, he would put in ſuch an Evidence as would do them no hurt at all.

Mr. Juſt. *Wild.* This is directly againſt you, and within the Words of the Indictment; 'tis a Contracting with him for a Reward to leſſen his Evidence againſt the four Lords. He told you, as you ſay, thus, and thus, and you agreed to do as he ſaid.

Mr. *Dolben.* You do ſpeak the Truth plainly now.

Reading. My Lord, I do ſay this, that what I have ſaid is true; in the Preſence of God I ſpeak it. The Lords do know this, and the Lord of Heaven doth know it, he propoſed it firſt to me.

Mr. Juſt. *Atkins.* It is to no purpoſe to talk, unleſs you can prove it.

L. C. J. Call your Witneſſes, and we will hear them. Will the Jury give in their Verdict upon your bare Aſſertion? We have heard you a great while; if you will call any Witneſſes, do.

Sir *James Butler.* My Lord, I deſire Mr. *Reading* may be aſked, whether 56 Guineas were not brought by him to Mr. *Bedlow*, and paid to him for to leſſen his Evidence againſt the Lords?

Bedlow. I had ſometimes Two Guineas, ſometimes more, but not any ſuch great Sum at once, but I believe more, at ſeveral times; and he told me that he had order to ſupply me at any time with what I wanted.

L. C. J. Come, where are your Witneſſes, Mr. *Reading?*

Reading. Here is Mr. *Palmer*, my Lord. [*Who was Sworn.*] My Lord, I deſire this Gentleman may give you an Account what Mr. *Bedlow* did ſay to me concerning the borrowing of any Money, upon the *Tueſday* Morning before I was clapp'd up: The 30th of *March*, as I take it, in the Morning.

Mr. Juſt. *Atkins.* That was *Sunday.*

Reading. It was on *Tueſday*, my Lords, the Day before he received the 500 Pounds. I believe it was the firſt or ſecond of *April.* My Lord, this Gentleman was there in the Room.

Palmer. My Lord, Mr. *Bedlow* at that time had Twenty Shillings in his Hand of his Mother's, as he ſaid: Mr. *Reading* came in, ſaid he, Mr. *Reading*, all my Money is gone, and I have no more than this, and this I borrowed of my Mother: with that Mr. *Reading* clapp'd his Hand in his Pocket, and gave him Two Guineas. *God-a-mercy*, ſaith Mr. *Bedlow*, *you are an honeſt Man, and my chief Fountain.*

Sir *Cr. Levinz.* When was this Money delivered?

Palmer. It was about three Weeks ago.

Mr. Juſt. *Wild.* But he tells you, you were to have a Sup out of this Fountain.

L. C. J. He doth prove this (what Uſe you will make of it I know not), That on *Tueſday* three Weeks ago, which we find to be the Firſt of *April*, he ſaw Twenty Shillings in Mr. *Bedlow*'s Hand, and he ſaid, *This is all the Money I have*; and you clapp'd your Hand into your Pocket, and gave him Two Guineas, and he ſaid, *God-a-mercy, you are my chief Fountain.*

Mr. Juſt. *Atkins.* This was after you ſaw Mr. *Bedlow* was for your turn. This makes againſt you.

Reading. I deſire he may be aſked, whether he hath not heard Mr. *Bedlow* confeſs that he hath had Money ſeveral times from me.

L. C. J. Mr. *Bedlow* hath confeſſed it.

Reading. I deſire him to tell, whether Mr. *Bedlow* did not confeſs, that he did lay Fuel behind the *Palſgrave-Head*-Tavern to burn *Weſtminſter.*

Bedlow. I acknowledge it; that was part of the Treaſon I was guilty of, and for which the King pardon'd me.

Reading. I deſire to aſk Mr. *Bedlow*'s Man one Queſtion, Whether your Maſter, when I went along with him to fetch the Privy-Seal for the 500 Pounds, did not deſire me to lend him Money for the Privy-Seal?

Wiggins. He ſaid he had no Money about him, and aſked you if you had any, and deſired you would lend him ſome; and then I ſaid I had ſome, and ſo he ſaid no more.

Reading. Was there any thing of the Conſideration ſpoken of?

Wiggins. I don't know that, I could not hear it. He ſpoke it in the open Court, where there were a great many by.

Reading. I have ſeveral other Witneſſes, that will give you an Account, that when he hath not had any Money to pay a Reckoning, he hath had it from me at ſeveral times; and the very Day when he had got this Money, the 500 Pounds, and it was laid upon the Table in the Room, in the Tavern where he was, he did then deſire me to let him have a Guinea for to pay the Reckoning; and he would pay me in the Afternoon.

Bedlow. I do not deny it, but that I have received ſeveral Sums of Money, for he always told me, I muſt trouble no Body elſe when I wanted Money, but him.

Mr. Juſt. *Atkins.* They who have to deal with Men of ſuch Art as you are of, muſt uſe ſome Art with you.

Mr. Juſt. *Wild.* Did you ever promiſe to pay him back the Money again?

Bedlow. No, my Lord, but he was to have a Hundred Pounds a Year out of every Thouſand Pounds a Year that I ſhould have from them Lords.

Reading. My Lord, I do here declare, that I never had any more from the Lords in the *Tower*, than thus: I had from my Lord *Stafford* ſix Guineas, and I do not know I had one more; I had never from my Lord *Bellaſis* more than two Guineas; nor from my Lord *Petre* than five, and that was at the time when I carried him the Paper, which I'll give your Lordſhip an Account of, by and by. I never ſpoke to my Lord *Arundel*, tho' I met him often; nor with my Lord *Powis*, than upon this Account: Mr. *Bedlow* did deſire me to go and tell the Lords in the *Tower*, that if they did well Reward him, he would make the Charge he had againſt them very eaſy. My Lord, I did tell him, *This is an Affair which I cannot in prudence deal in, for*, ſaid I, *you are a deſigning Man, and how you will deal with me afterwards I don't know.* Said he, *'Tis in your Power, Mr.* Reading, *by this that I have ſaid, to do me a Miſchief, becauſe if you do diſcover what I have ſaid to you, you will be believed, but if I ſhould offer this againſt you, I ſhall never be believed.* And with all the Imprecations in the World I do curſe my ſelf, if I did directly or indirectly offer to perſuade him to diminiſh his Evidence, but he propoſed it to me. *But*, ſaid I, *here is one Mr.* Dugdale, *and he may give Evidence againſt my Lord* Stafford, *tho' you don't, and what will you do as to him? Believe me*, ſaid he, *that I deal entirely with you, by this Token: Did not* Dugdale *come to you to deſire you to draw up his Evidence?* And ſo he did, my Lord, and told me he would be reſponſible for it. I told him I was unwilling to meddle with ſuch an Affair, but if he would come to my Chamber I would give him what Leiſure I had, in order to the drawing up of his Evidence into a Method; but he never came. Mr. *Bedlow* told me, ſaid he, *Believe me in all the reſt by this Token, have a care of him, he is ſet on purpoſe to inſnare you.* Saith he, *Tell from me, he ſhall do him no harm, for he hath promiſed to ſay nothing againſt my Lord* Stafford, *but what I will have him to ſay.* I deſire Mr. *Bedlow* will anſwer this upon his Oath: Did I ever know one *Nicholas Jordan* 'till you acquainted me with him? Had not he ſome Eſtate in *Glouceſterſhire?*

Bedlow.

Bedlow. Yes, my Lord, I did tell Mr. *Reading*, that I would have ſuch an Eſtate ſettled upon me, of my Lords, in *Glouceſterſhire*, and his Words to me were theſe: That he had Order to draw blank Deeds for the conveying of that Eſtate, which my Lord would ſign in Ten Days after his Diſcharge.

Reading. He told me, that for the other Witneſſes, he would do well enough with them, and deſired me to tell my Lord *Stafford*, that he would do ſo and ſo, let him have but a Reward; and believing of it, I went to the *Tower*, I aſked my Lord *Stafford* if he knew one *Nicholas Jordan*; he told me he did, he had been a Tenant of ſome Eſtate of his. Mr. *Bedlow* bid me aſk him, whether he ſhould not have a Proviſion of Money ſecured to him out of that Farm. My Lord, I told him I would acquaint his Lordſhip with it. I did ſo, and my Lord *Stafford* was pleaſed to tell me, that he would not give him Six-pence; that he did value himſelf upon his own Innocency, and the Infamy of his Accuſers; that if he ſhould offer to give him any thing, he ſhould look upon it as the greateſt part of his Guilt. *But*, ſaid he to me, *Mr.* Reading, *this I muſt confeſs, you have been often with me, I am much indebted to you for Fees for coming to me, if you will but write a Letter to me, that you are not able to attend my Buſineſs, and neglect other Mens, at this rate of being paid; and that therefore I ſhould not take it ill that you do not come to me any more, unleſs you may have an Aſſurance of being ſatisfied and rewarded for it. And*, ſaith he, *thereupon I'll write you this in Anſwer, That I'll give you the Sum of Two Hundred Pounds, to be paid to you within Ten Days after my Acquittal; and*, ſaith he, *I will give you this Aſſurance too, that you ſhall have this Two Hundred Pounds ſecured to you, as ſoon as ever you ſhall deſire it.* My Lord, this being the Sum; *But withal remember*, ſaith he at the ſame time, *I do here declare, and pray do not fail of remembring it, that I will not, directly nor indirectly, promiſe Mr.* Bedlow *Six-pence.* I went to my Lord *Powis*, from whom I never ſaw Six-pence in my Life, and he did declare to me, that he would not for any thing in the World be guilty of the making him a Promiſe of one Six-pence (and this is certainly ſo); *nevertheleſs, if Mr.* Bedlow *will not go on to do me a Miſchief, as hitherto he hath done, and ſhall not go on to charge me unjuſtly, when I am acquitted, he ſhall find that I will do what ſhall be like a Gentleman; but I won't promiſe one Farthing.*

L. C. J. You have ſaid enough, Mr. *Reading.*

Reading. My Lord *Petre* ſaid he would give never a Farthing.

Mr. Juſt. Wild. This is againſt yourſelf.

Reading. I can't help it, I did it to ſave innocent Blood, God's Will be done with mine, I think I was bound to do this, and I had ſinned againſt God Almighty and my Country if I had not done it. My Lord, I did come back to Mr. *Bedlow*, and he did aſk me if I had been with the Lords in the *Tower*; I did tell him, Yes; and I did aſk him whether there was any body in the Bed by him. He aſked me, *What ſay the Lords?* I think I did tell him in very little different Terms from what I have now told you, be it of what Conſtruction it will. And whereas he ſays, that there was a Thouſand Pounds and Writings to be drawn, I never opened my Mouth to him of ſuch a Thing.

L. C. J. What ſay you to the Eſtate in *Glouceſterſhire?*

Reading. That was only to ſecure the Two Hundred Pounds to me, *pro Conſilio impenſo & impendendo.* My Lord, when that was done, Mr. *Bedlow* was pleaſed to tell me, for I muſt confeſs, he did deſire me to give him an Account, and I did come very late, as Mr. *Speke* ſays. I was in his Chamber about an Hour; it ſeems it was that time that this Gentleman, as he ſays, was there, but Mr. *Bedlow* not being at home, I went away; and being to give him an Account next morning, it ſeems this Gentleman was there alſo, for he hath ſworn it; when I came I gave him this Account, and God knows it was no other; nor did I ever hear talk of any Deeds drawing.

Speke. Did not you ſay, that the Deed was to be ſigned in Ten Days?

Reading. I did tell him, that my Lord would give me a Letter, wherein he would promiſe me to ſecure the Payment of Two Hundred Pounds within Ten Days after his Acquittal.

Speke. I ſay what you ſaid. You had Orders to draw up a Deed, from my Lord of *Stafford*; which my Lord had promiſed faithfully to ſeal within Ten Days after he was diſcharged.

Reading. It was only a Deed for 200*l.* to be paid to me *pro Conſilio impenſo & impendendo*; and to be ſecured upon that Eſtate in *Glouceſterſhire.*

Speke. Nay, I don't know; I heard no *Latin* there.

L. C. J. But what is that to Mr. *Bedlow?*

Mr. Juſt. Wild. Why ſhould you diſcourſe with Mr. *Bedlow* about your Penſion?

Reading. My Lord *Stafford* did ſay, When you have the Money, the 200*l.* do you diſpoſe of it as you think fit.

L. C. J. This is nothing to the purpoſe, but an Endeavour, by multiplicity of Words, to make us forget what has been ſworn. Anſwer the Matter of the Paper whereby the Evidence was leſſened.

Reading. My Lord, upon this Mr. *Bedlow* was pleaſed to tell me thus in Anſwer: That he would take their Lordſhips Words; and bid me go along with him, and he would go fetch that Evidence that he had, and would put in ſuch and ſuch Evidence, I ſhould write, and he ſhould dictate. I went along with him to *York-buildings*, where he ſaid his Mother lay: And there he ſaid he had left his Papers; but when he came there, they were not there, but he told me his Memory ſhould ſerve; and we went back to the Chamber. And, my Lord, it ſeems theſe Gentlemen were there before, and Mr. *Bedlow* ſent them away; and when they were gone, we went into a Room together, where he did dictate to me every Syllable I wrote. And when he had dictated, and I had writ it, I read it, and he read it again himſelf. And having peruſed it, he ſaid, This is that which, I think, is kind to them; and this is that I can come off with well enough in ſaying it; for I can make it out afterwards, that it was by Hearſay. And this, ſaith he, do you take along with you, and carry it to the Lords, and let me have their Anſwer. And this is that very Paper that I did write in Mr. *Bedlow*'s Chamber by his Directions, and dictated from his Mouth.

Mr. Juſt. Atkins. And you did carry it to the Lords?

Reading. Yes, I did. And, my Lord, when I had done this, I did aſk him this Queſtion (I did not direct him any one Syllable; but as he dictated, ſo I wrote): What he had to ſay againſt my Lord *Bellaſis*, and my Lord *Arundel?* He told me, that tho' he was reſolved to be kind to thoſe Lords, yet he was reſolved the other ſhould die. And he told me, That the 4000*l.* and the 1500*l.* that was to be paid to Sir *George Wakeman*, was to be paid by my Lord *Bellaſis*. And, my Lord, I began to write, and did write five or ſix Lines here in this Paper, and then left off. My Lord, when I had done this, I went to the *Tower* the firſt Opportunity; I did come to my Lord *Stafford*, and I ſhewed him this. He told me, That he did find that Mr. *Bedlow* would now begin to be an honeſt Man. My Lord, afterwards I went to my Lord *Petre*, and ſhewed it to him; and he did, at that time, my Lord, give me five Guineas; and before that I never ſaw a Penny of his Money in my Life. I went to my Lord *Powis*, and when I came, I found Sir *Henry Tichburn* in the Chamber; and it being late at Night, and it being Parliament-time, and I having Perſons that ſtaid for me, I did deſire to be excuſed: Tho' Sir *Henry* was pleaſed to walk out upon the Leads, leaving my Lord and me together, yet did not I ſhew him any one Syllable of this Paper, nor did I ſay any thing to him concerning it. My Lord, I think it was upon the *Monday* Morning that I came to Mr. *Bedlow*'s: He was not within; I then came to the *Painted Chamber*, and I was going up to the Houſe of Lords, and Mr. *Bedlow* met me in the *Court of Requeſts*, or the *Painted Chamber*, one of them, and this Gentleman was with him. And there he aſked me for a Paper: I had writ it out before, and 'tis this very Paper that is now with Mr. *Clare.* He did deſire me, after I had been with the Lords, to deliver a Copy of this to them to write it out: And I did ſo; and this is writ in the Third Perſon, the other was writ in the Firſt Perſon. And, I think, there is no other Alteration in it. My Lord, that which I did deliver to this Gentleman Mr. *Bedlow*, before Mr. *Speke*, was in the Firſt Perſon, the other was in the Third. What they did with it afterwards, I cannot tell. My Lord, after this the 500*l.* was received, and he promiſed to pay me all the next Morning, and pray'd me that I would come to his Chamber. But when I came I miſſed of him. His Clerk told me, he was gone abroad. I came here to *Weſtminſter*; and when I came there, I went up to the *Speaker*'s Chamber, to ſpeak with my Clients there: But when I came up, the Door was faſtned, and I was arreſted. My Lord, I have done; and let it be with me, or againſt me, this is what I ſaid to the Committee of Secrecy; and I ſpeak to your Lordſhip under the greateſt Tie and Obligation to ſpeak Truth, in the World, that this is all I know. And whereas Mr. *Bedlow* did tell your Lordſhip, that this Writing that I have drawn was not as he directed, but that I had carried it to the Lords, and their Lordſhips did correct it, and I brought it back again; that I did bring him another Paper: That very Copy which I writ out, in the Chamber, in the Third Perſon, I have; and this that is produced againſt me, is in the Firſt Perſon, and I deſire your Lordſhips to look upon it, and judge whether there be any Correction, more than the Alteration of the Perſon.

[*Then both the Papers were ſhewn to Mr.* Bedlow.]

Bedlow. Your Lordſhips may ſee both theſe Papers are fair written, without interlining: But there were above forty Interlineations in that Paper that was written in my Chamber.

L. C. J. This agrees with what you ſaid before, that when you did put in any thing that was home, he would correct it, and ſay, This is Treaſon, and this will charge them; and ſo mended it. And it was natural there ſhould be two Papers: That which was to be kept for the Lords, was in the Third Perſon, importing, That He ſaith ſo and ſo; and the other was in the firſt Perſon, which was to be kept by Mr. *Bedlow*, for the helping of his Memory, I heard ſo and ſo; that he might know how to obſerve his Contract. But what ſay you to this, that the firſt Paper was, as Mr. *Bedlow* ſays, corrected, and had many Interlineations, and cannot, therefore, be the ſame with that you produced?

Reading. My Lord, I hear it; I have but this Thing to anſwer, let it avail me any thing or nothing. I ſpeak it in the Preſence of God, (pray favour me) this Paper is the very Paper that I did write out; there is no other Interlineation in it than what you ſee. It never went out of my hand, from the time of my writing it in Mr. *Bedlow*'s Chamber, till the time that I ſhew'd it them in the *Tower*, and I did deliver it to Mr. *Sacheverel.*

Mr. Juſt. Wild. Ay, but there was another Paper, there was a Paper corrected according to your Intention; and then you cauſed this Paper to be writ out, and it was never ſeen ſince.

Reading. No other, upon my Word.

Mr. Juſt. Wild. But he ſwears it, and it is obvious to the leaſt Underſtanding here.

Reading. My Lord, I have only this to ſay, That 'tis not true.

L. C. J. But it is very probable, and it is ſworn to be true.

Reading. I can only ſay, 'Tis not true.

Mr. Juſt. Wild. I have one thing to ſay to you: With what Colour could you juſtify what you did, to carry the King's Evidence to the Priſoners, if it were no more than that?

Reading. I have but this to anſwer for that, I did not know it was a Crime.

Mr. Juſt. Wild. There is no mean Capacity, but what knows that is a Crime.

Reading. I did look upon it as a Crime if I had not done it, and *Conſcientia errans ligat*; it was a Point of Conſcience to me to do it. I did think it a Duty I owed to God, to prevent Perjury; and a Duty I owed to my Country, to prevent innocent Blood.

L. C. J. Will you impeach the Juſtice of the Kingdom in that manner? You are a Man of the Law, don't you know, that no Man ought to be of Council for a Priſoner in Felony or Treaſon, till they are aſſigned? And for you to carry the King's Evidence to the Priſoner, as you yourſelf confeſs, how can you excuſe it? And here are Witneſſes that heard you contract with him to leſſen his Evidence, and *cui bono?* Was not this out of Favour to the Lords in the *Tower*, to get them off? Now you by multiplying your Diſcourſe, inſtead of vindicating yourſelf, have

have ſpoiled the Matter, and confeſſed that which amounts to the whole Charge.

Mr. Juſt. Atkins. And you confeſs you were to have two Hundred Pounds from my Lord *Stafford*, which you were to diſtribute as you thought fit?

Mr. Juſt. Jones. And you have confeſſed, Mr. *Reading*, that not only you have endeavoured to take off Mr. *Bedlow*, but Mr. *Dugdale* too; for it was you firſt ſtarted that point.

Reading. My Lord, I have no more. I did never deſire him to ſpeak one Word leſs than the Truth, and the whole Truth; but I did my Endeavour to prevent Perjury, and the ſhedding of innocent Blood; and this I did as a good Chriſtian. My Lord, I did deſire alſo to ſhew you this Paper, but you were pleaſed to over-rule it, that it ſhould not be read.

L. C. J. We think it not material; we over-rule it not, but by way of Admittance that you ſay true.

Reading. Pray, will you ſee, is there any Variance between the two Papers?

L. C. J. There is only the Addition of the Words concerning my Lord *Bellaſis*, and that was to ſtrike Terror in him, to make him come into the Bargain too.

Reading. I deſire Mr. *Bedlow* would look upon this Paper alſo: Is this your Writing, Sir?

Bedlow. Yes, it is.

Reading. Since your giving me this Paper in your Chamber, have you ever ſeen it till to-day?

Bedlow. No, I have not.

Reading. Then, my Lord, I pray this; there is one *Prickman* a Merchant in Town, that is broke, he wrote to me for a Protection, and I deſired Mr. *Bedlow* that he would help him to a Protection; he ſaid he would, and ſpoke to the Prince, and others of the Lords, but could not get one, for I called upon him to know his Anſwer; but withal, told me, he had a better Contrivance than any Protection could be given him from a ſingle Lord, and that is this, That he would ſay, he was one of his Witneſſes, and that upon that Account he would get him a Protection from the Committee of Secrecy, and they would believe whatever he ſaid to them. I told him I did not know of what Signification that might be to my Friend; he told me, Yes, for he had given it to ſeveral already. I aſk'd him, how he could juſtify it, if it were queſtioned? Oh, ſaid he, let him ſay any thing, That he hath heard ſome body or other, in a Coffee-houſe, call me Rogue. My Lord, I never ſaw Mr. *Prickman* ſince; but faith, Here, I'll give you this Buſineſs for the protecting of him; and he under-writ this, as from Mr. *Treby*: *Pray, do not fail to come to me ev[ery] Hour, to receive what Orders the Committee ſhall ſend to you by me, that we may not neglect his Majeſty's ſpecial Buſineſs; and if you do receive any Let[ter] or Di[ſ]drance, by any Perſon whatſoever, ſend to me, and I will cauſe thoſe Perſons be ſo ſeverely puniſhed, as ſo great a Contempt does merit.* This was, my Lord, before my Treating with the Lords, in Time, the 25th of *March*. My Lord, when I did find he had got ſuch Tricks and Ways, I did apprehend and reſolve (pray give me your Favour in the Expreſſion) not to do any prejudice to the King's Evidence; for, my Lord, I do think he is not an Evidence for the King, that does go about, by any indirect means, to commit a Crime. But, my Lord, I think he is a Servant to the Nation, and does a very good piece of ſervice to the King, that goes about the taking away the Guilt of innocent Blood.

L. C. J. Indeed, Mr. *Reading*, we muſt not ſuffer this: I told you before, that by ſuch Diſcourſe you impeached the Juſtice of the Kingdom. If you had ſuſpected Mr. *Bedlow*'s Honeſty or Truth, you ſhould have gone to the King or Council, or the Secret Committee (they are Men of Honour, and would have been as as tender of Mens Lives, as you or any other Man); but for you to do it of yourſelf, in this Way, ſhews it is but for a plauſible Excuſe to colour your corrupt Dealing.

Bedlow. This Protection was given us by the Secret Committee, for Mr. *Prickman*.

L. C. J. It does not appear but that *Prickman* might be a Witneſs.

Reading. My Lord, I have but this, and I have done. At the time when I was taken, I have ſeveral Witneſſes to prove it, that I was reſolved to give his Majeſty, or the Secretaries, an Account of it; and I did aſk Mr. *Bedlow* for an Account he had given againſt the Queen; and I had the Paper by me, at the ſame time when I was taken: and I have ſeveral Witneſſes by me, to prove that at that time——

L. C. J. Mr. *Reading*, this is nothing to the purpoſe: Will you have done? unleſs you can ſpeak to the Fact you are charged with. The Court hath had a great deal of Patience with you already.

Reading. I have done, my Lord.

L. C. J. Gentlemen of the Jury, Your Patience hath been very much exerciſed already, by the long Diſcourſes Mr. *Reading* hath made; I ſhall therefore be ſhort in my Directions. He ſtands indicted for ſuborning Mr. *Bedlow*, in the Evidence that he was to give, concerning the Lords in the *Tower*, that were impeached of Treaſon by the Houſe of Commons and Sir *Henry Tichburn*. This is the Subſtance of the Indictment. There is an Inducement in it concerning this horrid Conſpiracy, and the Perſons that have been executed for it, *Coleman*, *Grove*, and *Ireland*; but as to that, it is admitted by Mr. *Reading*, and it lies ſo much in every one's Knowledge, that it ſhould hardly need to be proved. So then the Queſtion remains only a Queſtion of Fact, concerning Subornation of Perjury; which hath been fully proved to you, not only by Mr. *Bedlow*, who hath related the whole Tranſaction, but alſo by Mr. *Speke*, who tells you that Mr. *Bedlow* did inform him how it went on from Time to Time: And thereupon, to make the Matter plain, and to ſuppreſs ſo abominable a practice, it was thought there was no better way to diſcover this Deed of Darkneſs, and to catch a Knave, but to bring him into a Secret Place, where he might ſpeak freely, thinking there were no Witneſſes to teſtify againſt him; which was intended to have been done the Evening of the 28th of *March*, which was *Friday*: But Mr. *Reading* and Mr. *Bedlow* not then meeting, the next Morning at Seven o'Clock was appointed, when Mr. *Reading* did come, and aſked if no body were there; of which being aſſured, he thought himſelf ſecure and ſecret. Then Mr. *Bedlow* aſked him, What ſay the Lords in the *Tower?* What ſays my Lord *Stafford?* Mr *Reading* told him, That as to my Lord *Stafford*, he ſhould be ſure of the Eſtate in *Glouceſterſhire*, for my Lord *Stafford* had ordered him to prepare a Blank Deed, which, within ten Days after his Diſcharge, ſhould be perfected. And the reſt of the Lords did aſſure him, That after they were acquitted in proportion to the Service he did them, in leſſening of his Evidence, he ſhould have a very plentiful Reward. Thereupon, there aroſe farther Diſcourſe. Saith Mr. *Bedlow*, I won't rely upon their Promiſe, I will have ſomething under their Hands. No, ſaith Mr. *Reading*, that they think not convenient. Saith Mr. *Bedlow*, I muſt go and deliver in my Teſtimony to the Secret Committee immediately, and therefore, Mr. *Reading*, the Writing muſt be made preſently, or nothing can be done. Why, ſaith Mr. *Reading*, can't you put it off till *Wedneſday?* No, I cannot, ſays he. Well then, ſaith Mr. *Reading*, I will go ſpeak with the Lords in the *Tower*, and I'll bring you their Anſwer, and be with you on *Monday* Morning. Afterwards when they went out of the Houſe, Mr. *Speke*, and the other Witneſs, came from the Places where they were privately put, and they ſaw Mr. *Reading* going out. Mr. *Reading* and Mr. *Bedlow*, within half an Hour came back again to the Houſe, and were private together. Upon *Monday* Morning, Mr. *Speke* was to watch, and ſee the Delivery of this Paper, and he gives you a very rational and diſtinct Account, (and he is not a Man that the Priſoner can any way impeach in his Credit) he tells you, He ſaw him deliver the Paper out of his Hand to Mr. *Bedlow*, and Mr. *Bedlow* put it towards his Pocket, but afterwards put it behind him, and he followed him, and took it out of his Hand. And this Paper is here, which contains the Purport of the Evidence to be given againſt the Lords in the *Tower*; but ſo minced, that it is all but Hearſay, and nothing will touch them, as to the Matters for which they are charged: Here you have the Paper under his own Hand.

Now he comes to make his Defence; and what hath he done? He hath made a very long Diſcourſe, but no Defence at all to the Matter of the Indictment. He ſays nothing againſt the Credit of the Witneſſes, but hath confeſſed, in effect, the whole Matter that he was charged with; for what hath he to do, to carry the Evidence to the Lords in the *Tower*, and to go from one to another, to tell them thus and thus, and to receive Promiſes from them of Rewards, either in general or particular? He hath made Confeſſion of the whole of his Charge in the Indictment; and without it, there is ſuch undoubted Teſtimony, nothing impeaching the Witneſſes, that I ſhall need to trouble you no further. Do you go together, and conſider of it, and we will receive your Verdict.

L. C. Baron. Gentlemen of the Jury, It hath been ſo fully repeated by my Lord, that I ſhall not need to do any thing of that; but there is one little Piece of the Evidence, which I deſire you would take notice of: Mr. *Bedlow* ſays, the Paper given him upon *Monday*, in the *Painted Chamber*, which he carried behind him, and Mr. *Speke* took away, and which Mr. *Reading* brought him from the Lords, did contain ten times much milder Evidence than the Paper dictated by him on the *Saturday*; and that Paper was forty times leſs than that which he had given in to the Secret Committee.

Mr. Juſt. Wild. [*To Sir* John Cutler.] Sir *John*, What Paper is that you have in your Hand?

Sir John Cutler. 'Tis only the Names of the Jury, my Lord.

L. C. J. You do well to take the Names of the Jury with you, if you withdraw, that you may know one another: But I ſuppoſe you won't be long out.

Mr. Juſt. Wild. I ſpoke it, becauſe you are to have no Papers with you, but what are under Seal.

Then the Jury withdrew, and after a ſhort Receſs, return again to the Bar, and being called by their Names, ſeverally anſwered.

Cl. of the Cr. Gentlemen, Are you all agreed of your Verdict?

Omnes. Yes.

Cl. of the Cr. Who ſhall ſay for you?

Omnes. Our Foreman.

Cl. of the Cr. How ſay you, Is *Nathanael Reading* Guilty of the Offence whereof he ſtands Indicted, or Not Guilty?

Foreman. Guilty.

Cl. of the Cr. This is your Verdict; you ſay, that *Nathanael Reading* is Guilty of the Offence whereof he ſtands indicted, and ſo you ſay all?

Mr. Juſt. Wild. 'Tis a very good Verdict.

L. C. J. It is a very good Verdict, the Matter lay in a ſmall Room, and I wonder how Mr. *Reading* could make it ſo long.

Mr. Juſt. Atkins. He was the greateſt Witneſs againſt himſelf.

L. C. J. You of the Jury may take your Eaſe.

Then the Court adjourned till Two of the Clock, being then half an Hour paſt One.

About half an Hour after, the Court returned again; and Proclamation being made for Attendance, the Lord Chief Juſtice ſpoke to the Priſoner Convicted, then ſtanding at the Bar, thus:

L. C. J. Mr. *Reading*, You have been here upon your Trial to-day, and you are convicted of a very great and heinous Crime; there remains nothing now, but to receive the Judgment of the Law: And the Rule of Law is, That in all Caſes the Court ſhould conſider *quantitatem delicti, & qualitatem perſonæ*, and accordingly pronounce their Judgment.

As to the Quantity of the Offence, you your ſelf did admit in the Beginning of your Defence, that it was not capable of Aggravation, but looks rather like Treaſon than a Miſdemeanour; and ſo I ſhall not ſpeak to that, for any Flouriſhes would but ſound in Diminution of it.

Then we have nothing to conſider, but the Quality of the Perſon; and of that there might be a great deal ſaid, if we conſider your Perſon as a Lawyer, one that ſhould be a Man of Knowledge, to be able to adviſe, a Miniſter of Juſtice, to aſſiſt the Court wherein he pleads; and ought to be a Perſon of untainted Fidelity, that he may keep his Client's Secrets; and for a Lawyer to be convicted for ſuch an Offence, is that which aggravates it beyond all Expreſſion; and I think we can do no leſs to evidence the Care we have of the King's People, than to ſhew that there ſhall be greater Severity uſed againſt ſuch perſons offending; and 'tis a great Credit and Be-

nefit to the Profession, that the Members of it for such Offences shall be dealt with more severely, than we should deal in any other Case: So far will we be from lessening it in this Respect. For I would have no Man of the Profession of the Law, that should do thus, be able afterwards to draw People to him to trust him with their Business; but his Offence should be publickly known to all the World, that Men might know him, and not employ him. In one Sense, 'tis true, he may be trusted with a Secret, by the same Reason that a known Lyar may be, because his Word is never to be believed.

There is another Thing that we regard in your Person too; if you were a Man of a great Fortune, or a large Estate, I do not see but we should set that, which might be called a Ransom, rather than a Fine, in this Case; but it not being so, we have taken it into our Consideration to do it with Measure; but we will supply that Defect, by a Punishment of another Nature, according to the Old Saying, *Qui non habet in crumena luat in corpore.*

Therefore the Judgment of the Court is this: *That you be Fined* 1000 *l. That you be Imprisoned for the Space of one Year; And that upon* Monday *next, between the Hours of Eleven and Twelve, you be set in the Pillory, for the Space of one Hour, in* Palace-Yard *in* Westminster.

And I will tell you, Your Offence is so great, and hath such a Relation to that which the whole Nation is concerned in, because it was an Attempt to baffle the Evidence of that Conspiracy, which if it had not been, by the Mercy of God, detected, God knows what might have befallen us all by this Time; and still the Parliament have it under their Consideration, how to prevent any further Mischief by it; and for you, in such a Way as this, to do what you can to suppress the Evidence, is such a Crime, that we have Reason to suspect, that the Rage of the People will be so great against you, that it might endanger your Life. Therefore we have taken care to give a Charge to the Sheriff, and the Justices, that the Peace might be kept, and that no ill Consequences may happen to you, but only the Shame and Infamy, to which you are condemned; and which you do deserve as well as any Man that ever was Convicted.

Then the Court adjourned to Hicks's-Hall, *upon* Wednesday, *the* 30*th of* April: *And the Keeper went away with his Prisoner.*

On the *Monday* following, the Prisoner was set in the Pillory, according to the Judgment of the Court.

LXXXIII. *The Trial of* Thomas White, *alias* Whitebread, *Provincial of the* Jesuits *in* England, William Harcourt, *pretended Rector of* London, John Fenwick, *Procurator for the* Jesuits *in* England, John Gavan, *alias* Gawen, *and* Anthony Turner *, *all* Jesuits *and* Priests, *at the* Old-Baily, *for* High-Treason, June 13, 1679. 31 Car. II.

ON *Friday* the 13th of *June*, 1679, at the *Sessions-House* in the *Old-Baily*, the Court being met, at which all the Judges of *England* were present; Proclamation was made of Silence and Attention, whilst the King's Commission of *Oyer* and *Terminer*, and of *Goal-Delivery* were openly read; and after the usual Proclamation of Attendance upon the Sessions, the Court proceeded to call the Juries impanelled, and to the Trials of the Prisoners, thus:

Clerk of the Crown. Set *Thomas Whitebread, John Fenwick, William Harcourt, John Gavan, Anthony Turner,* and *James Corker,* to the Bar.

Capt. Richardson. They are all on.

Cl. of the Cr. Thomas White, alias *Whitebread,* hold up thy Hand; *John Fenwick,* hold up thy Hand; *William Harcourt,* alias *Harrison,* hold up thy Hand; *John Gavan,* hold up thy Hand; *Anthony Turner,* hold up thy Hand; *James Corker,* hold up thy Hand. *Which they all severally did.*

And James Corker *presented a Petition to the Court, to this Effect.*

'That about Eight Months since, the Petitioner was Committed for refusing to take the Oaths of Allegiance and Supremacy, that he had lately received Notice to prepare himself for his Trial, against this present Day, but that the same was afterwards contradicted; and that Yesterday a Gentleman informed him from the Attorney-General, that a Bill was found against him of High-Treason, and that he was to prepare himself for his Trial thereupon accordingly; and forasmuch as the Petitioner is altogether ignorant of the Matters charged upon him in the same, and by reason thereof is absolutely surprized, and unprepared for his Defence, and divers Goal-Deliveries having been held since his first Commitment, and he never called to his Trial; he doth humbly beseech their Honours, that he may not be Tried till the next Sessions, and that in the mean time he may have Copies of such Informations as are given in against him.'

Lord Chief Justice *. Mr. *Corker,* have you really any Witnesses, without whom you cannot make your Defence?

Corker. No, my Lord, I have none.

L. C. J. You do not understand my Question? Do you want any Witnesses now, that you may have another Time?

Corker. I am a Stranger to the Things charged upon me.

L. C. J. Can you not tell, whether you have any Witnesses or no? The Matter is this, both for you and all the rest of you, that there may be no Exception; you are upon the Trial of your Lives, and we upon our Oaths, and therefore I speak it, if so be you have any Witnesses, because you pretend you are surprised, if you have really any, whereby you can make a better Defence for yourselves, than now, the Court will incline to your Request; but if you have not, then 'tis in vain to tarry.

Corker. My Lord, I verily believe I shall have Witnesses.

L. C. J. As for the Copy of the Indictment, it is never granted to any Persons, and therefore must not be to you.

L. C. J. North. You must give us clear Satisfaction, that you are real in your Pretences; and must give us the Names of your Witnesses, where they live, and let us know what they can say for you, that we may be satisfied, for such a general Allegation as this, any Man living may make.

Mr. Recorder. He was one of the Ten that was appointed by the Council to be tried.

L. C. J. Why, you had Notice a Week ago.

Corker. But it was contradicted the next Day.

Capt. Richardson. I heard Mr. *Clare* say that he should be tried then.

Mr. Attorney General †. He had Notice together with the rest, but he was not in the first Order of Council for the Trial of these Persons; he sent to the Clerk to know who were to be Tried, and his Name was left out; and so understood he was not to be Tried. On *Tuesday* last I moved that he might be put into the Order, and so he was, and now there is an Order of Council for it; but he had Notice a Week ago, as well as the rest.

Capt. Richardson. I gave them Notice that all were to prepare for their Trial as this Day, and in order to that, I went to the Council, to see what Order was taken about it, and the Clerk shewed me their Names, amongst which *Corker* was left out; and I told him *Corker* had Notice of Trial, and therefore I desired I might have an Order for him too; they told me, that there was no Order taken about him.

Mr. Att. Gen. My Lord, I would have all the Gentlemen have all the fair Play in the World; therefore if he can satisfy your Lordship, that he can have any Witnesses that he hath not now, I am content the Trial should stay to another Time.

L. C. J. You shall hear the Indictment read, and there you will know what sort of Treason it is you are charged with, and after that you will make your Answer, whether you have any Witnesses.

Mr. Recorder ‖. My Lord, it will be necessary that I give your Lordship an Account of one thing. On *Saturday* Night there came a Gentlewoman to me, on the Behalf of all the Prisoners, and said there were some Witnesses that she was under Apprehension would not appear for the Prisoners, unless they had some Order; her Name, she told me, was *Ireland,* and she came in the Name of all the Prisoners, she said. I told her, if she would bring me a Note of the Witnesses Names they did desire, they should have all the Assistance the Court could give them for the getting of their Witnesses this Day; but since that Time I never heard of the Gentlewoman, or from the Prisoners.

L. C. J. Mr. *Corker,* you will do well to take notice what you are charged withal, and afterwards tell us, if there are any Witnesses that can say any thing for your Defence, at your Trial for those Matters.

Cl. of Cr. *You stand Indicted by the Names of* Thomas White *in the Parish of* St. Giles in the Fields *in the County of* Middlesex, *Clerk, otherwise called* Thomas Whitebread, *of the same Parish and County, Clerk;* John Fenwick *of the same Parish and County, Clerk;* William Harcourt *of the same Parish and County, Clerk, otherwise called* William Harrison *of the same Parish and County, Clerk;* John Gavan *of the same Parish and County, Clerk;* Anthony Turner *of the same Parish and County, Clerk; and* James Corker *of the same Parish and County, Clerk: For that you, as false Traitors against the most Illustrious, most Serene, and most Excellent Prince* Charles *the Second, by the Grace of God, of* England, Scotland, France, *and* Ireland, *King, Defender of the Faith,* &c. *your Supreme and Natural Lord; not having the Fear of God in your Hearts, nor weighing the Duty of your Allegiance, but being moved and seduced by the Instigation of the Devil, the cordial Love, true, due, and natural Obedience, which true and faithful Subjects of our said Sovereign Lord the King towards him should, and of right ought to bear, wholly withdrawing; and devising, and with all your Strength intending the Peace and common Tranquillity of this Realm to disturb, and the true Worship of God within this Kingdom of* England *used, and by the Law Established, to overthrow, and the Government of this Realm to subvert, and Sedition and Rebellion within this Kingdom of* England *to move, stir up and procure; and the cordial Love, and true and due Obedience, which true and faithful Subjects of our said Sovereign Lord the King towards him should, and of right ought to bear, utterly to withdraw, put out, and extinguish, and our said Sovereign Lord the King to Death and final Destruction to bring and put, on the Four and Twentieth Day of* April, *in the Thirtieth Year of the Reign of our said Sovereign Lord King* Charles *the Second, at the Parish of* St. Giles in the Fields, *in the County of* Middlesex *aforesaid; You the said* Thomas White *otherwise* Whitebread, John Fenwick, William Harcourt *otherwise* Harrison, John Gavan, Anthony Turner, *and* James Corker, *with diverse other false Traitors, Subjects of our said Sovereign*

* *Burnet's Hist. own Times,* Vol. I. p. 464.

* *Sir* William Scroggs. † *Sir* William Jones. ‖ *Sir* George Jefferies.

Lord

Lord the King, to the Jurors unknown, falſly, ſubtilly, adviſedly, maliciouſly, and traiterouſly, did purpoſe, compaſs, imagine, and intend Sedition and Rebellion within this Kingdom of England *to move, ſtir up, and procure, and a miſerable Slaughter among the Subjects of our ſaid Sovereign Lord the King to procure and cauſe, and our ſaid Sovereign Lord the King, of his Kingly State, Title, Power, and Government of his ſaid Kingdom of* England, *utterly to deprive, depoſe, caſt down and diſinherit, and him our ſaid Sovereign Lord the King to Death and final Deſtruction to bring and put, and the Government of this Kingdom of* England, *and the ſincere Religion of God within the ſame, rightly, and by the Laws of the ſame Eſtabliſhed; at your will and pleaſure to change and alter, and the State of this whole Kingdom of* England, *thro' all it's parts, well inſtituted and ordained, wholly to ſubvert and deſtroy, and War, within this Kingdom of* England, *againſt our ſaid Sovereign Lord the King, to levy: And to accompliſh and fulfil your ſaid moſt wicked Treaſons and Traiterous Imaginations and Purpoſes, You the ſaid* Thomas White *otherwiſe* Whitebread, John Fenwick, William Harcourt *otherwiſe* Harriſon, John Gavan, Anthony Turner, *and* James Corker, *and other Falſe Traitors againſt our ſaid Sovereign Lord the King, to the Jurors unknown, the ſaid four and twentieth Day of* April, *with Force and Arms,* &c. *in the Pariſh aforeſaid, and County aforeſaid, falſly, maliciouſly, ſubtilly, adviſedly, deviliſhly, and traiterouſly, did aſſemble, unite, and gather yourſelves together, and then and there, falſly, maliciouſly, ſubtilly, adviſedly, deviliſhly, and traiterouſly, did conſult, conſent, and agree, our ſaid Sovereign Lord the King to Death and final Deſtruction to bring and put, and the Religion of this Kingdom of* England, *rightly, and by the Laws of the ſame Eſtabliſhed, to the Superſtition of the* Romiſh Church *to change and alter, and the Government of this Kingdom of* England *to Subvert; and that one* Thomas Pickering, *and one* John Grove, *ſhould kill and murder our ſaid Sovereign Lord the King; and that you the ſaid* Thomas White *otherwiſe* Whitebread, John Fenwick, William Harcourt *otherwiſe* Harriſon, John Gavan, Anthony Turner, James Corker, *and other Falſe Traitors againſt our ſaid Sovereign Lord the King, to the Jurors unknown, ſhould therefore ſay, celebrate, and perform, a certain number of Maſſes, then and there amongſt yourſelves agreed on, for the Soul of the ſaid* Thomas Pickering, *and for that Cauſe ſhould pay to the ſaid* John Grove *a certain Sum of Money, then and there amongſt yourſelves agreed on; and that you the ſaid* Thomas White *otherwiſe* Whitebread, John Fenwick, William Harcourt *otherwiſe* Harriſon, John Gavan, Anthony Turner, *and* James Corker, *and other Falſe Traitors to the Jurors unknown, in further proſecution of the Treaſons and Traiterous Conſultations and Agreements aforeſaid, afterwards the ſaid Four and twentieth day of* April, *at the Pariſh aforeſaid, in the County aforeſaid, falſly, ſubtilly, adviſedly, maliciouſly, deviliſhly, and traiterouſly, did ſeverally each to the other engage yourſelves, and upon the Sacrament Traiterouſly ſwear and promiſe to conceal, and not to divulge the ſaid moſt wicked Treaſons, and traiterous Compaſſings, Conſultations, and Purpoſes, aforeſaid amongſt yourſelves had, Traiterouſly to kill and murder our ſaid Sovereign Lord the King, and to introduce the* Romiſh Religion *within this Kingdom of* England, *and the true Reformed Religion within this Realm, rightly, and by the Laws of the ſame Eſtabliſhed, to alter and change: And that you the ſaid* Thomas White *otherwiſe* Whitebread, John Fenwick, William Harcourt *alias* Harriſon, John Gavan, Anthony Turner, *and* James Corker, *and other Falſe Traitors to the Jurors unknown, in further proſecution of your ſaid Treaſons and Traiterous Intentions and Agreements aforeſaid, afterwards the ſaid Four and twentieth day of* April, *at the Pariſh aforeſaid, in the County aforeſaid, falſly, ſubtilly, adviſedly, maliciouſly, deviliſhly, and traiterouſly, did prepare, perſuade, excite, abet, comfort, and counſel, four other Perſons to the Jurors unknown, Subjects of our ſaid Sovereign Lord the King, Traiterouſly our ſaid Sovereign Lord the King to kill and murder, againſt the Duty of your Allegiance, againſt the Peace of our Sovereign Lord the King, His Crown and Dignity, and againſt the form of the Statute in that Caſe made and provided.*

How ſay'ſt thou, *Thomas White* alias *Whitebread*, art thou Guilty of this High-Treaſon whereof thou ſtandeſt indicted, or Not guilty?

Whitebread. My Lord, I deſire to ſpeak one word; I am adviſed by Council, and I may, and ought to repreſent it to this Court, for not only my own Life, but the Lives of others of His Majeſty's Subjects are concerned in it, That upon the 17th of *December* laſt I was tried upon the ſame Indictment, the Jury was impannell'd and called, I put myſelf into the hands of the Jury, and the Evidence was brought in and examined, particularly againſt me, and was found inſufficient, ſo that the Jury was diſmiſſed without any Verdict *. I humbly ſubmit myſelf to your Lordſhips and this noble Court, whether I may not have Council in this point of Law, to adviſe me, whether I may and ought to plead again the ſecond time; for according to Law, I am informed no Man can be put in jeopardy of his Life the ſecond time, for the ſame Cauſe.

L. C. J. You ſay well, Mr. *Whitebread.*

Whitebread. I ſpeak it not for my ſake only, but the ſake of the whole Nation, no Man ſhould be tried twice for the ſame Cauſe; by the ſame Reaſon, a Man may be tried 20 or 100 times.

L. C. J. You ſay well, it is obſerved, Mr. *Whitebread*; but you muſt know, that you were not put in jeopardy of your Life for the ſame thing, for firſt the Jury were diſcharged of you; it is true, it was ſuppoſed when you were Indicted, that there would be two Witneſſes againſt you, but that fell out otherwiſe, and the Law of the Land requiring two Witneſſes to prove you guilty of Treaſon, it was thought reaſonable, that you ſhould not be put upon the Jury at all, but you were diſcharged, and then you were in no jeopardy of your Life.

Whitebread. Under favour, my Lord, I was in Jeopardy; for I was given in charge to the Jury; and 'tis the Caſe of *Seyer*, in 31 *Eliz.* he was Indicted for a Burglary committed the firſt of *Auguſt*, and pleaded to it; and afterwards another Indictment was preferr'd, and all the Judges did declare, that he could not be Indicted a ſecond time for the ſame Fact, becauſe he was in Jeopardy of his Life again.

L. C. J. Surely, you were not in Jeopardy, and I'll ſhew you how you were not; ſuppoſe you had pleaded, and the Jury were ſworn.

Whitebread. They were ſo in my Caſe.

L. C. J. 'Tis true they were; but ſuppoſing that preſently upon that ſome Accident falls out, a Witneſs is taken ſick, and be feign'd to be carried away; or for any reaſonable Cauſe, it ſhould be thought fit by the Court to diſcharge the Jury of it, that they ſhould not paſs upon your Life, are you in Jeopardy then?

L. C. J. North. I would have you be ſatisfied with Reaſon, and the courſe of Law, that other Mens Lives are under, as well as yours. The Oath the Jury take, is that they ſhall *well and truly try, and true deliverance make*, of ſuch Priſoners as they ſhall have in Charge; the Charge of the Jury is not full, 'till the Court give them a Charge at the laſt, after Evidence had; and becauſe there was a Miſtake in your Caſe, that the Evidence was not ſo full as might be, the Jury, before ever they conſidered concerning you at all, they were diſcharged, and ſo you were not in Jeopardy; and I in my experience know it to be often done, and 'tis the courſe of Law, the Clerks will tell you 'tis frequently done here and at other places; and this is not the ſame Indictment, and it contains further matter, than that you pleaded to before. And then if you will make this Plea good that you go upon, you muſt alledge a Record, and ſhew ſome Record to make it good, and that cannot be, becauſe there is none, and ſo it will ſignify nothing to you, as you have pleaded it.

Whitebread. I deſire the Record may be viewed, it remains with you. I do only preſent this to your Lordſhip and the Court, and deſire I may have Council.

L. C. J. No, not at all, there is no Entry made of it.

Whitebread. I deſire that Council may adviſe me; for I am adviſed, that according to the Law of the Land, I ought not to plead again, and I hope your Lordſhips will be of Council for me.

L. C. J. Look you, Mr. *Whitebread*, there is no Entry made upon it; and the reaſon is, becauſe there was no Trial; and there was no Trial, becauſe there was no Condemnation or Acquittal: if there had been, then you had ſaid ſomething.

Whitebread. That which I aſk is, whether I ought not to be condemned or acquitted.

L. C. J. No, it is only in the diſcretion of the Court. For if a Man be indicted for Murder, and ſome accident ſhould happen, (when the Witneſs come to prove it) that he ſhould be taken ill, and ſo be carried away, ſhould the Murderer eſcape?

Whitebread. That is not my Caſe; you may do as you pleaſe.

L. C. J. But we ſhew, that it is in the diſcretion of the Court to diſcharge the Jury upon ſuch Accidents, and then the Party is not in Jeopardy.

Whitebread. I have only pray'd your Lordſhip's Diſcretion in this.

L. C. J. You ought to plead, and muſt plead.

L. C. J. North. I ſuppoſe if any of my Brethren are of another Opinion, than what we have expreſſed, they would ſay ſo.

Court. We are all of your Opinion.

L. C. J. All the Judges of *England* are of the ſame Opinion.

Mr. *Record.* 'Tis the conſtant Practice.

L. C. J. 'Tis frequent in all Places, it is no new thing.

Whitebread. My Lord, I am ſatisfied.

Cl. of Cr. Thomas White alias *Whitebread*, art thou Guilty of the High-Treaſon whereof thou ſtandeſt Indicted, or Not guilty?

Whitebread. Not guilty.

Cl. of Cr. Culprit, How wilt thou be tried?

Whitebread. By God and my Country.

Cl. of Cr. God ſend thee a good deliverance. *John Fenwick*, art thou Guilty of the ſame High-Treaſon, or Not guilty?

Fenwick. Not guilty.

Cl. of Cr. Culprit, How wilt thou be tried?

Fenwick. By God and my Country.

Cl. of Cr. God ſend thee a good deliverance.

Fenwick. I was tried before with Mr. *Whitebread*, our Caſe is the ſame; the only reaſon why (I preſume) we were not proceeded againſt, was, becauſe the ſecond Witneſs declared he had nothing to ſay againſt us, that was Mr. *Bedlow*, who ſaid, as to Mr. *Whitebread* and Mr. *Fenwick*, I have nothing to ſay againſt them; if he had given the ſame Evidence againſt us, as he had done againſt the reſt, we had been condemned, and had ſuffered, and ſo I ſuppoſe we ought to have been diſcharged.

L. C. J. No, it was not reaſonable you ſhould be diſcharged; it remains in the diſcretion of the Court, not to let a Man that is accuſed of a great and capital Crime eſcape, if there be one Witneſs that ſwears expreſly: do you think it reaſonable ſuch a Man ſhould go ſcotfree, tho' there wanted two that the Law requires? You were not in danger, your Lives were not in Jeopardy.

Fenwick. My Lord, we were in the ſame Danger with thoſe Three that ſuffered.

L. C. J. No, we never let the Jury go together to conſider whether you were Guilty, or Not Guilty; we did prevent your making your Defence, becauſe we thought it not a ſufficient Charge.

Cl. of Cr. William Harcourt alias *Harriſon*, how ſay'ſt thou, art thou guilty of the High-Treaſon whereof thou ſtandeſt Indicted, or Not guilty?

Harcourt. Not guilty.

Cl. of Cr. Culprit, How will thou be Tried?

Harcourt. By God and my Country.

Cl. of Cr. God ſend thee a good deliverance. How ſay'ſt thou, *John Gavan* alias *Gawen*, art thou Guilty of the ſame High-Treaſon, or Not guilty?

Gavan. Not guilty.

Cl. of Cr. Culprit, How wilt thou be Tried?

Gavan. By God and my Country.

Cl. of Cr. God ſend thee a good deliverance. How ſay'ſt thou, *Anthony Turner*, art thou Guilty of the ſame High-Treaſon, or Not guilty?

Turner. Not guilty.

Cl. of Cr. Culprit, How wilt thou be tried?

Turner. By God and my Country.

Cl. of Cr. God ſend thee a good deliverance.

L. C. J. Mr. *Corker*, you have heard the Indictment read, and what it conſiſts of, a Traiterous Endeavour to ſubvert the Government, to murder the King, to change the Proteſtant Religion into Popery; if you have any Witneſſes that can be ſerviceable to you, as to theſe matters, name who they are, and where they live; if you cannot, you had as good take your Trial now, as at another time.

Corker. I not only have no Witneſſes ready, but there are ſubſtantial Circumſtances, which peradventure may ariſe, which may induce your

* *See* Trial. 75. *of* Ireland, &c.

Lord-

Lordship to believe me innocent, and therefore I humbly beg, I may stay some short time to consult with those that are better skill'd in the Law than I am.

L. C. J. What do you mean to have Counsel assigned you?

Corker. My Friends, my Lord.

L. C. J. Every Man knows his own Case best; you have been bred a Scholar, and so you cannot be so ignorant as other Men are: You can tell whether you have any Witnesses that you think are material for your Defence.

Corker. That Day of the 24th of *April*, spoken of in the Indictment, I truly and really believe I was not in Town that Day; but I cannot positively prove it, because I heard not of it before.

L. C. J. Is there any body that can testify where you were that Day? Can you name any one?

Corker. Yes, I believe I can name one, and that is one *Alice Gaton*, that is now thirty Miles out of Town at *Tunbridge*, who can prove where I did go about that time.

L. C. J. I'll tell you what, if my Brothers will, this Woman you suppose can say something for you, we will respite your Trial for to-day, send somebody for her, and we will Try you to-morrow.

L. C. J. North. Or any other Witnesses; for as to this 24th Day of *April*, it is known to all the World to have been the Day of the Consult; but because you pretend a Surprise, I must tell you, that Mr. Attorney sent you notice with the rest; but because you might be led into another Opinion, that the Council did not order it, you have the Favour to be put off till to-morrow: Get your Witnesses ready if you can.

L. C. J. If you have any other Witnesses, or desire any Order for their appearance, let us know it.

Corker. I desire I may have liberty to have my Trial put off till *Monday*.

L. C. J. North. No, it cannot be. *Monday* is the Essoign Day, and the Commission will be out.

L. C. J. Call the Jury.

Cl. of Cr. Thomas White alias *Whitebread*, hold up thy Hand (*and so as to the rest*), You the Prisoners at the Bar, those Men that you shall hear called or personally appear, are to pass between our Sovereign Lord the King and you, upon Trial of your several Lives and Deaths; if therefore you or any of you will challenge them, or any of them, your Time is to speak unto them as they come to the Book to be sworn, and before they be sworn. Call Sir *Philip Matthews*.

Whitebread. We challenge him. My Lord, that there may not be any further Trouble, it is our general Petition, that none of those that were for any of the former Trials may be of this Jury, they having already passed their Judgment upon the Evidence they have heard.

L. C. J. You may challenge them. And therefore (*speaking to the Clerk of the Crown*) don't take any that were upon the last Jury for this Cause.

Gavan. Nor any of the former Juries; we do this that we may avoid giving your Lordship any further trouble, because if we should stay upon Particulars we should too much trouble the Court.

L. C. J. North. Look you, I will tell you by the way, you have the liberty to challenge peremptorily so many. All we can do, is to give direction to the Clerk; if he do not pursue it, we do not know them, we can't tell, you must look after that.

Mr. Record. You have the Books, wherein are Notes of all their Names, by you.

Then the Jury that were sworn were these Twelve.

Thomas Harriot.	*John Roberts.*	*John Kaine.*
William Gulston.	*Thomas Cash.*	*Richard White.*
Allen Garraway.	*Rainsford Waterhouse.*	*Richard Bull*, and
Richard Cheyney.	*Matthew Bateman.*	*Thomas Cox.*

Cl. of Cr. Crier, count these: *Thomas Harriot.*

Crier. One, &c.

Cl. of Cr. Thomas Cox.

Crier. Twelve good Men and true, stand together and hear your Evidence.

Then the usual Proclamation for Information was made, and the Jurymen of Middlesex *summoned and not sworn were dismissed till next Morning Eight of the Clock.*

Cl. of Cr. Thomas White, alias *Whitebread*, hold up thy Hand (*and so to the rest*). You Gentlemen that are sworn, look upon the Prisoners, and hearken to their Cause; they stand indicted by the Names of *Thomas White*, &c. (*put in the Indictment Mutatis Mutandis*) and against the Form of the Statute in that Case made and provided. Upon this Indictment they have been Arraigned, and thereunto have severally pleaded Not Guilty, and for their Trials have put themselves upon God and their Country, which Country you are. Your Charge is to enquire, whether they or any of them are Guilty of the High-Treason whereof they stand indicted, or Not Guilty. If you find them, or any of them, Guilty, you are to enquire what Goods or Chattels, Lands, or Tenements they had at the time of the High-Treason committed, or at any time since. If you find them, or any of them, Not Guilty, you are to enquire whether they fled for it: If you find that they fled for it, you are to enquire of their Goods and Chattels, as if you had found them Guilty: If you find them Not Guilty, nor that they nor any of them fled for it, say so and no more, and hear your Evidence.

Then Mr. Belwood, *of Counsel for the King in this Cause, opened the Indictment thus:*

May it please your Lordship, and you Gentlemen of the Jury:

The Prisoners at the Bar, *Thomas White* alias *Whitebread*, *John Fenwick*, *William Harcourt* alias *Harrison*, *John Gavan*, and *Anthony Turner*, together with *James Corker*, stand indicted of High-Treason. 'Tis charged in the Indictment, That the 24th of *April*, in the Thirtieth Year of the King that now is, these Persons, with other Traitors unknown, did purpose and conspire to stir up Sedition and Rebellion; to cause a miserable Slaughter of the King's Subjects; to depose the King of his Government, and bring him to Death; and to change the Government and Religion by Laws Established, and to Levy War against the King. And 'tis further charged in the Indictment, that pursuant to this Intention of theirs, and the better to bring it to pass, They did Assemble, Consult, and Agree, first, to bring his Majesty to Death, to murder the King, and thereupon to change the Religion established by Law to the Superstition of the *Romish* Church, and to subvert the whole Government; and it was agreed, that *Pickering* and *Grove* should murder the King; and that therefore *Whitebread*, and the rest of the Persons indicted, should say a number of Masses for the Soul of *Pickering*: And *Grove*, for this Piece of Service, was to have a Sum of Money. And the Indictment says further, That these Persons did take the Sacrament, to commit this Treason with more Secrecy; and that they did likewise prepare, excite, abet, and counsel four other unknown Persons to kill the King at *Windsor*. All these Facts are said to be done advisedly, maliciously, traitorously, and devilishly, and against their Allegiance to the King. To this they have pleaded Not Guilty; if the King's Evidence prove it, you are to find it so.

And then Sir Creswel Levinz, *one of the King's learned Council in the Law, open'd the Charge thus:*

May it please your Lordship, and you Gentlemen of the Jury:

These Prisoners at the Bar are by Persuasion Papists, by Order and Degree they are all Priests. By the Law of the Land, *viz.* by a Statute made the 27th of *Eliz.* they are all Guilty of Treason, for being Priests, and they might be tried as such, and ought to die for it; but that is not the Fact they are charged with, nor will they have the Satisfaction to say that they suffer for their Religion: No, they are charged with a Treason of a blacker and darker Nature. And though I must tell you, that it is now almost an hundred Years ago since that Statute was made against Priests coming into *England*, yet Examples have been very rare, that any of this sort of Men have died for their Religion, within that Queen's Time, or any of her Successors; yet they have died upon worse Accounts, and upon such Accounts as they are now brought to this Bar for. Such is the Difference between their Religion and ours, they have been suffered to live here under a Law by which they ought to die. They kill the Protestants by Thousands, without Law or Justice, witness their bloody Doings at *Mirendol*, their Massacre at *Paris*, their barbarous Cruelty in *Ireland*, since the Year 1640, and those in *Piedmont*, since 1650. But these are not the Crimes they are charged with, they are not accused for their Religion, but for the blackest and darkest Treason that Men can be charged with. They are charged with an Endeavour to murder the King, under whose Protection they lived. This Murder of the King hath been carried on in the Design of it, with all the Malice and Resolution that can be, from the first Time that we can give you an Account of it, which was the 24th of *April*, 1678, when these Persons, and several others, did first assemble about other Matters of their own, and among the rest to murder the King: There they came to a Resolution that it should be done, and Persons were appointed to do it; these were *Grove* and *Pickering*, who have been executed for it; they were to kill the King in St. *James*'s Park; but it pleased God, that the Flint of the Pistol failed, to which we are more beholden, than to them, that he escaped that time. They were not satisfied with that, but they send down four Butchers to murder him at *Windsor*, who being disappointed, they sent down others after that to murder him at *New-Market*; and when all these failed, they had Recourse to that Treacherous and Unmanly Way of poisoning him, and hired one so to do; and they did not only intend to murder the King, but to make it good by Force when they had done. They intended to raise an Army; they had got Commissions to several Persons in the Kingdom, to Command these Forces. They design'd to raise 50,000 Men to maintain the Injustice, when they had done it. And that was not all; they had Recourse to Foreign Assistance, and depended upon Foreign Succours, if they were not made good at home. Gentlemen, they have been disappointed in all these things; they had an Intention further (as I find it in my Brief) to make a general Massacre of all Protestants here. A thing that they have done, and we have heard of it abroad, but Thanks be to God, we never knew it experimentally at home. And I hope God that hath preserved us hitherto, will preserve us still.

The Mercy these Men have met with, in being suffered to live under the Danger of the Statute, by which they might have justly died, hath not prevailed upon or bettered them at all, but been turned into monstrous Ingratitude, and made them more desperate than other People would have been. Gentlemen, when all this is opened, I must tell you, if these Persons be innocent, God forbid they should suffer; but if hey be guilty, surely they are not fit to live among Men: And truly if they be guilty, they do not only deserve to die, but to die a more cruel and miserable Death, than either the Mercy of our Prince, or the Moderation of our Laws hath provided for such Offenders. I shall detain you no longer, but will call the Witnesses, and then you shall judge whether they be guilty or not. And we begin with Mr. *Oates*. *Who was sworn.*

Sir Cr. Levinz. Pray what can you say to these Gentlemen? Begin with Mr. *Whitebread* first.

L. C. J. Mr. *Oates*, apply your Evidence as distinctly as you can to one Person at first, unless where the matter will take in all, or more than one of them.

Oates. My Lord, I have Evidence I desire may be called in, I shall have occasion to use them.

Gavan. It may be inconvenient. He may instruct his Witnesses.

L. C. J. North. No, he shall not, for we will take care of that: But name your Witnesses.

Oates. There is Sir *Richard Barker*, Mr. *Walter* a Minister, Mrs. *Mayo*, *Philip Page*, Mr. *William Smith*, and one Mr. *Clay*, Mr. *Butler*, Mrs. *Sarah Ives*.

Mr. Just. Atkins. Take a Note of their Names, and send for them.

L. C. J. Now, Mr. *Oates*, go on with your Evidence; and when there is Occasion to make use of these Persons they shall be called.

Oates. The Prisoner at the Bar, Mr. *Whitebread*, was made and constituted Provincial, so as it was publickly known to us, in the Month of *December* last was Twelvemonth; and he did order by Virtue of his Authority, one Father *George Conyers* to preach in the Sodality of the *English* Seminary, on the Holy-day which they call *St. Thomas of Canterbury*, i. e. *Thomas* of *Becket*'s Day in which there was Order given that

that Mr. *Conyers* ſhould preach and aſſert this Doctrine: That the Oaths of Allegiance and Supremacy were Heretical, Antichriſtian, and Deviliſh: Accordingly, this Order was Executed, and the Sermon preached. Mr. *Whitebread* in the Month of *January* wrote Letters (or, at leaſtwiſe, in the beginning of *February*, I will not be poſitive as to the Time, becauſe it does not occur to my Memory) to St. *Omers*, concerning the State of *Ireland*, of which he had an Account from Archbiſhop *Talbot*, who wrote him Word, that there were ſeveral Thouſands of *Iriſh* that were ready to Riſe, when the Blow ſhould be given in *England*.

L. C. J. Was that in *Whitebread*'s Letter?

Oates. Yes, my Lord, and Mr. *Whitebread* did ſay, He did hope it would not be long ere it was given. Now, my Lord, by the Word *Blow*, we did uſe to underſtand, and had Inſtructions to underſtand the Death and Murder of the King; and in the Month of *January*, I think it was, that he ſent over two Jeſuits into *Ireland*, to ſee how the State of Affairs ſtood there: In the beginning of *April* they return'd, of which we had an Account from Mr. *Whitebread*, by Letters, wherein there was mention of a Conſult to be held in the Month of *April*, Old Stile, and *May*, New Stile; and according to the Order there given, there met at that Conſult, the Priſoners at the Bar, *Whitebread*, *Fenwick*, *Harcourt*, and *Turner*; and if it pleaſe your Lordſhip, all theſe at that Conſult did ſign a Reſolve, Mr. *Whitebread* at his Chamber, which was at *Wild-Houſe*, Mr. *Fenwick* at his Lodgings in *Drury-Lane*, and Mr. *Harcourt*, who had ſome at his Chamber in *Duke-Street*. But, my Lord, I am to premiſe this, before I go any further, That the Conſult was begun at the *White-Horſe* Tavern in the *Strand*, and there they did agree to ſend Father *Cary* to be their Procurator at *Rome*; and after ſome ſuch Things were done, they adjourned into ſeveral Clubs or Colloquies, or what you pleaſe to call them. One was at Mr. *Whitebread*'s Chamber, another at *Ireland*'s Chamber, that is Executed, another at *Harcourt*'s, and another at *Fenwick's*; now here was a Reſolve Signed by theſe Priſoners at the Bar, in which——

L. C. J. That is four of them, *Whitebread*, *Fenwick*, *Harcourt*, and *Turner*.

Oates. Yes, my Lord.

L. C. J. Was *Gavan* there?

Oates. I dare not, my Lord, affect him with that, becauſe I cannot be poſitive, but I'll give you my Evidence againſt him by and by. My Lord, theſe four Gentlemen, with the reſt of their Accomplices, did ſign a Reſolve, which was this, *That* Pickering *and* Grove *ſhould go on in their Attempt to diſpatch the King*; and this they did reſolve upon, and gave it as their Judgment, as a very excellent Expedient. My Lord, after this Conſult we did return (we were Eight or Ten that came over); and may it pleaſe your Lordſhips, in the Month of *June* (I think it was *June*), he came to *Flanders*, in order to viſit his Colleges, being Provincial of the Jeſuits of *England*: He did ſtay there (as near as I can remember) till the 10th of *June*, and enquiring of the Fathers how Squares went in Town, among other Expreſſions he uſed, this was one, *That he hoped to ſee the black Fool's Head at* Whitehall *laid faſt enough*; *and that if his Brother ſhould appear to follow in his Footſtepts, his Paſſport ſhould be made too* (or to that Purpoſe), *he ſhould be diſpatch'd*. Upon the 13th of *June*, Old Stile, the 23d New Stile, I had Orders to come for *England*; according to which Order I came, and did take the Pacquet-Boat, as near as I can remember, the 24th, which was the 14th Old Stile, and we landed at *Dover* the 25th, very early in the Morning; and when I was at *Dover*, I met with the Priſoner at the Bar, Mr. *Fenwick*, and he, my ſelf, and ſome others, did take Coach, and come as far as *Canterbury*; after we had eaten and drunk there, we came ſix Miles further, where there was a Box ſeized by the Searchers of the Town of *Borton*, and this Box was brought up by Mr. *Fenwick*, and directed to one *Blundel*, and the Superſcription was, as near as I can remember, in theſe Words, *To the Honourable* Richard Blundel, *Eſq. at* London. And this Priſoner at the Bar, Mr. *Fenwick*, did deſire that the Searchers would ſend it to him (it was full of Beads and Crucifixes, and ſuch Things) to the *Fountain-Tavern* near *Charing-Croſs*, and write a Letter to him, by the Name of Mr. *Thompſon*, as that was the Name he uſually went by, when he came to *Dover*, and he had then brought ſome Students there, to ſend over to St. *Omers*.

L. C. J. When went *Fenwick?*

Oates. When I came to *Dover*, I met *Fenwick*, by the Name of *Thompſon*, going to ſend over the Students, and *Fenwick* did ſay, If they had ſearched his Pockets, as they had ſearched his Box, they had found ſuch Letters, as would have coſt him his Life; for, ſaith he, they were about our Concern in hand. Then we came up to *London*, and arrived at *London* the 17th of *June*, Old Stile, for we lay a part of the way at *Sittenburn*, in the Morning, and in the Afternoon we came to *Dartford*, and came to *London*, *Monday* Noon, the 17th, Old Stile. And in the Month of *July*, there was one *Richard Aſhby*, whoſe right Name indeed is *Thimbleby*, but he went by the Name of *Aſhby*, and this Gentleman did bring over Inſtructions from the Priſoner at the Bar, Mr. *Whitebread*, who was abroad in *Flanders*, wherein he was to propoſe 10,000*l.* to Sir *George Wakeman*, to poiſon the King; and ſeveral other Inſtructions there were, of which I cannot now give you an Account; and withal, that a blank Commiſſion ſhould be fill'd up, and order'd for Sir *John Gage*, to be a Military Officer in the Army, and by that Gentleman's own Order I delivered that Commiſſion into Sir *John Gage*'s own Hand, on a *Sunday*.

L. C. J. Where had you that Commiſſion from *Whitebread?*

Oates. It was Signed and Sealed by him, but it was a Blank, and was to be fill'd up.

L. C. J. Where?

Oates. It was at *Wild-Houſe*.

L. C. J. How was it fill'd up?

Oates. It was fill'd up by Mr. *Whitebread*'s Order, it was Signed and Sealed blank, and he ordered it to be fill'd up, and me to take that Commiſſion, and carry it to Sir *John Gage*.

Whitebread. Did I order you?

Oates. You ordered *Aſhby*; I ſaw the Letter, and knew it to be *Whitebread*'s Hand.

L. C. J. Was it before he went to St. *Omers?*

Oates. It was while he was at St. *Omers*.

Whitebread. What Day was it? What Hour?

Oates. It was in *July*.

Whitebread. What time of the Month?

Oates. The beginning, or middle.

Whitebread. Are you ſure it was in *July?*

Oates. I cannot be poſitive, but I think it to be in *July*; for *Aſhby* went to the *Bath* the latter end of *July*, or the beginning of *Auguſt*, and it was before he went.

Whitebread. Who was preſent at the Signing of this Commiſſion?

Oates. There was preſent at the filling up of this Commiſſion, Mr. *Harcourt*, Mr. *Aſhby*, and Mr. *Ireland*.

Fenwick. Was not I there?

Oates. I think I fill'd it up. I'll tell you when you were there preſently. My Lord, when *Aſhby* went away, *Fenwick* went out of Town, but returned again preſently, to give an Account how Squares went, and really I cannot remember where he had been, but as near as I can, it was in *Eſſex*, I will not be poſitive in it; but, my Lord, this ſame Gentleman, Mr. *Fenwick*, with Mr. *Harcourt*, did adviſe Mr. *Aſhby*, that as ſoon as he had been at the *Bath*, he ſhould go and give an Account to the People in *Somerſetſhire*, and there-away, his Circuit would be ſhort and very eaſy, and he did not queſtion, but before he came up to Town again, to have the Gentleman at *Whitehall* diſpatched, whom they call'd the *Black Baſtard*; now I leave that to the Jury to expound whom they meant by it.

Fenwick. What time was that, Sir, pray? You muſt time Things, or you do nothing at all.

Oates. It was the latter end of *July*, or the beginning of *Auguſt*, it was about the Time of *Aſhby*'s going to the *Bath*.

Fenwick. Juſt now he ſaid, it was the beginning or middle of *July*.

Oates. I'll tell your Lordſhip what I ſaid, that this *Aſhby*, or *Thimbleby*, came from St. *Omers* with thoſe Orders or Inſtructions, either the beginning of *July*, or the middle of *July*.

Fenwick. I would not interrupt you, Mr. *Oates*, this was ſome time before Mr. *Aſhby* went to the *Bath*, was it not?

Oates. It was about a Day before.

L. C. J. He ſays a Thing that is plain enough: *Aſhby* came over about the beginning or middle of *July*, with Inſtructions about the Commiſſion; and about the latter end of *July* or beginning of *Auguſt*, as he remembers, this Advice was given.

Oates. And ſo we are arrived at the Affairs in *Auguſt*, which reflects upon theſe Gentlemen; but now I muſt ſpeak a Word to this Gentleman, Mr. *Gavan*, the Priſoner at the Bar, whom when I ſaw come into the Lobby, he had gotten on a Periwig; ſo there was one aſked me, whether I knew him? I know him now, but truly then I did not well know him, becauſe he was under that Maſk, and I could not ſay any thing againſt him then, becauſe he being under an ill-favoured Periwig, and being a Man that I knew had a good Head of Hair of his own, I did not well underſtand the Myſtery of it, and ſo ſpared my Evidence at that Time from informing the Council againſt him; but the Priſoner at the Bar came by the Name of *Gavan*, and we uſed to call him by the Name of Father *Gavan*: and this Gentleman did in the Month of *June* write Letters——

Gavan. What Year?

Oates. In the Year 1678, and did give the Fathers at *London* an Account how Affairs ſtood in *Staffordſhire* and *Shropſhire*, and how diligent one Father *Evers* was to manage Affairs in thoſe Countries.

Gavan. From whence were thoſe Letters ſent?

Oates. There was only the Day of the Month, you know it is not the Cuſtom to date the Place. When I ſaw the Letter firſt, I did not know it was his Hand, I took it upon Report; but I will tell the Jury, by and by, how I came to know it was his Hand: As near as I can remember, it was in the Month of *July* (it was *July* or *Auguſt*), this Gentleman came to Town, and I ſaw this Gentleman at Mr. *Ireland*'s Chamber.

Gavan. What Time of the Month?

Oates. It was in *July* 1678, as near as I can gueſs.

Gavan. Upon my Salvation, I am as innocent as a Child unborn.

L. C. J. North. By this means you may put out any Witneſs in the World, by interrupting of them. When the Witneſs hath done his Teſtimony, you may aſk him any Queſtions, to aſcertain the Time or any thing, but you muſt not interrupt him till he hath done.

Oates. In the latter part of *July*, I think it was, but it was, as I remember, while Mr. *Aſhby* was in Town, I met him at Mr. *Ireland*'s Chamber, for he was a ſaying he would go ſee Father *Aſhby* before he went out of Town, and he gave ſuch an Account to Father *Ireland*, of the Affairs in *Staffordſhire* and *Shropſhire*, as he had given in the Letters before; but to prove his Hand, he did draw a Bill upon one Sir *William Andrews* in *Eſſex*, for the Payment of ſome Money, of ſome little ſucking Prieſts, that were ſtrolling up and down the Country. I ſaw him write it, and it was the ſame Hand with that Letter.

Gavan. What did I write?

L. C. J. You drew a Bill upon ſuch a Perſon, and he names him.

Oates. We are now come to *Auguſt*.

L. C. J. But you ſay he diſcourſed about the ſame Things with *Ireland*, that he had wrote in the Letter.

Oates. Yes, my Lord.

Gavan. And what were thoſe ſame Things?

Oates. Why, how the Affairs ſtood in *Staffordſhire* and *Shropſhire*, how my Lord *Stafford* was very diligent. I deſire to be excuſed as to that, becauſe it will diminiſh my Evidence in another Part of it: I'll tell you part of what was then diſcourſed of.

Gavan. My Lord, he is ſworn to ſpeak all the Truth.

L. C. J. You muſt ſpeak the whole Truth, as far as it concerns any of theſe Perſons.

Oates. He gave an Account how proſperous Things were in thoſe Countries, and did ſay, that there was at leaſt Two or Three Thouſand Pounds that would be ready in that Country for the carrying on the Deſign, I think it was Three, but it was betwixt Two and Three. Now, my Lord, we are arrived to our Buſineſs in *Auguſt*; about the 12th of *Auguſt*,

Auguſt, as near as I remember, but it was between the 8th and the 12th, therein I am poſitive, *Ireland*, which is executed, took his Leave of us, as if he were to go to St. *Omers*.

L. C. J. Where did he take his Leave?

Oates. At his Chamber in *Ruſſel Street*. *Ireland* went out of Town, and *Fenwick*, by that Means, was to be Treaſurer and Procurator to the Society altogether. He had that Employ afterward upon him during his Abſence, let Mr. *Ireland* go whither he would. And the 21ſt of *Auguſt*, which, as near as I remember, fell upon a *Wedneſday*, Mr. *Fenwick* and Mr. *Harcourt* were met together at *Wild-Houſe*, and ſome other Fathers, as Father *Kaines*, and one Father *Blundell*, and ſome other Fathers, whom I cannot remember.

Gavan. Was I there, pray, Sir?

Oates. No, no, Sir; I am not to talk to you ſtill, I am to ſpeak to the Court.

L. C. J. North. We would recommend this to you, to name Perſons when you ſpeak of them.

Oates. Where I have Occaſion I will name them, my Lord. Mr. *Fenwick* and *Harcourt* were together at *Wild-Houſe*, and Mr. *Kaines*, and Mr. *Blundell*, and, as near as I remember, Mr. *Langworth* was there, but I won't be poſitive. And there lay before them at *Wild-Houſe* Fourſcore Pounds, the moſt of that Money was Guineas, which was to be paid to the four *Iriſh* Ruſſians that were to murder the King at *Windſor*. After it was agreed that they ſhould do it, and *Coleman*, who was executed, came thither, and gave the Meſſenger a Guinea to expedite the Journey; we drew off from *Wild-Houſe*, and went to Mr. *Harcourt*'s Chamber; and becauſe Mr. *Harcourt* had there left his Papers that were to be ſent down to *Windſor*, there he paid the Meſſenger the Money. And that Gentleman was preſent there, Mr. *Fenwick*, and this is another Part of *Auguſt*'s Buſineſs. No ſooner was this Meſſenger diſpatched, but within a Day after, or a Day before, but it was a Day after, as near as I can remember, there was a Conſult held at the *Benedictine*'s Convent, at which Mr. *Fenwick* was preſent, and Mr. *Harcourt*, and there they had ſome more *Iriſh* News from the *Iriſh* Archbiſhop *Talbot*, who did give an Account of the *Iriſh* Affairs, how they did conſpire the Death of the Duke of *Ormond*; and deſired to know how Affairs went in *England*, and deſired ſome Commiſſions might be ſent over to ſome particular Perſons, there to raiſe Forces for the carrying on of the Deſign, and ſome Money to be tranſmitted to them. And Mr. *Fenwick* did bring the Commiſſions from *Wild-Houſe* (as near as I remember), but he did bring them with him, and ſent them down by a ſpecial Meſſenger to *Cheſter*, and ſome Letters by the Poſt. That of the Poſt I know of my own Knowledge, but that of the ſpecial Meſſenger I had only from his own Mouth. My Lord, from the 24th of *Auguſt*, as near as I remember it fell of a *Saturday*, *Bartholemew*-Day it was, but whether it fell of a *Saturday* I cannot be poſitive; but if the Court pleaſe to inform themſelves of it by their Almanacks, they may.

L. C. J. There is no great Matter in that, I ſuppoſe.

Oates. But this Gentleman, Mr. *Fenwick*, did deliver me ſome Money for my neceſſary incident Charges, but did admoniſh me to procure ſome Maſſes to be ſaid for a proſperous Succeſs upon the Deſign. Upon the 25th Day, I ſaw Mr. *Fenwick* in the Afternoon at his Chamber, and he was to go on the 26th Day, the next Day, to St. *Omers*, and to carry eight or ten Students to go there to ſtudy Humanity: And this is the Account I have to give of Mr. *Fenwick*: For after I took my Leave of him here, I ſaw him no more till he was apprehended.

L. C. J. This was about the 26th of *Auguſt*, was it not?

Oates. Yes, my Lord, it was the 26th of *Auguſt*.

L. C. J. Well, go on, Sir.

Oates. The 1ſt or 2d of *September*, we received a Letter (in the Beginning it was) from Mr. *Whitebread*, and this Letter they did ſay was a Foreign Letter, and yet it paid but Two-pence, by which I did conclude that Mr. *Whitebread* was come into *England*, and lay ſomewhere privately, or was not yet come to Town. On the 3d of *September* I went to Mr. *Whitebread*'s Chamber, at Night, but he being at Supper, was not to be ſpoken with; but when he ſaw me the next Morning, he did revile me, and ſtrike me, and aſked me with what Face I could look upon him, ſeeing I had dealt ſo treacherouſly with them? Now, after that I had enquired in what Reſpect? He anſwered, in the diſcovering of the Buſineſs, for there was a Gentleman that went to the King in this Buſineſs, to whom I had communicated much of my Information by Dr. *Tongue*. This Gentleman had the ſame coloured Clothes that I had, and ſo they not being able to give an Account of the Name of the Perſon, gave only an Account of the Habit he was in, and therefore they charged me with it. After I had juſtified myſelf as well as I could, Mr. *Whitebread* did ſhew me a Letter, which came from one *Beddingfield*, alias *Benningfield*, which did ſhew the Plot was diſcovered, and that they were like to be undone, if it had not been for the five Letters that were ſent down to *Windſor* and intercepted, which made all to be looked upon as counterfeit; after that, I juſtified myſelf as well as I could. He told me he would be Friends with me, provided I would give an Account of the Party, and of the Miniſter that went with him. And this is what I have to ſay againſt Mr. *Whitebread*, and the Priſoners at the Bar; but only this, becauſe Sir *George Wakeman* did not accept of 10,000*l.* that was propoſed to him to poiſon the King, this Gentleman offered that 5000*l.* more ſhould be added.

L. C. J. Which Gentleman?

Oates. Mr. *Whitebread*. And 15,000*l.* was accepted, and when it was accepted, *Whitebread* did greatly rejoice that the Money was accepted to poiſon the King.

Whitebread. Did I tell you ſo?

Oates. No, there was a Letter told me ſo; but you were in *Flanders* then.

Sir Cr. Levinz. What have you to ſay againſt Mr. *Turner*?

Oates. I ſpeak as to his being at the Conſult in *April*, and ſigning the Reſolve of the Death of the King.

L. C. J. Was Mr. *Gavan* at that Conſult the 24th of *April*?

Oates. Mr. *Gavan* was ſummoned to that Conſult; but among forty Men I cannot particularly ſay he was there, but I ſaw his Name ſigned as to the King's Death, but I cannot ſay I ſaw his Perſon.

L. C. J. Can you ſay you ſaw his Hand-writing?

Oates. I do believe it was his.

L. C. J. Did you ever ſee any Writing of his, but when he ſigned the Bill of Exchange?

Oates. My Lord, I never ſaw him write but that time. It was an ill Pen, as it ſeemed, that he writ his Name with to the Conſult, and I did not take ſo particular Notice of the being of his Name there, till we ſaw the Inſtructions in *July*, and then I did look over the Conſult particularly.

L. C. J. But I ſay, did you ever ſee his Hand-writing before he writ the Bill?

Oates. My Lord, I never ſaw his Hand but that Time.

L. C. J. And that by your comparing, was like the Hand of the Letter about *Staffordſhire*?

Oates. By that I proved the Letter to be written from him. It was like it, and was all as one.

L. C. J. Was it like the Hand that was to the Conſult?

Oates. That I cannot ſay.

L. C. J. I thought you had ſaid he confeſſed the Contents of the Letter, when he came out of *Staffordſhire*?

Oates. I do ſay this of Mr. *Gavan*, that he wrote ſuch a Letter, and when he came to Town, he did give an Account of all the Paſſages that the Letter did contain, which was concerning the raiſing of Money in *Staffordſhire*, and the Parts he was concerned in: And this was the Account he gave.

L. C. J. Dr. *Oates*, you poſitively ſay, that *Whitebread*, *Fenwick*, and *Harcourt* were there?

Oates. Yes, my Lord, for Mr. *Whitebread* was Provincial and Preſident of the Aſſembly.

Sir Cr. Levinz. And *Turner* was there?

Oates. Yes, he was.

Sir Cr. Levinz. Dr. *Oates*, what was that Money raiſed for?

Oates. They ſaid it was for the carrying on of the Deſign.

L. C. J. And what Deſign was that?

Oates. Our Deſign. And that was the Subverſion of the Government, and Deſtruction of the King.

L. C. J. Now, if you pleaſe, you may aſk him any Queſtion.

Gavan. Mr. *Oates*, you ſay you ſaw my Name to a Letter for the taking up of Money: to whom was that Letter writ?

Oates. There was a Letter from you to Mr. *Ireland*. And he did receive it by the Hands of *Grove*.

Gavan. Where was that Money to be taken up?

Oates. My Lord, I ſay, that Letter was received by *Grove*, who is out of the Way, and can't prove it, and was delivered to *Ireland*.

L. C. J. I perceive your Memory is not good.

Gavan. I perceive his Memory is very good.

Oates. This Letter did give an Account of the Buſineſs of *Staffordſhire*, and the Particulars of that Mr. *Gavan* did afterwards give an Account of by Word of Mouth, and ſome other Things not fit to be named.

Gavan. Pray, where was it, Sir, that I gave an Account of it; in *London*, or in the Country?

Oates. In *London*.

Gavan. In what Month?

Oates. In *July* it was.

Gavan. What Part of *July*?

Oates. It was when Mr. *Aſhby* was in Town, the Beginning or Middle.

Gavan. Juſt now, you ſaid it was in the latter End.

Oates. My Lord, I beg this Favour, that if the Priſoners at the Bar aſk any Queſtions, they may be propoſed to the Court, for they are nimble in their Queſtions, and do a little abuſe the Evidence. They put things upon them that they never ſay.

Mr. Juſtice Pemberton. Propoſe your Queſtions to the Bench, that you would have aſked.

Gavan. I would do ſo, My Lord, in whoſe Honour I have more Confidence, than in whatſoever Mr. *Oates* ſays or ſwears.

L. C. J. But he tells you who you drew your Bill of Exchange upon, and that was Sir *William Andrews*.

L. C. J. North. Don't give the King's Witneſſes ill Words.

L. C. J. Have you any more to aſk, any of you?

Whitebread. Yes, my Lord.

L. C. J. See if you can catch him, he gives you a long and exact Account as can be given by any Man in *England*; and pray direct yourſelf, Mr. *Whitebread*, to the Court.

Whitebread. He ſays he was here in *April*, and at the Conſult; now I deſire to know how long before that time were you and I acquainted?

Oates. Why, before that Time I never ſaw Mr. *Whitebread*'s Face.

Whitebread. What Employment were you to have, and what Reward?

Oates. When I came away from St. *Omers*, I was to attend the Motion of the Fathers at your Chamber, and to carry the Reſolve from Chamber to Chamber, where the Fathers were reſpectively met.

Fenwick. Was not you at the *White-Horſe* Tavern?

Oates. Yes, I was there.

Fenwick. Did you dine there?

Oates. No, our ſtay was ſhort there.

Fenwick. How long did you ſtay in Town?

Oates. Truly, I can't tell you exactly; but from the Time I came into *England*, to the time I went out again, was under Twenty Days.

Fenwick. Who were they that came over with you? Name the Parties.

Oates. I will tell you who they were; but it's ſo long ſince, I can't exactly remember.

Fenwick. You need not trouble your Memory, you have them in your Narrative.

Oates. My Lord, there was Father *Williams*, the Rector of *Wotton*, the Rector of *Liege*, Sir *John Warner*, Sir *Thomas Preſton*, and ſome others.

Whitebread. Was not Mr. *Nevil* there?

Oates. I believe he was, it is like he might be there.

Whitebread. Was not Sir *Robert Brett* there?

Oates. I believe he might.

Whitebread. You have ſaid ſo in your Narrative.

L. C. J. Perhaps a Man will venture to write more than he will ſwear; not that he does write what he does not believe, but that he knows he ought to be more cautious in his Oath, than in his Affirmation.

Fenwick.

Fenwick. My Lord, with your Lordſhip's Favour, it is upon Oath.

L. C. J. North. Fenwick, you are in a Court of Law, and we muſt go according to the Law; if you will prove any Contradiction in him to his Oath, you muſt bring the Perſons here that ſaw him take the Oath; and you muſt not think to take a Pamphlet for Evidence.

Fenwick. It was ſworn before a Juſtice of Peace, and will not, I ſuppoſe, be denied; and therefore he muſt make his Evidence agree with it, being Part of his Narrative.

Gavan. You ſpeak of one Thing in *Auguſt*, and of another in *July*; which Month ſaw you me in?

Oates. I told you, I ſaw you in Town in *July*, and when Father *Aſhby* or *Thimbleby* was in Town; and you ſaid you would go and ſee him.

Juſt. Pemberton. He ſays it was in *July*, and that's enough.

Gavan. What time in *July?*

Oates. It was towards the Middle or latter End.

Gavan. Was it before Mr. *Aſhby* went to the *Bath?*

Oates. It was ſo.

L. C. J. He ſays he ſaw you in Town, when *Aſhby* was in Town, which was towards the latter End of *July*, or Beginning of *Auguſt*. He cannot tell exactly whether, but poſitively he ſays before Mr. *Aſhby* went to the *Bath*.

L. C. J. North. Well, to ſatisfy you, we will aſk Mr. *Oates* the Queſtion again. Can you recollect whether it was the Middle or latter End of *July?*

Oates. My Lord, as near as I can remember, it was about the Middle of *July* that *Aſhby* came to Town, and he did not ſtay in Town above a Fortnight: And it was whilſt he was in Town, and deſigned to go down to the *Bath*, that this Gentleman came to Town, and gave Account of the Particulars of that Letter.

L. C. J. North. You may aſk him any Queſtions; but I would have you obſerve what Account he gives, That about the Middle of *July*, *Aſhby* came to Town, that he ſtaid in Town about a Fortnight, as he believes, that during that Time you came to Town, and then was this Diſcourſe.

Oates. During that Time I ſaw him in Town, but I know not exactly when it was.

Gavan. My Lord, I would aſk him one Queſtion; the Thing that is brought againſt me is this; he ſays Mr. *Aſhby* came to Town in the Middle of *July*, that he ſtaid in Town a Fortnight, that while he was there I came to Town, and had ſuch Diſcourſe: Now, my Lord, I deſire to know, whether it was the firſt Week, or laſt Week, that *Aſhby* was in Town, that he ſaw me.

L. C. J. If he can anſwer it, let him.

Oates. My Lord, I cannot.

L. C. J. He tells you, he cannot charge his Memory with it.

Oates. No, my Lord, nor will not.

L. C. J. Really, I believe there is ſcarce one in all this Company, able to give an Account of a particular Time of a Paſſage ſo long ago.

Gavan. No doubt he hath an excellent Memory.

L. C. J. And if he had not ſome Memorials of this, he could not do it. And though he hath Memorials of the moſt eminent Paſſages, yet we can't ſuppoſe he hath of all Circumſtances.

Gavan. But this is the Subſtance; and your Lordſhip may conceive, that not without Reaſon I urge it; for if Mr. *Aſhby* came to Town the Beginning of *July*, and ſtaid but a Fortnight in Town, and I came to Town while he was here, it muſt be in one of the two laſt Weeks. Now I would have it aſcertained, becauſe I may diſprove it in one Week or in the other.

L. C. J. 'Tis true, you did not amiſs in aſking the Queſtion, if he were able to anſwer it; but if it be either, 'tis enough to prove you guilty.

Gavan. Pray, was it only one time, or diverſe that you ſaw me in *London?*

Oates. It was but one Day, but, as near as I remember, I ſaw you twice that Day; and I'll tell it you by a particular Circumſtance, That I ſaw you in the Afternoon when you were a little illiſh, and there was a Cordial brought to you by an Apothecary, that went by the Name of *Walpoole*.

L. C. J. Here is Memory refreſhed by a Circumſtance, you ſee. Whither was it brought to him?

Oates. To *Ireland*'s Chamber.

Gavan. Who brought it, Sir?

L. C. J. An Apothecary, he ſays, whoſe Name was *Walpoole*.

Gavan. My Lord, I never ſaw *Walpoole* in all my Life.

L. C. J. I believe he is known well enough, ſuch an one as *Walpoole* the Apothecary. But aſk what Queſtions you will.

Oates. I cannot ſay whether it was *Walpoole* himſelf or his Man, that brought it.

Gavan. I do as truly believe there is a God, an Heaven, and an Hell, as any one here does; as I hope for Salvation, as I hope to ſee God in Heaven, I never ſaw Mr. *Oates* before the Day in *January*, when he ſays I had the Periwig on, and he did not know me: And as for *July*, I call God to witneſs, I never ſaw him then.

L. C. J. You were in Town in *July?*

Gavan. Upon my Salvation, I was not in *London*.

L. C. J. You'll prove that by and by.

Fenwick. I hope, my Lord, we may aſk him any Queſtions in the Court, of our Evidence, to make Things clear?

L. C. J. Yes, you may.

Turner. Did you ever ſee me in all your Life, before you ſaw me at *Whitehall?*

Oates. You were then in a diſguiſed Habit, and a naſty Periwig, and I did not know you ſo well.

Turner. You, at *Whitehall*, was pleaſed to tell me, I went by another Name.

Oates. I don't value Names, but your Perſon: You are the Man.

L. C. J. You are the Man, he ſays.

Turner. Did you ſee me at the Conſult?

Oates. I ſaw the Man that ſpeaks to me.

Turner. Who were there? and how many were preſent?

Oates. There were about Forty or Fifty.

L. C. J. When you have but one Name apiece, then he can hit it right; but when you have ſo many Names, then you are too hard for him.

Turner. Did you ſee me at the *White-Horſe?*

Oates. That I will not ſay; for when they were in leſſer Clubs or Colloquies, I was ſure of better Acquaintance with them.

Turner. Where was it you ſaw me?

Oates. At Mr. *Fenwick*'s Chamber.

Turner. At *Whitehall*, you ſaid it was at *Wild-Houſe*.

Oates. My Lord, becauſe the chiefeſt Part of the Conſult ſat at *Wild-Houſe*, we called it all, *The Conſult at Wild-Houſe*.

L. C. J. I ſee your Defence will be little elſe but Captiouſneſs, to diſprove him in Circumſtances of Time, Place, Perſons, or Numbers; now all theſe are but little Matters to the Subſtance: 'Tis true, Mr. *Whitebread*, if you can prove you were not at that Place at that Time, it will do you great Service. Have you any thing more to ſay to him?

L. C. J. North. I hope your Witneſſes are in readineſs that you were ſpeaking of, to fortify your Teſtimony.

Oates. Yes, my Lord, they are, I deſire they may be heard.

L. C. J. By and by, when Occaſion is.

Jury. My Lord, I deſire he may be aſked one Queſtion.

L. C. J. Mr. *Garraway*, what Queſtion would you aſk him?

Jury. Where it was that he ſaw Mr. *Turner* at the Conſult?

Oates. I ſaw him at *Fenwick*'s Chamber, where he was a Member of the Conſult; and being ſo, I ſaw him ſign the Reſolve of the King's Death.

L. C. J. Did you ſee him?

Oates. Yes, I did.

Sir *Cr. Levinz.* Then we deſire Mr. *Dugdale* may be ſworn *(which was done)*. Come, Mr. *Dugdale*, pray will you tell my Lord and the Jury what you know concerning *Whitebread* and *Harcourt?* Firſt about *Whitebread*.

Dugdale. My Lord, I have very little Acquaintance with the Man, I have ſeen him at *Tixall*, with my old Lady *Aſton*.

L. C. J. When?

Dugdale. I dare not ſpeak the Time, but appeal to him himſelf about the Truth of it.

L. C. J. Is it Years ago?

Dugdale. It is two or three Years ago.

L. C. J. Well, what can you ſay againſt him?

Dugdale. Mr. *Whitebread* did write a Letter that I ſaw under his own Hand, incloſed in a Letter from Mr. *Grove* to Mr. *Ewers*, wherein he gave Mr. *Ewers* a Caution, to be ſure to chooſe thoſe that were very truſty, it was no Matter whether they were Gentlemen or no, ſo they would be but ſtout and courageous: This was the Purport of the Letter, I cannot ſay the Words exactly, but that he ſhould chooſe thoſe that were hardy and deſperate, or to that Purpoſe.

L. C. J. Pray where was it you ſaw that Letter?

Dugdale. At *Tixall*.

L. C. J. How came you to ſee it?

Dugdale. Becauſe all the Letters were directed to me, that came to Mr. *Ewers* incloſed in Mr. *Grove*'s Letters: And ſo I intercepted the Lettter, and read it.

L. C. J. What was Mr. *Ewers?*

Dugdale. A Jeſuit, my Confeſſor; for I was entertained by Mr. *Gavan* to be in the Conſpiracy of the King's Death, and ſo I was by ſeveral others.

L. C. J. You were not acquainted with Mr. *Whitebread*'s Hand, were you?

Dugdale. My Lord, I only came acquainted with Mr. *Whitebread*'s Hand, by ſeeing him write a Letter at *Tixall*, which he delivered to me to ſend.

L. C. J. I pray let them underſtand you: You ſay that Mr. *Whitebread* did write a Letter to Mr. *Ewers*, incloſed in one from Mr. *Grove*, wherein he adviſed that he ſhould entertain luſty ſtout Fellows, and no Matter whether they were Gentlemen, or to that Effect: Now I aſk you, how you do know that was *Whitebread*'s Hand? or was it his Name only that was to it?

Dugdale. My Lord, I ſaw his Name at it.

L. C. J. When you ſaw that Letter, had you ſeen his Hand before?

Dugdale. Yes, My Lord, I ſaw it to another Letter which I ſaw him write.

L. C. J. And that was like the Hand in the Letter to *Ewers*, was it?

Dugdale. Yes, I do almoſt poſitively ſwear it was the ſame Hand.

L. C. J. But what ſay you to *Gavan* and *Ewers?*

Dugdale. There were ſeveral Conſultations in Mr. *Ewers*'s Chamber, my own, and at *Boſcobel*, and ſeveral other Places. Mr. *Gavan* might be ſo ingenuous as to confeſs it.

* *L. C. Baron.* What were thoſe Conſultations for? * *William Montague*, Eſq.

Dugdale. For conſpiring the King's Death, and introducing of Popery. Mr. *Gavan* was chiefly made uſe of as a good Orator and learned Man, and a good Scholar, to perſuade People into the Deſign; this I ſpeak as to theſe Perſons.

L. C. J. Pray go on, Sir, for you ſhall have a full Scope, for you never were a Witneſs in any of the Trials before: And you may take your own Way, and you ſhall be heard, you ſhall not be interrupted; for what you ſay is very conſiderable.

Dugdale. One Meeting I think was in *September* laſt, it was at *Tixall*, and there was my Lord *Stafford*, and ſeveral others.

L. C. J. Was *Gavan* there?

Dugdale. Yes, Mr. *Gavan* was there; I ſuppoſe he will not deny it.

Mr. Juſt. Pemberton. Don't rely upon that, he will deny it, you may be ſure; go on. You ſay he was there?

Dugdale. Yes, and that was to carry on the Deſign: And I was by to hear. I think Mr. *Ireland* was in the Country then; there was you (ſpeaking to Mr. *Gavan*), Mr. *Peters*, Mr. *Lewſon*, and Mr. *Ewers*, at this Conſult, and there was another, my Lord *Stafford*, and others that I cannot now name.

Gavan. What Time?

Dugdale. It was in *September*, 1678.

Gavan. What Day?

Dugdale. I think it was the 21ſt of *September*.

L. C. J. What was that Conſult and Conſpiracy about, in ſhort?

Dugdale. It was for the introducing of Popery, and taking away the Life of the King, I being a Perſon choſen out for that Purpoſe, and was

was to be ſent to *London* by Mr. *Harcourt* to be under the Tuition of Mr. *Parſons*.

L. C. J. Pray who mentioned this? was that the firſt time that ever they diſcourſed of the Death of the King?

Dugdale. No, my Lord, it was two Years ago, but I ſpeak of a ſhorter time.

L. C. J. Who began the Diſcourſe?

Dugdale. Mr. *Gavan* often diſcourſed of it, and encouraged me to it.

L. C. J. Who broke it firſt to you? who ſeemed the principal Man?

Dugdale. *Ewers* and *Gavan*.

L. C. J. By the Oath that you have taken, Repeat it once more, for this is new to us.

Gavan. 'Tis ſo to me too upon my Soul, for upon my Conſcience I never heard of it before.

L. C. J. 'Tis a mighty Confirmation of what was before diſcovered.

Dugdale. But I ſpeak to Mr. *Gavan*, and appeal to him himſelf.

Gavan. Look upon me with Confidence, if you can.

Lord Juſt. *Pemberton.* You muſt not threaten the King's Witneſſes.

Dugdale. Mr. *Gavan*, I deſire you to inform the Lords and all here preſent, whether I was not under your Tuition? And whether you knew any unjuſt Action by me?

Gavan. You were never under my Tuition.

L. C. J. Did you ever know him?

Gavan. Yes, my Lord, he uſed to come ſometimes where I was, and ſo we were acquainted; and I lived within eleven Mile of *Tixall*, my Lord *Aſton*'s, and having Acquaintance in that Family, Mr. *Ewers*, whom I know very well, I uſed to come there ſometimes, but I never was in his Chamber in my Life. In what Room of my Lord *Aſton*'s Houſe was this Diſcourſe?

Dugdale. Some of it was in the little Parlour, and ſome in Mr. *Ewers*'s Chamber.

Gavan. Were any preſent there? And who were they?

Dugdale. I have told you there was Mr. *Ewers*, and Mr. *Lewſon*, and Mr. *Petres*, and ſome others; and for a further Confirmation of this, That Mr. *Gavan* may know that I had a great Zeal for him, and that they did love me well, I gave them an Eſtate, or elſe I believe they would not have truſted me ſo well as they did. I gave them 400*l.* to pray for my Soul, and for the carrying on of this Deſign; and when they told me they doubted they ſhould want Money, I promiſed them 100*l.* more for the carrying on the Work. Upon which Mr. *Gavan* promiſed me that I ſhould be canonized for a Saint.

Mr. Juſt. *Pemberton.* Mr. *Gavan* himſelf?

Dugdale. Yes, my Lord.

Mr. *Belwood.* What do you know of any Foreign Aſſiſtance?

L. C. J. I would fain have all the World hear this; pray what was diſcourſed in the Parlour in my Lord *Aſton*'s Houſe, and in *Ewers*'s Chamber?

Dugdale. It was about taking away the King's Life, and introducing the *Popiſh* Religion.

L. C. J. By the Oath you have taken, was that their Diſcourſe?

Dugdale. Yes, my Lord, They were contriving how to kill the King and introduce Popery.

Sir *Cr. Levinz.* Pray, have you heard any Diſcourſe of an Army, or about making a Maſſacre?

Dugdale. It was ſpoken in my hearing, and there was ſome Diſcourſe why they ſhould expect Forces from *Beyond Sea*, and this Gentleman ſaid (*meaning Mr.* Gavan) tho' they *Beyond the Seas* had Troubles enough upon themſelves, yet if we could effect it, Men and Money would not be wanting. I will add nothing more than the Truth in what I ſay.

L. C. J. You deliver your Teſtimony like a ſober modeſt Man, upon my word.

Sir *Cr. Levinz.* What ſay you as to a Maſſacre?

Dugdale. My Lord, I have at ſome Conſultations heard ſpeak of it, but the chief thing that they aimed at was firſt, there was a Letter that came out of *Paris*, and came through Mr. *Harcourt*'s Hands, and ſo came down into the Country, to prove that it was the Opinion of them at *Paris*, and St. *Omers*, to fling all this upon the *Preſbyterians*, that is, the Death of the King; That if any thing of that nature ſhould happen, they ſhould be ready to give the firſt Alarm, and give out, That it was thoſe *Still King-Killing Preſbyterians* that had done the Fact: And ſo they thought they ſhould eaſily have brought in the *Epiſcopal Party* into their Company, to revenge themſelves of the *Preſbyterians*.

L. C. J. It was pretty Advice indeed, to have it firſt laid on the *Preſbyterians*, that they might get *Proteſtants* to join and cut them off, and then their own Throats ſhould be cut.

Dugdale. And then, my Lord, there was to be a Maſſacre; and if any did eſcape, that they could not be ſure of were *Popiſh*, they were to have an Army to cut them off.

Mr. *Belwood.* Did he ever uſe any Arguments to you, to prove the Lawfulneſs of the Deſign?

Dugdale. Yes, my Lord, he hath, and ſhewed me ſeveral Examples for confirming me in it.

L. C. J. What, for killing the King?

Dugdale. For the killing of any, to introduce their own Religion.

Mr. *Belwood.* Pray, will you name ſome.

Dugdale. He endeavoured to prove it by Scripture, I can't now call the Text to mind; but it was to ſhew, how it was lawful and good to deſtroy any for the Advantage of their Religion, and then he ſhewed the Example of Father *Garnett*;—how ſeveral of his Reliques being *Beyond Sea*, Great Miracles had been done by them.

L. C. J. And ſo now there is by St. *Coleman* too.

Sir *Cr. Levinz.* What Letters have you received from Mr. *Harcourt?*

Dugdale. I have received ſeveral Pacquets of Letters from ſeveral Perſons *Beyond Seas*, which were, by his Inſtruction, communicated by Mr. *Grove* to Mr. *Ewers*, which Letters did contain Treaſon in them, for the introducing of Popery, and killing and deſtroying the King.

L. C. J. How can you tell that?

Dugdale. Mr. *Harcourt* hath given it under his own Hand, and I have intercepted the Letters, and read them.

L. C. J. You were acquainted with the Hand?

Dugdale. Yes, my Lord.

L. C. J. You read the Letters?

Dugdale. Yes, my Lord, I did.

L. C. J. How many Letters have you intercepted? Have you intercepted Twenty?

Dugdale. Yes, a hundred, my Lord. Mr. *Harcourt* was the firſt that gave intelligence into the Country (as I know of) of the Death of Sir *Edmundbury Godfrey*.

Sir *Cr. Levinz.* Tell when it was given, and how.

Dugdale. I have made it out already upon Oath, and I have Witneſſes to prove it.

Sir *Cr. Levinz.* Pray, Sir, tell it now.

Dugdale. It was directed to Mr. *Ewers*, and it was three Days before he was found, for it was received on the *Monday*, and he, as it is proved, was killed on the *Saturday*. The Words were theſe, *This very Night Sir* Edmundbury Godfrey *is diſpatched*. And I very much rejected Mr. *Ewers* for this Action, and then told him, This will overthrow the Deſign, or I will be hanged.

L. C. J. What Day did you receive the Letter?

Dugdale. I have proved I received it on a *Monday*.

L. C. J. But pray what Date did it bear?

Dugdale. That Letter muſt come by *Saturday* Poſt, for it ſaid, *This Night Sir* Edmundbury Godfrey *is diſpatched*.

L. C. J. He did not name any body, by whom?

Dugdale. No, but it ſaid he was killed, and we knew by whom.

Mr. Juſt. *Pemberton.* And are you ſure that was Mr. *Harcourt*'s Letter?

Dugdale. Yes; for he did uſually ſign his Letters with two Letters *W. H.* which ſtood either for *Harcourt* or *Harriſon*.

Mr. *Belwood.* Did you acquaint any body with this, or did you conceal it?

Dugdale. I did go to an Alehouſe that is hard by my Lord's the next day, which was *Tueſday*, and there I aſked, If they did not hear ſome News of a Knight's being killed at *London?* And I have an Evidence here, if your Lordſhip pleaſe, I will call him, who, I deſire, may teſtify the ſame thing.

L. C. J. Yes, by all means.

Sir *Cr. Levinz.* Mr. *Dugdale*, Pray, will you give us ſome more account of the Letter that came from Mr. *Whitebread* to Mr. *Ewers*.

Dugdale. I remember one particularly, but I cannot tell what number I have ſeen.

Sir *Cr. Levinz.* Did you ſee more than that one?

Dugdale. I particularly remember that.

L. C. J. What was that one particularly?

Harcourt. My Lord, I deſire to aſk him one Queſtion, When was the laſt time that you received any Letters from me?

Dugdale. The laſt I received from you (to my beſt remembrance) was that about Sir *Edmundbury Godfrey*, and it was in *October*.

Harcourt. I have not writ to that Perſon this Year and half.

L. C. J. Let that Man be called that proves this buſineſs of the Death of Sir *Edmundbury*, and the talk of it.

Dugdale. Mr. *Harcourt*, you know very well, that when Mr. *Ireland* was laſt in the Country laſt Year, you were to ſend him the Anſwers that came by Letters from St. *Omers*, and thoſe were ſent down to my Lord *Aſton*'s, and I ſaw them, eight of thoſe Letters, I am ſure. And I can prove it by one Circumſtance; two of them came relating to Mr. *Edward Aſton*'s Death, from *Paris*; I intercepted them, and talking of it, that I could Conjure, and tell of the Death of Mr. *Edward Aſton*, before any of his Friends knew of it. And Mr. *Ireland* writ a chiding Letter about it, that he had not heard it ſooner, and you ſent down word, That you did write thoſe Letters, and yet you ſay you have not written to me of a Twelvemonth, or more.

Harcourt. This Gentleman does pretend to know my Hand, and 'tis true, I have writ ſeveral Letters for Mr. *Ewers*, and directed to him; but as to this time he ſpeaks of, I have left off Writing for divers Years. He pretends to know me, and yet this Gentleman before the Committee of Commons in Parliament, which was yeſterday was five Weeks, as well as he knew my Hand, came and ſaid I was a Gentleman he did not know. He came alſo to entrap me at the *Gate-houſe* before thoſe Gentlemen of the Committee of the Houſe of Commons; but becauſe he ſaid he knew my Hand ſo very well, and teſtifies thoſe Expreſſions in the Letter, I muſt ſay this, I never did write any ſuch Letter, nor did I ever in my Life ſeem to approve of any Man's Death or Murder. But the thing is this, he pretends to know my Hand and to prove it, the Gentlemen deſired me to write my own Hand and my Name, and he in the mean time did withdraw and three of them did write their Names, and afterwards they called him in again, and aſked him which was *Harcourt*'s Hand, and he was not able to ſay which it was.

L. C. J. You write more Hands, as well as have more Names, and can counterfeit your Hands, as well as change your Names.

Mr. Juſt. *Pemberton.* You ſpeak before your time, and your bare Word goes for nothing.

L. C. J. But, Mr. *Dugdale*, where is your Witneſs?

Harcourt. I don't know any thing of this.

L. C. J. But if he calls up a Witneſs, of whom you can have no Suſpicion, that can teſtify, that at this time Mr. *Dugdale* ſpoke about the Death of Sir *Edmundbury Godfrey*, what will you ſay to that?

Harcourt. I believe there is no ſuch thing at all.

Sir *Cr. Levinz.* My Lord, here is Mr. *Chetwin*, pray ſwear him. (*Which was done.*)

L. C. J. Mr. *Chetwin*, Do you remember that Mr. *Dugdale* came to you any time laſt Summer, and what time, and what Diſcourſe had you?

Chetwin. My Lord, if your Lordſhip pleaſe, I was moſt part of the Summer in the Country, I came into *Staffordſhire* about the 29th of *Auguſt*. My Lord, there is a Gentleman, one Mr. *Sanbidge*, that is a Kinſman of my Lord *Aſton*'s, that was very well acquainted with the Family where I was, which was half a Mile off my Lord's, and uſed to come and play with me at Tables. My Lord, at that very time in *October* he came to me, and there ſays he, Do you hear nothing of a Juſtice of Peace in *Weſtminſter*, where you live, that is killed? or to that effect. No, ſaid I, and I had Letters yeſterday, and heard nothing of it. Saith he, I was this morning at *Elds*, and there a Girl of the Houſe told me, Mr. *Dugdale* had been there, and reported that there was a Juſtice of Peace of *Weſtminſter* was killed; but who he ſhould be I never heard named, and on *Saturday* following my Letters brought it down to me.

L. C. J. When was it that this was ſpoken?

Chetwin. It was *Tueſday* Morning, (as I remember) and that by a very good circumſtance, I went that day for *Litchfield*, and the *Saturday* after the News came to me to *Litchfield*, that Sir *Edmundbury* was found murdered.

L. C. J. The Jury would do well to obſerve this in point of Time. Sir *Edmundbury Godfrey* was kill'd, as it was ſince proved, on *Saturday*, but on *Monday* he was miſs'd, on *Thurſday* he was found, and on *Saturday* the News was ſpread all over the Country. Now, ſaid he, the *Tueſday* before the News came down, which muſt be the *Tueſday* after the *Saturday* he was kill'd, one comes from the Alehouſe and aſks, Do you not hear of a Juſtice of Peace at *Weſtminſter* that is kill'd; for the Wench at yonder Alehouſe ſays, Mr. *Dugdale* was here this Morning and reported ſuch an one was kill'd. So that it is moſt notorious, as any thing in the World can be, that this thing was known to them, before any of us knew what was become of him.

Mr. Juſt. *Pemberton.* How do you further know it to be upon *Tueſday?*

Chetwin. I know it to be that *Tueſday*, my Lord, very well, for we all went about ſuch a time to my Couſin's Mother, to ſtay a Week there, and after I returned back, and on *Tueſday* the 15th of *October* I went to the Race to *Litchfield*, and ſtay'd till *Saturday* there, and came thence to *London*, and was here the *Wedneſday*, being the firſt Day of the Term. But I remember particularly the firſt Information Mr. *Dugdale* gave in the Country, came to my Couſin's Hands from the Mayor of *Stafford*, and I happen'd to ſee him, I think it was *Chriſtmas*-Day. It came incloſed in a Letter. Upon the Apprehenſion of Mr. *Dugdale*, I remember I met him, and he told me of it, and ſaid he, the Parliament did not ſit that Day: So he went to acquaint the Lord Lieutenant of the County, that is, the Duke of *Monmouth* with it, who carried it to the King. But when Mr. *Dugdale* was ſent for, my Couſin went down, and writ me a good Character of him. As ſoon as ever *Dugdale* came to Town, before he went to be examined by the Council, as I remember, I went with ſome Gentlemen to ſpeak with him, and ſaid I to him, *Can you ſay any thing about Sir* Edmundbury Godfrey's *Death?* Saith he, *I remember ſuch a Letter came at ſuch a Time from Father* Harcourt *to Father* Ewers, *wherein were theſe words*; *This Night Sir* Edmundbury Godfrey *is diſpatched.* And ſaid he, *I remember I aſked the Queſtion of* Ewers, *Is not this likely to ſpoil all the Deſign? No*, ſaid he, *he was a Man that proſecuted Perſons that went to debauch'd Houſes, and it will be ſaid to be ſome of them that did revenge themſelves of him*; or words to the ſame effect. This made me recollect the Time I had the Diſcourſe with the Gentlemen in the Country. I happened to be out of Town when the Murderers of Sir *Edmundbury Godfrey* were Tried; as ſoon as I came to Town, and found that the Murderers of Sir *Edmundbury Godfrey* were Condemned, I was at a Coffee-houſe enquiring how it was managed; ſome I found ſlighted it, others did not know what to make of it. *Was not Mr.* Dugdale *there?* ſaid I. *No*, ſaid they. *Then I preſume*, ſaid I, *that a very material Evidence was omitted.* Upon this I went to Mr. *Dugdale*'s Chamber, and there, ſaid I to him, *What was the Reaſon you were not produced as an Evidence, at the Trial of Sir* Edmundbury Godfrey's *Murderers?* Said I, *You told ſuch a thing, and I hope you told Truth, for I don't hear that you have ever contradicted it, that you ſaw a Letter about the* Monday *after he was murdered. In my judgment it is very material, if you have ſworn it, if your Depoſition be true, or elſe you did ill to report it.* Said I, *Pray let me ſee the Copy of your Depoſition ſworn before the Council.* He ſhew'd it me, and there was not a Syllable of it, that I could ſee, but afterwards appeared to be there.

L. C. J. That is not very material, if the thing it ſelf be true.

Chetwin. But its not being there, made me remember it.

Mr. *Recorder.* Pray ſet up Mr. *Dugdale* again. Now pray tell the Contents of Mr. *Whitebread*'s Letter.

Dugdale. The Contents of it was, to encourage Mr. *Ewers* to go on to be careful whom he did intruſt, that they ſhould be ſuch Fellows as were deſperate, hardy, courageous and ſtout, or to that purpoſe; it was no matter whether they were Gentlemen or no, ſo they were but courageous and deſperate.

Mr. Juſt. *Atkins.* What were they to do?

Dugdale. For the killing of the King.

L. C. J. Was that in *Whitebread*'s Letter?

Dugdale. Mr. *Whitebread* did write thoſe words, they were in the Letter.

Whitebread. Was that very word in the Letter, *for killing the King?*

Dugdale. It was, that they ſhould be ſtout and courageous Perſons.

L. C. J. For what End?

Dugdale. It was for taking away the King's Life.

L. C. J. I aſk you, recollect yourſelf, was it by way of deſcription of ſome Deſign or Plot, that thoſe Perſons were to be choſen out? or was it in downright words, *for killing the King?*

Dugdale. To the beſt of my remembrance they were thoſe very words.

L. C. J. It was much he would write ſuch words in a Letter.

Dugdale. I was one that was made choice of about it.

Mr. Juſt. *Pemberton.* Were you to be one?

Dugdale. Yes, I was.

Mr. Juſt. *Pemberton.* Mr. *Gavan*, you know who it was you entertain'd for this Buſineſs, and you could truſt them.

L. C. J. How were theſe Letters convey'd? Were they ſent by the Ordinary Poſt?

Dugdale. Yes, they were, and they truſted me with them, becauſe being directed to me, if they were intercepted, I ſhould be hang'd, and they ſaved.

Mr. Juſt. *Pemberton.* Upon theſe Letters, what were you entertained to do?

Dugdale. My Lord, I was entertained before by my Lord *Stafford* and Mr. *Ewers.*

Mr. Juſt. *Pemberton.* What to do?

Dugdale. To kill the King.

Whitebread. Pray, Sir, how came you to ſee theſe Letters? Did you intercept them, and read them your ſelf?

Dugdale. I did intercept them, and open them of my own ſelf.

Whitebread. Pray take notice of what he ſays, Gentlemen.

Mr. *Recorder.* The Jury do take notice.

L. C. Baron. Do you know any thing againſt Mr. *Turner* and Mr. *Fenwick?*

Dugdale. Mr. *Ewers* hath told me by Word of Mouth, that he was to carry on the Deſign in *Worceſterſhire*, but I ſaw him with Mr. *Ewers* and *Lewſon*, and others, when he was going to his Brother *Turner*'s, then in *Nottinghamſhire*, and they did conſult and agree there, in my Hearing, to all that I have ſaid before.

Turner. What did I aſſent to?

Dugdale. Why this Deſign, you and Mr. *Ewers* and *Lewſon*, and others, agreed to what I ſaid before.

Turner. Where was this?

Dugdale. At *Tixall* and other Places.

Turner. In what Month?

Dugdale. It was about two Years ago, about the beginning of the Buſineſs.

Turner. Where was it?

Dugdale. It was at Mr. *Ewers*'s Chamber. You know me very well.

Turner. I have not been in *Staffordſhire* theſe four Years.

L. C. J. Why, don't you know him, Mr. *Turner?*

Turner. I do know I have been there a matter of three or four times in my whole Life, but have not been there theſe four Years.

Mr. Juſt. *Windham.* Have you any thing to ſay againſt *Fenwick?*

Dugdale. I don't know that I ever ſaw him before.

Mr. Recorder. But he ſpeaks fully as to the other four.

Sir *Cr. Levinz.* Call Mr. *Prance*, and ſwear him. *Which was done.*

Sir *Cr. Levinz.* Come on, Mr. *Prance.* What can you ſay to Mr. *Fenwick*, or any of the others?

Prance. Mr. *Harcourt*, I made him an Image of our Lady about a Year ago, and when I was receiving Money for it, (it was to be ſent into *Maryland*) you told me then that there was a Deſign of killing the King.

L. C. J. Who told you?

Prance. Mr. *Harcourt*, that very time.

Sir *Cr. Levinz.* When was it?

Prance. It was when it was ſent to *Maryland*, in the *Portugal*'s Country; you know it well, Mr. *Harcourt.*

Harcourt. I know nothing of it.

Sir *Cr. Levinz.* Pray let him alone, till we have done with him.

Harcourt. I deſire but to know when it was.

Prance. When I received the Money for the Picture, it was a Year ago.

Sir *Cr. Levinz.* What ſay you to Mr. *Fenwick?*

Prance. I was in Mr. *Ireland*'s Chamber in *Ruſſel-Street*, and there was *Ireland*, *Fenwick*, and *Grove*, and they were talking of 50000 Men that ſhould be raiſed, and be in readineſs to carry on the Catholick Cauſe, and ſettle the Catholick Religion. I aſked who ſhould govern them? They told me, my Lord *Bellaſis*, my Lord *Powis*, and my Lord *Arundel.*

L. C. J. Who told you ſo?

Prance. Mr. *Fenwick.*

L. C. J. How long ago?

Prance. About a Fortnight *Michaelmas* laſt. Mr. *Grove* came to me two or three Days afterwards, to buy two or three Silver Spoons to give away at a Chriſtening, and then I aſked him, What Office he ſhould be in? He told me, He could not tell: But he told me, my Lord *Arundel*, my Lord *Bellaſis*, my Lord *Petre*, and my Lord *Powis*, had Commiſſions for theſe Things to give.

L. C. J. This *Grove* told you?

Prance. Yes, my Lord.

L. C. J. But what did *Fenwick* tell you?

Prance. He told me who were to govern the Army, my Lord *Bellaſis*, my Lord *Powis*, and my Lord *Arundel* of *Wardour.*

Sir *Cr. Levinz.* Had he any Diſcourſe with you about Trade?

Prance. He ſaid, I ſhould not fear Trade, I ſhould have Church-work enough.

Mr. *Belwood.* Pray ſpeak that again.

Prance. I aſked him, What ſhall we poor Tradeſmen do, if we have *Civil* Wars in *England?* O, ſaid he, you need not fear having Trade enough, you ſhall have Church-work enough, to make Images, Chalices, and Crucifixes, and Vaſes, and ſuch like Things.

Mr. *Belwood.* If you will aſk Mr. *Prance* any Queſtions, pray do.

Fenwick. My Lord, I am certain of this, that he never ſaw me at Mr. *Ireland*'s Chamber, in that Company, nor did I ever ſpeak of any ſuch Thing before him.

Prance. Mr. *Ireland* and he have been ſitting together whole Hours, and conſulting about ſome Concern or other, Miſchief, no doubt. My Lord, I went to Mr. *Fenwick*'s Chamber, after my Ghoſtly Father was dead.

L. C. J. What was his Name?

Prance. Father *James.* And he importuned me to come to Confeſſion to him; I told him, I was not yet very well ſatisfied who I ſhould go to, to be my Ghoſtly Father.

Fenwick. When was this, Mr. *Prance?*

Prance. Before *Michaelmas*, about a Week or Eight Days.

L. C. J. Did not you know him, Mr. *Fenwick?*

Fenwick. Who, Father *James?* yes, very well, and I know Mr. *Prance*, but not upon that Account.

Prance. And I brought you a Bell home, for the Altar, at the ſame time.

Mr. Juſt. *Pemberton.* Who was it importuned you to have him for your Confeſſor?

Prance. It was Mr. *Fenwick*; and I told him, when I did come to Confeſſion, I would come to him. And he enjoined me, once or twice, to ſay nothing of what I heard ſaid.

L. C. J. If *Harcourt* have any Queſtions to aſk him, let him.

Harcourt. Can you ſay that ever I ſpoke to you about any ſuch Buſineſs?

Prance. Yes, as ſure as I ſtand in this Place, and you in that. And one *Thompſon* came with you, when you paid me for four Candleſticks.

L. C. J. Do you know Mr. *Thompſon?*

Harcourt. Yes, I do.

L. C. J. Had you any Candleſticks from Mr. *Prance?*

Harcourt. I had, a great while ago.

Prance. He paid me 44*l.* that Time for them.

Mr. Recorder. Call Mr. *Bedlow.* *Who was ſworn.*

Sir *Cr. Levinz.* What can you ſay to any of the Priſoners at the Bar?

L. C. J. What can you ſay, as to Mr. *Whitebread* and Mr. *Fenwick?*

Bedlow.

Bedlow. My Lord, I do not queſtion, but Mr. *Whitebread* and Mr. *Fenwick* will object againſt me, my refuſing to give in Evidence againſt them at the former Trial; but I think that there are ſome upon your Honourable Bench, that can make my Apology for not giving in all my Evidence againſt them then; for it was not convenient, becauſe it would have ſtopt a Deſign I was then upon, and could not get off from, that was about Mr. *Reading*, whom I was then treating with, for Mr. *Whitebread* and Mr. *Fenwick*, as well as the Lords in the *Tower*, and he told me, that he would depend upon my Confidence and Juſtice as to the Lords, according as I did deal with theſe Men; if I brought them off, he would believe, and the Lords in the *Tower* would believe, that I would bring them off too. So that I did make an Apology then in the Court, that I could not ſafely ſay all that I had to ſay at that Time. Some of the Juſtices, I believe, do remember it, and in that which I did give in againſt them, I did not ſay all, nor half, that I could have ſaid.

Whitebread. Did you ſay any thing of that at the laſt Trial?

Bedlow. I will anſwer that Matter to the Court, but 'tis the meaſure they always take to intrap the Witneſſes; for now I am out of a Country that will give me an Indulgence and Diſpenſation to ſpeak exactly to a Day, or an Hour, as their St. *Omer's* Witneſſes have.

L. C. J. But what ſay you now to them?

Bedlow. I did then ſay, that I did ſee Mr. *Whitebread*, and he hath been in ſeveral Conſultations for the carrying on of the Plot; but then I did it with a Caution, that I never heard of Mr. *Whitebread*, that he was ſo very much concerned; and indeed I had no Reaſon to ſay ſo, becauſe I heard him my ſelf, and could not well ſpeak from the Hear-ſay of another. And as for Mr. *Fenwick*, I never heard him give in any Anſwer, but I have ſeen *Fenwick* at the Conſult there.

L. C. J. Have they ever told you any thing concerning the killing of the King?

Bedlow. Whitebread told *Coleman*, at Mr. *Harcourt's* Chamber, the manner of ſending the four Ruffians to *Windſor*, about *September*.

Harcourt. I never ſaw him twice in all my Life before.

Mr. Belwood. Do you know of any Reward thoſe Ruffians were to have?

Bedlow. Yes, I ſaw *Harcourt* take the Money out of a Cabinet, I think it was Fourſcore, or One Hundred Pounds; the Sum I don't well remember. *Harcourt* paid them the Money, by Mr. *Coleman's* Order, and gave the Meſſenger a Guinea from Mr. *Coleman*, to drink his Health. Mr. *Coleman* was gone a little before I came in, and ſo I could not know that *Coleman* gave it, but he ſaid ſo.

Sir, Cr. Levinz. What was *Pickering* and *Grove* to have?

Bedlow. Grove was to have 1500*l.* and a Promiſe of the Favour of the Lords: 1500*l.* was the Sum appointed at Mr. *Harcourt's* Chamber, and doubtleſs in ſeveral other Places, but there I heard it from Mr. *Whitebread*, and *Pritchard*, and *Le Faire*, and *Kaines*; and *Pickering* was to have a Number of Maſſes, I can't tell exactly how many, but they were ſo many, as at 12*d.* a Maſs would amount to be equal to Mr. *Grove*.

Mr. Belwood. Pray, Sir, what was that for?

Bedlow. For killing the King. But *Pickering* had been diſciplined before, and received a Check from the Superiors, becauſe he had been negligent and ſlipt many Opportunities. One Time the Flint of his Piſtol was looſe, another Time there was no Powder in the Pan, another Time he had Charged with all Bullets, and no Powder.

L. C. J. Did you ſee *Harcourt* deliver the Guinea, for the Expedition of the *Windſor* Buſineſs?

Bedlow. Yes, my Lord, as from *Coleman*, to drink his Health.

Mr. Belwood. Pray, was either *Whitebread* or *Fenwick* knowing of the Agreement, when it was ſpoken of?

Bedlow. I have ſeen *Fenwick* at *Harcourt's* and *Whitebread's* Chamber, when it was ſpoken of; they were all of one Opinion, they had decreed it. I never ſaw *Whitebread* but twice at *Harcourt's* Chamber, where one Time was *Harcourt* himſelf, at another Time was *Pritchard*, and *Le Faire*, and others; at which time Sir *George Wakeman's* Buſineſs was ſpoken of, and becauſe he would not accept the 10000*l.* 15000*l.* was agreed to be given him; and upon Sir *George's* Trial, I ſhall let you know where he had the Money too, but I deſire to be excuſed at preſent. I ſhall ſpeak it to-morrow.

L. C. J. What did they conſult there?

Bedlow. They were conſulting how it ſhould be done; and what ſhould be done, if they did not do it. Then *Ireland* propoſed, that the moſt certain way was to do it at his Morning-Walks in *New-Market*; *Fenwick* was to go, and with him went *Conyers*; I heard Seven or Eight of them were to go.

L. C. Baron Montague. What ſay you to *Turner?*

Bedlow. Of Mr. *Turner*, I know nothing, but what I have heard others ſay.

L. C. Bar. What ſay you to *Gavan?*

Bedlow. I know nothing of him, but only I have heard Mr. *Harcourt* ſay he hath been a great Manager of this Buſineſs.

L. C. J. This is nothing to the Purpoſe, what others ſay.

Bedlow. Mr. *Harcourt* is no Stranger to my bringing of Pacquets and Portmanteaus over to him, from *Beyond the Seas*.

Harcourt. He never brought but one in all his Life-time.

Bedlow. What, Did I never bring but one Pacquet? Have not I brought divers, and divers Portmanteaus?

Harcourt. You never brought a Portmanteau in your Life.

Bedlow. I have brought divers.

Harcourt. You know I never ſaw you but twice in my Life, before to-day, and when I met with you at the Privy-Council.

Bedlow. My Lord, the Trials have been ſo put off, that I could never get all my Witneſſes together, but I have Seven or Eight of my Witneſſes that are out of Town, that would make this very clear. My Lord, there was never a Pacquet of Letters that I brought over to Mr. *Harcourt*, but did contain in it a Deſign of the Subverſion of the Government; and it muſt be more than two Pacquets that I have brought over; for I have brought Letters from *Watton*, and Letters from St. *Omers*, and Letters from *Bruges*, and from *Paris*, and from *Valledolid* and *Sallamanca*; and all theſe Letters contained in them the Management of this Plot, how far they had proceeded beyond Sea, and anſwers how far they had proceeded in *England*, from him, and to them, to and again, from Time to Time, in carrying on the Deſign of Subverting the Government, and altering the Religion; wherein was given an Account of the Army and Forces that were to be raiſed, both Here, and Beyond Sea; what Contributions were made, or expected, at Home, or Abroad, all was lodged in Mr. *Harcourt's* Hand, at leaſtwiſe an Account of the greateſt Part. And I have been ſent to Mr. *Langhorne* with Papers from *Harcourt*, about this Affair, to Regiſter them; and of that I ſhall give you an Account, upon Mr. *Langhorne's* Trial.

L. C. J. Well, now aſk him what you will.

Whitebread. Sir, I deſire to aſk you one Queſtion.

Bedlow. I deſire it may be aſked the Court.

Whitebread. I deſire to aſk him whether he was a Lieutenant in *Flanders* or no?

Bedlow. Yes, I was.

Whitebread. Of Horſe, or Foot?

Bedlow. Of Foot.

Whitebread. Take notice, there is no ſuch Officer of Foot in all *Flanders:*

Bedlow. I was then in the Regiment of the Prince of *Freizland*.

Whitebread. There are no Lieutenants in all the *Flanders* Companies, only Captains and Alfara's.

Bealow. My Lord, I had a Commiſſion, and I have a Commiſſion to be ſo, and I deſire I may ſend for it.

L. C. J. It is no very material Thing; as ſoon as it comes, they ſhall ſee your Commiſſion.

Harcourt. You ſay you have had Papers from me, and been very familiar with me: Pray, how can this be, when, as I did declare before the Lords in Council, that was the third Time I ever ſaw your Face? The firſt Time he came to me, he brought Letters from *Dunkirk*, five Years ago; when I opened them I found them directed to other Perſons, and to them I ſent them, my Name being only uſed in the outſide Cover; and it ſeems upon that Confidence that he had in me at that Time, not long after, he came to my Chamber, and told me, He had lately become a *Roman* Catholick, and by that means had loſt his Friends, and that he then was in Want, and, unleſs I did aſſiſt him, it would be very hard with him; tho' his Father deſerted him, yet he had ſome Friends, whom he expected would do ſomething for him, and then I will repay you.

L. C. J. When was this?

Harcourt. The ſecond Time that I ever ſaw him in my Life, and this is four Years ſince. Then ſaid I, What will ſerve your Turn? He told me 20*s.* which I lent to him; and I never ſaw his Face afterwards, till I met him at the Privy-Council; and therefore, how ſhould a Man believe a Word he ſays?

L. C. J. But how ſhall a Man know, that what you ſay is true?

Bedlow. I will make it appear, at the Trial of the Lords, that I ſent to him for 10*l.* and had it. I cannot now prove it, without bringing ſome Witneſſes that I have behind a Curtain, and I will not diſcover them till then, they ſhall not know who they are.

Mr. Juſt. Windham. Will you aſk him any Queſtions?

Bedlow. My Lord, I have not ſaid the One-hundredth Part of what I can ſay, honeſtly, and like a Chriſtian, of Mr. *Harcourt*.

Harcourt. You may ſay what you will, but you won't ſpeak Truth.

Bedlow. Mr. *Harcourt* went with me to Mr. *Coleman's*, when I carried over the Conſult. There was the greateſt Part of the Deſign, in that which I was to carry over to St. *Omers*, and that Conſult did I fetch from Mr. *Coleman*, and Mr. *Harcourt* was with me, and I had Thanks from Mr. *Coleman* for my Fidelity in the Buſineſs, and Expedition in bringing and carrying the Pacquets. I was recommended to my Lord *Arundel* by Mr. *Harcourt*, and was promiſed, by his Lordſhip, all the Friendſhip and Favour imaginable, when the Times were turned.

L. C. J. Why here, you ſee, he names ſeveral Places and Times, wherein he met with you.

Harcourt. Not one Word of all this is true.

Bedlow. I deſire you to aſk Mr. *Harcourt*, my Lord, Whether he was not in *Auguſt*, or *September* laſt, in Company with me and *Le Faire?*

Harcourt. Le Faire! I know no *Le Faire*.

Bedlow. Le Fevre, then.

Harcourt. Le Fevre, I believe I did ſee at that Time, but not ſince.

Bedlow. Pritchard did recommend the Care of me to him.

L. C. J. There, he names another Time, when you and *Pritchard* were there together.

Bedlow. Pritchard was my Confident, and my great Friend, and told them, This is a Perſon whoſe Fidelity you have tried, in carrying over ſuch and ſuch Letters, and therefore you may very well truſt him, and take care of him: And ſo he recommended me, as one that was really fit to underſtand the Bottom of the Deſign. And *Pritchard* did tell me, before them, that the King's Death was intended as a Part of it; and he ſent again another time to Mr. *Harcourt*, but it was about no material Buſineſs; and *Harcourt* gave a Bill of Exchange to carry to what Citizen I don't know, but to Sir *George Wakeman*, to have 2000*l.* by whoſe Orders, as they ſaid, your Lordſhip ſhall know upon his Trial, but I ſaw *Harcourt* give him the Bill of Exchange.

Mr. Juſt. Dolben. Who gave the Bill?

Bedlow. It was *Harcourt*, my Lord.

Harcourt. Who was by, when this Bill was given?

Bedlow. Kaines, and Sir *William Anderſon*.

Harcourt. How was this Bill drawn?

Bedlow. It was drawn upon a Citizen, and left in your Hands.

Harcourt. I deſire he may name the Citizen, and, if he can, make it out; if he do, it will appear upon the Merchant's Books.

Bedlow. Sir *George Wakeman* received a Bill of Exchange from Mr. *Harcourt*, and he was told, Here is a Bill of Exchange for 2000*l.* as part

of a greater Sum; to which Sir *George Wakeman* anſwered, That 15000 *l.* was a ſmall Reward for the ſettling of Religion, and preſerving of the Three Kingdoms from Ruin; but if it were not for ſuch a Woman, he would never undertake it, but for her he would do any thing. And after he had given Sir *George Wakeman* the Bill, Sir *George Wakeman* opened it, and read it, but I did not read the Name that was to it.

Fenwick. My Lord, it ſeems not ſufficient Proof, that he ſays, he ſaw a Bill of Exchange, unleſs he ſays from whom, and to whom, that it may be proved by the Books, or otherwiſe.

L. C. J. You ſay well, Mr. *Fenwick*, if ſo be he had been the Perſon concerned in the Bill, that he were either one that drew it, or was to receive the Money, then it was ſtrange that he ſhould not know the Parties to it: but I muſt tell you, where he was not one nor the other, it was a collateral matter. Do People take notice of every particular Bill of Exchange that they ſee, which they are neither to pay nor receive?

Fenwick. But what Reaſon does he give your Lordſhip, or the Jury, to believe there were ſuch a Bill, unleſs he does produce either the Bill, or the Perſon that paid it?

Bedlow. I did only ſee the Bill out of Mr. *Harcourt*'s Hand, but it was read there only by Sir *George Wakeman.*

L. C. J. Is it a Pin matter, whether there was ſuch a Bill or no, or whether he had mentioned it or no?

Fenwick. But ſeeing he hath mentioned it, I ſay there is nothing of Proof of it, but only his bare Word.

L. C. J. Yes, there is his Oath.

Sir Cr. Levinz. And I deſire the Jury to take notice how unreaſonable a Thing it is that you aſk. You would have Mr. *Bedlow* produce the Bill of Exchange, that was given to Sir *George Wakeman* to receive the Money.

Bedlow. I have only one Word more. Sir *George Wakeman* received the Bill of Exchange from Mr. *Harcourt*, read it himſelf, folded it up, and went and received the Money; and that the Court will be pleaſed to ſee my Commiſſion, for now I have it here.

Which was read by my Lord Chief Juſtice North, *and ſeveral others.*

Sir Cr. Levinz. We have only this one Matter to trouble your Lordſhip and the Jury with. You perceive by the Evidence that hath been given, that the main Matter begins at the Conſult of the 24th of *April*, when the Conſult was; now to fortify this Evidence, we are now to produce a Letter, that was written from one *Petre*, at *St. Omers*, a Jeſuit, wherein is mention made, that he was to give notice, Mr. *Whitebread* had appointed a general Meeting, juſt at that Time, in *London*, at which they were to conſult of very great Matters; and they were to be very private in their coming to, and appearing about the Town. And this Letter was taken amongſt Mr. *Harcourt*'s Papers, and to prove it, we call Sir *Thomas Doleman.* [*Who was ſworn.*]

Sir Cr. Levinz. Pray, what can you ſay where this Letter was found?

Sir Thomas Doleman. It was found amongſt Mr. *Harcourt*'s Papers, in a Bag of his Papers that was committed to my Care to ſearch.

L. C. J. Can you tell what Day you found it?

Sir Thomas Doleman. It was a matter of ſix or ſeven Days after Mr. *Oates* had given his Information of this Plot to the Council.

Harcourt. What Paper is it?

Mr. Juſt. Atkins. Hear it firſt.

L. C. J. It is a Letter found amongſt your Papers.

Harcourt. Who is it from?

L. C. J. It is from one Mr. *Petre*, do you know ſuch a one?

Cl. of the Cr. It is ſubſcribed, *E. P.*

Harcourt. Yes, my Lord, I do; I will deny nothing of the Truth.

Then the Letter was read, *in hæc verba.*

Honoured Dear Sir,

I *Have but Time to convey theſe following Particulars to you. Firſt I am to give you Notice, that it hath ſeem'd fitting to our Maſter Conſult, Prov.* &c. *to fix the 21ſt of* April *next*, Stilo veteri, *for the Meeting, at* London, *of our Congregation; on which Day, all thoſe that have a Suffrage, are to be preſent there, that they may be ready to give a Beginning to the ſame on the 24th, which is the next Day after St.* George's *Day: You are warned to have* jus ſuffragii, *and therefore, if your Occaſions ſhould not permit you to be preſent, you are to ſignify as much, to the end, others, in their Ranks, be ordered to ſupply your Abſence. Every one is minded alſo, not to haſten to* London *long before the Time appointed, nor to appear much about the Town, till the Meeting be over, leſt Occaſion ſhould be given to ſuſpect the Deſign. Finally, Secrecy, as to the Time and Place, is much recommended to all thoſe that receive Summons, as it will appear of its own Nature neceſſary.*

Tertio pro Domino Solono Diſco.
Benefact. Prov. Lunienſis.

I am ſtraitened for Time, that I can only aſſure you, I ſhall be much glad of obliging you any ways.

S I R,

Your Servant,
Edward Petre.

L. C. J. Come, now, Mr. *Harcourt*, will you expound this Letter to me, that ſpeaks of this Meeting and Privacy?

Harcourt. Yes, my Lord; tho' it was not my Letter, yet I will tell you what the Meaning of it was. That Letter was writ to one, who had *Jus Suffragii*, a Right to come and Vote in our Congregation, which, according to the Conſtitution and Orders of our Society, is within the Compaſs of three Years, where they meet about the particular Affairs of the Society.

L. C. J. What was it about?

Harcourt. It was about chooſing an Officer; chooſing a Procurator to ſend to *Rome*; that was the chief Point: And Secrecy was a Thing that was recommended to every one, as it was fit it ſhould be, we living in a Country where every one's Eye was upon us, and we were an Eye-ſore to them, we ought to be cautious of meeting in ſuch Numbers, as might give an Offence; and this was the only Thing, indeed.

L. C. J. Look you, Mr. *Harcourt*, you ſay well, but we are not to be altogether Diſciples of yours, ſo as to have no Senſe of our own, and to be impos'd upon ſo weakly as this. Here is the Thing, ſays the Letter, *I would not have you come too ſoon to* London, *nor appear too much in publick, for fear of diſcovering a Deſign, which requires Secrecy in its own Nature.* What, was that your Deſign, of chooſing a Procurator? Tell me but one Thing that can bear the Name of a Deſign, which muſt have that Secrecy in it, that People muſt not appear much about Town, and that in its own Nature requires ſuch a Thing.

Whitebread. My Lord, the Thing itſelf is evident, what was the Deſign.

L. C. J. Come, Mr. *Whitebread*, you will do it better.

Whitebread. It is evident it was a Deſign to chooſe an Officer.

L. C. J. Why, good Mr. *Whitebread*, do any write after that manner? Were you to write to any one, or aſk the Jury, if they were to chooſe ſome Collector for the Receipt of ſome charitable Money that ſhould be employed for the Relief of *Proteſtants* in *France*: Do you think any Man would ſay, *Do not appear much in* London *before-hand, nor come too ſoon, for fear of diſcovering the Deſign, which in its own Nature requires Secrecy*: Will this endure the Name of a Deſign?

Whitebread. Firſt, it is a very hard Thing to bring ſo many Mens Lives in Danger, merely upon the Interpretation of a Word, which may as properly ſignify one thing as another. Is it not proper for me to ſay, I have a Deſign to Dine with ſuch a Man to-morrow, or the like?

L. C. J. 'Tis true now, but hearken ——

Whitebread. But that was the Thing deſigned, to have a Congregation for the chooſing of an Officer, and it was, I think, very properly ſaid; and that it ſhould be kept ſecret, was as prudential a Thing as poſſibly could be. Was it not proper here, becauſe our Profeſſion was not publickly permitted in this Kingdom; and therefore that was the Reaſon why Secrecy was injoin'd? And this, upon my Salvation, was all that ever was intended or thought.

L. C. J. North. This now is the Interpretation you put upon the Letter, but we underſtand by the Witneſſes what was done at that Meeting.

L. C. J. Look you, Mr. *Whitebread*, this Letter, without Queſtion, hath been well ſtudied by you all; and it requires it mightily.

Whitebread. It needs none.

L. C. J. This is not the natural Expoſition of the Words of the Letter, that you give, but a forced one; for firſt, there is a Difference between ſaying, I do deſign to Dine to-day, tho' it be a uſual matter, but it is another thing, when I call a Thing by the Name of a Deſign, accompanied with a requiring of Secrecy in its own Nature, and when I give Advice, that they muſt not appear in Town too ſoon, nor too much about the Town, for fear of diſcovering the Deſign, *which in its own Nature requires Secrecy*: Muſt all this amount but to the chooſing of an Officer? You'll never make one Papiſt of all this Company, if you make no better Work of it.

Whitebread. My Lord, I humbly deſire your Lordſhip would not ſtrain a Word which may be well enough ſaid, whether it be properly ſaid or no.

L. C. J. 'Tis not one Word alone, but 'tis the whole Senſe.

Whitebread. 'Tis evident, there was juſt Cauſe of Secrecy, becauſe of our Profeſſion.

L. C. J. Mr. *Whitebread*, 'Tis not one Word that is relied upon, for the Buſineſs is purſued. 'Tis not ſaid, *Pray meet at ſuch a Time*, but, *Be careful you do not diſcover the Deſign*; if it had been only ſaid ſo, it would have been a Strain, to have made this Conſtruction of a ſingle Word, to make this that Deſign; but as it is here, we make no ſuch Conſtruction; it had been hard indeed to put that Meaning upon it as you do, even then, for 'tis ſeldom ſo uſed, for no Man writes after that manner; but when it follows in a continued Senſe of ſo many Lines, *be ſure you meet on the 24th of* April, *the Day after St.* George's *Day, but come not too ſoon to Town, nor appear too much about the Town, for fear of diſcovering the Deſign, which you know in its own Nature does require Secrecy*; can we make any ſuch Interpretation of it? If you have no better Arguments than theſe, you muſt have People loſe their Underſtandings, or have a very blind Obedience to yours, or it will never down. Ay; Come, Mr. *Gavan*, how do you ſay is the Meaning of this?

Gavan. For my part, I'll aſſure your Lordſhip, I was not there; but this is known to all the Chriſtian World, that there is ſuch a Meeting in *Spain*, *France*, *Germany*, &c. that wherever the Jeſuits are, once in three Years they have a Meeting among themſelves, for the ſettling of their Affairs. Indeed the Words have given your Lordſhip an Occaſion to raiſe a Difficulty, what the Word *Deſign* ſhould mean? Which I do give this Anſwer to: Your Lordſhip's Difficulty is, That the Word *Deſign*, here, ſhould not be made uſe of to ſend one poor Jeſuit to *Rome*. My Lord, do but mark the End of the Congregation, and you will ſay to us, that we might well uſe that Word, becauſe the Word may import ſome great Buſineſs of Concernment; now what Buſineſs of greater Concernment for poor religious Men to meet together about, than thoſe Things that may promote their better State in another World, and the Regulation of what is amiſs in their Order. My Lord, upon my Conſcience and Salvation, this was the End of the Congregation, to meet, and ſee what is amiſs in their Order, who do their Duties, and who not, who are irregular in their Offices, and whoſe Office is vacant, and to be ſupplied.

L. C. J. But muſt no Body come to Town, nor appear too much about the Town, for this?

Gavan. Therefore, my Lord, as to the Word *Deſign*, it concerning the whole ſpiritual Good of the whole Body of the *Engliſh* Jeſuits, it might well be uſed for the Conſultation of that Body, about all their Good, Tempo.al and Spiritual, which was all concerned in it.

L. C. J. Theſe are a many Words, but to no Purpoſe.

Gavan. Now, my Lord, for the Second Thing that you object, your Lordſhip remembers very well, that the Continuation of the Senſe in ſo many Lines, made the Thing the more ſuſpicious, that more was intended by it than ſo: Now to this I ſhall be able to anſwer, if there can be given a particular Reaſon why we ſhould add that Word of *Secrecy*, to the other of *Deſign*; having anſwered to the one Part, we now give an Anſwer,

ſwer to the other, and ſo to the Whole. Now, my Lord, becauſe of the Time, the Parliament was then ſitting, and that we might not offend the King and all Civil Magiſtrates (whom we honour from our Hearts and Souls), that Word was uſed that it might be kept ſecret.

L. C. J. It was not out of Love to the Parliament, it was *the Nature of the Thing required it*, nor was it out of Fear you had of them. I did never find, tho' you are as good at it as ever any I met with (for I never met with a Prieſt that had much more Underſtanding); but really you do not anſwer me. You are ſo far from Scholars, and arguing like ſuch, that you do not maintain the Matter with common and rational Underſtanding, but only heap up ſo many vain Words, (like a Rope of Sand put together) which hath no natural Coherence; for you cannot poſſibly make this reaſonable, that People ſhould have ſo much Caution, that they ſhould not come too long to Town before-hand.

Gavan. Not to be taken notice of.

L. C. J. Not to appear in Town when they come.

Gavan. Not to be taken notice of.

L. C. J. I ſay ſo, you cannot tell why all theſe Cautions ſhould be uſed, merely for chooſing an Officer.

Gavan. My Lord, our Lives depended upon it, if we were taken, being ſuch Men as we are.

L. C. J. You can make nothing of it, and you will find it an hard Taſk to anſwer it; for if half the Evidence that hath been given were not given, yet this Letter of your own, which cannot be denied, is an unanſwerable Proof. It does monſtrouſly confirm Mr. *Oates*'s Teſtimony to be undeniable, as to the meeting at the Conſult; for he, four or five Days before-hand, comes and tells the Council, the very Day which, five or ſix Days after, this Letter makes good, which is found in *Harcourt*'s Cuſtody. Then there was a Conſultation upon the Day, the very Day that Mr. *Oates* ſays, and what he calls a Conſultation, your own Letter ſays is a Deſign.

Gavan. It was a Deſign of a Congregation.

L. C. J. What Senſe is there in that? Will any Man in *England*, or did any Man in *England* ever ſay, Take heed of diſcovering our Deſign of going to Church, or chooſing a Collector?

Gavan. There is Reaſon for the one, and Reaſon for the other too.

L. C. J. I would appeal to yourſelves, and all here preſent, what the natural Import of ſuch a Letter is, whether it does not carry a Matter more than ordinary, whether its natural Intendment doth not look at that? And the next thing is this: Does any Man write plainer than this, when they write of a Thing that is of ſuch a Nature? Is not the Danger too great to hazard that Fact, which they call the Nature of the Thing, to intruſt it in a Letter? Is it not vain to put that in a Letter, in Words at length, which they to whom it is writ, know what the Thing means? And if it ſhould be further known than they would have it, the Thing could never be done: And if you conſider the Perſon that writes, a Jeſuit, or a Prieſt: Are Prieſts ever Plain? And will you expect Plainneſs here, when, in Things of ten thouſand times leſs Moment, they don't write plainer? Is it not known, you have not a Proſelyte, that you do not keep under Obligations as cloſe as your Confeſſions are? Have you not taken here, as it is ſworn, a Sacrament of Secrecy? Is there a Woman that you convert, but in the dark? Or a Papiſt made out of a Prieſt's Hole? Are not all your Deeds under-ground? And do you work with any Light, but that of a Dark-Lanthorn? This is plain, unleſs you give a better Anſwer to this Letter, the Letter will hang about your Necks.

L. C. J. North. Mr. *Oates*, will tell you what the Deſign was.

Mr. Juſt. Ellis. He can tell you what it was.

L. C. L. The Letter ſpeaks itſelf.

Oates. Mr. *Gavan*, and they, now, tell your Lordſhip what this Conſult was for, but they denied this Conſult at firſt, when there was but one Man to juſtify it. I juſtified it before Mr. *Fenwick*, who denied it at the Council-Board, tho' now they pawn their Salvation upon the Juſtification of it.

Fenwick. I never denied that there.

L. C. J. Come, have they any thing to ſay for themſelves?

Bedlow. My Lord, Whereas, as Mr. *Gavan* ſays, that in obedience to the King and Parliament they would have their Conſultations ſecret, and that they always deſired to conceal themſelves then; the Time of Seſſions of Parliament was the only time that I and others have been employed to fetch over more Jeſuits than at any other particular time.

Oates. And there are more of them then in the *Court of Requeſts*, and in the *Lobbies*, bare-faced, and threatening the Proteſtants, than at any other Time.

Bedlow. We uſed to fetch them againſt the Parliament always; they were in leſs danger then, than at other Times.

L. C. J. You could give a very good Interpretation of the Letter, I ſuppoſe, that Mr. *Dugdale* ſpeaks of, that came from *Whitebread*, That he ſhould be ſure to entertain ſuch as were hardy ſtout Fellows: I ſuppoſe you can make all this to ſignify nothing more than a Deſign for a Game at Cudgels.

Sir Cr. Levinz. If your Lordſhip pleaſe, we muſt deſire that one Letter more may be read. Your Lordſhip hath been told of Commiſſions for raiſing an Army, here is a Touch of them mentioned in this Letter, found amongſt Mr. *Harcourt*'s Letters too.

L. C. J. Look you, Mr. *Harcourt*, you had beſt attend; here is another Letter found amongſt your Papers, concerning ſome Commiſſions. You look ill to your Letters; you are to blame, indeed, Mr. *Harcourt*.

Sir Cr. Levinz. Pray, Sir *Thomas Doleman*, look upon that Paper, and tell us how you came by it.

Sir Tho. Doleman. This Letter in my Hand I found amongſt Mr. *Harcourt*'s Papers, about ſome two Days after I found that other that was read before. Having heard Mr. *Oates* give in his Information to the Council, That there were ſeveral Commiſſions given out to ſeveral Perſons, and finding ſome doubtful Clauſes and Expreſſions in the Letter, I did preſent this Letter to the Council, and made a Mark upon it, *Enquire what is meant by the Word* Patents.

L. C. J. Pray let it be read, becauſe we ſhall deſire a little more of their Interpretation.

Cl. of the Cr. It is ſigned *Chriſtopher Anderton*, *Hilton*, *February* the 5th, 1667-8.

Oates. Hilton, that is *Rome*.

L. C. J. Mr. *Harcourt*, you underſtand, that by *Hilton* is meant *Rome*?

Harcourt. Yes, my Lord, I do.

L. C. J. Well, then go on, and read it.

Cl. of the Cr. *Worthy Sir, I know not from whence it proceeds, but I perceive that both your Letters and mine have had Fortune by the way, for my Correſpondents with you complain, they hear not from me; whereas I write conſtantly intire Packets; and ſince the Bills I received from yourſelf; for Sir* William Goring, *and for Mr.* Ireland, *from Mr.* Shelly, *I have not had one Letter, but what I received this Week, which, in part, made recompence for the former, for it brought me three of yours, and one of Mr.* Ireland's, *for which I render you many humble Thanks, and acknowledge the Fifteen Pounds from my Lord* Caſtlemain, *tho' Mr.* Ireland *made no mention of it in his. We are all here very glad of the Promotion of Mr.* Thomas Harcourt. *When I writ that the Patents were ſent, altho' I gueſs for whom they were, yet I knew not for certain, becauſe our Patrons do not uſe to diſcover things or reſolutions till they know they have effect. And therefore in theſe kind of matters I dare not be too haſty, leſt ſome might ſay,* A Fool's Bolt is ſoon ſhot.

L. C. J. What is the meaning of theſe Patents?

Fenwick. This Gentleman will tell you, my Lord.

Whitebread. My Lord, they were the Patent for my being Provincial.

L. C. J. How many Patents had you?

Whitebread. But one, my Lord.

L. C. J. Is that Patents?

Whitebread. Literæ Patentes.

L. C. J. Is it Patent or Patents?

Cl. of Cr. Patents.

L. C. J. Read thoſe Words again.

Cl. of Cr. *We are all here very glad at the promotion of Mr.* Thomas Harcourt. *When I writ that the Patents were ſent, altho' I gueſs for whom they were, yet I knew not for certain, becauſe our Patrons do not uſe to diſcover things or reſolutions, till they know they have effect.*

L. C. J. Now you have not interpreted well this, neither.

Sir *Cr. Levinz.* It is ſaid, *I knew not for certain who (they) were for*; but to make it clear, I would deſire Mr. *Whitebread* to anſwer me one Queſtion, How long is it, Sir, ſince you were made Provincial?

Whitebread. The 14th of *January* was Twelvemonth.

Sir *C. Levinz.* And this was dated the 5th of *February*, which was after your Commiſſion.

Whitebread. That may be, and they not know till then.

L. C. J. And ſo you expound thoſe latter Words of the Letter, That the Reſolution of making you Provincial was not diſcovered till the Effect was known.

Whitebread. Becauſe it is not known, whether the Perſon that is nominated might not be excepted againſt: and it is *Literæ Patentes.*

L. C. J. But here is but one Perſon to anſwer the Word *Patents*, and there ſhould be more than one Man.

Whitebread. Every Patent is called *Literæ Patentes*, tho' it be but for one Perſon.

Mr. Recorder. They were in great doubt that you would refuſe the Place, I warrant.

Oates. He is bound on pain of Damnation not to diſobey his Superiors; if they chooſe him to a Place, he muſt take it upon him.

Whitebread. It is not the firſt, ſecond, or hundredth time that one hath been appointed by the Superior to a Place, and hath refuſed it; and if I had known the hundredth part of what I do now, of the Trouble of the Place, I would never have accepted it.

Mr. Recorder. Ay, if you had known the Difficulty of this Deſign, you would never have engaged in it, eſpecially if you had known what is come to paſs.

Whitebread. No, Sir, I never had a hand in any ſuch thing in all my Life: this is *coram Deo* that I now ſpeak, and as I am to appear before the great Tribunal at the Day of Judgment, I know nothing of all this Matter.

Oates. My Lord, theſe Patents, of which this Letter makes mention, a great many of them came down in the Months of *April* and *May* before.

L. C. J. Methinks he interprets them plainer than you do.

L. C. Baron. Now what have you to ſay every one of you for yourſelves? Make your Defence.

L. C. J. Mr. *Whitebread*, do you begin.

Oates. While the Priſoner's Evidence is calling in, I deſire that my Witneſſes may be ſworn.

Mr. Juſt. Pemberton. Mr. *Oates*, be quiet, there is no need of it yet, till they have made their Defence.

L. C. J. But ſend for them, that they may be ready.

Whitebread. My Lord, that which I have to ſay for myſelf is this: I thank God, my Lord, I am not afraid of Death; but I ſhould be very loth to die unjuſtly, and I hope your Lordſhip will conſider, that every Man's Blood is dear to him, and is concerned for his own Life to preſerve it, he ought to be allowed Liberty and Freedom to preſerve himſelf as much as he can. Life is a thing not to be thrown away, but charily to be lookt after, and that there is ſuch a thing as taking away Men's Lives by Perjury, as well as by a Knife or Piſtol, is without contradiction. Now whoever comes againſt a Man for his Life, I ſuppoſe he is to be look'd upon not only by the Priſoner, but alſo by the Jury and the Court, that he ought to be *Probus Teſtis*, and a Man fit to be admitted to be a Witneſs. Now I have ſomething to offer, That Mr. *Oates* is not any ſuch Perſon. Your Lordſhip was pleaſed to ſay, That he was the Perſon who proved the Deſign mentioned in the Letter that was read. Now I hope your Lordſhip will give me leave (and I hope I may do it without offence to this Court) to ſay that he is perjured in what he ſays.

L C. J. You mean that his Evidence is falſe, you may do it if you can.

Whitebread. He ſays he came over hither, and was here preſent the 24th of *April* with me, and I did appoint him to do ſuch and ſuch things, and diſcovered the whole Buſineſs to him. Now I deſire your Lordſhip would be pleaſed to conſider whether this were probable, and whether I had not been a very much miſtaken Man all this while, to truſt a Man with ſuch a Buſineſs, and whether I ought not rather to be ſent to *Bedlam* than *Newgate*, for truſting ſuch a man as he, whom by his own Confeſſion I never ſaw till that time. 'Tis not rational that a Man would truſt him; and then, my Lord, that this Buſineſs ſhould be diſcovered to him, a Man that depended wholly upon us to live, and had no Livelihood but what he had from us, who maintained him at St. *Omers* long, as well as the beſt Man in the Houſe.

L. C. J. Did you do it?

Whitebread. Yes, my Lord, I did.

L. C. J. You ſhould conſider how in that you anſwer your ſelf.

Whitebread. I, that is, when I came to the Office, and I and my Predeceſſors. When I was Superior I found him not a Man fit for that Purpoſe and Deſign he pretended to. He was very zealous to be entertained amongſt us, and therefore I deſired him to abſent himſelf.

L. C. J. Why was he not fit to be employed among you?

Whitebread. For ſeveral Reaſons of our own: Firſt of all, it was doubtful, whether he was a good Catholick: For he had oftentimes maintained ſeveral Propoſitions that were not ſoundly Catholick: And then, ſecondly, he led a very idle Life, and he was not found a Man we were obliged to accept of, and therefore we deſired him to retire. And to that purpoſe we furniſhed him, gave him a good Suit of Clothes, and a Periwig, and four Pounds in his Purſe, and he promiſed me to pay me again when he had ſold his Library, which he ſaid he had a very good one in *London*; but he never did. But that I ſhould be ſo ſtrangely overſeen and mad, as at the firſt ſight of ſuch a Man as this, to truſt him with ſuch a great Intrigue as this was, and to write in ſuch a plain ſtrange manner, and ſend by Poſt to Mr. *Dugdale*, as your Lordſhip did and juſtly might wonder at, had been a Madneſs. It was much that any Man would write ſo plain of ſuch a Thing. But then, my Lord, the chief thing is this, That I hope your Lordſhip will give us leave to produce our Witneſſes to prove, that he was not from St. *Omers* from the 10th of *December* till the 23d of *June* following, and never lay out of the Houſe but one Night from *December* till *June*.

L. C. J. Name your Witneſſes.

Whitebread. I deſire firſt Mr. *Hilſley* may be called.

L. C. J. Call him; but I'll tell you what is ſtrange, You ſay it is wonderful that you ſhould truſt a Man you had ſo little Opinion of his Abilities or Fidelity; but I wonder that you ſhould maintain him after that.

Whitebread. No, my Lord, we did not.

L. C. J. You ſay you did.

Whitebread. No, my Lord, he pretends he was here in *England* ſent over by us, but we will prove he was not.

L. C. J. But you maintained him abroad?

Whitebread. That was before.

L. C. J. Is it ſo great a wonder that you ſhould take into your Confidence and Conſultation that Man, whom for a conſiderable time before you had maintained abroad?

Whitebread. But, my Lord, I ſuppoſe there is ſome difference between charitable Acts to a Man in want and a Scholar, and truſting him with ſuch an Intrigue as this.

Fenwick. Pray, my Lord, be pleaſed to take notice, that this Man's Evidence all along is, that he ſaw ſuch and ſuch Letters from ſuch and ſuch Perſons. They have no Evidence but juſt that they ſaw ſuch and ſuch Letters, and how is it poſſible that a Man who was turned away from St. *Omers* for his Miſdemeanours, that I ſhould ſhew him all my Letters? Now, my Lord, I have had a Thouſand Letters taken from me, not any of theſe Letters had any thing of Treaſon in them, or ſolliciting of Perſons to come into *England*; let the Letters be produced, and then your Lordſhip will ſee what is in them. All the Evidence that is given, comes but to this; there is but ſaying and ſwearing. I defy them all to give one probable Reaſon to ſatisfy any reaſonable unintereſted Man's Judgment how this could be.

L. C. Baron. There can be no Reaſon given why you ſhould ſign an Inſtrument to kill the King.

L. C. J. You ſay there is nothing but ſaying and ſwearing, but you do not conſider what you ſay in that Matter. All the Evidence and all the Teſtimony in all Trials is by ſwearing. A Man comes and ſwears that he ſaw ſuch a Bond ſealed, or heard ſuch Words ſpoken, this is ſaying and ſwearing; but it is that Proof that we go by, and by which all Mens Lives and Fortunes are to be determined. But then ſay you, 'tis wonderful, that ſince they ſay they ſaw ſuch and ſuch Letters, They ſhould not produce them; why? They did not belong to them: Ay, but then ſay you, 'tis ſtrange they ſhould not find one Letter in all thoſe numerous Papers that were taken that contains any Traiterous Matter; but, I ſay, 'tis forty times more a wonder that one ſhould be taken, than for all the reſt to be undiſcovered. I ſuppoſe Mr. *Harcourt*, amongſt thoſe Papers that he let be ſurpriſed, did not think that Letter that hath been read to have been of ſuch Conſequence, nor the Senſe of it to be ſo bad.

Fenwick. I dreamt no more of my Apprehenſion, when I was taken, than the Day of my Death, it was ſo unexpected; nor what I ſhould be accuſed of: I had no fear of it, no thought of it, ſo that I took nothing out of the way. They took five or ſix thouſand Pound Bonds and Bills, beſides Letters; methinks ſomething of the Effects of thoſe Letters might be produced, and ſome of the Deſign appear. For God's ſake, where are the Commiſſions ſigned, and Moneys paid?

L. C. J. They talk of a Patent. Mr. *Whitebread* conſtrues it, that it is his Commiſſion; if ſo, does it lie in *Oates* or *Bedlow*'s Power to ſhew that Commiſſion? (this is juſt like that of the Bill of Exchange) neither does it in any of the Letters.

Fenwick. Here is Mr. *Hilſley*, my Lord.

Whitebread. My Lord, we pray we may have the favour that they may be Sworn.

L. C. J. North. By Law they cannot.

L. C. J. In no Capital Caſe againſt the King can the Witneſſes for the Priſoner be Sworn; but I will ſay this to the Jury, that they are not Sworn is, becauſe they cannot, but the Jury is to take great heed of what they ſay, and to be governed by it according to the Credibility of the Perſon and of the Matter.

Gavan. My Lord, if you pleaſe to give me leave, my Lord *Coke* in his *Inſtitutes* ſays expreſly, That there is no poſitive Law againſt it; his Words are, there is not ſo much as *Scintilla Juris* againſt it.

L. C. J. North. We know that the conſtant Uſage and Practice is ſo, and you cannot produce any Man, that in any Capital Caſe had his Witneſſes ſworn againſt the King.

L. C. J. My Lord *Coke* ſays otherwiſe, That the Evidence ſhould be ſo plain that nothing could be anſwered to it; and therefore no Evidence ſhould be ſworn againſt the King.

Gavan. My Lord, thoſe are the Words of my Lord *Coke*.

L. C. J. You argue againſt the known Practice of all Ages.

L. C. J. North. There was never any Man, in a Capital Cauſe, ſworn againſt the King. The Common Law is the Cuſtom of the Kingdom, and we are bound to know it, and muſt be all governed by it.

Whitebread. In Mr. *Ireland*'s Trial, *pag.* 35, 36, he ſays, he came over with Sir *John Warner*, Father *Williams*, and Mr. *Hilſley*, from St. *Omers*.

Mr. Juſt. Pemberton. Nay, you muſt not reſort to the Printed Trials for Evidence.

Fenwick. If we can prove him Perjured at any time, I hope we may.

L. C. J. Suppoſe upon the taking of thoſe printed Trials they miſtake, ſhall Mr. *Oates* therefore be thought Guilty of Perjury? If you have any thing to aſk of your Witneſſes which you can apply to the Evidence given now, you may.

Fenwick. Mr. *Oates*, did not you your ſelf own that you came over with Mr. *Hilſley?*

Oates. Aſk me any Queſtion about what I have given to-day, and if the Bench think it reaſonable, I will anſwer it.

Fenwick. My Lord, he did then affirm, that he came over with theſe Perſons, in which he is forſworn.

L. C. J. He is not convicted of Perjury, and therefore that muſt not be urged.

Fenwick. My Lord, we will prove by Witneſſes that were at the Trial, that he did affirm ſo: And I do deſire now to know of you, Mr. *Oates*, whether ever you came over with Mr. *Hilſley?*

Oates. That which I ſaid then, and that which I ſay now, is (becauſe you ſhould not puzzle yourſelves), that one Mr *Hilſley* did come over with us when we did.

Hilſley. My Lord, I did not.

L. C. J. How can you tell?

Hilſley. I left him at St. *Omers*.

L. C. J. What ſay you, Mr. *Oates?*

Oates. 'Tis true, Mr. *Hilſley* did leave me at St. *Omers*, becauſe he went out a *Sunday* Morning, and I came out of the *Monday* Morning, but I overtook him at *Calais*.

Hilſley. My Lord, that is falſe, and I have a great many here that can prove it.

L. C. J. What Religion are you of?

Hilſley. I am only to ſerve his Majeſty.

L. C. J. Are you not to ſerve God too?

Hilſley. I am firſt to ſerve God, and then his Majeſty.

Mr. Juſt. Pemberton. Are you a Catholic?

L. C. J. Are you a *Roman* Catholic?

Hilſley. Yes, my Lord, I am.

Mr. Juſt. Pemberton. Be not aſhamed of your Religion, do not deny that; your Provincial here can give you a Diſpenſation for what you ſay.

Hilſley. I hope a *Roman* Catholic may be a lawful Witneſs?

L. C. J. Yes, I deny it not. This is that you ſay, you left him at St. *Omers*; you muſt call more Witneſſes to back him: Maſter *Oates* ſays 'tis true, you left him at St. *Omers*, but he overtook you at *Calais*.

Oates. This Gentleman loſt his Money at *Calais*, and Father *Williams* did relieve him by my means.

L. C. J. What ſay you to that?

Hilſley. Why, my Lord, yes, it is true, I did loſe my Money there, but it is nothing to the purpoſe, for I will affirm, I was never in the Ship with him in my Life.

Oates. I deſire he may be aſked, whether he be in the Degree of a Prieſt, or not?

L. C. J. That would be a hard Queſtion to put to him, to make him accuſe himſelf. It would bring him into danger of Treaſon.

Mr. Juſt. Pemberton. He is a Boy very fit to make a Jeſuit of.

L. C. J. How could he then come to know this?

Hilſley. I confeſs 'tis true, that Mr. *Oates* did never come over with me. And I have Witneſſes to prove, that they ſaw him there next Day at St. *Omers*, and two or three ſeveral Weeks after.

Sir Cr. Levinz. Mr. *Oates* hath another Circumſtance to prove it by.

Oates. He went from us by the way, and did not come up with us to *London*.

Hilſley. I know how he underſtood this: There was a Gentleman that the Witneſſes will prove he was very familiar with, the ſecond of *May*, that told him.

L. C. J. Is that Gentleman here?

Hilſley. Here is one here to prove it.

L. C. J. And did he tell them how you loſt your Money?

Hilſley. Yes, my Lord, I ſuppoſe ſo.

L. C. J. I ſpeak ſeriouſly, I do not underſtand how he could come by theſe Things.

Parry. My Lord, I can teſtify, if it were lawful for us to ſwear, and prove that he was at St. *Omers* that Day, when he ſays he came over.

L. C. J. What is your Name?

Parry. My Name is *William Parry*.

L. C. J. What Countryman are you?

Parry. I am a *Flintſhire* Man.

L. C. J. When was he at St. *Omers?*

Parry. He was there that 25th Day, that Day he ſays he came over.

L. C. J. Was he there all that Day?

Parry. He did not ſtir thence all the Day.

L. C. J. How can you tell that?

Parry. I din'd with him; that Day he went into the Infirmary, he did not go out of the College, he was ſick.

Fenwick. Mr. *Parry*, How long did Mr. *Oates* ſtay there at St *Omers?*

Parry. He ſtaid till after the 20th of *June*, I am ſure; for on the 20th of *June* I know he was preſent, by a very good Circumſtance, he was at an Action of ours, a *Latin* Play.

Oates. My Lord, as to this going into the Infirmary at that time, I deny it. My Lord (if your Lordſhip pleaſe), I will ſhew that this Gentleman is not only a Votary of the Jeſuits, but hath been one of the Sodality ſeveral Years. And they have Diſpenſations, and are bound by an implicit Obedience to ſay what the Jeſuits bid them, who are their Superiors.

L. C. J. What ſay you to the 20th of *June*, the Time he ſays you were there at the ſeeing of the Play?

Oates. My Lord, as to that twentieth of *June*, I was there, and there was an Action at that Time, for I was then returned thither from *London*.

Parry. I deny all that, for he never ſtirred out of the College.

L. C. J. Young Man, in what Quality were you there?

Parry. I was a Student there, a Poet.

L. C. J. How can you ſay he did not ſtir thence all the while?

Parry. I know by a particular Thing; I dined and ſupped with him there, but when he was in the Infirmary; but the particular Paſſage was this, he did there fall out with a Gentleman that was in the Infirmary too.

L. C. J.

L. C. J. When was that?

Parry. It was at the Time that he says he came away.

L. C. J. When went he in?

Parry. The 25th of *April*, Old Stile, and staid a matter of three or four Days.

Oates. Will you be pleased to take Notice of this? He says that *Hilsley* left me at St. *Omers* when he came away, and that the next Day he din'd with me, and that I went into the Infirmary, which, he says, was the 25th of *April*, Old Stile. Now we will run to argue *ad hominem*; if this were the 25th of *April*, Old Stile, how did Mr. *Williams* meet with Mr. *Hilsley* at *Calais*, and restore him his Money, when the 24th, Old Stile, Mr. *Williams* was at the Consult in *London*?

L. C. J. When was it that you say Mr. *Hilsley* was at St. *Omers*?

Fenwick. Answer my Lord's Question.

Parry. He went away the 24th of *April*, as I remember.

L. C. J. What, Old Stile?

Parry. Yes, Old Stile, according to the Reckoning there.

Oates. But, my Lord, upon the Oath that I have taken, if he mean New Stile, all that this Gentleman hath said about this is false, except that I was there the 20th of *June*.

L. C. J. Was it New Stile or Old Stile that you say Mr. *Hilsley* went away?

Mr. Recorder. He does not know New Stile from Old Stile.

Parry. He went the 24th, that is the Old Stile beyond Sea.

Whitebread. I do desire he may answer, whether he does know that Mr. *Oates* was ever out of the House from the Time he came in *December* till *June*, but one Night.

Parry. No, he never was out but one Night at *Watton*.

L. C. J. From what time to what time?

Parry. It was but two Days and one Night.

L. C. J. What time was it that he was there first?

Parry. He came thither in *December*.

L. C. J. And did he stay there all the while?

Parry. He did not stir from the College till the End of *June*; and never went out but a Day or two, as I know of.

L. C. J. Not as you know of; but might not he go, and you not know of it?

Parry. I am sure of it.

L. C. J. How can you tell?

Parry. Not a Scholar goes from thence to *England*, but the whole College rings of it.

Gavan. And then, my Lord, when they go out, they go in secular Clothes, that none must know when any Person leaves the College.

Oates. My Lord, in such Cases, though 'tis true in a general Sense, yet it is but a general Rule, and every general Rule admits of its Exceptions, and my Case was a particular Exception. I put on the Habit of the House as soon as I did return from *London*, and did not appear as if I had gone out of the House, nor did I know that it was known that I had been out; for I did never appear in the College in a secular Habit.

Whitebread. What his Clothes were, does not change the Place he sat in; he being ancienter than the Boys, had a Privilege to sit in a particular Place, which must be known to all the House at Dinner and Supper. He was visible every Day there.

L. C. J. I do believe it; and therefore he says, not only that he was reported to be there, but that he saw him there almost every Day.

Then another Witness for the Prisoner stood up.

L. C. J. What say you, young Lad?

Doddington. I say, my Lord——

L. C. J. What is your Name?

Doddington. Doddington.

Oates. Pray, my Lord, ask him if he went by that Name at St. *Omers*?

Mr. Just. Pemberton. What was your Name at St. *Omers*?

Doddington. My Name was *Hollis* there.

L. C. J. How old are you?

Doddington. Eighteen Years and an Half.

L. C. J. What can you say? Where was Mr. *Oates*?

Doddington. He never went out of the College, but one Night to *Watton*, till the End of *June*.

L. C. J. When came he into the College?

Doddington. A Fortnight before *Christmas*. I did not mind the Day; he says himself it was the 10th of *December*.

L. C. J. Was he there till *June*?

Doddington. Yes, he never went out till *June* but one Night.

L. C. J. Where was that? At *Watton*?

Doddington. Yes, my Lord.

L. C. J. How do you know that?

Doddington. I only know that by what all the House said.

L. C. J. Did you see him every Day, except that Day?

Doddington. I cannot say I saw him every Day, because he was in the Infirmary once, and he was there that very Day after Mr. *Hilsley* went away.

L. C. J. What Day was it that Mr. *Hilsley* went away?

Doddington. The 24th of *April* New Stile; and that Day he fell sick, and went into the Infirmary the next.

L. C. J. What Day of the Week was that?

Doddington. It was of a *Sunday*.

L. C. J. And when did you see Mr. *Oates*?

Doddington. On *Monday* or *Tuesday*, I am not certain.

L. C. J. How often did you see him from the 24th of *April* to *June*? Did you see him every other Day?

Doddington. Yes, that I am sure of for every other Day, I am not certain every Day.

L. C. J. Are you positive?

Jury. We desire to know what time of the Year he was in the Infirmary.

Doddington. I discoursed with him in the Infirmary two or three Days after Mr. *Hilsley* went away.

L. C. J. But what time of the Year was it?

Doddington. He was there first in Winter, and then afterwards he was in at this Time, which was in *April*.

L. C. J. Have you any more to say?

Doddington. I can say more, that I saw Mr. *Oates* the second of *May*, with one *Blood* or *Burnaby*, and I am sure I saw him in his Company.

L. C. J. Where did you see him?

Doddington. I saw him walking in the Garden with Mr. *Burnaby*.

Mr. Just. Pemberton. When did you come into *England*?

Doddington. I came over the 24th of *April*.

L. C. J. How long have you been in *England*?

Doddington. About two Months.

Mr. Just. Pemberton. Why did you come over? Were you sent for upon this Occasion?

Doddington. No, I was not.

Mr. Just. Pemberton. Why did you come over?

Doddington. I came over partly upon the King's Proclamation.

L. C. J. What Proclamation was that?

L. C. J. North. That those that were in the Seminaries should come over again.

Doddington. And partly because I had not my Health.

Fenwick. Mr. *Gifford*, what do you know about Mr. *Oates*'s coming from St. *Omers*?

L. C. J. When came you from St. *Omers*?

Gifford. I came over about a Month ago.

L. C. J. Upon what Occasion?

Gifford. To justify that Mr. *Oates* was there all the while that he says he was here.

L. C. J. You speak like an honest Man, there is no Hurt in that.

Fenwick. We did send for him over.

L. C. J. When did you see Mr. *Oates* there?

Gifford. I saw him the first of *May* was Twelvemonth with us, and the 21st of *April*.

L. C. J. And how long after that?

Gifford. I was in his Company for a whole Week after, I am sure.

L. C. J. You say the first of *May* he was there, how can you tell?

Gifford. The first of *May* there came one Mr. *Burnaby* to the College, and he fell into Acquaintance with him, and I saw him with him: He was with us an whole Week at least every Day after Dinner: We have an Hour always after Dinner to recreate in, and this Gentleman was there with us, and Mr. *Burnaby*; for Mr. *Oates* seeing us in the Garden at first, put himself into our Company, and kept with us.

L. C. J. Was he not in the Infirmary?

Gifford. Not at that time, my Lord.

L. C. J. When was he in the Infirmary?

Gifford. The Day after *Hilsley* went away.

L. C. J. Do you remember that?

Gifford. Yes, I do.

L. C. J. North. How long did he stay in the Infirmary?

Parry. About three Days.

L. C. J. And for how long together did you see him after Mr. *Hilsley*'s Departure?

Gifford. I can swear that I saw him at least till *June*, if I can believe my own Eyes.

L. C. J. Your Religion does not allow you to believe your own Eyes.

Gifford. I can in my Conscience say, I believe I did see him every Day, or every other Day.

L. C. J. Which do you say, Did you see him every ohter Day or every Day?

Gifford. If I say, I saw him every other Day, that is sufficient.

L. C. J. Do you know that he went out of the College at any time?

Gifford. Yes, he went for one Night.

L. C. J. Whither?

Gifford. To a place called *Watton*.

L. C. J. What did he go thither for?

Gifford. For his Relaxation.

L. C. J. How came you to take such particular notice of him, that he was there?

Gifford. It is impossible but we should see him, and take notice of him, for we Dine all together in one Room, and we could not but take notice of him, for he was at a distinct Table by himself.

L. C. J. How many are there that Dine in one Room?

Gifford. One hundred and fifty.

L. C. J. How could you know him, when there were so many?

Gifford. He was at a distinct Table by himself, between the Boys and the Religious.

Then stood up another, one Palmer.

L. C. J. Well, what do you ask him?

Fenwick. The same Question as the rest.

L. C. J. When came you from St. *Omers*?

Palmer. I came two or three Months ago.

L. C. J. Why did you come over?

Palmer. I had no mind to stay any longer.

L. C. J. Where does your Father live?

Palmer. By *Windsor*.

L. C. J. When did you see Master *Oates*?

Palmer. I saw him the first Day of *May*, New Stile, and I know it for a particular Reason; there were Strangers dined at the College that Day, whereupon Master *Oates*, and several other Boys played at Nine-Pins, in the Afternoon, I saw them.

L. C. J. Why, you do not count all Boys there, do you?

Palmer. All but those that are the Religious.

L. C. J. Why, you did not count Master *Oates* a Boy, did you?

Palmer. He was none of the Religious: He sat indeed at a Table by himself, but he went to School with the Boys, and we called all the Scholars Boys.

L. C. J. How often did you see him?

Palmer. I'll tell your Lordship, I saw him the first of *May*, for that Reason; the second of *May* I saw him with Master *Burnaby*, a Man that he had never seen in all his Life before, and we wondered that he had so much impudence to insinuate himself into his Company.

L. C. J. What is he?

Palmer. He is a Gentleman that is now in *Flanders*.

L. C. J. How do you know that Mr. *Oates* had no Acquaintance with him before?

Palmer. Because I know he was in *England*, and came over while Master *Oates* was actually at St. *Omers*.

L. C. J. But he might be of his Acquaintance in *England*.

Palmer. I heard Master *Burnaby* say, he never saw Master *Oates* in all his life before. The second of *May* I saw him at the Action, the fifth of *May* Master *Killinbeck* went away, and I saw Master *Oates* actually there then, and

and one Maſter *Poole* went away; and I remember *Oates* was there for a particular Reaſon; he was a kind of a weak Man, ſomething ſoft, not over-wiſe, and we were aſking him, why he would go away by himſelf; and talking of it afterwards, ſays Maſter *Oates*, (I will not ſay poſitively thoſe were the Words, but that was the Senſe.) *He does not go alone, for there goes Eſquire* Pool *and Eſquire* Fool *together*. The eleventh Day we had an Action, a Play alſo, whereupon there was a particular place for the Muſicians to play in, where no one elſe was to ſit; Maſter *Oates* would ſit there, and thereupon there was one Maſter *Watſon* quarrell'd with him, and they had like to have fought.

L. C. J. This was the 11th of *May?*

Palmer. Yes, my Lord, New-Stile, and the other was the 5th.

L. C. J. But you ſaw him betwixt that Time?

Palmer. Yes, my Lord, I did.

L. C. J. And ſo for how long?

Palmer. I ſaw him at four o'clock in a Morning, reading Father *Worſley*'s Controverſies, and ſo for ſeveral Days together.

Fenwick. Did he go away before *June?*

Palmer. No, he did never ſtir till *June*.

Sir *Cr. Levinz.* Did not you go ſometime by the Name of *Sanders* or *Hill?*

Palmer. No, only by the Name of *Thomas Palmer*.

Sir *Cr. Levinz.* Hark you, Sir, who maintained you at St. *Omers?* Do not you know one Mr. *Caryl?*

Palmer. No, my Father maintained me.

L. C. J. Who is your Father?

Palmer. Sir *Philip Palmer*.

L. C. J. What Country Gentleman is he?

Palmer. Buckinghamſhire.

Mr. Juſt. *Pemberton.* He is Cup-bearer to the King.

Then ſtood up one Maſter Cox.

L. C. J. How long have you been from Saint *Omers?*

Cox. Two Months.

L. C. J. What Country-man are you?

Cox. I was born at *Bruſſels*, to ſerve you.

L. C. J. Do you know Maſter *Oates?*

Cox. Yes, I did, very well.

L. C. J. Where?

Cox. At St. *Omers*.

L. C. J. When?

Cox. I left St. *Omers* Seven Months ago, and I came away in the Month of *November*, after Maſter *Oates*. My Lord, I can prove that he was there in *April* and *May*. I went from St. *Omers* to *Bruſſels*, and from *Bruſſels* I came ſtraight to *London*.

L. C. J. But when did you ſee Maſter *Oates* there?

Cox. I can prove I ſaw him at St. *Omers*, when he ſays he was in *England*, and that by this Circumſtance; Maſter *Pool*, who was my Muſick-Maſter, was ſick there, and Maſter *Oates* was often with him.

L. C. J. Were you there all the Time he was there?

Cox. Yes I was, till he went away.

L. C. J. When did he go away?

Cox. Maſter *Oates* went away in the Month of *July*.

L. C. J. Are you ſure of that?

Cox. Yes, my Lord, I am.

L. C. J. Not in *June?*

Cox. No, my Lord, *July*.

L. C. J. Why, he differs from all the reſt.

Cox. My Lord, I can prove he was at St. *Omers* when he ſays he was in *England*.

L. C. J. Why, what Month did he go away?

Cox. My Lord, I can prove that Mr. *Oates* was never abſent from St. *Omers*, till he went away for good and all.

L. C. J. When was that?

Cox. He went after the Conſult of the Jeſuits, which he ſays was in *England* in *April*.

L. C. J. Come, come, anſwer me plainly, if you can, in what Month Mr. *Oates* left St. *Omers?*

Cox. I ſay, Mr. *Oates* was never abſent from St. *Omers*, till the Conſult of the Jeſuits was over, which he hath confeſſed himſelf to be at.

L. C. J. When was that?

Cox. Why, it was after *May*, 'tis no matter what the Month was, whether *June* or *July*. *(At which the People laughed.)*

Cox. What do you laugh at, Sirs? Why, ſuppoſe I miſtake the Month, it is no matter.

L. C. J. Look you, we are now upon a Queſtion of Time, and you cannot tell that a Man is there at a certain Time, unleſs you can prove the certain Time when he came away.

Cox. I can prove, that he was there till after the Conſult of the Jeſuits. *(And then the People laughed again.)*

L. C. J. Ay, I believe you there, 'tis enough for you, but you have done a very great Prejudice to thoſe Perſons that you came for, for you come to prove the Concluſion, but do not take notice of what Mediums you are to uſe. Say you, if I can but prove that he was there till after the Conſult of the Jeſuits, that is the Thing in Queſtion, and I need no more; but this is ſerving a Turn only: Pray can you tell me what Month he came to St. *Omers?*

Cox. Yes, he came thither in the Month of *December*.

L. C. J. And when did he go away again?

Cox. He was never abſent from St. *Omers*, out of the View of the Scholars except one Night, that he went to *Watton*, and one Day, when he was in the Infirmary, but even at that Time he was ſeen by ſome of the Scholars.

L. C. J. Yet you cannot tell the Time that he went away?

Cox. He was never abſent all the while.

Mr. Juſt. *Windham.* Do you know when the Conſult of the Jeſuits was? upon what Day?

Cox. He ſays he went away with Mr. *Hilſley*; but he did not, I can prove the contrary.

L. C. J. No, no, he ſays he followed him, and overtook him at *Calais*.

Cox. That is falſe, and I can prove it by this Circumſtance: One Mr. *Conqueſt* was to go for *England* that Day, and he came into the Refectory, and told us a Story of this Mr. *Conqueſt*'s being unwilling to riſe in the Morning to go for *England*.

L. C. J. When did he tell that Story?

Cox. That Day that he was to go for *England*.

L. C. J. How long was that after Mr. *Hilſley* went away?

Cox. The Day after.

Gavan. When was the Time that Mr *Conqueſt* went for *England?*

Cox. In the Month of *May*, as we count.

L. C. J. What time in the Month of *May?*

Cox. It was the 5th: And he ſays that Mr. *Pool* and Mr. *Nevil* were in *England* with him; but I can teſtify that they were not abſent, for one of them was my Muſick-maſter.

L. C. J. Was he there all *May?*

Cox. Yes, that I can teſtify upon my Oath.

L. C. J. And all *June?*

Cox. Yes, my Lord; but if I prove he was not in *May* in *England* it is ſufficient.

L. C. J. Upon my word, you deſerve a ſharp Penance, for running into that Fault two or three times: You have done them no Kindneſs in this matter.

Gavan. If your Lordſhip will take Advantage of every Circumſtance, young Men may not remember the particular Day of his going away.

L. C. J. But you hear how he delivers his Evidence, 'tis as if he had been inſtructed, You muſt come and prove that *Oates* was not in *England* in *April* and *May*, and that will do our Buſineſs; for he tells you, it is ſufficient; but we will have it proved to ſatisfy us.

Cox. But why ſhould I ſay more than I know?

L. C. J. You mean more than you are inſtructed about. I only aſk you one ſhort Queſtion, Do you know when Mr. *Oates* left St. *Omers?* Name the Month.

Gavan. If you don't remember the Time, ſay ſo.

Cox. My Lord, I cannot remember it.

L. C. J. Then call another. *Who ſtood up.*

Oates. My Lord, I deſire they may be examined apart.

L. C. J. You need not trouble yourſelf about that. *What is your Name?*

Billing. My Name is *Thomas Billing*.

L. C. J. When came you from St. *Omers?*

Billing. I came three Months ago, I think, my Lord.

L. C. J. Do you know Mr. *Oates?*

Billing. Yes, my Lord, very well.

L. C. J. When did you ſee him at St. *Omers?*

Billing. My Lord, I ſaw him when he came, the ſame Day, or the Day after.

L. C. J. When was that?

Billing. In *December*, my Lord, the 10th of *December*.

L. C. J. And he ſtaid there how long?

Billing. Till the latter end of *June*.

L. C. J. Was he never abſent?

Billing. I can very well remember that he went to *Watton* in the *Chriſtmas*. I was then in the Infirmary myſelf, and he and his Companion came in there to ſee us, and ſaid he had been at *Watton*.

L. C. J. But he was twice in the Infirmary, was he not?

Billing. Yes, my Lord.

L. C. J. When was the ſecond time?

Billing. The ſecond time was in *April*, I went in the Week before *Chriſtmas*: On St. *Thomas* of *Canterbury*'s Day I came out again.

L. C. J. But you ſay the ſecond time was in *April?*

Billing. Yes.

L. C. J. How long was he there then?

Billing. Truly I was not with him then, but I think three or four Days.

L. C. J. Were you in the College then?

Billing. Yes, my Lord, I was.

L. C. J. Did you ſee him in the College from Time to Time?

Billing. Yes, I did.

L. C. J. How long?

Billing. For all the Time that he ſtaid.

L. C. J. How long was that?

Billing. That was from *December*, till the latter end of *June*.

L. C. J. Was he there all *May?*

Billing. Yes, my Lord. He ſays he was eight Days in *England*, but he could not be ſo, for he entered himſelf into the Sodality the 25th of *March*, and not long after his Admiſſion, he was put to read every *Sunday* morning at Six o'clock. And after that he began once to read, he never was abſent from that Time till the Time he went away.

L. C. J. Why, did he read when he was ſick?

Billing. He was not ſick upon the *Sunday*.

L. C. J. You ſay he was ſick in *April?*

Billing. Yes, my Lord.

L. C. J. But he was not ſick of a *Sunday*, in *April?*

Billing. He was only a little indiſpoſed, and frequented the Infirmary in the Day-time for a matter of three or four Days.

L. C. J. Did he read at the time he was ſick in the Infirmary?

Billing. He was not ſick a whole Week.

L. C. J. Did it reach to a *Sunday?*

Billing. No, my Lord, that I remember.

L. C. J. How long did he continue there?

Billing. Till towards the latter end of *June*.

L. C. J. Did you ſee him once in two or three Days?

Billing. Yes, my Lord, I did, conſtantly. And upon the 2d of *May*, I very particularly remember, looking out into the Garden, I ſaw Mr. *Blunt* walking in the Garden, and Mr. *Oates* with him: And obſerving him to be very intimately familiar with him, I aſked ſome that were with me, Does this *Sampſon*, for he went by that Name in the College, ſays I, does *Sampſon* know *Dick Blunt?* No, ſaid they; and he wondred at his Confidence, having no greater Acquaintance; I ſaw him that Day, walking in the Garden with that *Blunt*.

L. C. J. That was the 2d of *May?*

Billing. Yes, my Lord.

L. C. J. And he was conſtantly in this Gentleman's Company that Day?

Billing. Yes; and moreover the ſame Day this *Sampſon* was walking with one *John Ruſhton* in the Garden, and ſeeing me walk alone, *Thomas*, ſays he, have you never a Companion? No, *Sampſon*, ſaid I: Well, ſaid he, pr'ythee come to us. So I was with him walking a little while, and then this *Blunt* and one *Henry Howard* were playing one with another, throwing Stones at one another's Shins. At which he was diſpleaſed, and ſaid, if they would not be quiet, he would go and tell the Rector. *Howard* was haſty, and ſpoke angrily to him, and ſaid, if he would not be quiet, he would beat him: But Mr. *Oates* perſiſting, and daring of him, ſays he, What do you dare me? and comes up to him, and throws up

up Mr. *Oates* his Heels. With that Mr. *Oates* look'd very fretfully upon him, and withdrew himſelf into the Infirmary, as we thought, to ſpeak to the Rector. And by theſe Particulars, and ſuch as theſe, I remember to have ſeen him every Day, one Day with another, or every other Day, at St. *Omers*, till he went away, which was in *June*.

Then ſtood up another, one Townley.

L. C. J. Come, Mr. *Townley*, do you know Mr *Oates*?
Townley. Yes, my Lord.
L. C. J. When came you from St. *Omers*?
Townley. I came a Week before *Eaſter*.
L. C. J. When ſaw you this ſame Mr. *Oates* at St. *Omers*?
Townley. I ſaw him in *June*.
L. C. J. When elſe?
Townley. In *May*.
L. C. J. When elſe?
Townley. In *April*.
L. C. J. Was he there in all *April*, all *May*, and all *June*?
Townley. No, not all *June*. He went away, as I take it, about the 10th of *June*.
L. C. J. Pray, how often did you ſee him? Did you ſee him every Day?
Townley. I converſed with him every Day. He was partly a Scholar, and partly a Father; and ſat at a Table by himſelf. He went to School as a Scholar; 'tis true, indeed, he did not learn, as the reſt of the Boys did, but he went to School, as the Boys did, and was at a Table from the Fathers, as the Boys were, but apart and alone.
L. C. J. But how often did you ſee him? was it every other Day?
Townley. Yes, I believe I did.
L. C. J. What, for all *April*, and all *May*?
Townley. Yes.
L. C. J. How came you to take ſuch particular Notice of it, that you can ſay, you ſaw him every other Day?
Townley. If I conſtantly dine with one, or if he be at a ſingle Table alone, he cannot be abſent, but I muſt take notice of it: And he was neither as a Father nor as a Scholar, but betwixt both, and therefore the more to be taken notice of.
L. C. J. This then you ſay, He ſitting by himſelf, and being diſtinct from all the others, you might more eaſily obſerve his Abſence, than any other's. This is that you ſay?
Townley. Yes, my Lord.
L. C. J. You ſay well. Call another.

Then ſtood up one Fall.

L. C. J. When came you from St. *Omers*?
Fall. About Two Months ago.
L. C. J. When did you ſee Mr. *Oates*?
Fall. I ſaw him when I was in my Syntax, and now I am in Poetry.
L. C. J. What Month did you ſee him in?
Fall. When he came firſt, as I remember, it was at *Chriſtmas*.
L. C. J. *Chriſtmas* laſt?
Fall. No, it was *Chriſtmas* was Twelve-month, *Chriſtmas* 1677.
L. C. J. How long did you ſee him there?
Fall. I ſaw him there from that time till *June*, only when he was at *Watton*.
L. C. J. Was he never ſick?
Fall. I ſaw him in the Infirmary my ſelf.
L. C. J. How can you tell when a Man is ſick?
Fall. I do not pretend to that, but he was in the Infirmary as a ſick Man.
L. C. J. How came you to take particular notice of it?
Fall. I took no particular notice, but I have recollected my Memory.
L. C. J. Upon what Occaſion?
Fall. Upon this Occaſion.
L. C. J. How often did you ſee him?
Fall. I ſaw him every Day.
L. C. J. How long have you been in the Convent?
Fall. My Lord, I have been there two Years and a half.

Then ſtood up John Hall.

L. C. J. When came you from St. *Omers*?
Hall. In *July*, my Lord.
L. C. J. How long have you been there?
Hall. Seven Years, and upwards.
L. C. J. How long is it ſince you came from thence?
Hall. In *July*, in the Year 1678.
L. C. J. And did you ſee Mr. *Oates* there then?
Hall. No, my Lord.
L. C. J. When did you ſee him there, then?
Hall. I ſaw him there in *April*, *May*, and *June*.
L. C. J. What, all *June*?
Hall. No, my Lord.
L. C. J. How long in *June*?
Hall. He went away about the 23d of *June*.
L. C. J. How came you to take ſuch particular notice Mr. *Oates* was there all this while?
Hall. I was a Servant there.
L. C. J. In what Way?
Hall. A Refectorian, a Butler.
L. C. J. Did you keep Books of what Meat and Drink they had?
Hall. No; I laid their Table, drew their Beer, and laid the Bread.
L. C. J. And did you ſerve Mr. *Oates* with Bread and Beer every Day?
Hall. Yes, my Lord, moſt Days.
L. C. J. Did you ſerve the Infirmary?
Hall. No, my Lord.
L. C. J. But you ſay you ſerved him every Day?
Hall. Yes, my Lord, the moſt of the Time he remained there; I acknowledge he was in the Infirmary.
L. C. J. How long?
Hall. Four or five Days, or thereabouts.
L. C. J. Was he in the College in *April*?
Hall. Yes, my Lord, all along.
L. C. J. And all *May*?
Hall. Yes, my Lord, I ſaw him all *May*, I laid his Table near the Door, at a particular Place where he always ſat.
Jury. My Lord, we deſire to know what Employment he is of now?
L. C. J. *Hall*, what made you come into *England*?
Hall. My Lord, I had not my Health there.
L. C. J. How long had you lived there?
Hall. Seven Years, and upwards.
L. C. J. And when began you to be ſick?
Hall. I had not my Health at *Chriſtmas*, in *December* 1677.
L. C. J. What Employment have you here, for you had a good Place there?
Hall. I live at home, with my Father and my Friends.
L. C. J. What is your Father, where lives he?
Hall. He is a Gentleman; he lives in *Radnorſhire*.
L. C. J. When came you to *London*?
Hall. I came to *England* in *July* 1678.
L. C. J. But you ſay that your Father is in *Radnorſhire*, when came you here to *London*?
Hall. I have been here about a Month. I was ſummoned up as a Witneſs.

Then one Dalliſon *was called, who did not appear; and one* Mauſhel *appearing, but ſpeaking* French, *and no* Engliſh, *and an Interpreter not being ready, he was for the preſent, by the Conſent of the Priſoners, ſet aſide. And then ſtood up one* Cooke.

L. C. J. When came you from St. *Omers*?
Cooke. In *January* laſt.
L. C. J. And where have you been ever ſince?
Cooke. Here in Town, my Lord.
L. C. J. Does your Father live here in Town?
Cooke. No, my Lord.
L. C. J. Do your Friends live here?
Cooke. No, my Lord.
L. C. J. You came over upon this Occaſion, did you?
Cooke. Yes, my Lord.
L. C. J. When did you ſee Mr. *Oates* there?
Cooke. I ſaw him in laſt *June*.
L. C. J. And was he there in *July*?
Cooke. No, my Lord.
L. C. J. What time did he go away?
Cooke. The 23d, the Eve of the Feaſt of St. *John Baptiſt*.
L. C. J. How do you know?
Cooke. I made him ſome Clothes.
L. C. J. Are you a Taylor?
Cooke. Yes.
L. C. J. How often did you ſee him?
Cooke. Every Day.
L. C. J. How came he to keep you Company?
Cooke. I could not chooſe but ſee him, ſometimes I ſaw him twenty times a Day.
L. C. J. Where was he in *April*?
Cooke. He was there all *April*.
L. C. J. He might be abſent one Day, or ſo, and you ſee him not?
Cooke. He uſed to come twice a Week to my Shop for things.
L. C. J. Was he there all *May*?
Cooke. Yes.
L. C. J. You ſay you ſaw him every other Day?
Cooke. Yes, my Lord.
Sir *Cr. Levinz.* Why, Sir, there are 150 Scholars there, how can you tell he was there ſo well?
Mr. Juſt. *Pemberton.* Can you tell every one that was there all that time?
Cooke. No, I can't tell every one that was there, but he was particular enough.
L. C. J. Did you live in Town as a Taylor, or in the College?
Cooke. In the College.
Mr. *Belwood.* Was Mr. *Oates* at *Watton* any part of the time?
Cooke. Yes, he was.
Mr. *Belwood.* What Day? what Month?
Cooke. I cannot juſtly ſay the Day, but it was in *April*.
L. C. J. How long was he abſent?
Cooke. Only one Night, as it ſhall pleaſe you.
Mr. Juſt. *Pemberton.* Hark you, how came you to take notice that he was at *Watton* one Night?
Cooke. It was talked of among all the Scholars.
L. C. J. How can you remember what was ſaid a Year ago of one Man?
Cooke. It was reported all over the Houſe.
Gavan. In one Place of his Narrative, he ſays he came over with Sir *John Warner* and Sir *Thomas Preſton*.
L. C. J. North. That is nothing to the Purpoſe. If you can contradict him in any thing that hath been ſworn here, do.
Gavan. If we can prove him a Perjured Man at any time, we do our buſineſs.
L. C. J. You ſhould have proved him a Perjured Man before. How can we prove one Cauſe in another? and then too he had been provided to make his Defence. Can he come prepared to make good every thing that he hath ſaid in his Life?
Oates. Can I come to make good my Evidence againſt all I have done in my Life?
L. C. J. Look you, if ſo be he hath forſworn himſelf in any former Trial, if that would appear, you have all the Reaſon to make uſe of it; but you have not taken the right way, you ſhould have indicted him and tried him for Perjury in the former Trial, and then he could not have been heard at all in this.
Whitebread. We were all Priſoners cloſe ſhut up.
L. C. J. We know you have a Party ſtrong enough, and willing enough to convict him of Perjury, if they could; but look you, Gentlemen, here is the thing, if you can give ſuch Evidence as will ſatisfy the Jury that he was abſent all *April* and all *May*, you have ſaid a great thing. His Evidence will be quite contradicted.
Whitebread. He ſays he came over with Sir *Thomas Preſton* and Sir *John Warner*, and others.
L. C. J. He ſays nothing of it now.
Oates. May it pleaſe you, my Lord, I will anſwer it, if you pleaſe.
L. C. J. They deſire to know who came over with you when you came over in *April*.
Oates. I will tell you, and to convince the Court, that in neither of the Trials I did contradict my ſelf, I ſay, I did name ſome Perſons at one time that I did not name at another, becauſe ſome Mens Names did occur to my mind at one time than did at another. There came over with me the Rector of *Liege*, Sir *John Warner*, Father *Williams*, Father *March*, Father *Warner*, Sir *Thomas Preſton*, and others.

L. C. J. This is dealing plainly with you.

Then ſtood up one Bartlett.

L. C. J. What Countryman are you?
Bartlett. I am a *Dutchman.*
L. C. J. Can you ſpeak *Engliſh?*
Bartlett. Yes, a little.
L. C. J. When came you from St. *Omers?*
Bartlett. I came from St. *Omers* the 23d of *May*, in the Year 1678, New Stile.
Gavan. My Lord, this Man is come over to teſtify, that *Oates* is perjured in a Circumſtance about Sir *John Warner.*
L. C. J. He is to contradict Mr. *Oates*'s Teſtimony, for he ſays he came over with Sir *John Warner*, and you ſay Sir *John* did not come at that time.
Gavan. Yes.
L. C. J. Well, when did Sir *John Warner* come over from St. *Omers?*
Bartlett. Whither?
L. C. J. Into *England.*
Bartlett. Sir *John Warner* hath not been in *England* all *May*, and all the Month of *April.*
L. C. J. Where was he?
Bartlett. He was at *Watton.* I did ſee him there.
L. C. J. Were you there all that time?
Bartlett. Yes, I was.
L. C. J. North. Were you there all *May?*
Bartlett. Yes, I was.
L. C. J. When did you come over into *England* laſt?
Bartlett. The 23d of *May.*
L. C. J. How long have you been in *England?*
Bartlett. About five or ſix Weeks.
L. C. J. What is your Name?
Bartlett. My Name is *Bartlett.*
L. C. J. But you ſay that you came over the 23d of *May.*
Bartlett. I did not come over till the latter end of *June.*
L. C. J. Juſt now you ſaid, you came over the 23d of *May.*
Bartlett. No, my Lord, I thought you had aſked the Queſtion when Mr. *Oates* came over.
Mr. Juſt. Pemberton. He ſays ſo, as your Lordſhip ſays before.
L. C. J. How do you know when Mr. *Oates* came over?
Bartlett. I heard ſo beyond Sea.

Then one Carlier, *a Foreigner, appearing, and not being able to ſpeak* Engliſh, *Mr.* Tiſſer *the Under-Sheriff of* Middleſex *was ſworn truly to interpret his Teſtimony.*

L. C. J. Mr. *Tiſſer*, you are only to tell us what he ſays: Aſk him when he came into *England* laſt.
Tiſſer. He ſays, my Lord, it was between ſeven and eight Weeks ago.
L. C. J. Ask him if he knows where Sir *John Warner* was, laſt Summer was a Year ago.
Tiſſer. He ſays, my Lord, he was in *Watton* for two Years laſt paſt.
L. C. J. Ask him where he was all *April* was Twelvemonth, and all *May.*
Tiſſer. My Lord, he ſays, that the laſt *Sunday* in *April* Sir *John Warner* was at his Houſe at *Watton.*
L. C. J. And where was he all *May?*
Tiſſer. In the ſame Houſe.
L. C. J. Ask him how he does know.
Tiſſer. My Lord, he ſaith, that he was a Gardner there.
L. C. J. It ſeems he ſays to the ſame effect as the laſt Witneſs did. Call another. *Who did ſtand up.*
L. C. J. What is this Man's Name?
Gavan. His Name is *Charles Verron.*
L. C. J. Does he ſpeak any *Engliſh?*
Gavan. No, he does not.
L. C. J. Then, Mr. *Tiſſer*, aſk him if he knows Sir *John Warner*, and where he was *April* and *May* was Twelvemonth.
Tiſſer. He ſays, my Lord, that he was at *Watton* all *April* and *May*, and continued there till *September.*
L. C. J. Pray ask this Man what Quality he is of there.
Tiſſer. He goes along with a Veſſel between St. *Omers* and *Watton*, and that he knows it to be true.
L. C. J. Ask him if he did ſee him every Day.
Tiſſer. He ſays, generally, my Lord, daily.
L. C. J. Ask him what Religion he is of.
Tiſſer. He ſays he is of the *Roman* Religion.

Then ſtood up one Baillee.

L. C. J. Ask him, Mr. *Tiſſer*, if he knows Sir *John Warner*; and where he was all *April* and *May* was Twelvemonth.
Tiſſer. He ſays the ſame, that he was at *Watton* all *April* and *May.*
L. C. J. Ask him how he can tell.
Tiſſer. He ſays he is a Servant of the Houſe.
L. C. J. And did he ſee him there daily?
Tiſſer. My Lord, he ſays that he gave him Directions to make a Baſtyment, that he is a Maſon, and that he did give him Directions daily about it, and that he ſaw him every Day.
L. C. J. Look you, Gentlemen of the Jury, he ſpeaks to the ſame purpoſe that the three Witneſſes before ſpoke to; he ſays he is a Maſon, and that he built a Baſtyment there by Direction from Sir *John Warner*, and that Sir *John Warner* came daily to give Directions about it.

Then ſtood up John Joſeph.

L. C. J. Do you know Sir *Thomas Preſton?*
Joſeph. Yes, my Lord.
L. C. J. When did you ſee him?
Joſeph. In the Months of *April*, *May*, and *June.*
L. C. J. Where was he then?
Joſeph. He was at the *Engliſh* Houſe at *Liege.*
L. C. J. Did you ſee him there? How often did you ſee him there?
Joſeph. I ſaw him there every Day almoſt.
L. C. J. What occaſion had you to ſee him? What were you there?
Joſeph. I was Porter of the Gate.
L. C. J. And did you ſee him all the Month of *April?*
Joſeph. Every Day, moſt commonly.
L. C. J. Did you ſee him once in a Day or two?
Joſeph. I did ſee him in *April*, *May*, and *June.*
L. C. J. That you might do; but did you ſee him every Day?
Joſeph. Every Day, moſt commonly, I cannot abſolutely ſay, but two or three Days in a Week.
Sir Cr. Levinz. Pray do you know of any time that Sir *Thomas Preſton* was abſent from *Liege?*
Joſeph. He was in the Time of Vacancy.
Sir Cr. Levinz. Was he not abſent in *April* or *May?*
Joſeph. No, my Lord.
L. C. J. When are the Vacancies?
Joſeph. In *Auguſt*, my Lord.

Then ſtood up one Peter Carpenteer.

L. C. J. Do you know Sir *Tho. Preſton?*
Carpenteer. Yes, my Lord, very well.
L. C. J. Where did you know him?
Carpenteer. I knew him at *Liege.*
L. C. J. How often did you ſee him there in *April* and *May?*
Carpenteer. Every Day I ſaw him there; all *April* and *May.*
L. C. J. What Office had you there?
Carpenteir. I was Caterer.
Gavan. My Lord, we have no more Witneſſes as to this Point. But; my Lord, my Caſe is different from the others: Mr. *Oates* ſays he did not ſee me in the Congregation, but he ſays, he afterwards ſaw my Hand to the Conſult: Now, my Lord, I have a Witneſs to prove that I was at that time at *Wolverhampton* in *Staffordſhire.* No body hath a Right to ſit in the Congregation till he become a profeſſed Jeſuit, which at that time I was not.
L. C. J. He does not charge you to have been there, tho' he ſays he ſaw your Hand to it.
Gavan. My Lord, I was then in the Country.
L. C. J. North. That will do you ſome, and yet but little Service, if you can prove yourſelf at *Wolverhampton* at that time; but call your Witneſſes.
L. C. J. Mr. *Gavan*, he ſays he ſaw a Letter of yours, giving an Account how Affairs ſtood in *Staffordſhire* and *Shropſhire*, and that afterwards in *July*, and before that Gentleman, Mr. *Aſhby*, went to the *Bath*, he heard you diſcourſe of the ſame Matter: And though he cannot charge his Memory to ſay he ſaw you the 24th of *April*, yet, ſays he, I did ſee his Hand to the Conſult; and being asked how he knew your Hand, he ſays he knew it by your writing a Bill of Exchange in his Preſence.
Gavan. I could not ſign the Conſult at *London*, and not be at *London.*
L. C. J. North. I believe in ſuch a Buſineſs you care not how many Hands you have; but we will not prevent you calling your Witneſſes: You are upon your Life, don't ſpend the Time, call them quickly.
L. C. J. What do you call them to prove?
Gavan. To prove that I was at *Wolverhampton* the 24th and 25th of *April.*
L. C. J. Pray hear what he ſays himſelf. You ſay, Sir, you ſaw his Hand to the Conſult that was in *April*; pray, when was it that you ſaw it?
Oates. It was in *June* or *July.*
L. C. J. North. You might ſet your Hand afterwards to it, if you were not there then.
L. C. J. You ſay you were then in *Staffordſhire*, and might not you ſet your Hand afterwards when you came to Town? I will tell you, Mr. *Gavan*, in *April* they met, and had ſuch a Reſolution; you were then in *Staffordſhire*; might not you come to Town in *July* following, and ſet your Hand to what was agreed in *April* before? And you cannot contradict him, but by ſhewing that all *June* and *July* you were not here: For if you prove your ſelf never ſo much to have been at *Wolverhampton* in *April*, that will not ſerve the Turn. You ſeem to make a very great Defence of this: All that Mr. *Oates* ſays is, that the 24th of *April* he was preſent where there was a Conſult had about the Death of the King, and divers Perſons ſet their Hands to the Reſolve. Mr. *Gavan* afterwards was in Town, and then, ſays he, I ſaw his Hand ſet to the Conſult: I will not charge my Memory to ſay he was preſent, but I will tell you why I believe it was his Hand, becauſe I ſaw him draw a Bill of Exchange, and that was juſt like the ſame Hand.
Gavan. Ay, but, my Lord, I was not here in *April.*
L. C. J. But this proves, in effect, that you ſet your Hand to the thing afterwards. And now if you ſhall prove yourſelf never ſo plainly not to have been there in *April*, you do not come to the thing: it is ſtill a *Non liquet*, whether you were here *July*, or no. And Mr. *Oates* does not poſitively charge you as to *April.* Well, call your Witneſſes, and prove what you will.

Catharine Winford *was called, and appeared.*

Gavan. I deſire you would be pleaſed to aſk her, where I was the 23d of *July?*
Winford. My Lord, I am very ſure he was a Sojourner at our Houſe the moſt part of the Summer, in *June* and *July* both: In *July* the 23d he went away from my Houſe, and took another Lodging more convenient for that which he had to do.
L. C. J. Where? in what Town was this?
Winford. At *Wolverhampton* in *Staffordſhire.*
L. C. J. Was he never away from you all that Time?
Winford. No; and then he went to another Lodging in the Town.
L. C. J. Do you ſay that he ſojourned with you all *June* and *July* till the 23d?
Winford. He ſojourned with me longer; but I only name thoſe Months, becauſe they are only in Queſtion.
L. C. J. Where did he go when he went from you?
Winford. He took another Lodging in the Town.
L. C. J. And did you ſee him then?
Winford. I ſaw him then every Day, or every other Day.
L. C. J. Are you a *Roman* Catholick?
Winford. Yes, my Lord, I am ſo.
L. C. J. Call another.
Gavan. Call *Mary Poole.* [*Who ſtood up.*]
L. C. J. Do you know Mr. *Gavan?*
Poole. Yes, my Lord.
L. C. J. How long have you known him?
Poole. This Six or Seven Years.
L. C. J. Pray do you know where he was this time Twelvemonth?
Poole. He was at Mrs. *Winford*'s Houſe at *Wolverhampton.*

L. C. J.

L. C. J. How do you know?
Poole. I was a Servant there in the Houſe.
L. C. J. And where was he in *April?*
Poole. He was at my Miſtreſs's Houſe.
L. C. J. And where was he in *May?*
Poole. My Lord, I believe he was there.
L. C. J. And why do you believe he was there?
Poole. Becauſe I don't remember his going forth, till the latter end of *July*, and he was there in *June* too.

L. C. J. You anſwer readily, as to *June* and *July*, why did you ſtick at the Month of *May*, more than the other Months? for you know, when I aſked you where he was in *April*, then you ſaid he was at home; why do you doubt whether he was there in *May*, or no? pray tell us why it is not as certain to you that he was not there in *May*, as that he was there in *June*. Why do you doubt more of it?

Poole. I do not doubt but that he was there.

L. C. J. But why did you not anſwer then as readily to the one, as to the other?

Poole. My Lord, any one may miſtake.

L. C. J. This you were not prepared for, and it was a Queſtion you did not come ready to anſwer: Are you a *Roman* Catholick?

Poole. Yes, my Lord. [*Here the People laugh'd.*]

L. C. J. Look you, you muſt know there is no other Uſe to be made of it, but only to ſhew, that Proteſtants are ſo averſe to Popery in *England*, that they will not endure a *Roman* Catholick in *England*: But they are good Evidence, and competent Witneſſes, I muſt tell you that, and no Man muſt deny it; for tho' you deny Heaven to us, yet we will not deny Heaven to you, nor Witneſſes; tho' you ſay Hereticks will be damn'd, yet we hope they will never, while they do not follow your Practices. [*At which the People gave a great Shout.*]

L. C. J. You muſt pardon the People's Shouting; for you have turned their Hearts ſo, that there is no Living for a Papiſt in *England*, I will maintain it. [*And then the People ſhouted again.*] You ſhall have all the Juſtice that can be, and all the Favour the Law will allow.

Gavan. If there be but a Place for us in Heaven, I am contented: My Lord, I deſire you will be pleaſed to aſk this Mrs. *Catharine Winford*, whether ſhe does not remember that I came from my Lord *Aſton*'s the *Monday* before.

L. C. J. Mrs. *Winford*, what ſay you? do you remember any Paſſages about the Time he left your Houſe?

Winford. My Lord, I did not know directly and poſitively what I ſhould come to anſwer, and therefore I cannot recollect myſelf.

L. C. J. Do you know that he went to any Gentleman's Houſe ſome time before he left your Houſe?

Winford. Yes, my Lord, he went often abroad.

L. C. J. To whoſe?

Winford. To my Lord *Aſton*'s.

L. C. J. How long before?

Winford. I cannot tell.

L. C. J. How long did he ſtay at my Lord's? Did he ever ſtay Five or Six Days?

Winford. I cannot tell.

L. C. J. My Meaning is this, in plain *Engliſh*, to aſk you plainly, and you ought in Conſcience to ſpeak the Truth as much as if you were upon your Oath; for you are in the Preſence of God, who will judge you as ſeverely for a Falſhood in this Caſe, as in the other: I would aſk you whether he could not poſſibly be abſent, and make a Step to *London*, and you be never the wiſer?

Winford. My Lord, I am as confident as I can be of any thing in the World, of the contrary.

L. C. J. Might not he be in *London* the latter end of *June* or *July*, and you not know it, when he pretended to go to my Lord *Aſton*'s?

Winford. I do not know, but I am very confident he did not.

L. C. J. But was he abſent long enough to have done it? Can you charge your Memory with that?

Winford. It was poſſible it might be ſo, but I am confident it was not, becauſe I uſed to order my Maid to get him his Linen ready upon any Journey, and he had none now.

Oates. My Lord, he took a Chamber to go into the Exerciſe; now, my Lord, he taking a Chamber on purpoſe for this very thing, he might pretend that, and come to *London* the while, and they not know it, becauſe he was ſhut up; for none are to come at them.

Winford. My Lord, I know not any ſuch Thing of him; but this is a Rule amongſt them, that when they are ſo ſhut up, if there be a neceſſary Occaſion to come to them about any particular Buſineſs, as ſending them Linen, or ſo, they have Admittance to them.

L. C. J. Were you employ'd upon any ſuch extraordinary Matter?

Winford. My Lord, I uſed to go and ſee him, and carry him his Linen.

L. C. J. And can you charge your Memory with that?

Winford. Yes, my Lord, I can.

L. C. J. When? the latter end of *July?*

Winford. Yes, my Lord, I often went to ſee him then, when he was gone from my Houſe.

L. C. J. Where was he for all the former part of *July*, till thoſe eight Days?

Winford. He was at my own Houſe.

L. C. J. When went he firſt into this recluſe Way?

Winford. He went from my Houſe the 23d of *July?*

L. C. J. Was he not cloſe, when he was with you?

Winford. No, my Lord.

L. C. J. And the laſt eight Days you had Acceſs to him?

Winford. Yes, I had.

L. C. J. I aſk you, Are theſe People ſhut up at a certain Time, and there is no coming to them, upon any Occaſion?

Winford. My Lord, moſt of thoſe Days I did ſee him, indeed he was ſhut up, but upon any kind of Buſineſs, as the carrying of Linen, and ſometimes a pair of Gloves, and other Things of his own, or ſometimes to ſpeak with him about Buſineſs, we were admitted.

L. C. J. I ſee your Confinements are not ſo great as you would make them to be, or he would have us think: I aſk you once more, wheher you can ſay, that during the Months of *June* and *July* it was not poſſible for him to make a Step to *London*, and you never the wiſer?

Winford. I am very confident he did not; he was not abſent long enough to do it.

Sir Cr. Levinz. You ſaid juſt now, you could not ſay poſitively, but he might be abſent for five or ſix Days.

Winford. I do not believe he did; for he had no Linen with him; which he uſed to have, when he went to *London*.

L. C. J. But, ſuppoſing he had no Linen, might he not go to *London*, and you not know it?

Winford. I can't tell whether he was abſent, or no, long enough to do it.

Gavan. Pray, my Lord, let me ſpeak; as I live, an innocent Man will be loſt elſe. He ſays expreſly, I was in Town in *July*; and gives this Argument for it, That Mr. *Aſhby* was in Town, and he met me with him.

L. C. J. No, no; Mr. *Oates* was not ſo poſitive: He ſays, it was either in *June* or *July*; but he rather thinks it was *July*. But, Miſtreſs, might not he, in the beginning of *July*, be abſent ſo long, as a Man might go to *London*, and return again; in the firſt three Weeks of *July*, I mean?

Winford. My Lord, I cannot charge my Memory, becauſe I did not know what I ſhould be aſked, and ſo could not recollect myſelf. I only ſay I am confident of it, becauſe he always told me, when he went ſuch a Journey, that I might make Proviſion of Linen to fit him for it.

L. C. J. Your Reaſons are weak; Becauſe he uſed to tell you, that you might get him Linen: Men, upon extraordinary Occaſions, do extraordinary things; ſo that you are not to govern yourſelf by what he uſed to do, in his acquainting you, or you in providing his Linen. This was no ordinary Errand, and therefore I don't aſk you whether he had Linen from you, or no; but you are only to charge yourſelf with remembring whether he could not be abſent long enough out of your Sight, to have been ſuch a Journey?

Gavan. Pray, my Lord, give me fair Play. He does charge it expreſly, and is preciſe to a Day: He ſaith, I was here in *July*, after that *Aſhby* was come to Town, and before that he went out of Town: And he ſays, That *Aſhby* came to Town in the middle of *July*, and went out of Town about the latter end of *July*, or beginning of *Auguſt*. Now, my Lord, I ſay this, he ſaying that *Aſhby* came to Town the middle of *July*, and ſtaid there a Fortnight, and then went to the *Bath*, and that I came to Town while that he was there; if I prove that I was in *Staffordſhire* from the 15th or 16th of *July* to the end of the Month, then I ſhall clear myſelf evidently; for he does, in effect, charge me to be here, ſome Time in that Fortnight's Time, and I prove, that all the latter Part of *July* I was in the Country.

L. C. J. He does not charge it to a Day, but he ſays it was about a Fortnight.

Oates. Mr. *Aſhby* came to Town in the beginning or middle of *July*; I rather think it was the middle, but I dare not, upon my Oath, be poſitive as to the Time; and in that Time that Mr. *Aſhby* ſtaid in Town, Mr. *Gavan* came to *London*: For I remember, he ſaid he would go and ſee Father *Aſhby*, who was then at *Wild-Houſe*.

L. C. J. Prove where you were now, all *July*. Call your Witneſſes.

Gavan. I prove that I was at *Wolverhampton*, from the 23d, to the end of the Month.

L. C. J. Call your Witneſſes to prove where you were the beginning, that can ſpeak expreſly to it.

Gavan. My Lord, I have them not here.

L. C. J. Why then would you make us loſe all this Time?

Gavan. My Lord, I will tell you; hear the Words of an ingenuous Man: Being, as I was, innocent, not knowing what they intended to charge me with, I, in my Mind, run over all that I could imagine I had at any time done, that they could lay hold on. If I had been guilty of any Thing, my own Conſcience would have told me of it; and I ſhould have provided to have given ſome Anſwer to it: But being innocent, I was to ranſack my Memory, to ſum up all the Paſſages of my Life; where I had been, what I had ſaid, what I had done, that would give them any Occaſion of accuſing me. And becauſe I did imagine they might think I was here the 24th of *April*, I brought Witneſſes for that; and becauſe I did imagine that they might ſpeak of ſome Conſults in *April*, I ſent up for ſuch Witneſſes, at my own Charge, as could teſtify where I was then.

L. C. J. But you have not one Proteſtant, that teſtifies for you.

Gavan. And now, my Lord, I humbly caſt myſelf upon the Honour and Juſtice of this Honourable and Juſt Court; to which I ſubmit myſelf, with all my Heart and Soul, having uſed all the Remedies I can. I have cleared myſelf, as to the main Day, the 24th of *April*, whereon all the pretended Plot lies: And I'll bring Witneſſes that ſhall ſwear, I was not in *London* in *Auguſt*; and if my eternal Salvation lay upon it, I could aver, I was not in *London*: And I wiſh I may be made an Example of Juſtice before all the World (in the Sight of God I ſpeak it) if I be not the moſt innocent Perſon in the World. And, my Lord, ſeeing there is only his Oath for it, and my Denial, I have only one Demand; I don't know, whether it be an extravagant one or no; if it be, I don't deſire to have it granted.

L. C. J. What is that Demand?

Gavan. You know, that in the beginning of the Church (this learned and juſt Court muſt needs know that) that for One Thouſand Years together, it was a Cuſtom, and grew to a conſtant Law, for the Trial of Perſons accuſed of any Capital Offence, where there was only the Accuſer's Oath, and the Accuſed's Denial, for the Priſoner to put himſelf upon the Trial of *Ordeal*, to evidence his own Innocency.

L. C. J. North. We have no ſuch Law now.

L. C. J. You are very fanciful, Mr. *Gavan*; you believe that your Cunning in aſking ſuch a Thing, will take much with the Auditory; but this is only an artificial Varniſh: You may do this with Hopes of having it take with thoſe that are *Roman* Catholicks, who are ſo ſuperſtitious as to believe Innocency upon ſuch Deſires; but we have a plain Way of underſtanding here in *England*, and that help'd very much by the Proteſtant Religion: So that there is ſcarce any Artifice big enough to impoſe upon us. You aſk a Thing that ſounds much of a Pretence to Innocency, and that it would be mighty Suffering, if you ſhould miſcarry, becauſe you

aſk

aſk that you know you can't have. Our Eyes and our Underſtandings are left us, tho' you do not leave their Underſtandings to your Proſelytes: But you are miſtaken, if you think to impoſe that upon us that you do upon them; and you do ſo impoſe upon them. But I'll tell you, there is ſcarce any Man with us that can be a Papiſt: For you cannot deceive and gull us, as you have done all that you have perverted to your Way.

Gavan. Is it any Harm, my Lord, to aſk whether I might not be ſo Tried?

L. C. J. North. Look you here, Mr. *Gavan*, the Time is far ſpent; if you have any thing to ſay, we will hear you; if you have any Witneſſes, call them, and we will examine them: But if not, the other Priſoners muſt be admitted to make their Defence, as well as you.

Gavan. All theſe Six can prove, that I was at *Wolverhampton* the laſt Week in *July*..

Then another Witneſs ſtood up for him.

Gavan. Where was I in *July?*

Witneſs. I cannot ſpeak to all *July*; but, my Lord, I can declare, that Mr. *Gavan* was in *Staffordſhire* the laſt Week of *July*, every Day, I am confident.

L. C. J. Where was he, the firſt three Weeks in *July?*

Witneſs. I cannot ſpeak as to that; but in the laſt Week in *July*, he came to an Apartment of an Houſe that I lived in.

L. C. J. Look you, Mr. *Gavan*, you ſee what this Evidence is; ſhe ſays, that you were in *Staffordſhire* the laſt Week in *July*, for you had an Apartment in the Houſe ſhe lived in. Call another. [*Who ſtood up.*]

L. C. J. Where was Mr. *Gavan* in *July* laſt?

2 *Witneſs.* My Lord, I ſaw him myſelf, at the latter end of *July*, for very many Days; for he was in a Room of the Houſe that I lived in, I am ſure, moſt of the laſt Week.

L. C. J. Where was he the laſt Fortnight?

2 *Witneſs.* I am confident I ſaw him all the laſt Fortnight, but I cannot be poſitive.

L. C. J. Call another. [*Who ſtood up.*]

L. C. J. Where was Mr. *Gavan* in *July?*

3 *Witneſs.* My Lord, I lived in the ſame Town with him, and I don't remember that he was out all *July*, but the laſt Week he was in our Houſe.

L. C. J. Well, call another. [*Who ſtood up.*]

L. C. J. Where was Mr. *Gavan* in *July* laſt?

4 *Witneſs.* He was, in *July* laſt, the laſt Week, in a part of our Houſe.

L. C. J. So then he came home, from *London*, the 23d or 24th of *July*. Well, Mr. *Gavan*, have you any more Witneſſes, to any other Purpoſe? For here are enough to this.

Gavan. No, my Lord.

L. C. J. Mr *Whitebread*, have you any Witneſſes to call?

Whitebread. My Lord, I have only this, and I deſire to be heard in this Point, to prove that Mr. *Oates* was miſtaken in his Evidence that he gave at the laſt Trial, againſt Mr. *Ireland*.

L. C. J. Look you, I muſt break in upon you; you have been told ſo often, all of you have been told it, and yet you are upon the former Trials again. You are now upon your Trial for your Life; if you could have diſproved any thing that he ſaid at a former Trial, you ſhould have taken a Legal Way, and convicted him of Perjury; but now to charge him with a Printed Paper, is not fair. You muſt ſpeak to what he ſays now.

Whitebread. He ſays the ſame now. But all that I ſay is this, If he be not honeſt, he can be Witneſs in no Caſe. I ſuppoſe if any one can prove him not *Probus Teſtis*, his Teſtimony is not to be received in any Caſe.

L. C. J. But how will you prove that? Come on, I'll teach you a little Logick; if you will come to contradict a Witneſs, you ought to do it in a Matter which is the preſent Debate here; for if you would convict him of any thing that he ſaid in *Ireland*'s Trial, we muſt Try *Ireland*'s Cauſe over again. But if you will ſay any thing againſt what he ſays now, do.

Whitebread. That which I would alledge is this, If he be convicted of Perjury in one Caſe, he is not to be believed in another.

L. C. J. You ſay right, if he be convicted.

Whitebread. He is not only then an incompetent Witneſs, for he cannot be ſaid to be *probus teſtis*, but he is *improbus*. Now this is that I can prove.

Mr. Juſt. Pemberton. Nay, you muſt ſhew it by a Record.

L. C. J. You cannot have ſo little Underſtanding; you that have been, and were to be, ſo great a Man among them; had been Provincial, and was to have been ſomewhat elſe. I have told you already, that to prove him to be a Man that hath no Faith in him, he muſt be Convicted. You muſt have Indicted him, and Convicted him, of the Thing wherein he did commit Perjury, and then he had been prepared to juſtify himſelf. But ſhall you come now, and at this your Trial, and prove what he ſaid at *Stayley*'s Trial, and *Coleman*'s Trial, and *Ireland*'s Trial? And muſt We examine what Matters have received a Verdict and a Judgement there? For, conſider what will be the Conſequence of it; if it ſhould be falſe, you there Arraign a Verdict. You ſhould have convicted him of the falſehood firſt.

Whitebread. I deſire the Jury to take notice, that he does not ſtick to the Teſtimony that he gave then, for if he does, it was falſe.

L. C. J. They muſt not take notice of any thing that was done at a former Trial, unleſs it be ſpoken of now.

L. C. J. North. Do not call any Witneſſes to prove what he ſaid then, but to diſprove what he hath ſaid now.

L. C. J. 'Tis a pretty hard matter to make a Prieſt underſtand one, for what I ſee. If the Witneſs ſhall not gain Credit with the Jury, that he came over with Sir *Thomas Preſton*, Sir *John Warner*; if they are ſatisfied by thoſe many Witneſſes, Ten or Twelve, at leaſt, that it is falſe, they ought not to believe him; but as to that Teſtimony, they ought to believe your Witneſſes; but he is not preſently guilty of Perjury: For if they ſhould not give Credit to Mr. *Oates*, you muſt indict him, and another Jury muſt paſs upon him, before he is convicted: For it is one Thing to be Forſworn and Perjured, and another Thing to be proved ſo, and he is not proved to be ſo, but by a Record for that Purpoſe.

Harcourt. If ſo be our Witneſſes can't be look'd upon as good Witneſſes, then there can be no Commerce abroad in any other Country.

L. C. J. They are, no doubt, good Witneſſes, till they be proved otherwiſe; and they are left to the Jury to believe as they think fit.

Harcourt. Now here are divers Things that are brought againſt myſelf, by Mr. *Bedlow*, Mr. *Prance*, Mr. *Oates*, and Mr. *Dugdale*; if the Witneſſes that I bring, becauſe they are *Roman* Catholicks, are not good Witneſſes, then I am in a hard Caſe.

L. C. J. North. Look then, you miſtake the Thing; thoſe that are not Witneſſes, we don't hear at all; but our hearing them at all, proves that we look upon them as good Witneſſes. But when a Man is a Witneſs, he is either of more Credit, or of leſs Credit, according to the Circumſtances; and 'tis a proper Queſtion to aſk them, whether they are *Roman* Catholicks. But they are Witneſſes, without all Queſtion.

Harcourt. I ſay, my Lord, theſe Perſons are known to be every one of them very bad and flagitious Perſons, and that every one of them have undertaken this Courſe, merely to get a Livelihood: They are Men of deſperate Fortunes, they get a Living by ſwearing faſt, they find that the beſt Trade.

L. C. J. North. If you have any other Witneſſes, we will hear them: If you have no other Witneſſes, then we muſt hear what the King's Counſel reply, and then it will be your Turn to ſay what you can in your Defence.

Gavan. I have Witneſſes here: It is not indeed a Poſitive Evidence, but a Negative Evidence; and I have a Brother and a Siſter in Town, and upon my Salvation I never came to Town, but I came to their Houſe.

L. C. J. That will ſignify nothing. Mr. *Harcourt*, have you any more Witneſſes? If you have them, pray call them.

Harcourt. 'Tis in vain to call them, if they be not to be believed, becauſe they are *Roman* Catholicks.

Sir Cr. Levinz. 'Tis a Miſtake, we do not refuſe any Witneſſes, becauſe they are *Roman* Catholicks.

L. C. J. No, we have not refuſed any one Point yet.

L. C. J. North. If you have any more, pray call them, and don't ſpend the Time.

L. C. J. Call a Prieſt or two, if you will, we will hear them.

Harcourt. Mr. *Oates* did accuſe me of paying Fourſcore Pounds at my Chamber, and he did ſay afterwards it was at *Wild-Houſe*. I have Perſons to juſtify what was done at my own Chamber; and he ſays Mr. *Ireland* was by; now here are Witneſſes to prove, that Mr. *Ireland* was in *Staffordſhire* all the Month of *Auguſt*, therefore he could not be preſent.

L. C. J. Does he ſay any ſuch thing now?

Mr. Juſt. Pemberton. That was urged before; pray do not inſiſt upon that, it hath receiv'd a Trial.

L. C. J. I'll tell you what he ſays, and I'll aſk him the Queſtion: Dr. *Oates*, it is ſuppoſed by your Teſtimony, that Mr. *Ireland* and Mr. *Harcourt* were together, when this Fourſcore Pounds was paid, for the Villains that went to *Windſor* to murder the King?

Oates. I never ſaid ſuch a Word.

Harcourt. Here it is in the Trial.

L. C. J. I ſtand not by the printed Trial, it is no Record in Law. In ſhort, Were Mr. *Ireland* and Mr. *Harcourt* together at that Time?

Oates. No, they were not.

Gavan, He did then ſay, that he did receive of Mr. *Ireland*, the 2d of *September*, 20*s.* that he borrowed of him; now the 2d of *September* he was at *Boſcobel*.

Oates. My Lord, I was not poſitive as to the Day; but as near as I remember, (thoſe were the Words I ſaid) it was the 2d of *September*; but whether it was the 1ſt, 2d, 7th, 8th or 9th, I would not be poſitive in it.

Then the Priſoners called Pendrel *and his Wife, and* Gifford *and his Wife; and* Gifford *ſtood up.*

Gifford. My Lord, I was here the laſt Seſſions, where I did teſtify the ſeeing of Mr. *Ireland* in *Staffordſhire*, on the 24th of *Auguſt*, *Bartholomew*-Day, and the next Day after; at which Time Mr. *Oates* ſaid that he ſaw him here in Town. But Mr. *Oates* could not be particular in every Thing; but at laſt he came to a Circumſtance, and averred, that the 1ſt or 2d of *September* he did receive 20*s.* of Mr. *Ireland*, in *Harcourt*'s Chamber; he ſaid it was about the Faſt-Day.

Oates. That was as near as I remembered.

Gifford. Here is in Court at leaſt ſix People that know it; I ſaw him ſeveral other of thoſe Days there; but theſe ſix People converſed with him every Day.

Mr. Juſt. Pemberton. How do you know all that?

L. C. J. North. Come, come, you muſt not ſpeak, as to what he ſaid in *Ireland*'s Trial.

L. C. J. What Time was it that Mr. *Harcourt* and Mr. *Ireland* conferred together about this ſame Buſineſs?

Oates. My Lord, I do not charge *Ireland*, but I charge *Harcourt* with being at *Wild-Houſe*, and that there *Coleman* met him, and that there was the greateſt Part of the Money, which was carried back to *Harcourt*'s Chamber, and given to the Perſon that was to carry it down to *Windſor*; but Mr. *Coleman* was gone away before, and had left a Guinea behind him, which was given to the Meſſenger for Expedition.

L. C. J. I am miſtaken, if you have not teſtified that *Ireland* was in Town in *Auguſt* and *September* with *Harcourt*.

Oates. Ireland took his Leave of *London* betwixt the 8th and the 12th of *Auguſt*, as to go to St. *Omers*.

L. C. J. Here is the Matter, they muſt have Right, tho' there be never ſo much Time loſt, and Patience ſpent. Say they, We muſt prove and contradict Men by ſuch Matters as we can; People may ſwear downright Things, and 'tis impoſſible to contradict them; but we will call Witneſſes to prove thoſe Particulars that can be proved: Say where Mr. *Ireland* was in *Auguſt*.

Oates. He took his Leave of us in Town in *Auguſt*, and that was between the 8th and 12th, at *Harcourt*'s Chamber.

L. C. J. What do you infer from *Ireland*'s being there then?

Oates. I'll tell you what I deſign in it: Your Lordſhip may perceive that I did methodize my Evidence according to the Time; for I ſaid, this was our Buſineſs in *April*, this in *July*, and now we come to the Buſineſs of *Auguſt*, ſaid I, we took our Leaves of Mr. *Ireland* between the 8th and 12th. I ſaid, in *July* Mr. *Fenwick* was out of Town, but then, if your Lordſhip remembers, I ſaid, he was in Town, and took his Leave of Mr. *Ireland*, between the 8th and the 12th of *Auguſt*.

L. C. J. Was Mr. *Ireland* in *Fenwick*'s Company at that Time in *Auguſt*?

Oates. Yes, my Lord, he was, when he took his Leave.

L. C. J. Did they talk then of this Buſineſs?

Oates. They took their Leaves of one another, but as to what particular Things of the Plot they ſpoke about, I don't remember.

L. C. J. Look you now, mind what he ſays, *Ireland* and *Fenwick* were together in *Auguſt*, between the 8th and the 12th; but being aſked, Whe-

Whether they were met on purpoſe to talk of the Plot? He ſays, he does not remember the Particulars.

Here the Lady Southcott, *her Son, and her Daughter, were called.*

L. C. J. Did you ſay, that *Fenwick*, there at the Bar, had Converſe with *Ireland* in *Auguſt*, for the carrying on of the Plot?

Oates. Yes, my Lord.

L. C. J. My Rule is this, in doubtful Caſes, when Men are upon their Lives, I had rather hear what is impertinent, than not let them make a full Defence.

L. C. J. North. I had rather hear Things at a Venture, than forbid Things at a Venture.

Lady Southcott *ſtood up.*

L. C. J. How long were you in Mr. *Ireland's* Company?

Lady Southcott. From the 5th of *Auguſt* to the 16th.

L. C. J. What, every Day?

Lady Southcott. Yes, every Day.

Oates. My Lords, here is *Sarah Pain*, who before hath teſtified what ſhe hath known in this Matter. If your Lordſhip pleaſe, I deſire ſhe may be called, in readineſs to ſpeak to it.

L. C. J. Are you ſure it was the 5th?

Lady Southcott. Yes, as ſure as I can be of any thing.

Mr. Recorder. Dr. *Oates*, you had beſt keep your Evidence entire till the laſt.

Then Sir John Southcott *was called, and appeared.*

L. C. J. Did you know Mr. *Ireland?*

Sir John Southcott. Yes, I did know him by Face.

L. C. J. Where did you ſee him?

Sir John Southcott. I ſaw him the 5th of *Auguſt*, at St. *Albans.*

L. C. J. And did he travel along with you?

Sir John Southcott. Yes, he did travel along with us the 6th, 7th, 8th, and 9th.

L. C. J. How many Days did he travel along with you?

Sir John Southcott. He travelled along with us four Days together, I am ſure.

L. C. J. What from the 5th to the 9th?

Sir John Southcott. Yes, Sir.

L. C. J. Is this all that you can ſay?

Sir John Southcott. Yes, my Lord.

L. C. J. But we would know where he was afterwards. Did you ſee him after the 9th?

Sir John Southcott. My Lord, I ſaw him at St. *Albans*, and he went from thence to *Northampton*, and from thence to *Coventry*, and from thence to my Lord *Aſton's*, that is four Days; and I ſaw him *Thurſday*, I ſaw him *Friday*, *Saturday*, and *Monday* following. *Tueſday* I had occaſion to go further into the Country, and he went along with us; ſo I ſaw him *Tueſday*, *Wedneſday*, *Thurſday*, and *Friday* afterwards.

L. C. J. Why then you ſaw him at leaſt twelve Days?

Sir John Southcott. Yes.

L. C. J. Have you any more?

Then Mr. Edward Southcott *ſtood up.*

L. C. J. Were you here when *Ireland* was Tried?

Sir John Southcott. No.

L. C. J. Did you ſee Mr. *Ireland* in *Auguſt* laſt?

Mr. Southcott. The 3d of *Auguſt* he came down to my Lord *Aſton's* at *Stanmore*, they ſaid ſo; but I cannot ſwear he came that Night; but I ſaw him very early the next Morning; the 5th we went to St. *Alban's*, and we kept on till we came to *Tixall*; and I was in his Company from the 4th to the 16th.

L. C. J. Why, you hear what he ſays, He was in company with him every day from the 4th to the 16th.

Gavan. Call Mrs. *Harewell*, and her Daughter, Mrs. *Gifford* and Mrs. *Pendrell.*

Then Mrs. Harewell *ſtood up.*

L. C. J. Did you ſee Mr. *Ireland* in *Auguſt* laſt?

Harewell. I ſaw *Ireland* in *Auguſt* laſt, the 17th Day: He came then to my Houſe at *Wolverhampton*, and there he continued every Day, and lay in my Houſe every Night, till the 26th Day.

Then young Mrs. Harewell *ſtood up.*

Harewell. Mr. *Ireland* came to our Houſe in *Staffordſhire* the 17th of *Auguſt*, and ſtaid there till the 26th; I ſaw him every Day, unleſs it was *Friday*, the Day before *Bartholomew*-Day, when he went to *Litchfield* and returned again.

Gavan. My Lord, there is a Priſoner now in *Newgate*, that can teſtify the ſame.

L. C. J. North. Would you aſk your Fellow if you be a Thief? He is in for the ſame Offence.

Gavan. My Lord, I deſire to know, if a Man be not convicted of the ſame Offence, whether he be not a good Witneſs?

L. C. J. North. If he ſtand charged of the ſame Plot, his Evidence is of little weight.

Then Elizabeth Keiling *ſtood up.*

L. C. J. Did you ſee Mr. *Ireland* in *Auguſt?*

Keiling. Yes, my Lord, I did.

L. C. J. Where did you ſee him?

Keiling. I ſaw him at *Wolverhampton*, there he was from *Saturday* the 17th, to *Monday*, and then I went to ſee my Mother, and came back again on *Thurſday*, and found him there, and there he was till the 26th.

Gavan. Call Mr. *Pendrell* and his Wife.

Then Pendrell *ſtood up.*

L. C. J. When did you ſee Mr. *Ireland?*

Pendrell. I ſaw him the Second and Third of *September.*

L. C. J. Where did you ſee him?

Pendrell. At *Boſcobel.*

L. C. J. And what, did you ſee him in *Auguſt?*

Pendrell. No, my Lord.

L. C. J. How do you know you ſaw him then?

Pendrell. My Wife being paid for his Diet, ſet down the Day.

L. C. J. What, he came to ſojourn with you, did he?

Pendrell. They were with me for their Meals, and ſo my Wife ſet it down.

L. C. J. Why, do you ſet down the Day of the Month when any one comes to you?

Pendrell. Yes, my Lord, when we are paid for their Diet, we do.

L. C. J. What; do you keep a publick Houſe?

Pendrell. I keep the *Royal-Oak.*

L. C. J. Methinks, you ſhould have a great deal of Company, if you live there; and 'tis hard you ſhould charge yourſelf to remember a particular Perſon you did not know before.

Pendrell. My Lord, he told me his Name was *Ireland*, and ſeveral others did ſo too.

L. C. J. You had as good have let ſuch trivial Evidences as this alone. But go on.

Then Mrs. Pendrell *ſtood up.*

L. C. J. Do you know Mr. *Ireland?*

Mrs. Pendrell. I did know by Report it was he.

L. C. J. Where did you ſee him in *Auguſt* or *September?*

Mrs. Pendrell. At *Boſcobel*, my Lord.

L. C. J. Did you ever ſee him before that time?

Mrs. Pendrell. No, my Lord.

L. C. J. Do you know it was the ſame Man that ſuffered?

Mrs. Pendrell. I will take my Oath of it.

L. C. J. How! when you never ſaw him before that time?

Mrs. Pendrell. I was in Town when he died.

Then ſtood up Mrs. Gifford.

L. C. J. When did you ſee Mr. *Ireland?*

Gifford. My Lord, Mr. *Ireland* came to *Wolverhampton* the 17th of *Auguſt*, and he ſtayed there till the 26th, it was of a *Monday*, I remember it by ſeveral Circumſtances.

L. C. J. Did you know Mr. *Ireland?*

Gifford. I never ſaw him before.

L. C. J. Do you know it was the ſame that died?

Gifford. My Lord, here was my Brother in Town, who ſaw him executed, and he did aſſure me he was the ſame: And I ſaw him again the ſecond of *September*, and the ſeventh of *September* again, and the tenth and eleventh: My Lord, he was the ſame Man, I believe, becauſe my Brother told me ſo.

Mr. Gifford. I ſaw him in the Country, and I ſaw him executed.

Then another Mrs. Gifford *ſtood up.*

Mrs. Gifford. I ſaw him at *Pancraſs* Fair in *Staffordſhire.*

L. C. J. Was it the ſame Man that was Executed?

Mrs. Gifford. My Lord, I cannot ſay that, I did not ſee him ſuffer; but my Siſter and I were at the Window, and ſhe ſhew'd him to me, and ſaid that was Mr. *Ireland*, and told me how long he had been in *England.*

L. C. J. How do you know that was the Man that was Executed? did you ſee him tried here?

Mrs. Gifford. Yes, my Lord, I did.

L. C. J. And that was the ſame Man?

Mrs. Gifford. Yes, it was, my Lord.

L. C. J. When was it your Siſter ſhew'd you him?

Mrs. Gifford. I ſaw him upon the ſeventh of *September.*

Then ſtood up one Mr. Bedle.

L. C. J. When did you ſee Mr. *Ireland?*

Bedle. I ſaw him at a Place called *Millage* in *Staffordſhire*, the ſecond of *September.*

L. C. J. Are you a *Roman* Catholick?

Bedle. If I muſt make a Confeſſion of my Faith, I will. But I ſaw him there, and they ſaid it was Mr. *Ireland* the Jeſuit.

L. C. J. Had you no Acquaintance with him before?

Bedle. No.

L. C. J. How do you know it is the ſame Man that ſuffered?

Bedle. I do not know that, but I ſuppoſe it was the ſame.

Turner. I am accuſed for being at *Tixall* at a Conſult in *September*, I deſire to know who ſaw me there, for I have not been there theſe Four Years.

L. C. J. Mr. *Dugdale* ſaw you there.

Turner. What Witneſſes beſides?

L. C. J. None but he for that.

Mr. Recorder. Hath Mr. *Fenwick* any more Witneſſes to call?

Fenwick. My Lord, I have not any.

Then was Captain Hill *called.*

Fenwick. My Lord, he can prove ſomething againſt Mr. *Bedlow*: He ſays, he lived in good repute; but the Captain will tell you, he was in the *Marſhalſea*, and lived a poor mean Life, and all the time fed upon the Baſket.

L. C. J. North. He was Guilty of the ſame Treaſons that you are Guilty of, there is his fault.

L. C. J. No doubt he was a Naughty Man, he was with you in this Plot.

Fenwick. I can prove by Sir *James Butler's* Clerk, that he cheated a Cutler of a Silver-hilted Sword.

Then Sir James Butler's *Clerk was called; but he having more than one, and the Perſon meant not being there, there could nothing be examined about that.*

L. C. J. North. He hath had the King's Pardon for all that.

Fenwick. He was forced to run the Country for a many Cheats, and was forced to borrow 4 or 5*s.* to redeem his Boots. My Lord, does his Pardon make him a good Witneſs? Then we will prove ſomething ſince his Pardon.

L. C. J. No doubt he was bad enough while he was with you.

Whitebread. My Lord, I think I have a plain Demonſtration againſt Mr. *Bedlow* ſince his Pardon; he did at my laſt Trial ſay, that he had nothing to ſay againſt me, and now he comes and gives freſh Evidence againſt me.

L. C. J. North. That is an Objection that will not take away his Evidence, but only goes to the leſſening of the credit of it. He ſays he was in Treaty with Mr. *Reading* about you, and the Lords in the *Tower*; and to beget a Confidence in him that the Lords in the *Tower* ſhould receive favour

from him, and come off by his means, he was to be eaſy to you too, which made him leſſen his Evidence at that time. This is that he ſays, the weight of it muſt be left to the Jury. And he ſaid at that time he had more to ſay at Time and Place convenient.

Whitebread. There is no ſuch thing in the Trial. He hath alledged great Matters againſt me, therefore it is Evident he did falſify his Oath; for if he were to ſwear the truth, the whole truth, and nothing but the truth, and he did not ſay the whole truth, he is perjured; if he did, he can ſay nothing againſt me now.

L. C. J. North. Mr. *Whitebread*, you have your Objection, and it muſt be obſerved to the Jury. Your repeating of things ſignifies nothing.

Then Captain Hill *ſtood up.*

Fenwick. Pray, Sir, what do you know of Mr. *Bedlow?*

Mr. Juſt. *Pemberton.* But don't aſk any thing before the Pardon.

Hill. I knew him in the *Marſhalſea.*

Fenwick. In what condition was he there, Sir?

Hill. He was a poor Man, as I be, and lived upon the Baſket.

Harcourt. How long ago is it ſince you knew him there?

Hill. In *May* was Twelve-month.

L. C. J. That was long before his Pardon. But he might be an honeſt Man for all that, tho' he were as poor as you. Are you an honeſt Man?

Hill. Yes, I think ſo.

L. C. J. And ſo might he be. Well, have you any more?

Priſoners. No.

Sir *Cr. Levinz.* Gentlemen of the Jury, you have heard the Priſoners, and they have had a great deal of time to make their Defence; but the greateſt part of their Defence hath been to invalidate the Teſtimony of Mr. *Oates*; and what is the Evidence they have brought againſt him? They tell you firſt, That he did not come over in that Company that he ſays he came over with. And whereas he hath ſworn he was here the 24th of *April*, they have taken a great deal of Pains by fifteen or ſixteen Witneſſes to prove that he was all the time at St. *Omers*; and that Sir *John Warner*, and Sir *Thomas Preſton*, who he tells you came over in Company with him, never ſtirr'd from the Places of their Reſidence, that is *Liege* and *Watton*, all that time: But this, Gentlemen, you muſt obſerve, that if Mr. *Oates* were out of the Caſe, all theſe Perſons, except Mr. *Turner*, are proved Guilty of the Treaſon they are charged with; and yet I ſhall ſet up his Teſtimony, and make him clear, notwithſtanding whatſoever hath been alledged againſt him. Gentlemen, to take them in order, Mr. *Whitebread* hath Mr. *Dugdale*, Mr. *Bedlow*, and Mr. *Praunce*, to prove him Guilty, let what will come of Mr. *Oates*, all of them ſpeak to him.

L. C. J. Praunce, do you ſpeak any thing againſt Mr. *Whitebread?*

Mr. Praunce. No.

Mr. Recorder. It was *Fenwick* and *Harcourt.*

Sir *Cr. Levinz.* But there is *Bedlow* and *Dugdale* againſt Mr. *Whitebread*; and therefore, Gentlemen, there are two have ſworn againſt him, beſides *Oates*; and there is two againſt Mr. *Fenwick* at leaſt; nay, there are three, for beſides *Oates* there is *Bedlow* and *Praunce*; as to Mr. *Harcourt*, there is *Bedlow*, *Dugdale*, and *Praunce*, beſides Mr. *Oates*; as to Mr. *Gavan*, there is *Oates* and *Dugdale*; indeed there is none but *Oates* and *Dugdale* againſt *Turner*; ſo that as to the three firſt, however, there are two Witneſſes beſides Mr. *Oates*, that is, againſt Mr. *Whitebread*, Mr. *Fenwick*, and Mr. *Harcourt*. Now as for Mr. *Oates*'s Teſtimony, and what they have to ſay to him; in the firſt Place, they have brought a young Gentleman, Mr. *Hilſley*, and he ſays he did not come over with him, and there 'tis one againſt one, but Dr. *Oates* hath ſworn it, and hath given you ſuch convincing Circumſtances how he loſt his Money, *&c.* ſo that I leave it to you which of the two is in the Right, and ought to be believed. But then, my Lord, as to the reſt of the Witneſſes, here are a great many brought over to prove that Mr. *Oates* was all the while at St. *Omers*; but I ſhall bring you a conſiderable Number of Witneſſes to prove that Dr. *Oates* was then in *London*, and that all theſe Perſons are miſtaken. They do all pitch upon the firſt of *May* to fix it upon a time wherein he ſays he was here in Town: But, Gentlemen, I hope you did obſerve, that as to other Things and Time that were not ſo neceſſary as to this Matter, there they were pleaſed to miſtake, and to differ one from another, to contradict one another; for ſome of them ſaid he went away and left St. *Omers* the 10th Day of *June*, others the 23d, others, which was the ſame *Flemiſh* Gardener, that he ſtaid till *July*. Truly half that variance in the time which is neceſſary would ſerve our Turn, we are but for eight Days time, that is, he was not above eight or ten Days here; truly theſe Gentlemen will be ſure to ſpeak punctually to all thoſe eight Days that hurt the Priſoners, but they will vary thirty Days at another time that hurts them not. Why may they not be miſtaken as well with that portion of time, as they were in the other, wherein they ſo much differed one from another?

But I ſhall give you moſt infallible proof by and by, that Mr. *Oates* was in *England* at that time that he ſaid he was in *England*. My Lord, as to that of Sir *John Warner*, truly we have ſent for a Witneſs, but we did not know of the Objection before; they have now brought you the Gardener, and he did ſay poſitively at firſt that Sir *John Warner* was there all that while, but being aſked again how he knew it, he ſaid it was the talk of the Country, and ſo ſome of the Witneſſes did ſpeak to Sir *Thomas Preſton*. But then I did deſire to know of theſe Witneſſes, whether theſe Perſons were never abſent from theſe Places or not, they told me they were abſent for ſome time in the Vacancy.

Gavan. That was in *Auguſt.*

Sir *Cr. Levinz.* You are very good at expounding, I know, but what thoſe Vacancies were I am not certain; but being apt to miſtake a little, they might miſtake the Time too, and they might extend their Journey beyond their Vacancy. Mr. *Gavan* he hath made a mighty Defence, I muſt confeſs, endeavouring to prove that he was out of Town all *June* and *July*, and in *April* and *May* before, and truly he hath brought ſome Witneſſes that have ſpoken very far from him as to thoſe Months, but I will deſire you to obſerve, as I know you did, that the three laſt Witneſſes that knew him very well did affirm poſitively that he was there the laſt Week in *July*, but being aſked to the Week before that, and the Week before that, they could not be poſitive. And, under favour, by that Evidence you will believe rather that he was not there, for if ſo be they could ſo poſitively Remember for the laſt Week, why ſhould they not be as poſitive for the two Weeks before? Why, theſe two Weeks were enough to ſerve our Turn, for it was towards the latter end of *July* that which Mr. *Oates* hath ſworn upon Mr. *Gavan*, that he was in Town, and talked of the ſame Matters which he had written the Letter about. And therefore it is much to be preſumed, that becauſe the Witneſſes will take upon them as to the laſt Week, they are ſure he was at *Wolverhampton*, but as to the two other Weeks they could not be ſure; that they ſpeak with ſome Conſcience, and therefore it may be true that he was here. And the Woman ſaid ſhe could not ſay but poſſibly he might make ſuch a Journey, and ſhe never the wiſer. So that under favour, Gentlemen, all that which Mr. *Gavan* hath ſo induſtriouſly endeavoured to lay upon Mr. *Oates*, does ſhrink into a very ſlender Evidence, and that it might well be he was at *London* at the Time that *Oates* ſays, the three laſt Witneſſes ſpeaking poſitively only to the laſt Week in *July.*

Then truly, my Lord, they are fixed upon another great Matter to blemiſh Mr. *Oates* as to Mr. *Ireland*, a Perſon that is dead and out of the way. Mr. *Ireland* hath been hanged upon that Evidence, ſo far it was believed; but now after all this, will theſe Gentlemen come to queſtion the Evidence that was given againſt Mr. *Ireland.* They have likewiſe, my Lord, brought my Lady *Southcott*, and ſome other Perſons, who give you an Evidence concerning Mr. *Ireland*, that he ſhould not be here at this Time; but, Gentlemen, under favour, Mr. *Oates* hath ſworn before, and he hath now ſworn it again, that Mr. *Ireland* was at that Time in *London*, and, Gentlemen, I will confirm him in that by another Witneſs that did ſee him here in Town at that Time. And when you have two Witneſſes for the King upon their Oaths come and teſtify it, I hope you will believe them, rather than other Perſons that teſtify only by hearſay. It was the Matter then in iſſue, and had ſaved his Life if it had been true; but tho' it be now ſettled, and none could think it would be again ſtarted, they would make that an Objection; but by chance we have a Witneſs ſtill to give you Satisfaction, that Mr. *Ireland* was in *London* at that Time that Mr. *Oates* did ſwear him to be. We will begin with that Witneſs about *Ireland.* And then we will call our Witneſſes to prove that Mr. *Oates* was in *England*, and did come over when he ſaid he did. Call *Sarah Paine. Who was ſworn.*

Sir *Cr. Levinz.* What time did you ſee Mr. *Ireland* in *London?* did you ſee him in *Auguſt* laſt?

S. Paine. I ſaw him about ſeven or eight Days before I came to my Lord Chamberlain, and that was about a Week before the King went to *Windſor.*

L. C. J. Where did you ſee him?

S. Paine. At his own Door in *Ruſſel-Street.*

L. C. J. Did you ſpeak to him?

S. Paine. No, I know him very well, and ſaw him as I came by.

Sir *Cr. Levinz.* Had not you carried many Letters to him?

S. Paine. Yes, ſeveral Letters.

Sir *Cr. Levinz.* Where did you live before?

S. Paine. I lived at Mr. *Grove*'s.

Sir *Cr. Levinz.* Did not Mr. *Ireland* uſe to come there too?

S. Paine. Yes, he did often.

L. C. J. Was any one talking with *Ireland* then?

S. Paine. No.

Sir *Cr. Levinz.* How long did you look upon him? Did you ſee him go in? did you ſee his Face or his Back?

S. Paine. I ſaw his Face, and made him a Curtſy.

L. C. J. This ſhe ſaid to *Ireland*'s Face.

Mr. Juſt. Dolben. Your Evidence is, that Mr. *Ireland* went out of Town the 5th of *Auguſt*, and ſhe ſays ſhe ſaw him about that time, which muſt be the 12th or 14th of *Auguſt.*

Gavan. How does ſhe prove it? She does not ſay ſhe ſpoke with him.

Mr. Juſt. Dolben. She ſwears it.

Sir *Cr. Levinz.* Now we muſt prove what time the King went to *Windſor.*

L. C. J. Sir *Thomas Doleman*, what time in *Auguſt* did the King go to *Windſor* laſt Summer?

Sir Tho. Doleman. I believe (I cannot charge my Memory ſo well) it was the 13th, it was about the 12th or 13th.

L. C. J. Was my Lord Chamberlain there then?

S. Paine. My Lord Chamberlain went after the King.

L. C. J. And when do you ſay you ſaw *Ireland?*

S. Paine. I ſaw him ſeven or eight Days before I went to my Lord Chamberlain's, which was before my Lord went to *Windſor*, and that was a Week after the King went thither.

Sir *Cr. Levinz.* Now I'll tell you what ſhe ſays; ſhe ſays ſhe ſaw *Ireland* a Week before ſhe went to my Lord Chamberlain's, and ſhe ſaw him go into *Grove*'s Houſe, where he did uſually go for Letters; ſhe ſays ſhe ſaw his Face, and made him a Curtſy; and that this was a Week before ſhe went to my Lord Chamberlain's, and that was a Week after the King went to *Windſor.* Now the time that Mr. *Oates* pitches upon is between the eighth and twelfth of *Auguſt*, which by computation is the time ſhe ſpeaks of.

Gavan. And our Witneſſes go from the third of *Auguſt* to the fourteenth of *September.*

Sir *Cr. Levinz.* Call Sir *Richard Barker*, *William Walker*, *Sarah Ives*, &c.

William Walker *was firſt ſworn, and bid to ſtand up.*

Sir *Cr. Levinz.* Pray, Sir, do you know that Mr. *Oates* was in *England* the beginning of laſt Summer? Pray tell your whole knowledge.

Walker. Yes, my Lord, I will. I have known Mr. *Titus Oates* theſe ſeven Years; and had not ſeen him above five Years; but about two Years ago I did meet him in *Newgate-market*, and then again in the latter end of the Month of *March* 1678, or the beginning of *April*, I did ſee Mr. *Oates* in a diſguiſe in a gray Serge Coat, and I think a gray Hat, but I did not underſtand it, nor did I know him to be the Man; and I was very much troubled that I could not recollect my ſelf who he was, and I went to Bed, and could not recollect who he was; but before I roſe in the Morning I did draw him within the Scheme of my knowledge, that it was *Titus Oates*; and to confirm my Judgment in that, I did go to a Gentlewoman, whoſe Name I did not know, but I went thither becauſe it was the ſame place that I had ſeen him at a Year before, to enquire what became of Mr. *Oates*, and how he did: And when I came to her (in the Morning early, it was the next Day after I had ſeen him in Diſ-

guiſe) I enquired of the Gentlewoman how Mr. *Oates* did, and ſhe clapped her Hand upon her Counter, being a Tradeſwoman, *O*, Said ſhe, *He is an undone Man! Why ſo?* ſaid I. Said ſhe, *He is turned to the Church of* Rome, *and he abſconds and hides himſelf, I know not where he is. Then, in plain Terms*, ſaid I, *I ſaw him later than you, for I ſaw him Yeſterday, between Nine and Ten of the Clock, it was at the upper-end of St.* Martin's-Lane, *near* Leiceſter-Houſe.

Sir Cr. Levinz. What time was this?

Walker. This was in *April* or *March* laſt was a Twelve-month.

L. C. J. Did you never ſee him more than then?

Walker. No, I knew his Face ſo well, as I looked back upon him, and he looked back upon me, but it was with ſome kind of Terror, and he did ſeem to abſcond and hide himſelf.

L. C. J. When was this?

Walker. It was ſome time from the latter end of *March* to the middle of *April*.

L. C. J. Why did you ſkip the beginning of *April?*

Walker. I am not able to remember exactly the Time; for why, I did never think to be called as a Witneſs about it.

L. C. J. Did you ſpeak to him?

Walker. No, my Lord, I did not.

L. C. J. How long before had you ſpoke to him?

Walker. A Year before, but in his Canonical Habit, and not before of five Years.

L. C. J. North. You will not ſure catch him upon a Day.

L. C. J. But I'll tell you what it does, it contradicts all that your Boys, all your Witneſſes ſay: Tho' it does not go home exactly to the 24th of *April*, yet, if it be true, and we have no Reaſon to believe it otherwiſe, it diſproves all their Evidence; for they charge him to have been at St. *Omers* all *March*, *April*, and *May*.

Sir Cr. Levinz. Swear *Sarah Ives.* [*Which was done.*]

Oates. My Lord, we bring *Sarah Ives* to prove that this ſame Gentleman went to her to enquire of her about me.

L. C. J. Pray Mrs. what did that Miniſter ſay to you, and when, concerning Mr. *Oates?*

Ives. Mr. *Walker* came to my Shop, and aſked me when I ſaw Mr. *Oates*; ſaid I, *I have not ſeen him ſince he went beyond Sea. Then*, ſaid he, *I have ſeen him later than you, for I was going to* Leiceſter-Fields, *and at the end of St.* Martin's-Lane *I ſaw him in a Diſguiſe, and he looked wiſtly back upon me, and I upon him, and*, ſaid he, *I am certain, it was the Man.*

L. C. J. What time was this?

Ives. It was *April* was a Twelve-month.

L. C. J. What time in *April* do you think?

Ives. I cannot ſay the Day.

L. C. J. But what time of the Month was it?

Ives. I don't juſtly know, I think it was the middle of *April*, or thereabouts.

L. C. J. Call another Witneſs.

Sir Cr. Levinz. Call Mrs *Mayo.* [*Who was ſworn.*]

Sir Cr. Levinz. Well, what ſay you, when did you ſee Mr. *Oates* in *England?*

Mayo. I never ſaw his Face till a Week before *Whitſontide*, or a little after; there was a Young Man, a Servant of Sir *Richard Barker*'s, that knew him a long time before; he came to me and ſaid, *Yonder is Mr.* Oates *hath changed his Coat from a black to a white; what is he?* Said I, *he was a Miniſter, but he is either turned Quaker or Catholick. But*, ſaid I, *he is not turned Quaker, for he wears a Periwig*, and he fell a laughing and jeering at him; ſaid I, *Why do you deride this Gentleman, when he is a Friend of Sir* Richard Barker's?

L. C. J. Where was Mr. *Oates* then?

Mayo. He was in the Court-yard, and I was in the Kitchen.

L. C. J. When was this?

Mayo. The Week before *Whitſontide.*

L. C. J. In what Month?

Mayo. It was in *May.*

L. C. J. Did you know him before then?

Mayo. No, I did not, but I had heard much of him in the Family.

L. C. J. How ſoon did you ſee him again after that?

Mayo. About a Week after he came and brought another with him, and walked into the Garden, and ſeemed to be diſcontented that they did not ſhew ſuch a Countenance to him as they uſed to do in the Houſe, for the Gentlewomen had heard he was turned *Jeſuit*, and therefore were very ſhy; that is, Sir *Richard*'s Kinſwomen, my Lady's Siſters Daughters.

L. C. J. Do you know Dr. *Oates* now?

Mayo. Very well, Sir. Afterwards he came again and walked into the Garden, and the Young Man I ſpoke of before, that is now dead, came again and took notice of him, of the ſtrange Garb he was in; he was in a Room that looked into the Garden, I ſaw him walking there, and ſaid he, *Yonder is* Oates *again, and hath brought another with him*; he looked out of the Window, and ſaid he, *Pr'ythee look here, does not he look like a* Jeſuit? and he that was with him looked back, and if it had not been for that, and the Young Man's Importunity, I had never taken notice of Mr. *Oates.* After, when I heard he was come over and gave in his Teſtimony about the Plot, I would needs go ſee him; but he ſpoke very ſlightingly to me, and ſeemed to be offended with the Family becauſe they did ſcorn him. Said I, *They had no reaſon to countenance you, becauſe we all underſtood you were turned* Catholick. *They did*, ſaid he, *look very ſhy upon me. Why*, ſaid I, *you muſt not be offended, for you know all the Family are no Friends to* Jeſuits, *and I hope never will be ſo; but I hope, Mr.* Oates, *you will not forget eaten Bread, becauſe he uſed to be made very much of at Sir* Richard Barker's.

Sir Cr. Levinz. Is that the Man that you ſaw there?

Mayo. This is the Man, if you will put me to my Oath again I will ſwear it.

Sir Cr. Levinz. When was this?

Mayo. It was the Week before *Whitſontide*, it was in *May*, for *Whitſontide* fell in *May*.

Sir Cr. Levinz. Then call *Philip Page. Who was ſworn.*

Sir Cr. Levinz. Do you know Dr. *Oates?*

Page. Yes, Sir.

Sir Cr. Levinz. How long have you known him?

Page. I have known him four or five Years.

L. C. J. Pray did you ſee him in the Year 1678, laſt Year?

Page. Yes, I did.

L. C. J. At what Time?

Page. About the beginning of *May.*

L. C. J. Where?

Page. At Sir *Richard Barker*'s.

L. C. J. Were you acquainted with him before?

Page. I had ſpoke with him before.

L. C. J. How do you know it was he? did you ſpeak with him then?

Page. Yes, I did.

L. C. J. What Habit was he in?

Page. He had a light-coloured Campaign Coat. I aſk'd him, where he had been ſo long a Time, that we had not ſeen him, but he turned away from me, and gave me no Account, but, after he had been in the Houſe, made back again, and away he went, after he enquired for Sir *Richard.*

L. C. J. How do you know it was in *May?* why might it not be in *April?*

Page. It was in the beginning of *May*, to the beſt of my Knowledge.

L. C. J. By what material Circumſtances do you remember it was in the beginning of *May?* Is there any thing that puts it into your Mind more particularly?

Page. My Maſter had a Patient at that Time, that was ſick of a Fever.

L. C. J. Where? at Sir *Richard Barker*'s Houſe?

Page. At *Iſlington* it was.

Jury. We deſire to know what the Patient's Name was, for ſome of us know *Iſlington* very well.

Page. I have forgot the Name.

Sir *Richard Barker.* It was *Aldram Milver*'s Daughter.

L. C. J. It was about that Time in *May* that you ſaw him?

Page. I did upon my Oath, and I ſpoke with him, and took much Notice of him, he had an old black Hat on, that flapp'd, and a pair of *Spaniſh*-Leather Shoes.

Sir *Cr. Levinz.* Call Sir *Richard Barker. Who was ſworn.*

L. C. J. Do you know Dr. *Oates?*

Sir *Richard Barker.* Yes, my Lord, I have known his Father and him ever ſince he hath been a Child; I ſaw him the laſt Summer.

L. C. J. About what time?

Sir *Richard Barker.* At that Time that they have given in Evidence, I have only this to ſay, I was abroad, as my Buſineſs leads me often abroad into the Country, but they told me, Mr. *Oates* came to my Houſe in a Diſguiſe, and that they believed he was turned either Quaker or Papiſt.

L. C. J. When was this?

Sir *Richard Barker.* It was, my Lord, to the beſt of my Remembrance, after *Whitſontide* that they told me, but they told me a Story of him, how that he was in two ſeveral Diſguiſes, the one was a ſhort Hair, and then they thought he was turned Quaker, another Time he had a long Periwig, and then they thought he was turned Papiſt; and the firſt that told me, was this Fellow here, that is a Coachman of mine, who was mending ſomething of his Coach. It happen'd, my Lord, upon the viſiting of a Gentleman, that I was very ill, in which Time Mr. *Oates* was gone, and afterwards, when I was recovered again, he came to my Houſe, to enquire concerning Dr. *Tongue.*

L. C. J. When did you ſee him firſt?

Sir *Richard Barker.* It was, my Lord, to the beſt of my Remembrance, the latter end of *June*, or beginning of *July*, upon my Recovery.

L. C. J. By the Oath that you have taken, I would aſk you one Queſtion, Did not you ſee him till *June?*

Sir *Richard Barker.* No, my Lord; but my Servants told me, they had ſeen him in *May*, before *Whitſontide.*

L. C. J. Did you ſee him in *June?*

Sir *Richard Barker.* To the beſt of my Remembrance, 'twas in *June.*

Then one Butler *was ſworn.*

L. C. J. Come, do you know Dr. *Oates?*

Butler. Yes, very well.

L. C. J. How long have you known him?

Butler. I have known him theſe three Years, before he went beyond Sea.

L. C. J. Come, you are upon your Oath, when did you ſee Dr. *Oates*, and where, the beginning of laſt Summer?

Butler. I ſaw him the beginning of laſt *May*, at my Maſter's Houſe in *Barbican.*

L. C. J. Upon what Occaſion? What are you?

Butler. I am Sir *Richard Barker*'s Coachman. And I was making clean my Coach in the Gate-houſe, and in comes Dr. *Oates*, in *May* laſt was a Twelvemonth, the beginning of *May*; with his Hair cut off cloſe cropt to his Ears, in Gray Clothes, a Gray Coat like a Shepherd's Coat, a *Yorkſhire*-Gray; he aſked me whether Dr. *Tongue* was within? I told him, No: Nevertheleſs he went into the Houſe, and immediately came out again, and ſeemed to be very much diſcontented, but ſaid nothing at all to me, but paſſed by me, and went away.

L. C. J. And did you know him at that Time he ſpoke to you firſt?

Butler. Yes, my Lord, becauſe I knew him three Years before.

L. C. J. Could you have then call'd him by his Name?

Butler. Yes, my Lord, I could.

L. C. J. You ſay he came to enquire for Dr. *Tongue*, and was diſcontented that he could not ſee him?

Butler. He ſaid nothing to me when he came out, but paſs'd away as one that was troubled.

L. C. J. Did you ſee him afterwards?

Butler. Six Weeks after I ſaw him; and then he had a long black Coat and a Periwig on.

L. C. J. But are you ſure it was the ſame Man?

Butler. I am, upon my Oath.

Mr. Juſt. *Dolben.* Did you tell your Maſter of his being there the firſt time?

Butler. I did tell Sir *Richard Barker* of him, as ſoon as I ſaw him.

L. C. J. Sir *Richard*, how ſoon did he tell you *Oates* was firſt there?

Sir *Richard Barker.* It was ſoon after, my Lord.

L. C. J. Was it in *May* that he told you he had ſeen him?

Sir *Richard Barker.* He told me as ſoon as ever I came home, in *May*, as I remember.

L. C. J. Did he tell you Mr. *Oates* was there by Name?

Sir *Richard Barker.* Yes, my Lord, he did: And when he told me what Habit he was in, I wondred at it.

Oates.

Oates. There are several, my Lord, that did see me at that Time; but they are gone into the Country; and I cannot have them now ready: If you please now to call Mr. *Smith* the Schoolmaster of *Islington*. *Who was sworn.*

Sir *Cr. Levinz.* Do you know Dr. *Oates?*

Smith. Yes, very well.

Sir *Cr. Levinz.* Pray, Sir, how long have you known him?

Smith. He was my Scholar at *Merchant-Taylors*-School, where I was Usher.

Sir *Cr. Levinz.* When did you see him, the beginnning of last Summer?

Smith. I saw him in the beginning of last *May*, that is, 1678.

L. C. J. Where did you see him?

Smith. He dined with me at my House in *Islington*.

Mr. Just. *Dolben.* What, the Boys at St. *Omers* now are gone?

L. C. J. Recollect your self well: By the Oath you have taken, did Dr. *Oates* in *May* was Twelve-month dine with you?

Smith. Yes, my Lord, he did; and it was the first *Monday* in *May*, as I remember.

Mr. Just. *Dolben.* And this you swear, directly and positively?

Smith. Yes, my Lord, I do.

L. C. J. How long did he stay there?

Smith. He staid three or four Hours after: And, may it please you, my Lord, he was in a Summer-suit, and a coloured Ribbon, a green Knot upon his Shoulder.

L. C. J. What did you discourse about?

Smith. About his being in *Spain* and *Flanders*, and his Travels.

L. C. J. Had you a long Discourse with him?

Smith. Yes, I had.

L. C. J. Had you nothing about the Times?

Smith. No, my Lord, not a Word.

L. C. J. Did you understand he had been turned *Roman* Catholick?

Smith. I did know it.

Jury. My Lord, Did Mr. *Smith* see him any other time after that?

Smith. No, my Lord, not in two Months; to my Remembrance, about the middle of *August*.

Sir *Cr. Levinz.* Call one *Clay*. *Who was sworn.*

L. C. J. Do you know Dr. *Oates?*

Clay. Yes, my Lord, I do.

L. C. J. How long have you known him?

Clay. Ever since *April* last was Twelvemonth.

L. C. J. Was that the first Time of your Acquaintance with him?

Clay. Yes, at Mr. *Charles Howard*'s.

L. C. J. Where were you there with him?

Clay. He lived in one Corner of old *Arundel*-House.

L. C. J. How came you acquainted with him?

Clay. Truly I met him accidentally, at Mr. *Howard*'s House.

L. C. J. How came you to come there?

Clay. I was there to visit Mr. *Howard*, as a Friend.

L. C. J. Were you acquainted with him?

Clay. Yes, I was with Mr. *Howard*, and there I saw Dr. *Oates*.

L. C. J. When did you see him the second Time?

Clay. The second Time I think I saw him there too.

L. C. J. When was that?

Clay. That was in *May*.

L. C. J. North. How long was that after?

Clay. I think the other was in *April*.

L. C. J. And did you see him in *May?*

Clay. I saw him in *May* too.

L. C. J. What Time of the Month was it?

Clay. I cannot exactly speak to that, but it was in that Month as I remember, I am morally certain of it.

L. C. J. And when did you see him after *May?*

Clay. I can't tell whether I saw him after *May* or not.

L. C. J. Is that the same Man that you saw at Mr. *Howard*'s, either in *April* or *May?*

Clay. Yes, my Lord, it is the same Man.

Sir *Cr. Levinz.* Then we have done with our Evidence.

L. C. J. Come, Gentlemen, now what can you say to this? They have given you now their full Charge.

Oates. My Lord, I have one thing more, I desire your Lordship to take notice, this Gentleman, Mr. *Clay*, is a Priest in Orders, as they say.

L. C. J. I will not ask him that Question, but, Mr. *Clay*, are you a Papist?

Clay. Yes, my Lord, I am so.

L. C. J. North. Come, what say you now, Mr. *Whitebread*, to this?

Whitebread. I have this to say; first, That at my last Trial, when I pressed him to declare who had seen him, when he said he was here in Town, he could name no body, not one. I know afterwards he was examined at the Committee, and then he could name no body neither. He said he was there privately at Mr. *Grove*'s, and we can prove, that he never did lie there in his Life. And then he said absolutely, he had not seen much Company, he staid but six Days. Now this good Doctor does say that he saw him here in the latter end of *March*, or the middle of *April*, whereas he himself says he came over with *Hilsley*, the 24th of *April*.

L. C. J. He was landed here the 17th of *April*, and the Witnesses say, it was the latter end of *April*, or beginning of *May*.

Whitebread. Mr. *Oates* expressly said, he staid here but six Days, when he came over to the Consult.

L. C. J. Why, does not all this stand together?

Whitebread. No, my Lord, how could this stand together? his coming over the 17th, and his being here a great part in *May*, whereas he says he was but six Days?

L. C. J. Perchance Dr. *Oates* may not be precise enough; but look you here, these Witnesses do not speak so exactly to a Day or two, or three, or four, or five, but to the latter end of *April*: Now, why might they not see him the latter end of *April*, and the beginning of *May*, and yet stand very well with Mr. *Oates*'s Testimony, who says he was landed here about the 17th of *April*, and staid here about six or seven Days? How nice would you have them be in that Case? which, because they are honest, they will not be.

L. C. J. North. You make your Defences to depend upon an Uncertainty of Time, which no mortal Man can ever remember; besides, pray observe this, That Mr. *Oates* stands a good Witness, till you impeach him by a Fry out of your own Schools, and they go to the whole Months of *June*, and *April*, and *May*; now these all speak in contradiction to other Witnesses, and so Mr. *Oates* is still an upright and good Witness.

Whitebread. They say they did see him there every Day, or every other Day.

L. C. J. But sure I can as well tell, who saw him but once in such a Month, and dined with him then, as any that saw him never so often: but here are five Witnesses upon you in this Point.

Whitebread. The one was told by his Man, the other by his Boy.

L. C. J. The Coachman, and the Boy, and the Maid, and Mr. *Smith* did see him.

Mr. Just. *Pemberton.* The Divine did see him, and went and told the Woman that he had seen him, pray remember that.

L. C. J North. Now the Evidence is concluded, say what you will for your selves; and then we will observe what you object, upon our Direction to the Jury, according to our Consciences.

Gavan. My Lord, then I say this for my self. We commit our selves to God Almighty. We must compare the Number, tho' ours were not sworn, yet there were sixteen of them, Boys, Young-men, that conversed with him every Day, and these Witnesses speak but of one or two particular Days: One says he dined with him, and another saw him in a Disguise; but, my Lord, in these very Witnesses there is an apparent Contradiction, because out of his own Mouth *(ex ore tuo te judico)* they are contradicted. He says he came over upon *Sunday*, with *Hilsley*, which was the 20th of *April*, as I think, and staid here only a matter of six Days. One of the Witnesses says he saw him the first *Monday* in *May*. What signify the Witnesses, though upon Oath, that they saw him in *May?* How can he come over the 20th of *April*, and stay but six Days, and be seen here in *May?* Before these can be reconciled, one of them must be false; and then, my Lord, besides that which I first said, there is the Number of Witnesses, they are nothing in Comparison with the Number of ours. And then, my Lord, Secondly, if we should grant, that a lesser Number should serve the Turn, because they are sworn for the King, because they swear for the Safety of the King, (whom God preserve, whatsoever becomes of me) and the other speak not upon their Oaths, yet, my Lord, this does not destroy nor touch at all that Evidence that is brought against him, about the Rector of *Liege*, Sir *John Warner*, and Sir *Tho. Preston*. And though it be granted, that all the others that spoke about Mr. *Oates* being at St. *Omers* be mistaken, and must not be believed, yet we have him still, by those six others, who have proved that he hath sworn false; and I hope we shall have fair Play in the Law, to make the best Defence we can for our Lives; and I humbly conceive, no body must be convicted of High-Treason by the Law, but upon the Evidence of two sufficient Witnesses. Now I leave it to the Conscience and Honour of the Court, whether he shall be believed, and counted a sufficient Witness, when there are so many that have proved him false in that one Point? And then, besides all this, my Lord, we have here sixteen, at least, *Staffordshire* Witnesses, who give you an Account of Mr. *Ireland*'s being out of *London*, from the 3d of *August* till the 14th of *September*; so that in these two Things he hath been contradicted without any Answer, for he says, the 12th of *August* he was with him, when they say he was in *Staffordshire*.

L. C. J. You have forgot the Maid that saw him in *London* the 12th or 13th.

Gavan. No, my Lord, I have not. And this is it I answer to it, She is a Witness that only says, she just saw him, but did not speak to him.

L. C. J. She made a Curtsy to him.

Gavan. We are now talking of seeing *Ireland* in *August*, and we prove by Sir *John Southcott*, and all his Family, who say they began their Journey with him the 5th of *August*, and staid with him till the 19th, after the particular Day that she speaks of, you find seven or eight of them swear that they saw him all the Time. And therefore I would fain know, whether poor Mens Lives shall be cast away upon such Evidence as this? And then, my Lord, for the other Thing, I hope I have made a very good Plea for my self concerning the Matter of *July*; my Witnesses could be positive as to the last Week, but for the other Weeks, tho' they could not be positive, they rather believed I was there, than not: But when it is urged, Why might not they give as good a Testimony for the former Weeks as for that? To this I answer fully, that there is a great and predominant Reason why they should have a particular Reason to swear, why I should be there the last Week, rather than the other Weeks, because I was then shut up in the Spiritual Exercise, and they had a particular Reason to take notice of that. Then, my Lord, I hope you will be pleased to mind this, by which I have made my Plea good, that is, my Lord, that Mr. *Oates*'s Testimony against me is this, Mr. *Ashby* came to Town about the middle of *July*, and that he staid there about a Fortnight, and that in the Time of that Fortnight I came to Town, and said I would go see Father *Ashby*, and had that Discourse he speaks of; and so much for that. And then, my Lord, I beseech you still to bear it in your mind, that I have been proved not to be in Town at the time of the great Consult about the Plot; and indeed I was not capable of it, for I was not then Professed, and there could none be of that Congregation about the Plot, but those that were Professed. I could not be there in the Congregation, by reason of my Age. Mr. *Harcourt* here, and the rest, if you will ask them, will tell you it, they were there, but, upon the Word of a dying Man, I was not there.

L. C. J. 'Tis not positively said by Mr. *Oates* that you were.

Gavan. But then, my Lord, he says my Name was to it, which he saw in *July*; now I prove, that I was in *Staffordshire* the last Week of *July*; and seeing I have Witnesses to prove, that I was there till the 14th, and the last Week, and it was after the 14th, that he saw me, I hope my Plea is good. Then, my Lord, I ground my Plea upon this, I have studied Philosophy, and other Things, but I never studied the Law, and so am very ignorant of it; but this is my Case, I am accused by one Witness concerning one Fact, and by another concerning another; the one committed here at *London*, the other in *Staffordshire*; I desire, therefore, to know, whether the Witness that swears the Thing done in *Staffordshire*,

the other Witneſs, that ſwears what was done in *London*, can be eſteemed two Witneſſes, according to the Law, to convict me of Treaſon?

L. C. J. North. Yes, I'll tell you, if it were a Matter of Doubt, it might be found ſpecially, and be argued, but it is a Matter that hath been already reſolved in the Caſe of Sir *Henry Vane* at the *King's-Bench* Bar, who was indicted for levying of War againſt the King; and there one Witneſs proved the levying of War in one County, and the other proved the levying of War in another County; and ſo, though they were but ſingle Witneſſes of ſingle Facts, yet being both came up to the Indictment, they were adjudged ſufficient to maintain it. So it is in your Caſe, here is one Witneſs for the proving your hand to the Paper which was for the Murder of the King, and there is another Witneſs of your Diſcourſe to the ſame purpoſe; the Fact is your joining and conſpiring to deſtroy the King, and to levy War againſt him, and both theſe are proved to the full of the Indictment by theſe Witneſſes; and though they are to ſeveral particular Facts, yet they are all Overt Acts of the ſame Treaſon.

Gavan. My Lord, I have a contrary Opinion to that in Serjeant *Rolls*.

L. C. J. North. But this is a known Caſe, and the Law is ſettled therein.

L. C. J. I'll tell you what you miſtake in what you ſay, for there are two Witneſſes, *Oates* and *Dugdale*, who ſwear to the ſame Fact, which is killing the King, altering the Government, and bringing in Popery: *Oates* ſays he ſaw your Hand to the Conſult, for the Murder of the King, for the raiſing the Army, and for the introducing of Popery, which is a neceſſary Conſequence of Change of Government; *Dugdale* ſays he was with you in the Parlour of my Lord *Aſton*'s, where the Diſcourſe was between him and you, and others, about killing the King, and altering Religion. Are not theſe two Witneſſes to one and the ſame Treaſon?

Gavan. No, my Lord, I conceive not.

L. C. J. If I conſult a way to kill the King here, and then I go into the Country, and there I conſult of it with another Perſon, are not theſe two Witneſſes to the ſame Treaſon? ſure they are.

Gavan. Then, my Lord, my ſecond Plea is this, If there be two Witneſſes, you will grant me this Ground, that no Man muſt be convicted but upon the Evidence of two legal and credible Witneſſes, and upon clear Evidence, as the Statute ſince his Majeſty's happy Reſtauration does declare. Now two Things are required certainly to make a credible Witneſs, and a clear Evidence; as the Witneſs muſt be credible, ſo it is as agreeable to Reaſon that the Evidence muſt be plain and clear, yea, as clear as the Light of the Sun at Mid-day. Now therefore if I prove, that neither the Witneſs is credible, ſuch as the Law requires, nor the Evidence clear, ſuch as the Law looks upon as ſuch, then I ought not to be convicted by this Witneſs upon this Evidence.

L. C. J. The Jury are Judges of that, and therefore there I leave it.

L. C. J. North. You argue mighty ſubtilly, but I'll give you this Anſwer; There muſt be two lawful Witneſſes, that is the Law; a Man cannot be impeached of Treaſon but by two lawful Witneſſes; now if they be not convicted of Perjury, and their Teſtimony be not taken away, but they may be heard in a Court of Juſtice, they are lawful Witneſſes; now for their being credible Witneſſes, that is a matter that is left to the Jury, but we muſt receive them as lawful Witneſſes till they be convict of a Crime that takes away their Teſtimony.

Gavan. Therefore becauſe they are left to the Jury, I am ſatisfied, and I turn myſelf to you, Gentlemen: You are to ſit upon my Life and my Death: as for my own part, I can truly profeſs I am as innocent as the Child unborn, and this Gentleman Mr. *Whitebread* knows I was not capable of being at the Conſult, being not of Age. Now I muſt leave myſelf to the Jury, and will leave it to their Judgments whether theſe two Witneſſes can be eſteemed credible Witneſſes; for to make credible Witneſſes there is required Honeſty of Life, and Truth in their Teſtimony, for no Man can be a good Witneſs that is not an honeſt Man, nor that hath carried himſelf ſo that he is not to be believed. As to the Honeſty of Mr. *Oates* his Life, you heard that he was diſguſted by the Jeſuits, eſteemed not a Perſon of that diligence or fidelity to be intruſted by them; he was turned out of St. *Omers*.

L. C. J. Does that prove any Diſhoneſty in Mr. *Oates*?

Gavan. No, but I ſpeak to his Credibility.

L. C. J. Speak plain; how does it impeach Mr. *Oates* his Evidence, that the Jeſuits did not like him?

Gavan. It might be a Ground of Hatred and Malice in him againſt them; and then, Gentlemen, I deſire you to conſider that other Thing, That we have proved him to ſpeak falſe in his Teſtimony about Sir *John Warner* and Sir *Thomas Preſton*; and all the Buſineſs of the 12th of *Auguſt*, concerning Mr. *Ireland*'s being here the 12th of *Auguſt*, who by ſixteen Witneſſes, is proved to have been all the while in *Staffordſhire*: And tho' he was not convicted of Perjury before, which might have eaſily been done, as I have ſhewn to the whole World now, I appeal to the Honour and Conſcience of the Jury, whether all theſe Proofs ought not to make this Witneſs to be deemed an incredible Witneſs. And pray, Gentlemen, hear me this, and carry this away with you, as to the Buſineſs of *Ireland*, between the 8th and 12th of *Auguſt*, how many do ſwear that he was in *Staffordſhire*. I deſire you but to compare that one Woman that only ſaw him, and made a Curtſy to him, as ſhe ſays, with thoſe Sixteen Witneſſes that converſed with him daily. Then as for the ſecond Teſtimony of the St. *Omers* Witneſſes, which you ſee is thwarted by ſome that do ſwear in the King's Name to the contrary: Still I deſire you to compare Number with Number: The others, tho' they do not ſwear, are ready to ſwear, and there are only three or four againſt ſixteen of them, and there is an evident Contradiction in what they ſay, and that proved out of his own Mouth; for he ſays he came over the 20th of *April* with Mr. *Hilſley*, and ſtaid only ſix Days; they ſay he was here in *May*, and I deſire theſe may be compared: for how could it be that he ſhould be here in *May*, if he ſtaid but ſix Days? And then to make your Verdict, and take their Credit away, I would deſire you to conſider thoſe Witneſſes that I have brought for myſelf, not being here, but in *Wolverhampton*; for being in *Staffordſhire* as long as to the laſt Week of *July*, it muſt fall within the Time of his Teſtimony. I have brought Witneſſes to prove upon Oath, that from the 22d upward they ſaw me in *Wolverhampton*, and they do remember the particular Inſtance that I was then at my Spiritual Exerciſe: And this is that I have to ſay as to Mr. *Oates*. As for Mr. *Dugdale*, I would deſire you to reflect upon the whole Story of his coming to diſcover this Plot, and his being an Informer about it. The Truth is, I confeſs I have known him five or ſix Years, whilſt he lived at my Lord *Aſton*'s, and I have divers times diſcourſed with him there at Mr. *Ewers*'s Chamber; but, as I hope to be ſaved, never any thing of Treaſon in all my Life. Now, 'tis well known; and there are thoſe that can teſtify it, that in truth *Dugdale* run away from my Lord *Aſton*'s after he had loſt 300*l.* of my Lord's Money.

L. C. J. If you can ſay any thing againſt Mr. *Dugdale* by Witneſſes that you can prove it, then you ſay well; but if you will tell a Story out of one Lord's Mouth, and another Lord's Mouth, that is never to be endured; you ſhall never take away a Man's Teſtimony by hear-ſay, you muſt prove it.

Gavan. 'Tis well known; if I prove *Dugdale* no credible Witneſs, I play my own Game. You know I have been a Priſoner twenty Weeks, and could not ſeek out Witneſſes. I aſked it as ſoon as I knew of my Trial, but it was denied me to ſend for Witneſſes to prove that *Dugdale* was in Goal for Debt. If I had the Recorder's Warrant or the Authority of this Bench, I could ſend for them.

L. C. J. You muſt not fall upon Perſons without Evidence; if you have Witneſſes to prove any thing, whom the Jury will believe, call them.

Gavan. I do aſſure your Lordſhip, as I hope to ſee the Face of God, I am innocent of what is charged upon me. And God bleſs the King and this Honourable Court.

L. C. J. Tho' you do an hundred times bleſs the King and Court and all, you muſt prove things if you will be believed. What ſay you, Mr. *Whitebread?*

Whitebread. My Lord, I have but one thing to ſay, and 'tis but a word: Your Lordſhip was pleaſed to make an Obſervation, and a good one it was, a Letter which Mr. *Dugdale* ſays was written by me to Mr. *Ewers*, which he ſays he intercepted; he was, in the mean time, a truſty Correſpondent for his Friend. In that Letter he ſwears, there was expreſly contained poſitive Words of entertaining Perſons to kill the King, that only ſuch as were hardy, deſperate and ſtout; but as your Lordſhip well obſerved, that it was an improbable thing that a Man who had his Wits about him ſhould write ſuch plain Expreſſions about ſuch a Matter; and upon that Improbability I leave it to the Jury.

Mr. Juſt. *Pemberton.* Have you any thing to ſay, Mr. *Fenwick?*

Fenwick. I deſire, my Lord, your Lordſhip and the Jury to conſider and obſerve the nature both of our Witneſſes, and of them that are brought againſt us. The one ſpeak for the whole Time, that they ſaw him every Day, or every other Day; they daily converſed with him, eat and drank with him in the ſame Houſe; the others, they ſay only, they ſaw him one particular Day; another another; and one of them ſays he ſaw him, but in a Diſguiſe. Now, my Lord, whether it be likely that ſo many innocent Children, brought up in a good virtuous Life, ſhould come here to forſwear themſelves, to contradict People that we know not what they are; and then, beſides, we know that theſe People are of a poor, mean, beggarly Condition, that intend to mend that Condition by ſuch a Pretence of Diſcovery, and hope thereby to advance themſelves. It is probable ſuch People might be drawn in. Then alſo we ſhall prove that Sir *John Warner* did not come over with him, nor Mr. *Williams*, nor Sir *Thomas Preſton*: Then all his Witneſs as to them is falſe, and he does not ſay he went back with theſe People; and this for the Witneſſes. Now ſuppoſe the Witneſſes were all equal, what does he prove againſt us Three? Or what Reaſon doth he give of his Evidence? He ſays he ſaw ſuch and ſuch Letters from Mr. *Whitebread*. Now is it poſſible that a Man that had no Credit at all with us, that we ſhould be ſuch Fools as to truſt him with ſuch Letters as thoſe, then your Lordſhips muſt hang us twice, once for Fools, and then for Knaves. Or is it poſſible that we ſhould be ſuch egregious Fools that we ſhould truſt a Man that was never eſteem'd of, was expelled the College? And for all his Talk of Commiſſions and Letters, there is not one of thoſe found; let him ſhew any one Commiſſion, any Money paid, or any Order brought him, or any Arms that were found; there are three Quarters of a Year now paſſed ſince the firſt diſcovery; certainly all this time could produce ſomething: Thouſands of Letters have been taken from us, ſome of thoſe Letters would have diſcovered this Thing; certainly therefore we have better Evidence than he hath, ſuppoſing them to be equal as to Credibility in their Original. Is it credible we ſhould be ſo great Rogues to contrive the King's Death? Though he ſpeaks of the Writing being carried from Chamber to Chamber concerning this Matter, he can never produce one Paper ſigned by any one Man's Hand, nor can he produce any thing to atteſt his Teſtimony. I leave this to your Lordſhips Judgment, whether this Evidence be good; there is nothing appears in ſo much time, of any Effect that is produced: Where were the Armies? Where were the Moneys paid? Where the Commiſſions? Is it poſſible ſuch a thing ſhould be, and no ſign of it for a whole Year almoſt? There is no Reaſon brought, amongſt them all, but Saying and Swearing, and that I will ſtand by.

Whitebread. I thank God I don't look like a fighting Man, nor I never did; but who can think that I ſhould be ſo mad, when I had committed ſuch a Secret to him, to beat him, as he ſays? 'Tis ſtrange that ſuch a Plot ſhould be diſcovered wherein ſo many Perſons of Quality, Honour and Reputation, are ſaid to be concerned, and yet no Footſteps of it appear; and none of them, as my Lord *Arundel*, my Lord *Bellaſis*, ſhould never divulge ſuch a Plot; I would fain know whether ſuch a thing be probable, but I commend myſelf to God Almighty, and the Jury.

Harcourt. My Lord, I have only this to ſay; I have lived to this Age, which is 70 Years, and I never knew any Man that could ſay I was accuſed

of the thing in the World, for which I ſhould be brought before any Magiſtrate; and 'tis ſtrange that after ſo many Years I ſhould come to be Arraigned and Condemned for a Crime of the higheſt Nature; and there's no Reaſon brought againſt me nor any of the reſt, for the Proof of what is alledged, nor do they, who are the Witneſſes againſt us, deſerve at all any Credit. They only affirm ſuch and ſuch things without any Reaſon, to perſuade you to believe them, and 'tis eaſy to ſay, and ſo 'tis to ſwear it. So that all I have to ſay is this, ſince a Negative cannot be proved, I hope Innocency will find ſome that ſhall defend it. I leave my ſelf to the Bench, for the Law is the Defence of Innocency. If they did bring any Evidence beſides that, which is downright poſitive Swearing, without any Reaſon or concurrent Reaſon to confirm it, it were ſomething.

Fenwick. And beſides all this, to think how theſe Men have lived before time is worth Reflection and Conſidering. As for *Bedlow*, he hath been a very ill Man, the World knows it.

L. C. J. Have you proved it? Can you ſhew any Record of it?

Mr. Juſt. Pemberton. Turner, have you any thing to ſay? you have had your Time.

Fenwick. You will find that *Nemo repente fit nequiſſimus*, No Man arrives at the higheſt Degrees of Impiety at firſt: Men grow extremely wicked by Degrees. But let us ſee if they can blame our Lives, or any thing that we have done at any time before; we prove, and all the World knows what they have been, and how ſcandalouſly they have lived.

Gavan. Our Witneſſes are to be regarded for their Number and for their Innocency, eſpecially ſince they give no Reaſon nor convincing Arguments for what they do affirm.

L. C. J. We would hear you, and we have heard you very long, but it muſt not be permitted you to go over the ſame things again and again.

L. C. Baron. Hath *Turner* any thing to ſay?

Turner. All that I have to ſay, my Lord, is this, to aſk whether it be reaſonable that *Bedlow* and *Oates* ſhould be looked upon as good Witneſſes, that theſe Perſons who have been ſuch ſcandalous People ſhould be admitted to an Oath, who were debarred from the Sacrament; for according to the Church of *England*, no Man that is publickly ſcandalous can be admitted to the Sacrament.

L. C. J. But you prove nothing.

Turner. I can prove it firſt by Evidence of one *Haſtings*.

L. C. J. Call him. [*But he appeared not.*]

L. C. J. Gentlemen of the Jury; Here hath been a very long Evidence, and a very confuſed one; and you cannot expect, that it ſhould be wholly repeated to you: For it is almoſt impoſſible for any one to remember it; neither would I if I could, becauſe a great deal of it is impertinent, and vainly to be repeated: And beſides, many things have been ſaid over and over again, to no purpoſe. But I will obſerve to you, as well as I can, what Teſtimonies there are againſt each particular Man of them; and that I do look upon to be very material. And I leave it to you, to judge and conſider, how far the Evidence is Credible, and how far it is Subſtantial.

Againſt Mr. *Whitebread*, you have the Teſtimony of three, *Oates*, *Dugdale*, and *Bedlow*: Againſt Mr. *Fenwick*, you have the Teſtimony of *Oates*, *Bedlow* and *Praunce*: Againſt *Harcourt*, you have *Oates*, *Dugdale*, *Bedlow*, and *Praunce*. You have againſt *Gavan*, *Dugdale* and *Oates*; and againſt *Turner*, *Dugdale* and *Oates*: So that, to the two laſt, you have two, three to the two firſt, and four to *Harcourt*.

Now, the Matter that they have ſworn, hath been all tending to one thing; the Murder of the *King*, the advancing of *Popery*, and ſuppreſſion of the *Proteſtant Religion*: That is the Thing that all the Evidence does drive at.

For *Dugdale*, for aught we can perceive, he hath been upon the matter a Stranger to *Oates* and *Bedlow*; and I do not find, that he had any Correſpondence with, or Knowledge of them, at the time he charges Mr. *Harcourt* and Mr. *Gavan*. And he charges them with the very ſelf ſame Things, *viz.* the Conſulting the Death of the *King*, and Advancement of *Popery*. And they have ſeveral Inſtances of the Facts, as their ſeveral Conſultations; how they met together, and where, or at what Place. And *Dugdale* tells you of a Letter that he found; wherein *Whitebread* gave Charge for the Entertainment of good ſtout Fellows: No matter for Gentlemen, ſo they were Reſolute. And ſo they have ſeveral *Mediums* to prove one and the ſame Thing.

Mr. *Fenwick* ſays to all this, Here is nothing againſt us, but talking and ſwearing: But for that, he hath been told (if it were poſſible for him to learn) that all Teſtimony is but talking and ſwearing: For all Things, all Mens Lives and Fortunes, are determined by an Oath; and an Oath is by talking, by kiſſing the Book, and calling God to witneſs to the Truth of what is ſaid. That is the Eſſence of an Oath, and thoſe are the Ceremonies: The kiſſing the Book, and Speaking, is the accidental Form; the Subſtance is, calling God to Witneſs. Therefore what a vain thing is it in Mr. *Fenwick* to ſeem to triumph, by ſaying, There is nothing againſt us but talking and ſwearing. There is nothing againſt them, but Evidence and Proof of Men upon Oath: And *their* Reaſons, the Truth is, are very Trifles. They defend their Lives as they do their Religion, with weak Arguments, and fallacious Reaſons.

For that long Buſineſs, that Mr. *Gavan* hath undertaken to ſay againſt Mr. *Oates*, and what they all inſiſt upon, *viz.* the Number of their Witneſſes, which were Sixteen, amounts to this, to diſprove Mr. *Oates* that it could not be true what he ſays, That he ſhould be preſent here at a Conſult, the Twenty-fourth of *April*, becauſe they have brought Sixteen from St. *Omers* to prove, That he was there all *April* and *May*.

'Tis very true now, if that be ſo, it is impoſſible *Oates* can ſwear any Truth: But whether that is to be believ'd, or no, is the Queſtion. Methinks they did not do well for themſelves, when they bid you remember the *Nature* of the Evidence. They did well enough to bid you remember the Number: For the Number is more than what *Oates* is back'd with on t'other Side; but the Nature is of much leſs Weight: Not only becauſe they are not upon their Oaths, for by Law they may not be upon their Oaths (and that muſt not be charged on them as a Defect, ſeeing they would ſwear, I doubt not, if they might); but becauſe their Teſtimony is really to be believed much alike without an Oath, as with one; becauſe they are of a Religion that can diſpenſe with Oaths, though falſe, for the ſake of a good Cauſe.

But, ſeeing they deſire the *Nature* of the Men may be conſidered, you are to obſerve, that they are Proſelytes, and Young Striplings of their Church; which does indeed, in one Reſpect or other, abuſe all her Diſciples, and keeps them in a blind Obedience, to purſue and effect all Her Commands.

If the Doctrines of that Church were better; if ſuch which are allowed by their Chief Authors, were but leſs bloody and inhumane; if they had ever put thoſe that are ſo, into an *Index Expurgatorius*, that they might have been publickly diſowned, and declared as the particular Opinions of ſome ill Men, which they did diſavow; theſe Men might have been then more worthy to be regarded. But when none of their Popes have done this (who muſt have very ſtrange Foreheads, if they ſay they have) and ſuch Doctrines are ſtill owned, there is much indeed to be obſerved from the *Nature* of the Evidence, the *Nature* of the Men, and their Profeſſion.

I muſt confeſs, I believe that they would deny their Principles to be bloody, or to be defended and allowed by any of their beſt Authors, if at this Time, the Fear of apparent Falſhood did not deter them; But if to Murder KINGS, or to Depoſe them, and Abſolve their Subjects from their Allegiance, for the Advancement of Religion, be a Thing moſt impious, and void of Religion, and makes Religion worſe than none; which Doctrine yet they have owned, and their Councils have owned, and we have proved it upon them, and out of them; I cannot tell what to ſay to theſe Men, or their Teſtimony; the *Nature* of whom they deſire to be conſidered.

But they were Young Boys, ſent for hither on purpoſe to give this Teſtimony; and it was not, indeed, a Fault in the Priſoners at the Bar, to ſend for what Evidence they could, for themſelves: But it is very doubtful and ſuſpicious, to have ſuch green and flexible Minds thus employ'd; and I muſt leave it to you, to conſider how far theſe Young Men, train'd in ſuch Principles, may be prevail'd on to ſpeak what is not true.

And now, if the King's Evidence, after this, ſtood alone, it were yet ſomething: But when you have Mr. *Oates*'s Teſtimony, as to this great Matter of his appearing in *April*, confirmed by Seven or Eight Witneſſes, that ſpeak ſo expreſly to it, how will they anſwer it! Do they make Sir *Richard Barker* a Perſon of no Value? Do they ſo little eſteem the Miniſter, that ſays I knew him though he was in Diſguiſe; and went and ſaid it preſently to a Woman that he knew was acquainted with *Oates?* And aſking her, when ſhe ſaw Mr. *Oates?* And ſhe ſaying, Not a great while; he ſaid, I ſaw him later than you; and ſays, he did know him: And this is confirmed ſtill by Sir *Richard Barker*, who tells you, That his Men told him that he had been there. What ſhould make them to acquaint their Maſter ſo, if it were not ſo? Or do you think it a thing maliciouſly prepared or invented to take away the Lives of theſe Men, that his Men ſhould tell him a Story ſo long ago? If it be not true, to what Purpoſe ſhould they tell him ſo? And if it be true, it confirms the Matter ſworn againſt them.

There is he that was his Companion, the Schoolmaſter, that ſays, in the beginning of *May* was Twelvemonth, Mr. *Oates* dined with him at his Houſe, ſat with him four Hours, diſcourſed of his Travels into *Spain* and St. *Omers*: And there is the Man that is a *Papiſt*, if not a *Prieſt*, that ſwears he ſaw him twice, about the middle of *April*, at Mr. *Charles Howard*'s Lodgings in *Arundel* Houſe; ſo that here are Seven Witneſſes, direct or circumſtantial, to prove Mr. *Oates* to have been in *London*, in *April* and *May*, 1678.

But ſay they, This is but *Talking* and *Swearing*. Very fine! And the St. *Omers* Youths is *Talking*, but not *Swearing*. Ay! But then their *Numbers* are not ſo many. That, Gentlemen, I leave to you, for both cannot be true. The Teſtimony of Mr. *Oates* and the Witneſſes that he had to back himſelf withal, and to prove himſelf to be here, is inconſiſtent with what the young Men ſay, that he was at St. *Omers*.

Now, if you obſerve, all theſe Mens Defence is in the circumſtantial Part of the Evidence, in watching and catching at what Day, what Hour, and what Month? How Mr. *Oates* reckoned falſe, ſo and ſo: If he came here about the 20th of *April*, how could they ſee him the 1ſt of *May?* And they think then, they have got ſuch a mighty Victory; but it is not ſo weighty an Argument with Proteſtants, after all their Conceit, that it is unanſwerable, for here is the Point, The Matter of Time is a Thing that no Man can ſo preciſely charge his Memory with, as that it ſhould be too ſtrictly the Meaſure of your Judgments about Truth or Falſhood, by the miſtake of ſeven or eight Days. Examine your ſelves, how often every Day you do miſtake things that have been tranſacted half a Year ago, and err in Point of Time, taking one Week for another, and one Month for another; and tho' I muſt ſay, it is conſiderable, yet too great Weight is not to be laid upon that.

As for that they inſiſt upon ſo much, the coming over of Sir *Thomas Preſton*, and Sir *John Warner*, with Mr. *Oates*; it is true, three or four Witneſſes ſpeak as to Sir *John Warner*, and ſome to Sir *Thomas Preſton*; and they ſay, they were both beyond Sea when Mr. *Oates* came over; but if the Sixteen be not to be believed in the firſt Matter, and if Mr. *Oates* does ſay true, notwithſtanding all their Evidence, that he was here ſuch a Time in *April* and *May*, then I'll tell you what Inference may naturally be; to wit, That they can't want a Witneſs to prove what they pleaſe: For I believe there is none of them all will make any Bones of it.

I ſay, Gentlemen, if you are ſatisfied in your Conſciences, that the Evidence on Mr. *Oates* his Part, to that Point (that is to ſay, ſeven Witneſſes), ought to prevail with you, to believe he was here in thoſe Months (notwithſtanding the ſixteen Witneſſes, who ſay they ſaw him every Day beyond Sea, in *April* and *May*), their other Evidence about his coming over with *Preſton* and *Warner* will have no great Weight; becauſe the other is the great Matter, by which they make the Subſtance of their Defence.

I am glad indeed to ſee a Gentleman here, whoſe Face I never ſaw before, and that is Mr. *Dugdale*. Upon my Word he hath eſcaped well, for I find little ſaid againſt him, very little, either as to the Matter or the Manner of his Evidence. They would have made Reflection on him

him for his Poverty, but I hope that they, whoſe Religion is to vow Poverty, will never inſiſt on that for any great Objection againſt any.

L. C. J. North. Your Lordſhip hath forgot that he ſaid he gave away Three or Four Hundred Pounds to them.

L. C. J. But I will challenge all the Papiſts in *England*, to ſatisfy any Man that hears me this Day of one Piece of Evidence, which will turn every Proteſtant's Heart againſt the Papiſts. If ſo be they murdered Sir *Edmundbury Godfrey*, the Plot even by that, is in a great Meaſure proved upon them by that baſe Murder. And what can be a plainer Proof of it, than the Evidence of this Day, which Mr. *Dugdale* produces? We had Notice, ſaith he, on *Monday* Night, that on the *Saturday* before it, Sir *Edmundbury Godfrey* was killed; (which falls out to be that very *Saturday* he was firſt miſſing;) which Notice was given in a Letter writ by *Harcourt* to *Ewers*, another Prieſt, that ſame *Saturday* Night, wherein were theſe Words, *This Night Sir* Edmundbury Godfrey *is diſpatched*; and I am ſure, if this be true, then no Man can ſay, but *They* murdered him.

Whitebread. It is not alledged againſt any of us.

L. C. J. It is in Evidence of the Plot in general, and to *Harcourt* in particular.

Harcourt. He never ſhews the Letter that he ſays I writ.

L. C. J. He ſays that he uſed to peruſe the Letters, and that *Ewers* had this again, after he had peruſed it; he ſays alſo he has received at times, a hundred Letters from you, and this among the reſt. Now the Queſtion is, Whether it be true, or no? To make it out, he produces Mr. *Chetwyn*, whom I hope you will not deny to be a Gentleman of one of the beſt Families of his Country, and of honeſt Reputation; who ſays, That on the *Tueſday* following that *Saturday* Sir *Edmundbury Godfrey* was miſſed, he and another were talking together in *Staffordſhire*, and that the other Perſon aſked him, if he knew of the Death of any Juſtice of the Peace at *Weſtminſter*; and when he told him, he had heard of no ſuch thing; No! ſaid he, that is ſtrange, you living ſometimes about *Weſtminſter*; for, ſaid he, The Wench at the Alehouſe ſays, That this Morning Mr. *Dugdale* ſaid to two other Gentlemen, there was a Juſtice of Peace at *Weſtminſter* killed; and Mr. *Dugdale* ſwears, that was Sir *Edmundbury Godfrey*. Now, if *Dugdale* be fit to be believed, that he ſaw ſuch a Letter, as he muſt be if he be not a very great Prophet, to be able to foretell this; or if the Maid that ſaid this did not invent it (a Thing then impoſſible to be done), or Mr. *Chetwyn* feigned that he heard the Man make his Report from the Maid; this thing could not come to paſs, but by theſe Men. Nay, if Mr. *Dugdale* could not do as great a Miracle as any are in the *Popiſh Legends*, how could he tell, that it was done on the ſame Night when it was done at *London*? or ſpeak of it on the *Monday* Night after, when it was not known in *London* till the *Thurſday* following? This will ſtick, I aſſure you, Sirs, upon all your Party.

For my own Part, this Evidence of Mr. *Dugdale*'s gives me the greateſt Satisfaction of any thing in the World in this Matter; and whilſt we reſt ſatisfied in the Murder of that Man, and are morally certain you muſt do it, knowing of what Principles you are, you cannot blame us, if, upon ſuch manifeſt Reaſons, we lay it upon you.

And this is occaſional Evidence, which I, for my Part, never heard before this Day; nor can I be more, or better ſatisfied, than I am upon this Point, *viz.* the Teſtimony that I have received this Afternoon, concerning the Murder of Sir *Edmundbury Godfrey*. As to the Defences they have made, they are Exceptions in Point of Time, but do not affect Mr. *Dugdale*; for they have hardly the Confidence to deny the Things he ſays to be true againſt them.

They fall foul, indeed, upon Mr. *Oates:* He appears to have been their Agent; and whilſt ſo, bad enough: But if he had not had a Mind to have become a good Man, he would not likely have done us that good that he hath done, in diſcovering the Deſign you had engaged him in. Let any Man judge, by your Principles and Practices, what you will not do for the promoting of the ſame.

For while this Gentleman's Blood lies upon you (and ſome have been executed for it), it muſt be yet farther told you, that in what you *Did* do, you have given us a Specimen of what you *Would* do. We have a Teſtimony, that for promoting your Cauſe, you would not ſtick at the Proteſtants Blood. You *Began* with Sir *Edmundbury Godfrey*, but who knows where you would have made an *End!* It was this one Man you killed in his *Perſon*, but in *Effigy* the whole Nation. It was in one Man's Blood your Hands are *Imbrued*; but your Souls were *Dipt* in the Blood of us all. This was a Handſel only of what was to follow; and ſo long as we are convinced you killed him, we cannot but believe you would alſo kill the King. We cannot but believe you would make all of us away that ſtand in the Way of your Religion: A Religion which, according to what it is, you would bring in upon us; by a *Converſion* of us with *Blood*; and by a *Baptiſm* with *Fire*. God keep our *Land* from the one, and our *City* from the other.

To return: The Letter that is found in *Harcourt*'s Papers, does further confirm Mr. *Oates* in all the great and conſiderable Matters that he ſays; that there was a Plot; that that Plot was called by the Name of a DESIGN, which was to be kept cloſe and ſecret: And this is an Evidence that cannot lie. For that Letter will never be got off, no more than the other Letter, that Mr. *Dugdale* ſpeaks of about Sir *Edmundbury Godfrey*.

And thus I leave it to you, Gentlemen: You have heard how many Witneſſes they have had for them, about Twenty-four or Twenty-five, of one Sort or another. You have heard what they apply their Teſtimony unto, to convict Mr. *Oates* of Falſhood in Matter of Time; which was their principal Defence: That he was not here in *April* and *May*, and that he came not over with Sir *Thomas Preſton*, and Sir *John Warner*, and that *Ireland* was not here all *Auguſt*. You have heard what Witneſſes *Oates* is backed withal, as to the Time of his being here: And the Maid ſays, ſhe ſaw *Ireland* here in *Auguſt*.

However, though their Defence depends but upon a Point of Time, I muſt tell you, it ought to be well conſidered, for 'tis indeed very conſiderable towards their Defence; and God forbid but we ſhould be equal to all Men.

And ſo I have remembred, as well as I can, in this long and perplexed Evidence, that which ſeems to me moſt material, as to their Charge or Diſcharge; and that which they have made their greateſt Defence by the Youths from St *Omers*, to diſprove Mr. *Oates* his being here, and Mr. *Ireland*'s not being in *London* in *Auguſt*, which in Truth is not the proper Buſineſs of this Day, but hath received a former Verdict before; for if ſo be the Jury before had not been ſatisfied of the Truth of that, they could never have found *Ireland* guilty. So I leave it to you upon the whole Matter. I can remember nothing beſides. Go together, and conſider of your Verdict, according to your Evidence.

L. C. J. North. Gentlemen, my Lord hath repeated it ſo fully to you, that I ſhall not need to add any thing to it.

Then an Officer was ſworn to keep the Jury, who withdrew; and the Judges alſo went off from the Bench, leaving Mr. Recorder, *and a competent Number of Commiſſioners there, to take the Verdict; and about the Space of a Quarter of an Hour, the Jury returned, and anſwered to their Names, and gave in their Verdict thus:*

Cl. of the Cr. Gentlemen, are you all agreed of your Verdict?

Omnes. Yes.

Cl. of the Cr. Who ſhall ſay for you?

Omnes. Foreman.

Cl. of the Cr. Thomas White, alias *Whitebread*, hold up thy Hand. You of the Jury, look upon the Priſoner: How ſay you? Is he guilty of the High-Treaſon whereof he ſtands indicted, or Not Guilty?

Foreman. Guilty.

Cl. of the Cr. What Goods or Chattels?

Foreman. None, to our Knowledge. [*And ſo ſeverally of the reſt.*]

Which Verdict being recorded, in uſual Form, Mr. Recorder *ſpoke to the Jury thus:*

Gentlemen, you of the Jury, There hath been a long Evidence given againſt the Priſoners at the Bar: They were all indicted, arraigned, fairly tried, and fully heard, for High-Treaſon, depending upon ſeveral Circumſtances. They can none of them pretend to ſay (and I take the Liberty to take Notice of it, for the Satisfaction of them, and all that are here preſent, and all the World), That not a Perſon among the Priſoners at the Bar were either wanting to themſelves to offer, or the Court to them to hear any thing that they could ſay for themſelves. But upon a long Evidence, a full diſcuſſing the Objections made againſt it, and a patient hearing of the Defence they made, they are found Guilty: And I do think, that every honeſt Man will ſay, that they are unexceptionably found ſo; and that 'tis a juſt Verdict you have given.

And then the Priſoners were carried back to Newgate, *and the Court adjourned till Eight next Morning: When the Court proceeded to the Trial of* Richard Langhorn.

LXXXIV. *The Trial of* RICHARD * LANGHORN, *Eſq; at the* Old Bailey, *for* High-Treaſon, June 14, 1679, 31 Car. II.

UPON *Saturday* the 14th of *June*, 1679, at the Seſſions-Houſe in the *Old-Bailey*, *London*, the Court (according to their Adjournment the preceding Day) met, and proceeded to the Trial of *Richard Langhorn*, Eſq; in this Manner:

Cl. of the Cr. Set *Richard Langhorn* to the Bar. *Richard Langhorn*, hold up thy Hand. [*Which he did.*]

Thou ſtandeſt indicted in *London* by the Name of *Richard Langhorn*, late of *London*, Eſq.

'For that you *Richard Langhorn* the elder, as a falſe Traitor of the 'moſt Illuſtrious, Serene, and Excellent Prince, *Charles* the Second, by 'the Grace of God, King of *England*, *Scotland*, *France*, and *Ireland*, De'fender of the Faith, your Supreme and Natural Lord, not having the 'Fear of God in your Heart, nor weighing the Duty of your Allegiance, 'but being moved and ſeduced by the Inſtigation of the Devil, the cor'dial Love, and true, due, and natural Obedience, which true and faith'ful Subjects of our ſaid Sovereign Lord the King, towards him do and 'ought to bear, altogether withdrawing, and deviſing, and with all your 'Strength, intending the Peace and common Tranquillity of this King'dom to diſturb, and the true Worſhip of God within this Kingdom 'uſed, and by Law eſtabliſhed, to overthrow, and Sedition and Rebel'lion within this Kingdom to ſtir up and procure, and the true Love, 'Duty and Obedience, which true and faithful Subjects of our ſaid Lord 'the King, towards him do, and of Right ought to bear, to withdraw, 'relinquiſh, and extinguiſh; on the 30th Day of *September*, in the 30th 'Year of his Majeſty's Reign, at *London*, in the Pariſh of St. *Dunſtan*'s 'in the *Weſt*, in the Ward of *Farringdon Without*, *London*, aforeſaid, 'falſly, malicioufly, ſubtilly, and traiterouſly, with many other falſe 'Traitors of our Sovereign Lord the King unknown, did purpoſe, com'paſs, imagine, intend, conſult and agree, to ſtir up Sedition and Rebel'lion within this Kingdom of *England*, againſt our ſaid Sovereign Lord 'the King, and a miſerable Slaughter amongſt the Subjects of our ſaid 'Lord the King, of his Kingdoms of *England*, to procure and cauſe, and 'our ſaid Sovereign Lord the King, from his Kingly State, Title, Power, 'and Government of his Kingdom of *England*, totally to deprive, depoſe,

* Burn. *Hiſt. Own Times*, Vol. I. p. 465.

and

'and diſinherit, and our ſaid Sovereign Lord the King to Death and final 'Deſtruction to bring and put, and the Government of this Kingdom to 'ſubvert and change, and the true Worſhip of God in this Kingdom by 'Law eſtabliſhed and uſed to alter, and the State of this Kingdom in all 'the Parts thereof well inſtituted, totally to ſubvert and deſtroy, and War 'within this Kingdom of *England* to procure and levy, and the ſame 'moſt wicked Treaſons, traiterous Imaginations, Purpoſes, Compaſſings, 'and Agreements aforeſaid, and to perfect and fulfil: You the ſaid '*Richard Langhorn* afterwards, to wit, the 30th Day of *September*, in the '30th Year aforeſaid, and divers other times before, at *London*, &c. falſly, 'adviſedly, maliciouſly, ſubtilly, and traiterouſly, did compaſs, contrive, 'and write two Letters, to be ſent to certain Perſons unknown at *Rome*, 'and at St. *Omers*, in Parts beyond the Seas, to procure the Adherence, 'Aid and Aſſiſtance of the Pope, and of the *French* King, and others, to 'you the ſaid *Richard Langhorn*, and other falſe Traitors unknown, the 'true Worſhip of God within this Kingdom of *England*, by Law eſta-'bliſhed and uſed, to the Superſtition of the Church of *Rome* to alter, 'and the Government of this Kingdom of *England* to ſubvert, and our 'ſaid Sovereign Lord the King to Death and final Deſtruction to bring 'and put; and that you the ſaid *Richard Langhorn*, in further Proſecu-'tion of the ſaid Treaſon, traiterous Imaginations, Intentions, and 'Agreements aforeſaid, on the Day and Year aforeſaid, and the ſaid other 'Days and Times before at *London*, &c. did compaſs, contrive, and write 'two other Letters to be ſent to *Rome*, in Parts beyond the Seas, to one '*Chriſtopher Anderton*, then Rector of the *Engliſh* College at *Rome* afore-'ſaid, and two other Letters to be ſent to St. *Omers*, in Parts beyond 'the Seas, to diverſe Perſons unknown there reſiding, and by the ſaid re-'ſpective Letters traiterouſly you did adviſe the ſaid Pope, and *Chriſtopher* '*Anderton*, and other Perſons unknown reſiding beyond the Seas, of the 'Ways and Manner to be taken for accompliſhing the ſaid moſt wicked 'Treaſons, for altering the true Worſhip of God in this Kingdom eſta-'bliſhed and uſed, to the Superſtition of the Church of *Rome*, and for 'ſubverting the Government of this Kingdom, and for the Death and 'Deſtruction of our ſaid Lord the King, and to the Intent that the ſaid '*Chriſtopher Anderton*, and others unknown, ſhould give their Aid, Aſſiſt-'ance, and Adherence, and ſhould procure other Aid, Aſſiſtance, and 'Adherence, to you the ſaid *Richard Langhorn*, and other falſe Traitors 'unknown, to alter the true Worſhip of God aforeſaid, to the Superſti-'tion of the Church of *Rome*, and to ſubvert the Government of this 'Kingdom of *England*, and to put our ſaid Sovereign Lord the King to 'Death; and that you the ſaid *Richard Langhorn* afterwards, to wit, the 'Day and Year aforeſaid, at *London*, &c. traiterouſly did deliver the Let-'ters aforeſaid, to be ſent to the ſaid *Chriſtopher Anderton*, and others, 'Perſons beyond the Seas, to perfect the traiterous Purpoſes aforeſaid; 'and that you the ſaid *Richard Langhorn*, further to fulfil and accompliſh 'the ſame moſt wicked Treaſons, traiterous Imaginations, Purpoſes, and 'Compaſſings aforeſaid, afterwards the ſaid 30th Day of *September*, in the 'Thirtieth Year aforeſaid, at *London*, &c. five Commiſſions in Writing, 'made by Authority derived from the See of *Rome*, for conſtituting Mi-'litary Officers, for leading the Forces to be levied in this Kingdom 'againſt our ſaid Sovereign Lord the King, for the altering the Proteſt-'ant reformed Religion to the Uſe and Superſtition of the Church of '*Rome*, and for ſubverting the Government of this Kingdom of *England*, 'traiterouſly you did receive, and five other Commiſſions in Writing, 'made by Authority derived from the See of *Rome*, for conſtituting Ci-'vil Officers for governing this Kingdom after the moſt wicked Treaſons 'and traiterous Imaginations, Purpoſes and Compaſſings aforeſaid were 'fulfilled and accompliſhed, then and there traiterouſly you did receive. 'And that you the ſaid *Langhorn*, afterwards, to wit, the Day and Year 'aforeſaid, at *London*, &c. the ſaid ſeveral Commiſſions ſo received, to 'divers falſe Traitors of our Sovereign Lord the King unknown, falſely, 'knowingly, and traiterouſly, did diſtribute, give and diſpoſe for conſti-'tuting Officers, as well Military as Civil, to the traiterous Purpoſes 'aforeſaid. And that you the ſaid *Richard Langhorn*, afterwards, on the 'Day and Year aforeſaid, at *London*, &c. a Commiſſion to conſtitute and 'authorize you to be Advocate-General of the Army, to be levied in 'this Kingdom, to War againſt our ſaid Sovereign Lord the King, 'falſely, traiterouſly, and againſt the Duty of your Allegiance, from a 'certain Perſon unknown, did receive and had; and the ſame Commiſ-'ſion then and there falſely, adviſedly, and traiterouſly, did inſpect and 'read, and in your Cuſtody keep; and to the ſame Commiſſion traite-'rouſly did give your Conſent, to the Intent that you the ſaid *Richard* '*Langhorn* ſhould have and execute the Place and Office of Advocate-'General of the Army aforeſaid, after the Army aforeſaid ſhould be 'raiſed againſt our ſaid Sovereign Lord the King, by you the ſaid *Richard* '*Langhorn*, and other falſe Traitors unknown, in Execution of the ſaid 'traiterous Compaſſings, Imaginations, and Agreements aforeſaid. And 'that whereas *William Ireland*, *John Grove*, and *Thomas Pickering*, and 'other falſe Traitors of our Sovereign Lord the King unknown, on the '24th Day of *April*, in the 30th Year aforeſaid, in the County of *Mid-'dleſex*, did conſult to bring and put our ſaid Sovereign Lord the King 'to Death and final Deſtruction, and to change and alter Religion in 'this Kingdom of *England*, rightly and by Law eſtabliſhed, to the Su-'perſtition of the Church of *Rome*, at *London*, &c. had Notice of that 'Conſultation; and the ſame Conſultation for the Deſtruction of the 'King, and for the Alteration of Religion in this Kingdom, rightly 'eſtabliſhed, to the Superſtition of the Church of *Rome*, and the trea-'ſonable Agreements had in that Conſultation, on the ſaid 30th Day of '*September*, in the 30th Year aforeſaid, from our ſaid Sovereign Lord 'the King, adviſedly and traiterouſly did conceal, and to that Conſulta-'tion traiterouſly you did conſent. And the ſaid *William Ireland*, *John* '*Grove*, and *Thomas Pickering*, on the Day and Year laſt aforeſaid, at '*London*, the Treaſons aforeſaid to perpetrate and perfect, maliciouſly, 'ſubtilly, and traiterouſly, you did abet, counſel, maintain, and com-'fort. And that you the ſaid *Richard Langhorn*, afterwards, to wit, the 'ſaid 30th Day of *September*, in the 30th Year aforeſaid, at *London*, &c. 'falſely, ſubtilly, and traiterouſly, you did move and ſolicit the *Benedic-'tine* Monks (unknown) to expend and pay the Sum of Six Thouſand 'Pounds, to procure a Perſon traiterouſly to kill and murder our ſaid So-'vereign Lord the King. And whereas *Edward Coleman*, and other 'falſe Traitors of our ſaid Sovereign Lord the King unknown, on the '29th of *September*, in the 30th Year aforeſaid, in the County of *Mid-'dleſex*, traiterouſly had conſpired and conſulted to procure Rebellion 'and Sedition, within this Kingdom of *England*, againſt our ſaid Sove-'reign Lord the King, and him from his Kingly State and Government 'of this his Kingdom of *England* to deprive and diſinherit, and to bring 'and put him to final Death and Deſtruction, and the Government of 'this Kingdom of *England* to alter, and the true Religion in this King-'dom of *England*, by Law eſtabliſhed, to alter and change. And where-'as he the ſaid *Edward Coleman* had traiterouſly written four Letters to 'Monſieur *Le Chaiſe*, then Counſellor of the *French* King, to procure 'the Aid, Aſſiſtance, and Adherence of the *French* King, to perfect and 'accompliſh the traiterous Imaginations aforeſaid, you the ſaid *Richard* '*Langhorn* afterwards, to wit, the ſaid 30th Day of *September*, in the '30th Year aforeſaid, at *London*, &c. well knowing the treaſonable Mat-'ters in the ſame Letters contained, to the ſame Letters did conſent, and 'then and there falſely, ſubtilly, adviſedly, maliciouſly, and traiterouſly, 'did abet, counſel, maintain, and comfort the ſaid *Edward Coleman*, to 'perpetuate and accompliſh the Treaſon aforeſaid, againſt the Duty of 'your Allegiance, againſt the Peace of our Sovereign Lord the King, 'his Crown and Dignity, and againſt the Form of the Statute in this 'Caſe made and provided.'

Clerk of the Crown. How ſayeſt thou, *Richard Langhorn*, art thou guilty of this High-Treaſon whereof thou ſtandeſt indicted, or Not Guilty?

Langhorn. Not Guilty.

Cl. of the Cr. Culprit, how wilt thou be tried?

Langhorn. By God and my Country.

Cl. of the Cr. God ſend thee a good Deliverance.

Then the Petty Jury impannelled for this Trial was called, the Priſoner put to his Challenges, but challenging none, the twelve ſworn were theſe:

Arthur Yong,	*John Kirkham,*	*John Hall,*
Edward Beeker,	*Peter Pickering,*	*George Sitwell,*
Robert Twyford,	*Thomas Barns,*	*James Wood,* and
William Yapp,	*Francis Neeve,*	*Richard Cawthorne.*

After which, Proclamation for Information was made in the uſual Manner.

Cl. of the Cr. Richard Langhorn, hold up thy Hand [*Which he did.*] You of the Jury, look upon the Priſoner, and hearken to his Cauſe: He ſtands indicted in *London* by the Name of *Richard Langhorn*, late of *London*, Eſq; for that as a falſe Traitor, &c. [*put in the Indictment* Mutatis Mutandis] and againſt the Form of the Statute in that Caſe made and provided. Upon this Indictment he hath been arraigned, and thereunto hath pleaded *Not Guilty*; your Charge is to enquire whether he be guilty of the High-Treaſon whereof he ſtands indicted, or Not Guilty. If you find him Guilty, then you are to enquire what Goods or Chattels, Lands or Tenements, he had at the Time of the High-Treaſon committed, or at any Time ſince. If you find him Not Guilty, you ſhall enquire whether he fled for it. If you find that he fled for it, you are to enquire of his Goods and Chattels, as if you had found him Guilty. If you find him Not Guilty, nor that he did fly for it, ſay ſo and no more, and hear your Evidence.

Then Roger Belwood, *Eſq; of Counſel for the King in this Cauſe, opened the Indictment thus:*

May it pleaſe your Lordſhip, and you Gentlemen of the Jury;

The Priſoner at the Bar, Mr. *Langhorn*, ſtands indicted of High-Treaſon, and it is for conſpiring the Murder of the King, and endeavouring an Alteration in the Government in Church and State. And the Indictment ſets forth, that the 30th of *Auguſt*, in the 30th Year of the King, he and other falſe Traitors did agree to ſtir up Sedition and Rebellion in the Kingdom, and to cauſe a great Slaughter of his Majeſty's Subjects; to introduce the Superſtition of the Church of *Rome*, and depoſe and murder the King, and to alter the Government in Church and State: And 'tis there ſaid, that to accompliſh theſe evil Deſigns, he writ two Letters to be ſent to *Rome* and St. *Omers*; the Effect of which Letters was, to procure the Aſſiſtance of the Pope and the *French* King, to alter the Religion eſtabliſhed by Law in this Kingdom to *Romiſh* Superſtition, to ſubvert the Government, and to put the King to Death; and that in further Proſecution of theſe traiterous Deſigns, he writ two other Letters to be ſent to *Rome*, to one *Chriſtopher Anderton*, Rector of the *Engliſh* College, and a Jeſuit; and two others to be ſent to St. *Omers*; and in theſe Letters he took upon him to adviſe the Way and Means by which theſe Treaſons might be effected, and that theſe ſeveral Letters were ſent and delivered by him, and received. The Indictment further ſets forth, that in further Proſecution of theſe traiterous Imaginations of his, he did receive five ſeveral Commiſſions in Writing, by Authority derived from the See of *Rome*; and thoſe were for the making of Military Officers, to execute theſe Treaſons by Force of Arms, and that he did likewiſe receive five other Commiſſions for conſtituting Civil Officers in this Realm, after the Treaſon was committed. And that amongſt the reſt he did receive for himſelf one Commiſſion to be Advocate-General of the Army that was to be raiſed. And the Indictment further charges upon the Priſoner, that to accompliſh theſe Treaſons, whereas *Ireland*, *Pickering*, and *Grove*, and other falſe Traitors, had conſulted theſe Treaſons, which I before mentioned, Mr. *Langhorn* had Notice of the Treaſons, and did conſent to them, and abet them, and that he did ſolicit the *Benedictine* Monks to advance 6000*l.* for the Murder of the King, for the Alteration of Religion, and for the Subverſion of the Government in Church and State. And further, whereas Mr. *Coleman* (who was executed for Treaſon) had (with others) conſpired the Death of the King, and the introducing of Popery, and had writ a Letter to the *French* Confeſſor *Le Chaiſe*, for Aid and Aſſiſtance, that the Priſoner at the Bar had Notice of this, and that he did conſent to it, and did abet it. This, Gentlemen, is charged to be traiterouſly and deviliſhly done, againſt the Priſoner's Allegiance, and the Form

Form of the Statute. To this he hath pleaded Not Guilty; but if we prove these Treasons, or any of them, you are to find him Guilty.

Then Sir Creswel Levinz, *one of His Majesty's Learned Counsel in the Law opened the Charge thus:* Prout——

May it please your Lordship, and you Gentlemen of the Jury;

Mr. *Langhorn* is indicted for Treason, for having a Part in that general Treason that you have heard several times before of, and some Persons there were indicted, tried, and convicted yesterday, for that Treason that Mr. *Langhorn* had an Hand in: for the Indictment does set forth, that there were Letters written by him to *Rome* to the same purpose, of which, Gentlemen, you have heard so often, and will hear again.

This Treason was no less than to murder the King, to alter the Religion, to overturn the Law, to raise an Army by Force to effect all this, and in short to do all the mischief that Men (if it be lawful to call such Creatures Men) could do. That there was, in order to this, Consultations held the 24th of *April* among the Jesuits; and there it was resolved that the King should be killed, there were Persons appointed to do it, that was *Pickering* and *Grove*, but they failed therein, and they prosecuted it at *Windsor*; but happening to fail there also, they followed him to *Newmarket*, and ordered that it should be done there: And when all this failed, they took another Course, His Majesty was to be poisoned; and as I said before, to make all this good, an Army was to be raised of 50,000 Men in *England*, to perfect this Work; but if that would not do, they were to have Forces from beyond Sea to join with them: and Mr. *Langhorn* he writ Letters to procure these Forces, and he not only did so, but he found the effect of his Letters, and received Commissions from beyond Sea, whereof one was for himself, to be Advocate-General of the Army. All these things are laid to Mr. *Langhorn*'s Charge.

But I'll begin first, and shew you, before I come to the particular Evidence against Mr. *Langhorn*, some Evidence of the general Design; and therefore we will call some Witnesses to do that in the first Place, and then bring it down to Mr. *Langhorn* himself.

Call Mr. *Dugdale*, and Mr. *Praunce*. *(Who were both sworn, and Mr.* Dugdale *first stood up.)*

Sir *Cr. Levinz*. Come, Sir, what do you know of any Design to murder the King? Speak what you know concerning the Plot and Conspiracy.

Dugdale. I was in several Consultations for Alteration of this present Government, and for the introducing of Popery, and for the Murder of the King. I was a Person in most of the Consultations to the same purpose, and heard the very Words used, and was hired to be instrumental in it, and was to have a Sum of Money to be one of them that should do it. I was to be an Actor in it, and was to have a Place appointed to do it.

Mr. Just. *Atkins*. What were you hired to do?

Dugdale. I was to kill the King.

Sir *Cr. Levinz*. And who were the Persons that put you upon it?

Dugdale. There was Mr. *Ewers*, Mr. *Gavan*, Mr. *Luson*, and Mr. *Vavasor*.

Sir *Cr. Levinz*. What were these Men?

Dugdale. They are all Jesuits.

Sir *Cr. Levinz*. Do you know any thing of an Army that was to be raised to effect it?

Dugdale. They always did speak of an Army that was to be raised, but it was not actually to be done till the King was killed; that was the last Conclusion: It was indeed at first concluded on to raise an Army, but the last Consultation was, that there should no Arms appear, till the King was killed.

Sir *Cr. Levinz*. You do not know any thing of Mr. *Langhorn* in particular, do you?

Dugdale. No, I do not know any thing particular, I have heard of him.

L. C. J. North. Why, you brought him only to prove the general Design.

Dugdale. There was a Massacre to be, and then there should be an Army, a pretty good considerable Army, there was no certain Number that I could hear of; but those that did escape the Massacre should be cut off by the Army.

L. C. J. North. Where were these Consultations?

Dugdale. One was at *Tixall*, another was at *Boscobel*, at my Lord *Aston*'s, and Mr. *Gerard*'s.

L. C. J. North. Where were these Places?

Dugdale. In *Staffordshire*.

Mr. Just. *Atkins*. Pray, who were to be massacred in the first place?

Dugdale. All Protestants, and those we could not be sure to be Papists.

Mr. *Belwood*. Pray, Sir, what do you know of any Letter to be writ to Mr. *Ewers*, concerning Sir *Edmundbury Godfrey*'s Death?

Dugdale. I do remember a Letter that came to Mr. *Ewers*, from Mr. *Harcourt*, which did express, and begin thus, *This very Night Sir* Edmundbury Godfrey *is dispatched*; with some other Words of like Import; and then I sent to Mr. *Ewers* about it: And do you think this will carry on the Design? I will be hang'd if it don't spoil it: No, said he, he was a Person that used to be very severe against debauch'd lewd Persons, and so it will be laid, as if they had done it out of Revenge.

L. C. J. North. What Day of the Week was that Letter dated?

Dugdale. It was, as I can very well make it out, on *Saturday*.

L. C. J. North. And when was it received?

Dugdale. It was received on *Monday* Night.

L. C. J. North. What were the Contents of it, do you say?

Dugdale. It began thus, *This very Night Sir* Edmundbury Godfrey *is dispatched*.

L. C. J. North. Who did it come from?

Dugdale. It came from Mr. *Harcourt*.

Sir *Cr. Levinz*. They themselves know that he was not found here in *London*, till *Thursday*.

Dugdale. I could not hold, it run so much in my Mind, but the next Morning going to an Alehouse hard by, I there spoke of it, and immediately it was carried to Mr. *Chetwin*, and he was here Yesterday to make it out, that I so did.

L. C. J. North. But why did they kill him? Was it expressed why?

Dugdale. I had several Times heard he was too much privy to their Consultations.

L. C. J. North. That is, you mean, he had too much discovered to him.

Dugdale. And so they were afraid of Mr. *Coleman* too, that he carried Things too high; and he was out of their Favour for two Years.

Sir *Cr. Levinz*. Then call Mr. *Praunce*. Pray, Sir, what can you say?

Praunce. There was one Mr. *Messenger*, a Gentleman of the Horse to my Lord *Arundel* of *Wardour*, who was employed by my Lord *Arundel* of *Wardour*, and my Lord *Powis*, and he was to kill the King, and to have a very good Reward for the doing of it; and I was told so by my Lord *Butler*: I afterwards met with this *Messenger*, and asked him, what his Reason was that he would kill the King. He told me, he was off of it now.

Sir *Cr. Levinz*. But what was to be done after they should kill the King?

Praunce. Presently there should be an Army of 50,000 Men raised, to be governed by my Lord *Arundel*, and my Lord *Powis*, and them: I have heard Mr. *Fenwick*, and Mr. *Ireland*, and *Grove*, to speak of this at the same time together.

Sir *Cr. Levinz*. What was that Army to be raised for?

Praunce. To settle the Catholick Religion.

L. C. J. North. What was to become of other Persons?

Praunce. They were to be killed and ruined all: So *Fenwick* told me.

L. C. J. North. Look you, Mr. *Langhorn*, these Witnesses speak nothing to you in particular, but only that there was a Conspiracy in general, to kill the King, and introduce Popery: If you will ask them any Question, you may.

Langhorn. No, my Lord, they not accusing me, I have nothing to say to them.

Praunce. I heard one Mr. *Harcourt* say, that the King was to be killed by several, before one Mr. *Thompson*, twice in his own Chamber in *Duke-Street*. And I heard *Fenwick* say that Mr. *Langhorn* was to have a great hand in it.

Langhorn. Is that all you have to say as to me?

Praunce. It is all I know of.

Then the Lord Chief Justice Scroggs *came in.*

Sir *Cr. Levinz*. Now, my Lord, we will call the Evidence, that shall prove the particular Matters of the Indictment, as of writing the Letters beyond Sea, of his receiving Commissions, of his distributing them here to the several Persons to whom they were directed; of his soliciting for the Money, the 6000 *l.* to be raised by the *Benedictine* Monks, which was either for a particular Purpose to poison the King, or to carry on the Design in general. And first we call Dr. *Oates*. *Who was sworn, and stood up.*

Sir *Cr. Levinz*. Sir, you hear what the Matter is, as to Mr. *Langhorn*, be pleased to tell the Court, whether you knew he writ any Letters, and received any Commissions; speak your whole Knowledge.

Oates. I hope your Lordship will be pleased to give me leave to use my own method.

L. C. J. Ay, ay, take your own Way, Mr. *Oates*.

Oates. Then I begin thus: In the Month of *April* 1677, I went into the Kingdom of *Spain*: In the Month of *September* following, the Sons of Mr. *Langhorn* came into the Kingdom of *Spain*: It was *September*, or sooner, but I will not be positive as to the Time of their coming; the one was a Scholar of the *English* College at *Madrid*, the other was a Scholar of the *English* College at *Valledolid*. They came there to study Philosophy, in order to their receiving of the Priesthood. My Lord, my Occasions called me into *England*, in the Month of *November* following; and coming into *England*, Mr. *Langhorn*'s Sons did give me some Letters to Mr. *Langhorn* their Father; and as soon as I had rested myself for a Day or two, after my Journey, I came to Mr. *Langhorn*'s House in *Sheer-lane*. Now Mr. *Langhorn*'s Wife being a zealous Protestant, I did whisper his Foot-Boy, or his Servant-Boy, in the Ear, that he should go and whisper his Master, Mr. *Langhorn*, and tell him there was one would speak with him from his Sons. Mr. *Langhorn*, by his Son, did desire me to meet him at his Chamber in the *Temple*, (in the *Inner-Temple-lane*, it was, I think) I know the Chamber, however; and accordingly I did meet Mr. *Langhorn* that Night, by the means of his Half-Brother, who is Brother, I think, by the Mother, and not by the Father, his Name is *Smithson*; and when I came into Mr. *Langhorn*'s Chamber, their Chambers being directly opposite one to another, I was treated by Mr. *Langhorn* with a great deal of Civility, and I delivered Mr. *Langhorn* the Letters from his Sons, and I told him, that I thought his Sons would enter into the Society: Mr. *Langhorn* was mightily pleased with the News, being himself a great Votary for the Society, that his Sons would enter into it. Now, may it please your Lordship, Mr. *Langhorn* did say, He thought if they did continue in the World, that is Secular Priests, they would suddenly have very great Promotion in *England*; for he said, Things would not last long in this Posture; that is, at that Time he then spoke; I speak the Words now, that he said then. And now, my Lord, I was with Mr. *Langhorn* another Time, while I was in *England*; but in the latter end of *November*, Old Stile, in the beginning of *December* New Stile, I went to St. *Omers*, and there were Letters that he delivered me *(looking upon the Prisoner)*, a Pacquet to carry to St. *Omers*. And when the Pacquet was opened, there was a Letter signed *Richard Langhorn*, in which he gave the Fathers at St. *Omers* great Thanks, for the great Care had of, and Kindness they shewed to, his Sons, and that what they had been out of Pocket for their *Viaticum*, in order to their Journey into *Spain*, which was 20 *l.* he promised them they should be repaid it; and in this Letter he did expressly say, that he had written to Father *Le Chaise* in order to our Concerns; those were his Words. Now, my Lord, the Letter that he writ to Father *Le Chaise* I saw not, but only this Letter I saw, which gave an Account of that Letter he had writ to Father *Le Chaise*; and he said Mr. *Coleman* had been very large with him, and therefore it would not be necessary for him to trouble his Reverence with any large Epistles at that Time. My Lord, there was another Letter, and I think that was in the Month of *March* or *April*, I cannot be positive as to the particular Time, but it was upon this remarkable Circumstance: Mr. *Langhorn* had a Son that had been in Rebellion, and had turned Soldier, or some such Thing in *France*, and this Young Gentleman came to St. *Omers*, being the Place where he had been

been Educated; and Mr. *Langhorn*, by the Interceſſion of the Fathers there, did order him Five Pounds, to bring him over into *England*, upon Promiſe of his Son's Submiſſion, who had been very extravagant in ſeveral reſpects. In this Letter, my Lord, Mr. *Langhorn* did expreſs his great Care for the carrying on of the Deſign of the Catholicks, and ſeveral other Expreſſions there were in it bad enough, which I cannot now call to mind, but they were to this Effect: The Parliament began to flag in promoting the Proteſtant Religion, and now they had a fair Opportunity to begin and give the Blow; what that Blow was, I leave to the Court and to the Jury to expound.

L. C. J. But was that an Expreſſion in the Letter?

Oates. It was, my Lord: But it was a very large Letter, I can't give a particular Account of every Thing in it. My Lord, in the Month of *April*, or the beginning of *May*, your Lordſhip remembers there was a Conſult that hath been ſworn here in this Court, to which Conſult——

L. C. J. Pray ſpeak it out.

Oates. There were ſeveral of us came over from St. *Omers*, and from other Parts beyond the Seas, to this Conſult, at which Conſult Mr. *Langhorn* was not preſent; but I had Orders from the Provincial, to give Mr. *Langhorn* an Account of what Reſolutions, and Paſſages, and Minutes paſs'd at this Conſult; and this I did as well as I could, and when I did ſo, Mr. *Langhorn* lift up his Hands and his Eyes, and pray'd to God to give it good Succeſs. My Lord, while I was at Mr. *Langhorn*'s Chamber, giving this Account, I ſaw ſeveral Parchments lying upon the Table in his Study.

L. C. J. You had beſt tell the Effect of the Account you gave Mr. *Langhorn* in his Chamber, that you ſpeak of.

Oates. My Lord, I told him who went Procurator to *Rome*, that was one Father *Cary*, I told him what was the Reſolve of the Conſult concerning the Death of the King.

L. C. J. Did you ſo?

Oates. Yes, my Lord, I did: I told Mr. *Langhorn* that ſeveral of the Fathers were to be admoniſhed for their irregular Living, as they termed it: And to this Mr. *Langhorn* did reply, as near as I can remember, that he found ſome of them did not live up to the Rules of the Society.

L. C. J. Pray tell us more particularly, what you told him. And tell us as near as you can, as you told it him then, the Buſineſs of the Plot upon the King.

Oates. I told him the Reſolve of the Society, and of that Conſult, and what was that which was reſolved, that *Pickering* and *Grove* ſhould go on to attempt to aſſaſſinate the King's Perſon, and what was to be their Reward; the one was to have, that is *Grove*, 1500*l.* and the other, that is *Pickering*, was to have 30,000 Maſſes: He lift up his Hands and Eyes when I told him this (and I told him more particularly than I can now remember), and he lift up his Hands and Eyes, and prayed God that it might have good Succeſs.

L. C. J. Did you tell him they had Signed to this Agreement?

Oates. Yes, my Lord, I told him that they had all Signed it.

Langhorn. When was this?

Oates. It was the latter end of *April*, or beginning of *May*.

Langhorn. How long after they had Signed the Conſult?

Oates. A Day or two after.

Langhorn. Dr. *Oates*, Do you know the Day of the Month? You have aſſerted the Day of the Month formerly, pray do it now.

Mr. Juſt. Pemberton. Let him go on, you ſhall aſk him what Queſtions you will, by and by.

Oates. My Lord, I ſaw there a Commiſſion for my Lord *Arundel* of *Wardour*, and another to my Lord *Powis*; the one was to be Lord High Chancellor, and the other to be Lord High Treaſurer; there was a Commiſſion for my Lord *Bellaſis*, to be General, another for my Lord *Petre*, to be Lieutenant General; and there were other Commiſſions, of which I cannot remember the particular Names; but there was a Commiſſion for *Coleman* to be Secretary of State, and there was a Commiſſion for the Priſoner at the Bar to be Advocate of the Army.

L. C. J. By what Authority were thoſe Commiſſions?

Oates. They were by Authority derived from the See of *Rome*, by Virtue of a Breve from the Pope, directed to the General of the Society, and they were Signed IHS, and with the Mark of the Croſs through the

IHS, and they were Signed *Johannes Paulus de Oliva.*

L. C. J. North. That is the Jeſuits Mark?

Oates. Yes, my Lord.

L. C. J. North. Where did you ſee thoſe Commiſſions?

Oates. In Mr. *Langhorn*'s Study of his Chamber in the *Temple*.

L. C. J. Where? Did they lie open, that any one might ſee them?

Oates. They lay upon the Corner of his Deſk, folded up.

L. C. J. How came you to ſee them?

Oates. My Lord, if your Lordſhip pleaſe, I will tell your Lordſhip how I came to ſee them. We had Notice they were come by a Letter from one Father *Anderton*, and he called theſe Commiſſions Patents, and, if it pleaſe your Lordſhip, I did aſk Mr. *Langhorn*, whether he had received them? He told me, Yes: Then I aſked him, whether he would do me the Favour to let me ſee them? And becauſe I had been privy to the Conſults, and came to wait upon him by Order of the Provincial, he did let me ſee them.

L. C. J. And you ſaw them in his Study, upon his Deſk?

Oates. Yes, my Lord, I did. And particularly one more I can tell of, which his Son was to deliver to a Son of my Lord *Arundel* of *Wardour*.

L. C. J. How many Commiſſions were there?

Oates. I cannot ſay, about Seven or Eight, I think, I did ſee, and looked over.

Mr. Juſt. Atkins. And you knew what they were?

Oates. Yes, for thoſe that I ſaw, that I can remember.

L. C. J. What was my Lord *Powis* to be?

Oates. Lord High Treaſurer.

L. C. J. And what my Lord *Arundel?*

Oates. Lord High Chancellor of *England*.

L. C. J. And what my Lord *Stafford?*

Oates. As to my Lord *Stafford*, I cannot give ſo good an Account; but as I remember, he was to be a Pay-maſter in the Army, or ſome ſuch Office relating to the Army.

L. C. J. North. What was the Priſoner at the Bar to be?

Oates. A Judge in the Army, or an Advocate-General, ſo they called him.

L. C. J. You ſaw moſt of theſe?

Oates. I ſaw ſeveral of them, moſt of them in his Cuſtody, I cannot ſay all: There was more than for theſe Lords, for other inferior Officers.

L. C. J. How many might there be of them, as near as you can gueſs?

Oates. I think he told me they were about Fifty.

L. C. J. What Number did you ſee?

Oates. I ſaw about Half a dozen or Eight.

L. C. J. Well, Sir, go on.

Oates. My Lord, I am now to ſpeak to your Lordſhip concerning ſome Letters that he wrote to *Rome*, and there was——

L. C. J. Had you any Diſcourſe with him concerning the Matters of any of the Commiſſions of my Lord *Bellaſis* and my Lord *Powis?*

Oates. No, my Lord; I had but little Skill in Military Affairs, and therefore I ſaid but little, and I cannot give you an Account, Word for Word, what the Diſcourſe was, for it was out of my Way. My Lord, there were ſeveral Letters which Mr. *Langhorn* writ to Father *Le Chaiſe*, the Anſwers to which I ſaw in *April* and *May*; whereupon the Fathers did deſire they might have the Originals of thoſe Copies: He gave me the Originals to carry to the Fathers, I think it was that very Day I had been with him in the Afternoon; for I was with him in the Morning; the Fathers did read the Letters.

L. C. J. From whom came they?

Oates. From Father *Le Chaiſe*, and from Father *Anderton*. And *Le Chaiſe*, in his Letter, did aſſure him of his Stedfaſtneſs, and Conſtancy, to aſſiſt the Society for the carrying on the Cauſe: And that they ſhould not need doubt, but the *French* King would ſtand by them, or to that Purpoſe. I cannot remember exactly the Words, but it was to that Effect.

L. C. J. But they were directed to Mr. *Langhorn?*

Oates. I cannot ſwear that directly, but he gave them me.

L. C. J. Who were *Le Chaiſe* and *Anderton?*

Oates. The one was Confeſſor to the French King, and the other Rector of the College at *Rome*.

Mr. Juſt. Atkins. But you ſaw thoſe in the Priſoner's Cuſtody, you ſay?

Oates. Yes, my Lord, I did.

L. C. J. He gave them you to deliver to the Fathers, to *Whitebread* and the reſt of them?

Oates. Yes, my Lord, but I cannot ſay who they were directed to.

L. C. J. But pray repeat what was the Subſtance of that Letter.

Oates. My Lord, as to the Words of them, I dare not charge my Memory; but it was to this Purpoſe, that *Le Chaiſe* would ſtand by the *Engliſh* Society, and aſſiſt them, and that they ſhould not need to doubt the *French* King, or to that Effect.

Mr. *Belwood.* Do you remember any Letters that were writ by Mr. *Coleman* to *Le Chaiſe?*

Oates. Yes, my Lord, I remember ſeveral Letters that *Coleman* writ, but Mr. *Langhorn* was not affected in them.

Mr. Belwood. Did he know of them?

Oates. He gave an Account in his Letter to the Society, That *Coleman* had writ Letters to *Le Chaiſe*, and was very large, and therefore he ſhould not trouble his Reverence with any long Epiſtles.

Sir Cr. Levinz. What do you know of any Money that was to be raiſed by the *Benedictine* Monks?

Oates. I had forgot that.

L. C. J. You ſay, that he ſaid, they ſhould not need to doubt the *French*, but he would ſtand by them with Men and Money: For what Purpoſe, pray?

Oates. I'll tell you for what Purpoſe it was: the Words of the Letter did alledge it to be for carrying on of the Cauſe.

Mr. Juſt. Pemberton. You mean the Catholick Cauſe?

Oates. So it was generally underſtood.

L. C. J. But for the other Money, what ſay you?

Oates. Mr. *Langhorn* was employed as Sollicitor for the Jeſuits, and did accompany ſome of the Society, Father *Harcourt*, Father *Fenwick*, Father *Kaines*, and Father *Langworth*, and they went and did communicate the Secret to the *Benedictine* Monks, deſiring them to ſtand by them with a Sum of Money for the carrying on the Deſign: Now, upon Mr. *Langhorn*'s ſoliciting them, and appearing for them, as I have heard, 6000*l.* was promiſed and paid.

L. C. J. By whom promiſed and paid?

Oates. By the *Benedictine* Monks.

L. C. J. To whom?

Oates. To the Society.

L. C. J. To what Perſon?

Oates. That I cannot ſay; but it was ſaid, Mr. *Langhorn* was to receive it.

L. C. J. Did you ſee the Money paid?

Oates. No, I did not.

L. C. J. Did you hear Mr. *Langhorn* confeſs it was paid?

Oates. Mr. *Langhorn* did ſay in the Month of *July* or *Auguſt*, I cannot be poſitive which, but thereabouts, when he was ſpoke to about it, that he would ſtir in it, and do to the utmoſt of his Power for the procuring of it. And another Thing, I am ſure Mr. *Langhorn* was very much diſguſted, that Sir *George Wakeman* was not contented with the 10,000*l.*

Sir Cr. Levinz. What was the 6000*l.* for?

Oates. It was for the general Cauſe.

Sir Cr. Levinz. For the Murder of the King?

Oates. Yes, and the Alteration of Religion.

L. C. J. North. How did it appear that Mr. *Langhorn* was diſguſted, that Sir *George Wakeman* would not take the 10,000*l.*? And, What was it for?

Oates. It was to poiſon the King. And he ſaid, He was a covetous Man; that was in a publick Concern; and that, being it was to carry on the Cauſe, it was no matter if he did it for nothing: But he ſaid he was a Narrow-Spirited, and a Narrow-Soul'd Phyſician.

L. C. J. When was it that he ſaid he would ſtir for the Money?

Oates. It was in *July*, or in *Auguſt*.

Langhorn. My Lord, may I aſk him any Queſtions?

Mr. Juſt. Pemberton. Yes, yes, Mr. *Langhorn*, you may.

L. C. J.

L. C. J. North. Pray, Mr. *Oates*, you saw such and such Commissions from the Superior of the Jesuits, that were signed *Johannes Paulus de Oliva*; pray will you look upon this, and see whether you know it? *(And a Writing under the Jesuits Seal was shewed him.)*

Oates. This is the Hand, the very Hand, that was to the others, and they had put such a Seal; and that is for Mr. *Stapleton*, to be Rector of St. *Omers*.

Sir Cr. Levinz. Now, my Lord, if you please, this was not one of those Commissions that Mr. *Langhorn* did distribute to the Persons that were to have them; no, he would let us have none of those; but it is a Commission of another Nature, 'tis neither for an Office Civil nor Military, but Ecclesiastical, and yet it is under the same Hand and Seal.

Langhorn. You say you came to me, the first Time, in *November*; and you went to St. *Omers*, when, Sir?

Oates. The latter End of *November*.

Langhorn. When arrived you at St. *Omers?*

Oates. I think it was the 10th *December* New Stile, I will not be positive.

L. C. J. All their Defence lies in Catches upon a Point of Time, in which no Man living is able to be positive.

Oates. My Lord, if the 26th of *November* fell upon a *Monday*, then it was on the 26th Day that I set out for *Dover* in the Coach, as near as I can remember, and I got to St. *Omers* a *Friday* Morning following.

Langhorn. A *Friday* after, you say, you got to St. *Omers?*

Oates. About that Time.

Langhorn. How long did you stay there?

Oates. 'Till *April* following I staid.

Langhorn. Without any moving from thence?

Oates. Only went to *Paris*, and after that, a Night or two at *Watton*, and then came away in *April*. My Lord, I desire, if your Lordship pleases, that Mr. *Langhorn* may ask the Court, and the Court ask me; for I know the Court will be so kind as to ask me such Questions as are reasonable and proper for me to answer.

Mr. Just. Atkins. That indeed is the regular Way, for Prisoners should not ask the Questions, but the Court.

Langhorn. Very well, I shall observe the Method, if your Lordship please. I desire to know what Time in *April* he came back for *England*.

Oates. I came about the Middle of *April*, or latter End, I will not be so positive in that, and I was in *England* under twenty Days.

Langhorn. Can you tell what Day you came into *England?*

Oates. No, I cannot exactly, but I came in *April*, the Middle or the latter End.

Langhorn. I desire to know who came with him?

Oates. My Lord, there came a Matter of Nine or Ten of us in all.

L. C. J. Name them.

Oates. There was Father *Williams*, and Father *March*, the Rector of *Liege*, and Sir *John Warner*.

Langhorn. What is the Rector of *Liege*'s Name?

Oates. Warren, I think; I cannot tell Names so exactly.

Langhorn. Go on, Sir, pray.

Oates. I cannot name any more.

Langhorn. You have named them all in the Records of the Lords House.

Oates. 'Tis like I have. I refer you to that.

Langhorn. Did Sir *Thomas Preston* come over with you?

Oates. Yes, he did.

Langhorn. Did *Poole* come over with you?

Oates. Yes.

L. C. J. Look you, Mr. *Langhorn*, we had all this Matter spoken of Yesterday, and there were Witnesses that prove that Sir *John Warner* and Sir *Thomas Preston* were there.

Langhorn. I humbly conceive, that was upon an Issue tried in another County, by another Jury, and therefore I hope I do not amiss in urging what I can say for myself to this Jury.

L. C. J. You are not debarred, I only told you of it. Was Sir *Robert Brett* there?

Oates. Yes, I think he was, I am not confident of that. My Lord, I own what Mr. *Langhorn* can bring to the Court upon Record.

Langhorn. I only ask it, because he says so in the House of Lords.

Oates. If you can shew the Record of what I said there, do.

Langhorn. I do not desire him to name them now, but to know whether he does now affirm the Truth of what he swore in the House of Lords.

L. C. J. If you can produce, as you may, if you have been diligent, a Copy of the Record in the House of Lords, and have it sworn to be a true Copy of the Records, it will be Evidence for you, and shall be read; but to put him to remember a Record without Book, must not be, it would be hard for him to undertake that.

Langhorn. I desire to know how he came from *Dover*; whether in a Coach, or on Horseback, to *London?*

Oates. Indeed the Question is so sudden, that I cannot be positive, but as near as I remember, I came by Coach.

Langhorn. I will give my Reason why I ask this; because he hath formerly, upon a Trial in the *King's-Bench*, affirmed he came by Coach, in the Company of Mr. *Hilsley*.

Oates. No, I did never say so; but I came over in the Pacquet-Boat, in the Company of Mr. *Hilsley*; but when we were come over, Mr. *Hilsley* went out of the Way from us.

Langhorn. I desire to know where he lodged, when he came to Town?

L. C. J. Where did you lodge the first Night?

Oates. I did lie at Mr. *Grove*'s House, when I came to *London* in *April*.

L. C. J. But the first Night when you came from *Dover*, when you came into *London* in *April?*

Oates. My Lord, I cannot; say I lay there the first Night; but my Lodging was provided for me there.

L. C. J. You are to answer as well as you can; if you cannot remember it, say so. Do you say the first absolutely, or not?

Oates. My Lord, I cannot remember the first Night, but I lay several Nights at Mr. *Grove*'s.

Langhorn. Then I ask whether he did generally lie there during his Stay?

Oates. I did lie there some Nights.

L. C. J. How many times did you lie there?

Oates. I believe three or four Nights. I won't be positive as to the Number.

Langhorn. What Day was the Consult?

Oates. It was the 24th of *April*.

Langhorn. What Day did you acquaint me with it?

Oates. A Day or two after.

Langhorn. When did he return back to St. *Omers?*

L. C. J. When did you go back? about what time?

Oates. My Lord, I think it was a Week in *May*, I cannot be positive; but I think that was the outside.

L. C. J. They said, Yesterday you affirmed you staid but six Days.

Oates. I do not say so, but I say under twenty.

Mr. Just. Dolben. Come, have you any thing else to ask him?

Langhorn. Those Letters that he speaks of, I desire to know whether he saw me write them?

L. C. J. Those Letters you speak of, did you see him write them?

Oates. I did not see him write them, but I am sure they were his Letters, because I know his Hand.

L. C. J. How did you come to know his Hand, since you did not see him write them?

Oates. I saw the Letter whereby he ordered Money to be paid, 5*l.* to his Son. And I saw the Money paid to his Son by that Order.

Langhorn. Do you know that *Le Chaise* and *Anderton* writ to me?

Oates. I do not say that they writ to him, but he had Letters subscribed by their Names, and they were said by him to come from them, and they were to be communicated to the Priests and Jesuits; and he delivered them to me to that End.

Langhorn. When you returned to St. *Omers*, how long did you stay there?

Oates. Till 23d *June*, New Stile, which is the 13th Old Stile.

Langhorn. I remember he professed himself a *Roman* Catholick, I see he is a Minister: I desire to know of him when he left the Protestant Religion, and became a Convert, as he called himself; call it what you will, when he left being a Protestant, and became a Papist, that is it I mean?

Oates. He does it for nothing but to quarrel.

L. C. J. When did you leave the Church of *England?*

Oates. My Lord, if it be the Pleasure of the Bench to ask me this Question——

L. C. J. You ought to answer it, though it be nothing to the Purpose.

Oates. Then I answer it was either in *February* or *March*, 167$\frac{8}{7}$.

Langhorn. My Lord, I desire to know whether he had any Benefice?

Oates. Yes, I was sometime Vicar of *Bobbing*——in *Kent*: But I suppose this is to make me accuse myself of something, whereby I might forfeit my Living: For, my Lord, I have a Right in Point of Equity still to that Living, but only for going beyond Sea without Leave of my Ordinary, I am not now Vicar of——

Langhorn. When did you come to your Vicarage?

Oates. In 1672.

Langhorn. You became a Papist in 1677. I ask this Question, Whether he did leave his Living before he turned Papist?

Oates. My Lord, I am not willing to answer that Question.

L. C. J. When did you leave your Living? Did you leave it before you went away?

Oates. It was not very long before; but the Reason why I am not willing to tell is, When I left the Parish, I left it in the Charge of Mr. *Thomas Turner*, Vicar of *Milton*, and I did go near about *Chichester*, and served a Sequestration there. The Air was not a good Air in that Part of *Kent*, and I had not my Health; and that was one Reason, and for other Reasons best known to myself.

Langhorn. After he became a Papist, I desire to know whether he became a Jesuit? Were you in any Order there?

L. C. J. Mr. *Langhorn*, it is not a proper Question, we ought not to ask it him: You are a Man of the Law, and therefore you know it is not fair to ask any Person a Question about a criminal Matter that may bring himself in Danger.

Langhorn. I take him to be out of Danger, he hath his Pardon.

L. C. J. I don't know what his Pardon is, nor how far it reaches, nor whether this be contained in it; but if Mr. *Oates* pleases to answer that Question, he may.

Mr. Just. Dolben. Though he hath his Pardon, he may be in Danger of Ecclesiastical Censure.

L. C. J. He says, he will not.

Langhorn. I'll give you another Reason why I ask it, because in one of his Narratives he seems to call himself so; he says *There came over Nine of us, all Jesuits*, I suppose him to be one of that Order; this I took to be a Ground why I might properly call him so.

L. C. J. Narratives are no Evidence at all.

Langhorn. But that gave me an Occasion to ask the Question.

Oates. I cannot answer it, because it tends rather to raise a Debate in the Court, than conduces to the Question, to acquit or condemn the Prisoner.

Mr. Just. Pemberton. You are not bound to answer it.

L. C. J. He tells you, he is not bound by Law to answer, and he refuses to answer.

Langhorn. I desire to know whether he ever saw me, or conversed with me, from the time he acquainted me with the Consult, and saw the Commissions in my Chamber?

L. C. J. How often did you converse with Mr. *Langhorn?*

Oates. After I returned again in *July* and *August*, once or twice.

L. C. J. How often in *April* and *May?*

Oates. Twice, I think, about the Time of the Consult.

L. C. J. And when you came over again, how often?

Oates. Twice more, I think; twice or thrice.

L. C. J. So then, he hath been four or five Times in your Company?

Oates. He would not let me come to his House, for he used to say, his Wife was but *Aums-ace* turned from a Devil; and therefore he would not have me come thither.

Langhorn. I hope he will not go out of the Court.

L. C. J.

L. C. J. No, he will ſtay here, but you have done with him at preſent, have you not?

Langhorn. Yes, my Lord, I have.

Sir Cr. Levinz. Swear Mr. *Bedlow.* [*Which was done.*]

L. C. J. Mr. *Bedlow*, I aſk you but one ſhort Queſtion, becauſe I would not interrupt you afterwards, That Paper that you ſaw Signed by the Superior of the Jeſuits, where had you it?

Bedlow. I had it at Mr. *Daniel Arthur*'s.

Langhorn. What is that?

L. C. J. It is an Inſtrument Signed and Sealed, juſt as the things were which Mr. *Oates* ſays he ſaw in your Chamber.

L. C. J. North. And beſides you muſt take notice, that this was found a long time after Mr. *Oates* had given his Teſtimony publickly, for his Cloſet was not ſearched till a great while after.

L. C. J. It is to ſhew you what Seals they uſed to have to their Commiſſions. Mr. *Oates* deſcribes ſeveral Commiſſions that he ſaw in your Study, ſo Sealed and Subſcribed; and after the ſearching Mr. *Arthur*'s Study, being a Papiſt, that Commiſſion is found there. Now tho' it be a thing of a private Concern, a Church Matter, not relating to the Matters in Queſtion, yet this very Commiſſion is ſo ſubſcribed, and ſo ſigned and ſealed, as Mr. *Oates* had deſcribed thoſe to be before in your Chamber.

Bedlow. Becauſe it was exactly the Hand and Seal that I ſaw to the Commiſſions in *Paris*, I did take particular notice of the Paper, and brought it to the Council.

L. C. J. Well, Sir, now go on with your Evidence.

Bedlow. Firſt, my Lord, I'll only aſk this Queſtion of the Court, whether a known *Roman Catholick* may take Notes of the Evidence in ſuch a Cauſe?

L. C J. Truly no, I think not.

Bedlow. There is an Honourable Lady in that Gallery, the Lady *Marchioneſs of Wincheſter*, that hath took Notes all this Trial.

L. C. J. She will do herſelf, nor no body elſe any great hurt, by what ſhe writes.

Bedlow. I only ſpeak it for the Information of the Court.

L. C. J. A Woman's Notes will not ſignify much truly, no more than her Tongue.

Bedlow. My Lord, about three Years ſince, I was ſent by Mr. *Harcourt* and Mr. *Coleman*, to *Le Chaiſe*, with ſome Letters for the carrying on of this Deſign. With theſe Letters, Mr. *Coleman* aſked me, if I could go with him as far as the *Temple*. I have no particular Acquaintance with Mr. *Langhorn*, I was but twice at his Chamber, once with Mr. *Harcourt*, and once with Mr. *Coleman*. I waited upon Mr. *Coleman* to Mr. *Langhorn*'s Chamber in the *Temple:* There did he Regiſter ſuch Letters as Mr. *Coleman* brought to him, and afterwards Mr. *Coleman* ſealed them up, and gave them me to carry to *Le Chaiſe*.

L. C. J. How do you ſay? When you went with Mr. *Coleman* to Mr. *Langhorn*'s Chamber, were the Letters there?

Bedlow. The Letters were writ firſt at *Coleman*'s Houſe, and brought open by *Coleman* to Mr. *Langhorn*, and he read them and Regiſtred them, and then *Coleman* ſealed them up, and gave them me to carry away.

Langhorn. What Letters were theſe?

L. C. J. Do you know what the Effect of thoſe Letters were?

Bedlow. The Letters were read ſome of them at the *King*'s-*Bench* Bar, at *Coleman*'s Trial: There was one of them writ by Mr. *Harcourt*, another by Mr. *Coleman*, to *Le Chaiſe*.

Mr. Juſt. Pemberton. What was the Effect of them?

Bedlow. Only to let *Le Chaiſe* know, that they waited only now for his Anſwer, how far he had proceeded with the *French* King, for the ſending of Money; for they only wanted Money, all other things were in readineſs. That the Catholicks of *England* were in ſafety, had made all Places, and all Offices, to be diſpoſed of to Catholicks, or ſuch as they thought would be ſo; that all Garriſons were either in their own Hands, or ready to be put into them; that they had ſo fair an Opportunity, (as I remember that was one of the Expreſſions in the Letter to Father *Stapleton*) that they had ſo fair an Opportunity, having a King ſo eaſy to believe what is dictated to him by our Party, that if we ſlip this Opportunity, we muſt deſpair of ever introducing Popery into *England*; for having a King of *England* ſo eaſy, and the *French* King ſo powerful, they muſt not miſs ſuch an Opportunity.

L. C. J. For what?

Bedlow. To ſend over Money for the carrying on of the Cauſe, for they only wanted that, all elſe was in readineſs: And the other Letters were to the ſame Effect, tho' in other Words. That Letter was in *Engliſh*, but the Letters to *Le Chaiſe* and the Nuncio were both in *French*.

L. C. J. But you underſtand *French*, don't you?

Bedlow. Yes, my Lord, I do.

L. C. J. Did he Copy them out, while you were there by?

Bedlow. He Regiſtred them before me.

L. C. J. Did he write them into a Book? and were you there all that time?

Bedlow. Yes, my Lord, I and *Coleman* walked in the Chamber, whilſt he went in and writ, as he did other things; for he Regiſtred all their Accompts: There was not a Penny of Money either received or laid out, nor any thing done almoſt in relation to this Concern, but he did keep a Regiſter of it: I cannot ſay, that ever he did talk any thing before me of the King's Death particularly, but talked of the whole Deſign. About a Year and a half ſince, Mr. *Harcourt* ſent another Pacquet of Letters by me to Mr. *Langhorn* to be Regiſtred; he looked ſtrangely upon me, and received the Letter, and ſent an Anſwer to Mr. *Harcourt*, that Mr. *Williams* (for I went then under the Name of Captain *Williams*) had delivered him ſuch Letters, and that he ſhould have them again to-morrow, after he had Copied them, and Regiſtred them. Mr. *Harcourt* read the Letter of Anſwer to me, and in the Letter it was Mr. *Williams*. Said I to Mr. *Harcourt*, I thought I might have been Regiſtred by my right Name, becauſe when any thing ſhould take effect and occaſion ſerve, I reſolved to bear my own Name. Alas, ſays he, this does not ſignify any thing at all, for as for this Regiſter, it is not ſo conſiderable: there ſhall be a New Regiſter made, of things of weight and moment, this is only a blind Regiſter amongſt ourſelves. The two Letters that I brought from *Harcourt*, there was one of them from Sir *William Godolphin*, that I had brought before from *Spain*.

L. C. J. Who was that directed to?

Bedlow. To my Lord *Bellaſis*; and about three Weeks after it was that I was ſent to Mr. *Langhorn* to have it Regiſtred; the other was from the *Iriſh* College of Jeſuits in *Salamanca*. The Letter from the Rector did ſpecify, that they would have my Lord *Bellaſis*, and the reſt of the Lords that were concerned, and the reſt of the Party in *England*, to be in Readineſs, and to have this communicated with all Expedition; for now they had provided in *Spain*, under the Notion of Pilgrims for St. *Jago*, ſome *Iriſh* caſhier'd Soldiers, that had left their Country, ſome for Religion, and ſome for their Crimes, and a great many Lay-Brothers, whom they procured and gathered together under the Notion of Pilgrims, to be ready to take Shipping at the *Groine*, to land at *Milford-Haven*, there to meet my Lord *Powis*, and an Army that he was to raiſe in *Wales* to further this Deſign. And theſe Letters ſaid they had almoſt brought it to a Period, that they did only expect a Return from *England*, to ſhew in what Readineſs they were here, that accordingly they might proceed.

L. C. J. Did Mr. *Langhorn* ſee theſe Letters?

Bedlow. He took theſe Letters from me, and told me Mr. *Harcourt* ſhould have them again, when he had tranſcribed them; and writ a Letter to Mr. *Harcourt*, that Mr. *Williams* had brought him ſuch Letters.

L. C. J. And he did tranſcribe them?

Bedlow. I ſuppoſe ſo, for he afterwards ſent them back to Mr. *Harcourt*.

Mr. Juſt. Atkins. Was it a good large Book that he regiſtred them in?

Bedlow. I know not what Book he regiſtred them in, not thoſe Letters.

Langhorn. It is a proper Queſtion, becauſe he ſaid I regiſtred thoſe Letters before him.

Bedlow. I ſay, I ſaw him in his Study tranſcribe *Coleman*'s Letter, whilſt *Coleman* and I walked in his Chamber.

L. C. J. Into what kind of Book did he Regiſter that? Had he more Books than one, pray?

Bedlow. My Lord, I cannot tell that, I judge it might be the ſame Book. I ſaw the Book then, it was a large Parchment Book; but I did not ſee it when *Harcourt*'s Letters were Regiſtred. When *Coleman* and I came thither, he went into his Study, and left us in the Chamber, I ſaw him tranſcribing the Papers that lay before him: but when I brought thoſe Letters from Mr. *Harcourt*, I only delivered them ſealed up, and his Anſwer to Father *Harcourt* was, that Mr. *Williams* had brought him ſo many Letters, and he ſhould have them again as ſoon as he had tranſcribed them.

L. C. J. Mr. *Langhorn*, you would do well to ſhew us the Book, and that would make the Matter plain.

L. C. J. North. Could you ſee how far he had gone in the Book, and what Room there was left to write other Letters?

Bedlow. It was a Book at leaſt three Inches thick, and as near as I could gueſs, he had gotten through two Thirds of the Book.

L. C. J. But you ſhould ſhew us your Book, Mr. *Langhorn*.

Langhorn. I ſay, my Lord, if I had ſuch a Book, it muſt needs be found in my Study; if I had it, it muſt be there, for I never removed it.

L. C. J. That was not a Book fit to be left there.

Bedlow. My Lord, *Pritchard* did tell me that the Commiſſions were come, and that Mr. *Langhorn* had them, and things, ſays he, are now in a Readineſs. Then ſaid I, When ſhall I have my Commiſſion? Said he, Thoſe that Mr. *Langhorn* hath are only for the General Officers; you muſt have yours, ſaid he, from my Lord *Bellaſis*.

Sir. Cr Levinz. Do you know any thing of any Money that was to be raiſed by the *Benedictine* Monks; 6000*l.* or what other Sum?

Bedlow. My Lord, in *May* 1676, among the Letters I carried to *Le Chaiſe*, one of them was directed to *Stapleton* a *Benedictine* Monk, to raiſe the Money for *England*.

L. C. J. The Money, what Money?

Bedlow. The Money they had promiſed to remit into *England*.

L. C. J. But did they name no Sum?

Bedlow. No, my Lord, for they had no particular Promiſe, but only that they did make it their Buſineſs to raiſe what they could.

L. C. J. And what was it? Do you know of any Sum of Money that was raiſed, and by whom?

Bedlow. Le Chaiſe told me himſelf, that they had no Reaſon to ſuſpect him or his Intereſt with the *French* King, for he had laid that ſure enough. And that when he found a fit Opportunity, the Money was ready to be remitted into *England*; and that he had remitted ſome of it already to Mr. *Coleman* and *Ireland*.

L. C. J. You know not but by what *Le Chaiſe* told you?

Bedlow. No.

L. C. J. He ſpeaks what *Le Chaiſe* told him, that he would raiſe Money, and that he had ſent ſome to Mr. *Coleman* and *Ireland*.

Bedlow. Yes, and that the reſt ſhould follow when he found there was abſolute Occaſion; but he would not part with his Money till they had Aſſurance of their being in readineſs here, and likely to further and carry on the Deſign.

Mr. Juſt. Atkins. Mr. *Bedlow*, had you any Diſcourſe with the Priſoner about any Commiſſions?

Bedlow. No, my Lord, 'tis at leaſt a Year and a half ſince I ſaw him.

L. C. J. Did he ever own any Commiſſions he had?

Bedlow. No, *Pritchard* told me he had ſome.

L. C. J. You have ſeen the Commiſſions, have you not?

Bedlow. No, I never ſaw any in Mr. *Langhorn*'s Hand.

L. C. J. Where did you ſee them then?

Bedlow. Sir *Henry Tichbourne* did ſhew me three Commiſſions in *Paris*, Signed by the General of the Order, and Sealed with the Jeſuits Seal, which made me take up this Paper, which hath been ſhewn, tho' it were a thing indifferent, yet becauſe it was written with the ſame Hand, and Sealed with the ſame Seal that the Commiſſions were that I ſaw at *Paris*.

Mr. Belwood. Did Mr. *Langhorn* know any thing o. the Treaſon to murder the King, by *Pickering* and *Grove?*

Bedlow,

Bedlow. That I do know only by Report; but when *Grove*, *Pickering*, and *Conyers* were going to *New-Market*, I was at *Harcourt*'s Chamber, and I had a Design to go to *Windsor*, to observe what they did; and I did ask Father *Harcourt* to give me leave to go see a Friend of mine take Shipping at *Plymouth*, to send some Commendations by him to my Friends in *Italy*; then says Father *Harcourt*, You cannot be spared, you must not go now, for we don't know what Return these Gentlemen will make of their Journey, and what Occasion there may be for you, if there should be any good Effect of it: *Then*, said I, *I will go and write, and send it by a Friend down to be sent into* Italy: *But*, said he, *you must stay a while till I come back again; I am going to Mr.* Langhorn's *Chamber in the* Temple, *to take the Minutes of what they have done this Morning.* That was the Contrivance of sending down those People to *New-Market* to Assassinate the King.

Mr. Just. Atkins. That is no Evidence against the Prisoner, because it is by Hear-say.

L. C. J. It is right, and the Jury ought to take notice, That what another Man said is no Evidence against the Prisoner, for nothing will be Evidence against him, but what is of his own Knowledge. But I desire, Mr. *Bedlow*, as well as you can, you would repeat the Effect of one of the most material Letters Mr. *Langhorn* did transcribe.

Bedlow. Tho' I was not so exact a *Frenchman*, in the Nicety of the Tongue, yet I understood enough to learn the Sense of those Letters. The *English* Letter from *Stapleton*, which he transcribed, was to this Effect: That *Coleman* and *Harcourt*, naming themselves We (that is, We and the Jesuits, and it was to the Rector of the *English* Monks in particular, but I missed of the Rector, and Mr. *Stapleton* receiv'd it); I say, the Effect of that Letter was, they would have a certain Answer from them——

Langhorn. When was it?

Bedlow. It was in 76.

L. C. J. What was the Effect, say you?

Bedlow. The Effect was, that they would have a final Answer from those Religious at *Doway* and *Paris*, to know how far they had proceeded with the *English* Religious, and all their Friends beyond Sea, in making Collections, and remitting of Money, for there was only Money wanting; for the Arms of the Catholicks were all ready, and they had all a good Mind to the Business, their Arms and Hearts were ready, and the Easiness of the King of *England*, and the Strength of the Power of *France*, made it an Opportunity not to be neglected: That the Garrisons were ready to be put into such Hands as they could trust.

L. C. J. Was there such an Expression in the Letter, upon your Oath, that they had such Arms, and that the Garrisons were ready to be put into their Hands, and whose Hands they were ready to be put into?

Bedlow. Yes, my Lord, there were such Expressions, and they would have the Garrisons only in such Hands as they could trust.

L. C. J. And did he transcribe those Letters?

Bedlow. He did transcribe those three while we were in his Chamber.

Mr. Just. Pemberton. Was there any mention of exciting the *French* King, by Power, to Invade this Kingdom?

Bedlow. There was in the *French* Letter to Monsieur *Le Chaise*, which he transcribed too.

Langhorn. That was in *French*, he says.

L. C. J. I suppose you understand *French* too, or else you could not do what you did.

Langhorn. I understand Law *French*.

L. C. J. Mr. *Bedlow*, did you never hear him discourse in *French*?

Bedlow. No, my Lord.

Oates. I cannot write nor read *French*, but I can translate it.

Mr. Recorder. If you have any Questions to ask him, you may ask him.

Langhorn. How many were the Letters that then I transcribed?

Bedlow. There were three, my Lord; one was to the *English* Monks at *Paris*, another was to Monsieur *Le Chaise*, another to the Pope's Nuncio.

Langhorn. Were they long or short ones? I ask for this Reason, because I observe that in the Narrative, *Coleman*'s Letters are very long; of what Length might they be?

Bedlow. They were the best part of Half a Sheet of Paper, for Mr. *Coleman* writ a curious fine small Hand, and would put a great deal of Business into a little Paper; the Pope's Nuncio's Letter was very short.

L. C. J. Did he transcribe them all before you went away?

Bedlow. Whilst we walked in his Chamber, he Registred them: We took a great many Turns about in the Chamber, and I saw the Papers before him, and his Book.

Langhorn. Did those Letters express what the Money was to be raised for, or did they leave it to be understood? My Meaning, my Lord, of my Question is this, Whether Mr. *Coleman* writ to him to hasten the Money, and said it was for such a particular Use, or only in general.

L. C. J. He hath answered it already, but he will do it again.

Bedlow. My Lord, tho' it was not expressed in the Letter, but only we want nothing else from beyond Sea, but your Assistance; tho' it was not expressed in the Letter to destroy the King and the Protestant Religion, yet the full of the Discourse betwixt Mr. *Coleman* and Mr. *Langhorn* was to this Effect: We only stay for Money, when we have got that, we will put ourselves into a Posture.

L. C. J. If you observed it, he said so before, when we asked him what the Effect of those Letters was, That all Things were ready, it is a good Opportunity now for the effecting of our Design, having so easy a King to deal with, and your King having so powerful a Treasury; do you but get the Money of him, and we shall do well enough.

Bedlow. Tho' it was not specified in the Letters what the Money was for, yet in the Discourse between Mr. *Coleman* and Mr. *Langhorn* it was worded so, that it was plain it was to destroy the Government, and introduce Popery.

Langhorn. My Lord, ask whether this be all that he charges upon me?

Bedlow. I cannot say that, my Lord, that this is all I have to say against him; Things may occur to my Memory hereafter, which do not now.

L. C. J. But at this Time you remember no more, do you?

Bedlow. No.

Mr. Just. Atkins. But to my Apprehension, what you said last was most material, that is, the Discourse between him and Mr. *Coleman*, for that rivets the whole. When he said, that if we had but a Return of this Money, then we have made ourselves safe, or Words to that Effect; but it was to the full meaning of this, that the Protestant Religion could not stand any longer here, having Assistance from *France*.

L. C. J. So they consulted together after the Letters were transcribed; did they?

Bedlow. Yes, my Lord.

Oates. My Lord, I omitted one Thing that was very material in my Evidence, which comes in my Mind since. The Congregation at *Rome* did contribute 800000 Crowns, to be sent into *England*, and Mr. *Langhorn* did enquire concerning that Money, and had Knowledge of the Receipt of it in *France*, as Mr. *Langhorn* did say, in the Month of *July*, or *August*.

L. C. J. Did he say it to you?

Oates. He did to Father *Harcourt*, Father *Kaines*, and Father *Fenwick*, that there were 800000 Crowns come to *France*.

L. C. J. What said he then concerning the 800000 Crowns?

Oates. He gave an Account of the Money's being lodg'd at *Paris*.

L. C. J. You hear what he says, that you gave an Account of 800000 Crowns that were raised abroad, that it was lodg'd and receiv'd at *Paris*.

Bedlow. I recollect something more now, tho' I was not in Mr. *Langhorn*'s Chamber. I met with Father *Kaines*, one Day, and said he, I must go and speak with one Mr. *Langhorn*, presently; and when he came out again, he brought a Letter in his Hand, and afterwards we went to a Tobacco-Shop in *Wild-Street*, and there Father *Kaines* told me the Effect of the Letter. He told me it was a Chiding Letter from the Secretary *de propaganda fide*, Cardinal *Barbarino*, who had sent a Chiding Letter to Mr. *Langhorn*, and the rest of the Conspirators, for going on no faster, when they had so fair an Opportunity.

L. C. J. Did you see the Letter directed to Mr. *Langhorn*?

Bedlow. Father *Kaines* told me the Effects of it, and he had the Letter from Mr. *Langhorn*.

L. C. J. He told you so? Well, but this Evidence is as to the Plot in general, but not to Mr. *Langhorn* in particular. But that which he charges you particularly with, is this, Your Transcribing the Letters, wherein there was an Expression made, of your being all in Readiness, as for Arms and the Garrisons; and your Discourse afterwards with Mr. *Coleman*, in what a Posture all Things were for the Destruction of the Government, and the bringing in Popery, and there wanted nothing but Money, for the effecting the whole Design. This is that he says.

Langhorn. My Lord, I suppose he won't go out of the Court, neither?

L. C. J. No, no, he will stay here.

Sir Cr. Levinz. My Lord, there is one Witness that he had not ready here, when we began to give some Account of the General Plot, I pray he may be Examined; his Name is *Bus.* [*Who was Sworn.*]

L. C. J. What can you say of any Design upon the King's Life? What is your Name?

Bus. My Name is *Thomas Bus.*

L. C. J. What Profession are you of?

Bus. I serve the Duke of *Monmouth.*

L. C. J. In what Capacity do you serve him?

Bus. I am his Cook.

L. C. J. How long have you serv'd him?

Bus. Thirteen Years I have lived with him.

L. C. J. Well, what is it you have to say?

Bus. Being at *Windsor*, my Lord, with an old Acquaintance of mine, one *Handkinson* that was then newly come from *Italy*——

L. C. J. When was this?

Bus. In *September* last, within a Week after the Duke came from *Flanders*, and we were drinking together, for I had not seen him for many Years before, and there was one *Anthony* was in the Company, and said he, I am newly come from *Italy*, and I am going again, and I am come to take my Leave of my Friends. When do you go away, said I? I believe I go to-morrow, said he; but pray, said he to *Anthony*, have a special Care of those four worthy Gentlemen. What Gentlemen, said I? Four worthy Gentlemen, said he, that I brought over with me. What, said I, from *Italy?* No, said he, they are four worthy *Irish* Gentlemen: They are very worthy Persons, said he, have a special Care of them, for they will do our Business.

L. C. J. What said you to that?

Bus. Nothing; for I knew nothing of it, till I saw *Coleman*'s Trial, where it speaks of the four *Irish* Men that were to kill the King at *Windsor*, then I bethought me of it.

L. C. J. Would you not ask him what that Business was, or so?

Bus. No, I did not know at that Time.

L. C. J. But no Man in *England* but would have asked such a Question.

Bus. No, he said they were four Strangers: But, said I, did you bring them out of *Italy?* No, faith he, they are four *Irish* Gentlemen that I brought over with me, worthy Persons.

L. C. J. North. And what Religion was he of that said so?

Bus. He was a Catholick, one that bought all into a College, that did so here before he went.

Praunce. He belonged to the *Benedictine* Monks, my Lord, in the *Savoy*.

L. C. J. And what was he that he spoke to?

Bus. He was a Catholick too, he was Servant to one that belongs to the Queen's Chapel.

L. C. J. North. Did you understand what the Business was they said they were to do?

Bus. Not till I read Mr. *Coleman*'s Trial, and then I did guess these were the Persons that were to have killed the King at *Windsor*.

L. C. J. You saw them not, did you?

Bus. No; they were in charge of this *Anthony*, that is now in some Place in the Queen's Chapel.

Mr. Just. Atkins. Did he speak to *Anthony* to have a Care of them, or to you?

Bus. To *Anthony*, he was the Person that was to take Care of them.

L. C. J. Is *Anthony* a Papist?

Bus. Yes, a very strong Papist, and we used to be often together; but now he is jealous, and will not come near me, to talk with me, as we used to do.

L. C. J. Now I understand the Reason of it, why he did not ask the Question; it was not likely he should, for it was not spoken to him, but he stood by, all the while the Discourse was to *Anthony*, another Man, and it was to him that he spoke, to have a care of the four *Irish* Men, for they would do their Business. What did *Anthony* say?

Bus. He promised he would have as much care of them, as of his own Life.

L. C. J. Where is this *Anthony* to be found?

Bedlow. My Lord, *Anthony* is a *Portuguese*, and the Queen's Confessor's Man.

L. C. J. When did you see him?

Bedlow. He was seen this Morning, they call him Signior *Antonio*.

L. C. J. North. You should have an Order to take this same *Anthony* into Custody, but in order to the finding of him, let him go to my Lord *Ossory*.

L. C. J. Mr. *Tisser*, we give you an Order for the taking of this Signior *Antonio*, you will find him at *Somerset-House*; for the doing of this, we do advise you to wait upon my Lord *Ossory*, and tell him, that you have such an Order, but that out of Reverence to the Queen, we have also ordered you to wait upon him, to desire him to send him.

L. C. J. North. What is become of this *Handkinson*?

Bus. He is abroad, beyond the Seas, my Lord, for he said he was come thither to take leave of his Friends, and was to go the next Morning into *Surrey*, and so away.

L. C. J. Well, what have you now to say, Mr. *Langhorn*?

Langhorn. I conceive this last Witness says nothing to me.

L. C. J. North. He speaks only to the Plot in general, as the first Witnesses did; but that which is upon you, is as to Mr. *Oates*, who speaks to every Article of the Indictment expresly; and Mr. *Bedlow* says, he did not only see you Transcribe and Copy out that Treasonable Letter, but he carried other Letters to you, which you promised to Transcribe; and these are Overt-Acts, that make you a Party to the Treason.

L. C. J. Besides your Discourse with *Coleman*, after the Letters were Transcribed.

Langhorn. These two Gentlemen were Parties in this supposed Crime; the two Witnesses which do concern me, are Mr. *Oates* and Mr. *Bedlow*, and they both of them clearly appear to have been in the same Treason that I suppose they charge me with; I desire to know whether they have had their Pardon, or no?

L. C. J. I believe they have. Mr. *Oates*, and Mr. *Bedlow*, have you your Pardons?

Bedlow. Yes, my Lord, I have three.

Oates. I have two Pardons under the Broad-Seal, but I don't know what is in them.

L. C. J. North. But make your Objection how you will; whether they had, or whether they had not, they are Witnesses.

Bedlow. I never gave any Evidence, till I had my Pardon.

Langhorn. I ask for this Reason; I look upon your Lordship and the Court as my Counsel, to advise me in Matters of Law, whether these be good Witnesses, or not?

L. C. J. We do tell you, That if we had not judged them to be Witnesses, we would not have heard them.

Langhorn. They come under the same Reason of Law with an Approver, having had their Pardon; I don't say they are directly Approvers, but I conceive they come under the same Reason of Law with them; and then if the Approver be pardoned, by the Law the Appellee ought to be discharged; and methinks by the same Reason, these Men having been *Participes Criminis*, and having got their Pardons, ought not to be such substantial Witnesses against the Prisoner at the Bar. But, my Lord, I have one Thing yet further to ask, I desire to know whether they have not received any Rewards or Gratifications, for the Discovery they have made, and the Service they have done? And whether they do not expect further Rewards?

L. C. J. Is there any Allowance to be made to you?

Oates. I have received a Reward, by disbursing 6 or 700*l.* out of my Pocket, and I don't know when I shall see it again.

Mr. Just. Pemberton. Mr. *Langhorn* does suppose that the Witnesses are corrupted and bribed: Do you think, Mr. *Langhorn*, that the King will bribe his Witnesses?

Langhorn. My Lord, I only propose it as a Question.

L. C. J. Would you answer that Question your self?

L. C. J. North. If you can suppose there was any Subornation or Corruption, call your Witnesses, and prove it; but for their receiving Sustenance and Maintenance from the King, that is but reasonable, and can be no Objection. And you your self know, that an Approver, while he is in that Service, hath a Penny a Day, which in ancient Times was a great Matter for Livelihood and Sustenance; so that any Reward that they have, if you cannot prove it by Contract or Subornation, you cannot make an Objection.

Langhorn. My Lord, I am informed by a Prisoner in the Goal, that Mr. *Bedlow* hath received 500*l.*

L. C. J. If you can prove any thing, do; prove what you can.

Mr. Recorder. That 500*l.* was about a particular Fact.

L. C. J. But pray, what is his Name?

Langhorn. His Name is Mr. *Reading*.

L. C. J. North. He is an infamous Person, he hath stood in the Pillory, we can't take him for a Witness; but now I'll tell you, for the 500*l.* 'tis a Thing we all know of. It was a Reward for a particular Business, not relating to the Plot, but it was for the Discovery of the Murderers of Sir *Edmundbury Godfrey*.

Mr. Just. Atkins. I think Mr. *Praunce* is here, that will give an Account of that, for *Bedlow* discovered him.

Bedlow. I am so far from having any Benefit by this Discovery, that I am 700*l.* out of Pocket.

Mr. Just. Ellys. You shall have the Liberty to make what good Defence you can for your self, and prove what you can; you must not go this way to work.

L. C. J. 'Tis pretty reasonable for us to give a publick Satisfaction to all the World, that we do nothing under-hand, but that we do in this Case, as in all other Cases; any thing that is fit to be answered, they shall answer, and perchance in this Case something more than can be strictly required of us. 'Tis notorious enough, that Mr. *Oates* and Mr. *Bedlow* have been fed at the King's Charge, and it cannot be objected against them, and need not be winked at, for they were Parties in the Plot. And when they come to make the Discovery, without which we should never have known the Plot, for you know 'tis hard to discover any Crime, Forgery, or the like, but by one that hath been privy to it, and a guilty Person; yet these Men always have been, and are in Law, Witnesses, and 'tis just they should have a Competency to maintain them, since they came for the Publick Good to make such Discoveries.

L. C. J. North. And that particular Sum of Money was paid to Mr. *Bedlow*, in pursuance of the King's Proclamation, which we all know, which was all publickly done.

Langhorn. The Reason why I press this, was, because of the Proclamation, which was to invite Persons to come, touching the Discovery of this Plot; and to encourage them to it by a Promise of Reward. I think it may be reasonable enough, where any Person that is charged with a Crime doth absent, to propose a Reward for the bringing him in. But I think it is hard, that when a Prisoner is in Custody, Witnesses should be brought in against him by such Means.

L. C. J. North. You do artificially go off from the Point: Answer the Evidence that hath been given against you, and you shall be heard; but you labour very much, and trouble your self to make Answer to another Matter that is not pertinent.

L. C. J. Does your Defence consist wholly of this Sort of Matter, objecting the Incompetency of the Witnesses? Can you make no Answer to the Fact?

Langhorn. I must tell your Lordship, my whole Defence must run to disable the Witnesses; for, my Lord, I was committed to *Newgate* the 17th of *October*, and I have been kept there a close Prisoner till this Day was Se'nnight, or *Friday* the last Week; I never conversed with any Friend, or any Relation, nor knew any thing of News, but only with some few Persons, sent by Authority of the House of Commons, or the Council. And I was never examined by any since I was committed. I never heard what was charged against me, and I could not foresee what these Men could testify, because I was not confident whereupon they would proceed: therefore I can have no Defence, unless it be by lessening their Credit; 'tis impossible I should.

L. C. J. Do lessen it, if you can. If you have any Witnesses to take off their Credit, or contradict them, call them.

Mr. Just. Atkins. But I would say one Thing to you. Mr. *Langhorn*, You seem to put a very ill Construction upon the King's Proclamation, as if it were to invite and encourage Persons to come and swear about a Plot, where there was none; it was to invite People to make a further Discovery of a Plot that lay close, and we could not fully discover, for the Preservation of the King and Kingdom, without such a Means.

Langhorn. He did propose a Reward.

Mr. Just. Atkins. Ay, in order to a further Discovery of that Plot which we had Evidence of before.

Mr. Just. Pemberton. And so you would be close in all your Accounts, and none should be rewarded that could make us any Discovery of them, but presently their Testimony must be gone. 'Tis very fine! But the Court over-rules it.

L. C. J. Mr. *Langhorn*, whatsoever you object of this Kind, does fly in the Face, and reflect upon the Integrity and Wisdom, of King, Lords, and Commons.

L. C. J. North. For it was done by the Advice of all Three.

L. C. J. If you'll go on, and prove any thing, but pray don't spend our Time to no purpose.

Langhorn. Call *Parrey*, and *Townley*, and *Doddington*, and the rest.

Oates. My Lord, here are Papists come into the Court with their Swords on.

L. C. J. They will not draw them here.

Lord Mayor. 'Tis well enough, 'tis well enough; Dr. *Oates*, you are safe enough here.

L. C. J. Who will you have first?

Langhorn. I would have *Hilsley* set up. [*Which was done.*]

L. C. J. What would you ask him?

Langhorn. Your Lordship hath heard Dr. *Oates* affirm he came over, such a Time, in the Pacquet-boat with Mr. *Hilsley*; I desire to know whether that be true, or no?

L. C. J. I can help you in that, for we had him and his Companions here yesterday; but, however, we will hear them again, if you will have them. Do you know Mr. *Oates*?

Hilsley. I do, my Lord, very well.

L. C. J. When did you come over from St. *Omers*?

Hilsley. I came over the 24th of *April*, New Stile.

L. C. J. Did Mr. *Oates* come with you?

Hilsley. No, he did not.

Oates. No, my Lord, he did leave me there, but I overtook him at *Calais*.

L. C. J. Look you there now, you did leave him there, but he overtook you at *Calais*. Did you leave him there?

Hilsley. I did leave him there.

L. C. J. Ay, but he overtook you, then, did he not?

Hilsley. No, he did not.

L. C. J. He answers as he did yesterday, that he did not come over with him. You lost your Money, did you not?

Hilsley. Yes, I did.

L. C. J. How did you lose it? Did you lose it at Play?

Hilsley. 'Tis no Matter how I lost it; I did not lose it at Play.

Oates. I'll tell the Court, if your Lordship please, how he lost it; he lent a great deal of Money to a Gentleman, who went away with his Money, and left him to pay the Reckoning.

L. C. J. What say you to that?

Hilsley. That is very true, and I confess it; but what is all this? No thing to the Matter. He was told this by somebody else. I never saw him, nor ever any Man in the Ship saw him come over with me.

L. C. J.

L. C. J. I'll tell you what, then; firſt, here is ſomething now that you would not confeſs yeſterday, nor indeed would you confeſs it now. I aſked you how you loſt your Money; you ſee Mr. *Oates* can tell you how it was, tho' you won't tell us; ſo that, tho' this be a Secret, he knows it; and how could he know this Secret, unleſs he were there?

Hilſley. There is one that I met by the Way, that did tell him this Story.

Then one Gifford *ſtood up.*

L. C. J. Did you ſee Mr. *Oates?*

Gifford. Yes, my Lord.

L. C. J. What Diſcourſe had you with him concerning *Hilſley?*

Gifford. Why, he told us of his Departure.

L. C. J. When?

Gifford. After he was gone away.

L. C. J. How long after?

Gifford. Three or four Days.

L. C. J. What ſaid he to you?

Gifford. He only told us he was gone.

L. C. J. What elſe ſaid you of him?

Gifford. He only ſaid he departed out of the College then.

L. C. J. What did you ſay to Mr. *Oates* about it?

Gifford. I don't remember what I ſaid in particular.

L. C. J. Hilſley, call up the other Perſon that you ſay told Mr. *Oates.*

Hilſley. He is not here, my Lord, but here is one that was in the Company when he told it.

L. C. J. Who was by?

Gifford. Mr. *Burnaby*, who came thither the 1ſt of *May.*

L. C. J. Hearken to me: When you talked with Mr. *Oates* concerning Mr. *Hilſley*'s being gone from the College, was there any body by?

Gifford. I cannot tell.

L. C. J. Was Mr. *Burnaby* by, when Mr. *Oates* and you talked about Mr. *Hilſley?*

Then another Witneſs ſtarted up.

Third Witneſs. Yes, my Lord, there was Mr. *Oates* with me, and Mr. *Burnaby* put himſelf into our Company in the Garden, and he acquainted me with this Story.

L. C. J. What ſaid he?

Third Witneſs. He ſaid he met this Gentleman, and that this Gentleman was cheated of his Money.

L. C. J. How did he tell you he was cheated?

Third Witneſs. I don't know the Occaſion, but he ſaid a Fellow cheated him of the Money.

L. C. J. Was that all he ſaid?

Third Witneſs. Yes, my Lord, but I do not remember upon what Occaſion; he ſaid he was cheated by a ſhirking Fellow.

L. C. J. Did he name the Place he met him at?

Third Witneſs. I don't know, my Lord, whether he mentioned it or no.

L. C. J. So that Mr. *Oates* names the Place, which he was never told; and unleſs he was there, how could he then tell it?

Third Witneſs. But this does not prove that I ſpeak againſt my Conſcience, that does not argue.

L. C. J. Look you, the Anſwer is this, Mr. *Langhorn.* You would charge Mr. *Oates* with Falſity in ſaying he came over in the Pacquet-boat with *Hilſley*; and you call up him, and he ſays, he did not come, but he left him at St. *Omers*; Mr. *Oates* comes and ſays, 'tis true, he left me there, but I overtook him at *Calais*; by this very Token, ſaid he, you were cheated of your Money, by a Perſon that you lent it to, who went away, and left you to pay the Reckoning. When I aſked Mr. *Hilſley*, how he could tell if it were true that he was not with him, he anſwered, he was told it by another; but when I come to know what that other Perſon ſaid, it was no more than this; he ſaid, in Mr. *Oates*'s Hearing, Mr. *Hilſley* was Cozen'd of his Money, but did not ſay how, nor by whom, nor where.

Langhorn. Now, to prove that what Mr. *Hilſley* ſaid is true, and that therefore Mr. *Oates* his Knowledge muſt come by another Hand, I deſire that the Witneſſes may be aſked, how long Mr. *Oates* was at St. *Omers?*

L. C. J. How long was Mr. *Oates* at St. *Omers?*

Third Witneſs. From *December* till *June*, he was there except one particular Day that he went to *Watton.*

L. C. J. And you ſaw him almoſt every Day?

Third Witneſs. Yes, I did.

L. C. J. You have fifteen or ſixteen Witneſſes that will ſay all this; but yet, if you will, we will call them.

L. C. J. When went he away, do you know that?

Third Witneſs. He went in *June*, I can't certainly ſay the Day.

L. C. J. Well, call another.

Third Witneſs. Pray, my Lord, let me ſpeak if your Lordſhip pleaſe to let me give you my Reaſon, why I might ſee him; I ſaw him in the Refectory; he had a little Table by himſelf, diſtinct from the reſt, and dining together in a publick Place, it was impoſſible but we ſhould ſee his Place empty, if he were gone; and I know the Number of my own School, and can tell whether any one be abſent.

L. C. J. What, becauſe he ſat at Table by himſelf, therefore you think he was there all the while?

Third Witneſs. Certainly, if I may believe mine own Eyes, I ſaw him there every Day.

L. C. Baron. Were you there every Day your ſelf?

Third Witneſs. Yes, my Lord, I was, I did not miſs one Day, I had no Infirmity.

Langhorn. My Lord, Mr. *Oates* hath affirmed that there was with him, when he came over in *April*, Sir *Robert Brett.*

L. C. J. He ſays only he believes ſo; he ſays poſitively, he came over in the Company of Sir *John Warner*, Sir *Thomas Preſton*, and he thinks alſo Sir *Robert Brett*, but is not poſitive.

Langhorn. This he affirmed both in his Narrative, and upon Oath in the Lords Houſe.

L. C. J. Shew any thing that he was ſworn to here.

Mr. Juſt. Atkins. But what ſays this Lad more? Let him ſpeak, for he is very full of it.

Third Witneſs. The 1ſt Day of *May* I ſaw him in the Garden, with a Lay-Brother, at Kittle-pins, in the View of all the College.

Langhorn. Let us examine him as to Perſons, and then refer it to the Lords Regiſter.

L. C. J. Why, if you will prove ſomething Mr. *Oates* hath ſworn there, that you can contradict, firſt prove what he ſwore, and then contradict it.

Mr. Juſt. Pemberton, Pray take notice, you muſt not go to oppoſe him in any thing of that Oath, unleſs he hath ſworn it here; whatſoever there be there, except he hath ſworn the ſame here, 'tis in vain to object it, for he cannot be intended to have Witneſs to make good what he ſwore there.

Sir Cr. Levinz. Let us hear what he does offer.

Langhorn. Under Favour, Mr. *Oates* hath acknowledged what he ſwore there was true.

L. C. J. You are miſtaken, Mr. *Langhorn*; indeed when you aſked him that Queſtion, he ſaid, as far as what concerned what he ſwore here, was true, and he is bound at this Time to anſwer no more.

Langhorn. Then as to Sir *John Warner*, I deſire my Witneſſes may be examined

L. C. J. I ſuppoſe they may be here, and ſay the ſame they did Yeſterday; that he did not ſtir from his Houſe at *Watton* all *April* and *May.*

Fourth Witneſs. Yes, my Lord, he lived there all that while.

L. C. J. What Year?

Fourth Witneſs. In the Year 1678.

L. C. J. That is the Time that Mr. *Oates* ſays he came over with him. You ſaw him almoſt every Day, did not you?

Fourth Witneſs. Yes, I did, only four Days that I was abſent, being ſent by him to St. *Omers*, at a great Feaſt.

L. C. J. And when you came back, you found him there?

Fourth Witneſs. Yes, I did.

L. C. J. You are his Gardener, are you not?

Fourth Witneſs. Yes, I am.

L. C. J. Did you ſtay all thoſe four Days at St. *Omers?*

Fourth Witneſs. I was ſent to the High Kirk, and carried ſome Inſtruments for the Muſick, and there I ſtaid four Days, and the laſt Day of *April*, and the firſt, and ſecond, and third of *May.* And I ſaw Mr. *Oates* there in the Houſe, and I ſaw him going into the Refectory to Dinner.

L. C. J. He ſays, that Sir *John Warner* was at home all *April* and *May*, that he himſelf was abſent but four Days, that he left him there, and when he came back found him there; and that in the four Days he was at St. *Omers*, he ſaw Mr. *Oates*, which was the laſt of *April*, the firſt, ſecond, and third of *May.* You don't know when Mr. *Oates* went away?

Fourth Witneſs. No, my Lord, not I.

Mr. Juſt. *Pemberton.* Was Sir *John Warner* there all *June?*

Fourth Witneſs. My Lord, I can't tell that, I only ſpeak to *April* and *May.*

L. C. J. Thoſe are two Months that fit him.

Mr. Juſt. *Pemberton.* Why, how came you not to remember that, as well as the other two, for that is ſince?

Fourth Witneſs. Becauſe I took not ſo much Notice of him in thoſe Times.

L. C. J. How came you to take more ſpecial Notice of them two Months, than of the other?

Fourth Witneſs. Becauſe our Rector did then come into *England*, and he took the Charge of the Houſe upon him in the Rector's Abſence.

L. C. J. When did he come?

Fourth Witneſs. He came the 24th of *April.*

Mr. Juſt. *Dolben.* Pray who is your Rector? What is his Name?

Fourth Witneſs. Sir *Francis Williams.*

L. C. J. Where was Sir *John Warner* in *June* and *July?*

Fourth Witneſs. I cannot tell.

Mr. Juſt. *Pemberton.* And where was he in *Auguſt* and *September?*

Fourth Witneſs. He went out of Town, but where I am not certain.

L. C. J. You were Gardener there then?

Fourth Witneſs. Yes, I was.

L. C. J. Why can't you as well tell me, then, where he was in *June* and *July*, as in *April* and *May?* Anſwer me plainly.

Fourth Witneſs. I think he was there all that time, but I can't be certain.

L. C. J. Why not ſo certain for thoſe two Months, as you are for the other?

Fourth Witneſs. Becauſe I did not take ſo much Notice.

L. C. J. How came you to take more Notice of the one than the other? that he was there in *April* and *May*, rather than that he was there in *July?*

Fourth Witneſs. Becauſe the Queſtion, my Lord, that I came for, did not fall upon that time.

L. C. J. Now he hath anſwered plainly; when I aſked the Queſtion, Why he did not take ſo much Notice of thoſe Months, as he did of *April* and *May?* he anſwered me, Becauſe the Queſtion did not fall upon thoſe Months; and that, without all Queſtion, is a plain and an honeſt Anſwer.

Mr. Juſt. *Dolben.* Indeed he hath forgot his Leſſon; you ſhould have given him better Inſtructions.

L. C. J. Look you, Mr. *Langhorn*, if he be to be believed, and that he doth not ſpeak falſely, or more than he knows, it is impoſſible that *Oates*'s Teſtimony and his can ſtand together; for he directly affirms, he ſaw Mr. *Oates* the laſt of *April*, the firſt, ſecond, and third of *May.* Now Mr. *Oates* ſays he was here then; ſo that theſe two cannot ſtand together. The Queſtion then is, Whether he be to be believed? and, Whether he does not come wilfully or prepared? The Jury have heard what a Kind of Teſtimony he gives, when the Queſtion was aſked him, How he came to take Notice of the Months of *April* and *May*, more than of *June* and *July?* and why he was more ſure Sir *John Warner* was there at the one time, than at the other? Why, ſaid he, becauſe the Queſtion falls upon thoſe former Months, and not upon thoſe of *June* or *July.* Now that does ſhake all that was ſaid before, and looks as if he came on Purpoſe, and prepared for thoſe Months; and now this, I am afraid, will go through all your St. *Omers* Men.

L. C. J. North. Indeed I doubt it will go a great Way to ſhake all their Teſtimony.

Sir Cr. Levinz. You, Gardener, what do you ſay was your Rector's Name?

Fourth Witneſs. Sir *Francis Williams.*

Sir Cr. Levinz. And he came over in *April* or *May*, did he?

Fourth,

Fourth Witneſs. He came over the 24th of *April.*

Sir *Cr. Levinz.* Why, that is the Time that Mr. *Oates* came over, and he was one of the Perſons that he ſaid came over with him.

Fourth Witneſs. No, he came alone, only with a certain Officer of the College.

Langhorn. Pray let *Gifford* be aſked the ſame Queſtion about Sir *John Warner*; for if he did come, as he ſaith, from *Watton* to St. *Omers* at that Time, he muſt ſee him at St. *Omers*, for he was at St. *Omers* then. The Queſtion is about Sir *John Warner*; if he were at *Watton*, or St. *Omers*, then he could not come over with Mr. *Oates.*

L. C. J. When did you ſee Sir *John Warner?*

Gifford. I ſaw him about *June*, or thereabouts.

L. C. J. Where did you ſee him?

Gifford. I ſaw him there in St. *Omers* Houſe.

L. C. J. When?

Gifford. In *June* or *July*, when he invited me over to *Watton.*

L. C. J. This Man does not ſerve the Turn, he does not know the Month upon which the Queſtion runs.

Fifth Witneſs. The firſt Day of *March* there was a great Feaſt, St. *Fortunatus* and *Gordianus*, and then I ſaw Mr. *Oates* four Days, and he was there all the Month of *May.*

L. C. J. Where was Sir *John Warner* then?

Fifth Witneſs. I cannot tell; but at St. *Omers* I ſaw Mr. *Poole* and Sir *Robert Brett* at that Time.

L. C. J. Did Mr. *Poole* come over with you?

Oates. Yes, my Lord, he did.

L. C. J. Witneſs, when did Mr. *Poole* come over from St. *Omers?*

Fifth Witneſs. He came firſt to St. *Omers* with Mr. *Whitebread*, he was my Maſter of Muſick, and he taught me, and it was impoſſible he ſhould be miſſing without my Knowledge.

L. C. J. But he was gone to *England* long before that; and he could not be at *England* and at St. *Omers* at the ſame time.

Fifth Witneſs. You ſay right, he could not.

L. C. J. When came he from St. *Omers?*

Fifth Witneſs. In the Month of *June*, or *May.*

L. C. J. Or *April?*

Fifth Witneſs. No, it was the Month of *June.*

L. C. J. Theſe are but Collateral Matters, Mr. *Langhorn*; for you to ſtand upon this, it ſpends Time to no purpoſe; but the great Queſtion is, Friend, Whether you don't miſtake the Month?

Fifth Witneſs. Yes, yes *(at which the People laugh'd)*; no, no, I don't miſtake the Month, I only ſpeak the Truth according to my Knowledge.

L. C. J. How can you ſo preciſely remember the Month of *May* he was there; for when I aſked you when he went away, you could hardly tell the Month.

Fifth Witneſs. Yes, my Lord, Mr. *Oates* ſays, in the Month of *May* he was in *England*; but I ſay I ſaw Mr. *Poole* then at St. *Omers.*

L. C. J. But the great Queſtion is, Whether you are to be believed? We know you anſwer the Queſtion poſitively; but my Reaſon why I fear you are not to be believed, is, becauſe you are ſo preciſe that Mr. *Poole* taught you all *May*; but I aſk you once more, Was it in *June*, or was it in *May?*

Fifth Witneſs. It was about *June.*

L. C. J. May is about *June.* Why, then, you cannot tell. Was it in *June?*

Fifth Witneſs. Yes, my Lord, it was; it was about *June.* And this is nothing but what I know; for I actually ſaw Mr. *Oates* there at that Time.

L. C. J. I'll tell you what, Mr. *Langhorn*, uſe your Diſcretion, call whom you will, and we will hear them as long as you will; but we had Sixteen of them Yeſterday, that did all ſpeak to the ſame Purpoſe; but in Anſwer to theſe ſixteen Witneſſes, Mr. *Oates* did produce, and he will produce again, ſix or ſeven Witneſſes, and one of them a Papiſt, if not a Prieſt, who do ſwear, that Mr. *Oates* was here in *April* and *May*; I'll tell you beforehand, do as you will.

Then one Baille *ſtood up, and being a Foreigner, an Interpreter was called.*

L. C. J. Where did you ſee Sir *John Warner* in *April* and *May?*

Interpreter. He ſays he ſaw him actually at St. *Omers.*

L. C. J. What, all the Month of *May?*

Interpreter. Yes, he ſays he converſed with him all the Month of *May.*

L. C. J. And was he there all *April*, and converſed with him then?

Interpreter. Yes, he ſays every Day, of both Months. He ſays he ſaw him from the firſt *Sunday* in *April* to the 14th of *May*, and converſed with him.

L. C. J. Where did Sir *John Warner* go the 14th of *May?*

Interpreter. My Lord, he ſays he went for one Day only to St. *Omers*, and came back again.

L. C. J. Aſk him how he knows this?

Interpreter. He ſays he was employ'd about a Building by Sir *John Warner.*

Then Carpenteir *ſtood up.*

L. C. J. When did you ſee Mr. *Oates*, and where?

Carpenteir. I ſpeak as to Sir *Thomas Preſton.*

L. C. J. What ſay you as to Sir *Thomas Preſton?*

Carpenteir. I ſaw him at *Liege.*

L. C. J. When?

Carpenteir. All the Months of *March*, *April*, *May*, and *June*, he was ſtill there.

L. C. J. When went he away?

Carpenteir. In the Time of the Vacancies.

L. C. J. When is that?

Carpenteir. That is from the beginning of *Auguſt* till the end of *September.*

L. C. J. When came he again?

Carpenteir. When they came to School again, and that was on the ſecond or third of *October.*

Mr. Juſt. *Dolben.* Were you with him all that time?

Carpenteir. Yes, I was: He hath not been in *England* theſe three Years.

L. C. J. How long have you been there?

Carpenteir. I have been there four Years, and I never knew that he was abſent, but in the time of the Vacancies.

Mr. Juſt. *Pemberton.* Call another Witneſs.

Then ſtood up another Witneſs, who being a Dutchman, *and not ſpeaking* Engliſh, *an Interpreter was called for him alſo.*

L. C. J. Well, what comes he for?

Interpreter. He ſays he comes to teſtify, That Sir *John Warner* was at *Watton* in *April*; and he ſays he ſaw him there from the 14th of *April* to the 25th of *April.*

L. C. J. And then to what time?

Interpreter. He ſays he was there till the 16th of *May.*

Mr. Juſt. *Pemberton.* Aſk him where he was the beginning of *April?*

Interpreter. He ſays he was Superior there in the Houſe, and did govern.

L. C. J. Aſk him where he was the latter end of *May?*

Interpreter. He ſays he was likewiſe in the Houſe, ſave only one Day, when he went to St. *Omers.*

L. C. J. Then he might have ſaid, in ſhort, he was there all *April* and *May.*

Mr. Juſt. *Pemberton.* Call another Witneſs.

Langhorn. Call *John Joſeph. Who ſtood up.*

Mr. Juſt. *Pemberton.* What do you aſk him, Mr. *Langhorn?*

Joſeph. That which I ſay is this, That Sir *Thomas Preſton* was at *Liege* in *March*, *April*, *May*, and *June*, in the Year 1678.

L. C. J. Did you ſee him every Day in thoſe Months?

Joſeph. That I cannot well tell.

L. C. J. Did you ſee him every other Day?

Joſeph. Yes, my Lord, I believe I did once in two or three Days.

L. C. J. Where was he in *July?*

Joſeph. He was at *Liege* too: He was obliged to be ſo; but in the time of the Vacancies in *Auguſt*, he was abſent.

L. C. J. Then you ſay he was all thoſe Months, *March*, *April*, *May*, *June*, and *July*, there?

Joſeph. Yes, my Lord, thoſe four Months I am ſure of it.

L. C. J. What became of him in *Auguſt*, when he went during the Vacancies abroad? Do you know whither he went?

Sir *Cr. Levinz.* Do you know whether he went into *England?*

Joſeph. I never heard that he was in *England.*

L. C. J. When did he return again?

Joſeph. When they began School, and that is in the beginning of *October.*

Then another Witneſs ſtood up.

L. C. J. Well, what ſay you?

Tenth Witneſs. I can ſay that Mr. *Oates* never ſtirred out of the College at that time when he ſays he came to *England*; that is, he ſays he came upon *Monday* the 25th of *April*; but he did not, for that Day he went into the Infirmary, and he ſtayed at St. *Omers* all *April* and *May.*

L. C. J. And how much longer?

Tenth Witneſs. A great Part of *June.*

L. C. J. Was he there the 20th of *June?*

Tenth Witneſs. I am ſure he was, but how much longer I cannot tell.

L. C. J. Where was he in *February* and *March?*

Tenth Witneſs. He was there too; in *January* he lay out one Night, and that was at *Watton*, but I am ſure he did not come over the 24th of *April*, New-Stile, as he ſays.

Mr. *Recorder.* Now he ſays, it is New Stile, not Old Stile, as he ſaid Yeſterday.

Then another Witneſs ſtood up.

L. C. J. Well, what do you ſay?

Eleventh Witneſs. Mr. *Poole* was ſick, and I can remember when his Nephew went to him into the Infirmary, before he went away from the College, and he gave him good Counſel, as he ſaid, and I remember that Mr. *Brett* was ſick at *Watton*, and did come home again on Horſeback, and I believe he did not ſtir out; and Mr. *Poole* was at St. *Omers*, I am ſure I ſaw him once in two or three Days all *April* and *May.* He went by the Name of *Killingbeck.*

L. C. J. But he does not poſitively ſay he ſaw Sir *Robert Brett* every Day there, he ſays he believes he did.

Eleventh Witneſs. He came into the School, and gave the Boys Queſtions to diſpute of.

Mr. Recorder. Call the reſt of your Witneſſes.

Then another Witneſs was called and ſtood up.

L. C. J. North. When did you ſee Mr. *Oates* at St. *Omers?*

Twelfth Witneſs. I ſaw him almoſt every other Day from the Time he came till he went away.

L. C. J. When was the firſt time you ſaw him?

Twelfth Witneſs. The beginning of *December.*

L. C. J. Did you ſee him in *April* there?

Twelfth Witneſs. Yes, I ſaw him in *April* there at an Action.

L. C. J. And did you ſee him in *May* there?

Twelfth Witneſs. Yes, I can teſtify I ſaw him the firſt Day of *May* in the Garden.

L. C. J. How long ſtay'd he there?

Twelfth Witneſs. 'Till *June.*

L. C. J. How came you to take ſuch preciſe Notice?

Twelfth Witneſs. By his very Place I could not but take notice if he were miſſing.

L. C. J. How can you ſay you ſaw him in the Garden the firſt of *May?*

Twelfth Witneſs. I'll tell your Lordſhip why, becauſe there was a great Feaſt, and he plaid at Nine-pins in the Garden, and I can tell what they play'd for.

L. C. J. What ſay you as to Mr. *Nevil*, and Sir *Robert Brett*'s being at St. *Omers?*

Twelfth Witneſs. I did not take ſo much notice of Sir *Robert Brett*; as for *Nevil*, I think I ſaw him once in three Days.

Mr. Juſt. *Pemberton.* And there is nothing ſaid of him here.

Then another Witneſs ſtood up.

L. C. J. When did you ſee Mr. *Oates* firſt at St. *Omers?*

Thirteenth Witneſs. I firſt ſaw him in the Month of *December.*

L. C. J. Did you ſee him in *April* and *May?*

Thirteenth Witneſs. Yes, my Lord, I did.

L. C. J. Was he there all thoſe Months?

Thirteenth Witneſs. Yes, my Lord, he was.

L. C. J. North. Was he there all the Month of *June?*

Thirteenth Witneſs. He went away towards the latter end of *June.*

L. C. J. North. Yeſterday you ſaid the latter end of *July.* Call another Witneſs.

Then another Witneſs ſtood up.

L. C. J. North. Come, you hear the Queſtion, Did you ſee Mr. *Oates* at St. *Omers*, in the Month of *April?*

Bedlow.

Fourteenth Witneſs. Yes, my Lord, he was there all the Month of *April.*

L. C. J. Was he there all the Month of *May?*

Fourteenth Witneſs. Yes, my Lord, he was.

Mr. Juſt. Pemberton. And a good part of *June.*

Fourteenth Witneſs. Yes, my Lord.

Langhorn. What do you ſay as to Mr. *Poole?*

Fourteenth Witneſs. I ſaw Mr. *Poole* in the Infirmary the third Day of *May.*

L. C. J. North. How came you to take notice of it, ſo well as to remember it, that it was the third of *May?*

Fourteenth Witneſs. It was a Feſtival Day. And the Feaſt we kept was the Invention of the Holy Croſs. We had the Action the Day before, and ſome that were in the Infirmary would have it acted over again to them, and we did ſo. My Lord, within one or two Days after Mr. *Hilſley* went away, I diſcourſed with Mr. *Oates*, about half an Hour; he came out within a Day or two after out of the Infirmary, and I ſaw him walking in the Gallery. And again, the 2d of *May* I ſaw him walking with one Mr. *Burnaby*, who arrived the Day before, the firſt of *May*, and then I ſaw him the 3d, 4th, and 5th, in this *Burnaby*'s Company; I ſaw him again the 26th of *May*, with a Band about his Head in order to Confirmation, for they always have a Linen Cloth bound about their Head at ſuch a time.

L. C. J. Call another. *Who ſtood up, his Name was* ****.

L. C. J. What can you ſay?

**** All that I can ſay is this, that between the ſaid Month of *December* 1677, and *June* 1678, which is the time in Queſtion, Mr. *Oates* was never out of the College above one Night, when he went to *Watton* in *January*; and this is certain, that from the time that I ſaw him firſt, till the time he went away for altogether, there were not two Days that paſſed away, wherein I did not ſee him, except in the Month of *March*, and when he was in the Infirmary the 24th of *April*, but then I heard that he was there——

L. C. J. Who did tell you ſo?

**** The Man that keeps that part of the Houſe; and coming into my Office after my Recovery out of a Fit of Sickneſs a Week before *Chriſtmas* or thereabouts, I ſaw Mr. *Oates* by this Circumſtance, The Servitors of the Houſe ſaid they were glad to ſee me, and Mr. *Oates* being in the Place at the Refectory that was aſſigned to him, I aſked who he was, and they told me ſuch a one; but I had heard of his Admiſſion a few Days before. Likewiſe Mr. *Oates* was there when Mr. *Hilſley* came from *England*, which was about the 24th of *April*, by this Circumſtance, that he was preſent in the Refectory with ſome of the Scholars. Mr. *Richard Burnaby* came to the College about a Week after Mr. *Hilſley* went away, and Mr. *Oates* was actually there then, and we did very much wonder that he became acquainted with him ſo quickly after his Arrival. I ſay Mr. *Oates* was actually there when Mr. *Killinbeck* and Mr. *Conqueſt* came for *England* about the 3d of *May*, by this Circumſtance, that I had ſome Diſcourſe with Mr. *Oates*, and ſome others of the Scholars, that Mr. *Conqueſt* would by no means get out of his Bed betimes that Day he was to go away, being unwilling to leave the College. He was there the 26th of *May* by this Circumſtance, that the Biſhop dined there that Day, and Mr. *Oates* was there confirmed that Day. Mr. *Oates* was there alſo in *June*, my Lord.

L. C. J. Yes, he was there in *June*, he does not deny it.

Mr. Juſt. Pemberton. And was he there all *May?*

**** Yes, my Lord, he was, and all *April*, except the time he was in the Infirmary, which was three or four Days.

Langhorn. What do you ſay as to *Poole* and *Nevil?*

**** They were there all the whole time in queſtion, and they were never abſent any competent time to come to *England*, as he ſays.

L. C. J. North. We muſt not allow that, you muſt tell us what time they were there, that we may know it.

**** They were there in *March*, *April*, *May*, *June* and *July.*

L. C. J. But did you ſee him every Day from the beginning of *Chriſtmas*, to the time he went away in *June?*

**** Yes, except the time he was at *Watton*, and when he was in the Infirmary.

Mr. Recorder. But was not Mr. *Oates* twice in the Infirmary?

**** He was I remember there on St *Thomas* of *Canterbury*'s Day, and I remember he was there in *April.*

Sir Cr. Levinz. I did hear you ſay ſomething of ſomebody that was abſent five or ſix Days, was it you?

**** I was ſick in the Month of *March*, and I was in the Infirmary till about the twelfth or fourteenth Day.

Sir Cr. Levinz. And did you ſee him there all that time?

**** I excepted that time, but I heard his Voice once in that time, in the next Room to the Infirmary, where I was, by this Circumſtance, he uſed to come to a Table by himſelf, and it was near the Door, and *Nevil* and *Poole* were there, as I ſaid before.

Mr. Recorder. He ſpeaks much more to the Purpoſe to-day, Mr. *Langhorn*, than he did yeſterday.

L. C. J. North. And much louder.

Langhorn. I hope your Lordſhip will take notice that he ſpeaks likewiſe of the Reſidence of Mr. *Poole*, Sir *Robert Brett*, and Mr. *Nevil.*

L. C. J. Yes, I do. Call another Witneſs.

Who ſtood up, and being a Foreigner, his Evidence was likewiſe interpreted.

L. C. J. Aſk him what he ſays.

Interpreter. He ſays he ſaw Mr. *Oates*, he was there, and he remembers it till about the 25th of *June.*

L. C. J. Where did he ſee him?

Interpreter. He ſays it was either in the Houſe, or in the Garden.

L. C. J. North. When was that, that he was in the Infirmary?

Interpreter. He ſays, he was in the Infirmary towards the latter end of *December*, or the beginning of *January.*

L. C. J. Aſk him what he ſays about *Nevil* and *Poole.*

Interpreter. He ſays they were there all *June*, and that Mr. *Poole* went away in the Month of *July*; and he further ſays, that he being a Waterman, he carried this ſame *Williams* and *March* in his Boat the laſt Sunday in *April.*

L. C. J. North. Who is your next, Mr. *Langhorn?* Let him ſtand up. (*Which he did.*) When did you ſee Mr. *Oates* at St. *Omers?*

Sixteenth Witneſs. In the Month of *April*, 1678.

L. C. J. And in *May* too was he?

Sixteenth Witneſs. Yes, he was.

L. C. J. Was Mr. *Poole* there all that time?

Sixteenth Witneſs. Yes, he was; and ſo was Mr. *Nevil* and Mr. *Brett.*

L. C. J. Where is *Nevil* now?

Sixteenth Witneſs. I believe I left him there.

L. C. J. What are theſe Perſons?

Sixteenth Witneſs. The one is a Prefect, and I believe he is there ſtill. In the Month of *May* I made Mr. *Killinbeck* a Suit of Clothes, and Mr. *Oates* came into the Shop, and aſked me whoſe Clothes they were? I ſaid Mr. *Killinbeck*'s; ſaid he, How can that be? they are black: ſaid I, they muſt be black, for he is in Mourning.

Langhorn. Here is Mr. *Grove*'s Wife and his Maid.

Then Mrs. Grove *ſtood up.*

L. C. J. What Queſtion would you aſk of her?

Langhorn. Mr. *Oates* hath ſworn, and given us ſeveral Circumſtances of his coming over, and being here at that which he calls the Conſult, and that he lay at Mr. *Grove*'s three or four Nights; I deſire ſhe may be aſked that Queſtion, whether he did ſo or no?

L. C. J. Do you know Mr. *Oates*, Mrs. *Grove?*

Grove. No, I never ſaw him.

L. C. J. Were there any Lodgers lay at your Houſe in *April* was Twelvemonth?

Grove. Yes, my Lord, there were.

L. C. J. Do you uſe to have Lodgers that you do not know?

Grove. My Houſe was full of Lodgers at that time. I did not know them till they lay there.

Sir Cr. Levinz. Why, then, Mr. *Oates* might be there, and you not know him.

Grove. If he lay there, I muſt needs know him.

L. C. J. Why might not a Man lie with any of your Lodgers three or four Nights, and you not know him?

Grove. Who ſhould he lie withal, my Lord?

Oates. I had a Bed to my ſelf when I lay there.

L. C. J. Mr. *Oates*, deſcribe the Chamber as well as you can.

Oates. It was a Place taken out of another Room, where two Men were taken out that were committed to Priſon.

L. C. J. Were there any Perſons taken out of your Houſe, and ſent to Priſon?

Grove. Yes, my Lord, there were.

L. C. J. In that very Room he lay, out of which thoſe Perſons were taken.

Grove. He did not.

Oates. Upon my Oath, I did lie there three or four Nights, more or leſs.

Sir Cr. Levinz. You were in a Diſguiſe, Sir, at that time, were you not, and went by another Name; and ſo the Woman might not know you?

Oates. Yes, I did ſo.

L. C. J. You cannot make any great matter of this; ſhe had ſome Lodgers, and ſhe knew them, but he went by a wrong Name, and was in a Diſguiſe.

Langhorn. Mrs. *Grove* ſays, ſhe knew all the Lodgers that then lay there; pray aſk her if ſhe did not?

L. C. J. Do you remember who lodged in your Houſe in *April* was a Twelvemonth?

Grove. Yes, I do.

L. C. J. Name them.

Grove. Why, there was one Pair of Stairs, one Mr. *Strange* by Name, and one Mrs. *Fitzherbert*, and above there lay my Siſter.

L. C. J. What, all the Months of *May* and *April?*

Grove. Yes.

L. C. J. And not in *June?*

Grove. I am not demanded of *June.*

L. C. J. She anſwers exactly to them two Months, what ſay you to *March?*

Grove. They were there in *March.*

L. C. J. Who lay in the Room from whence the Men were taken that were carried to Priſon?

Grove. There was one Maſter *Grupper*, and another Youngman that lay with him.

L. C. J. Why might not that be Mr. *Oates?*

Grove. He was one that was a Priſoner by Mr. *Oates*'s Order. And Mrs. *Fitzherbert* lay there.

L. C. J. What, in that Room whence the Youngmen were taken out in *April* or *May?*

Grove. Yes, my Lord.

L. C. J. Well, what ſay you to the other Months, *March*, and *June* and *July?*

Grove. I was not to be examined further than the two Months I ſpoke of before.

L. C. J. Look you, ſhe ſays, that for *April* and *May* two Gentlemen had the Lodging that Mr. *Oates* ſays he lay in; but for any other Time ſhe was not to be examined. Well, have you any more Witneſſes?

Langhorn. Here is Mrs. *Grove*'s Maid. [*Who ſtood up.*]

L. C. J. Maid, Can you tell who lay in *Grove*'s Houſe, in *April* and *May* was Twelvemonth?

Maid. Yes, my Lord, I can.

L. C. J. Who were they?

Maid. There was my Miſtreſs's Brother and Siſter lay there.

Mr. Juſt. Pemberton. Do you know them all? What Men lay there?

Maid. None but Maſter *Strange*, my Lord.

L. C. J. Miſtreſs *Grove* ſaid, that her Houſe was full.

Maid. Indeed, my Lord, there was her Brother, Mr. *York*, and his Wife.

L. C. J. But who is that *Fitzherbert?*

Maid. She is a Gentlewoman.

L. C. J. Who lay there in *March?* and who lay there in *July?*

Maid. Maſter *Strange* and Mrs. *Fitzherbert.*

L. C. J. How long did they lie there?

Maid. In *April*, *May*, *June*, *July* and *Auguſt.*

L. C. J. She ſays they lay there in *March*, *April*, *May*, *June*, *July* and *Auguſt*, and her Miſtreſs ſaid, they were there but a Quarter of a Year, only ſhe ſaid ſhe was to be examined no further.

Langhorn. My Lord, I desire to prove a Copy of the Record in the Lords House.

L. C. J. That is not to be given in Evidence here.

Mr. Recorder. You know how far such a Thing will be Evidence, manage your own Evidence well.

Langhorn. It is an Extract out of the Journal of the House of Lords.

L. C. J. What Particular do you pitch upon?

Langhorn. About those Persons who, he says, came over with him from St. *Omers*.

L. C. J. North. Do you think it reasonable, that any Man should come to answer now, all that ever he hath sworn in his Life? If you can shew any Record to contradict what he hath sworn here, shew it. Do you think he can come prepared to justify all he hath sworn in any other place?

Langhorn. He referred to that himself.

L. C. J. No, he does not.

Langhorn. But he hath said over and over, that Sir *John Warner* came over with him, Sir *Thomas Preston*, and *Poole*.

L. C. J. What should you urge that Book for? Can you make any other Proof?

Langhorn. I would have the Persons called that took the Narrative of *Ireland*'s Trial.

L. C. J. If you have any more Witnesses, call them.

Langhorn. Won't your Lordship allow me to prove by Witnesses, what he affirmed, in relation to me, at another Trial?

L. C. J. By no means, you must not meddle with that.

Langhorn. Pray, my Lord, why not? I will prove the Words spoken by a Witness.

L. C. J. North. You must not; that is no Evidence against you, nor can it be an Evidence for you.

Langhorn. Then you take off the Defence that I have, and make it as if I had never any.

Mr. Just. *Atkins.* That is not Evidence in a civil Cause, and therefore must not be Evidence here.

Then came in my Lord of Castlemain.

L. C. J. What do you come for, Sir? What is your Name?

E. Castlemain. My Name is *Castlemain*.

L. C. J. Are you my Lord of *Castlemain*?

E. Castlemain. Yes, my Lord, I am.

L. C. J. Does your Lordship come as a Witness for Mr. *Langhorn*? Mr. *Langhorn*, do you call my Lord of *Castlemain*?

Langhorn. My Lord, I don't know what he comes for, whether he comes as a Witness for me, or not; perhaps he may.

E. Castlemain. My Lord, I come to wait upon your Lordship and the Court, to give you an Account, that some of the Witnesses that were summoned here for the Prisoners, are so beaten and abused without, that they dare not come to give their Evidence, for fear of being killed.

L. C. J. That is a Thing that is not to be suffered; let us but see any Person that dares but offer to meddle with them, and I'll assure you we will take care to see them punished, according as they do deserve.

L. C. J. North. 'Tis a very unjustifiable Thing, a Thing that we will very severely punish, if they be hindred of free Ingress and Regress.

Mr. Just. *Atkins.* Indeed it is a very horrid Thing that they should be so abused; they ought to have their Liberty of coming and giving their Evidence here, without any Molestation.

E. Castlemain. I can assure your Lordship, that one of them was so beaten and bruised, that we can't tell but it may cost him his Life.

L. C. J. Nay, we must look to to such a Thing as that; for it is by no means to be allowed of. If your Lordship will but tell us who they are; let us but know them, and we will take care for the Punishment of them; for we will shew our selves just and fair, and give them all the fair Play that can be.

Mr. Just. *Pemberton.* Mr. *Langhorn*, have you any more Witnesses?

Langhorn. Call the Woman that kept the *White-Horse* Tavern. [*Who stood up.*]

L. C. J. To what Purpose do you call this Woman?

Langhorn. I desire, my Lord, to ask one Question of Mr. *Oates*, touching the Consult at the *White-Horse* Tavern in the *Strand*, How many Persons met there?

Oates. Before that Question be asked, I pray your Lordship would ask her, When she came to the *White-Horse* Tavern, to keep it.

Witness. I don't keep it now.

L. C. J. When did you keep it?

Witness. I kept it in *June*, and I left it the beginning of *July*.

Oates. She does not come to the Time.

L. C. J. Did you keep it all the Year before that?

Witness. I kept it Seven Years before, till *July* last.

Langhorn. I would know of him, how many might be there at that Time.

L. C. J. What Number of Persons do you say met at that Consult?

Oates. That Question, if it please your Lordship, hath no Reference to this Trial, neither is it at all material; but because I have given the Prisoners so much Freedom, they impose upon me with Questions.

L. C. J. 'Tis a Question they can't expect a precise Answer to from you; but yet I would have you give them as satisfactory an Answer as you can, what Number there might be there at a Time.

Oates. My Lord, I think there might be at the *White-Horse* Tavern, at a Time, about Eighteen or Twenty.

L. C. J. Were they in one Room, or in several Rooms?

Oates. They were in two or three Rooms.

Witness. Is this Mr. *Oates*, my Lord?

L. C. J. Yes, that he is.

Witness. I never saw him in my House in my Life.

L. C. J. Was there no body never in your Tavern, but who you knew? What! can you tell all the People that were ever in your Tavern?

Witness. The most of my Company were People that I knew.

L. C. J. What is your Company?

Witness. Those that frequented my House.

L. C. J. Can you say who was in your House, *April* 24, 1678?

Witness. No, my Lord, I will not undertake that, but I will give you as true an Account as I can.

Langhorn. I'll tell you why I ask this Question. Mr. *Oates* did say, in his Depositions before the Lords, there met fifty.

L. C. J. At several Times in the Day.

Langhorn. But this must all be in the Morning.

L. C. J. Why so? Suppose there met, of that Company, Twenty in the Morning, and then some went away, and others came in their room, and so they did for divers Times in the Day, is not this properly said of me, that there might be about Fifty at that Consult?

Langhorn. He saith, in *Coleman*'s Trial, there met Fifty, upon the 24th of *April*, and afterwards they adjourned into lesser Colloquies.

Oates. I say, they met there the 24th Day, but the Consult was not dissolved till the 26th Day at Night.

L. C. J. North. You must go only upon what is sworn now. And we ask the Question, upon your Proposal, How many were there at a time? and he says about Eighteen or Twenty at a Time. Now if he proves there were Eighteen at one Time, Twenty at another Time, and Ten at another that makes about Fifty.

L. C. J. Good Woman, is your House a little House?

Witness. 'Tis a small inconsiderable House, there is not a Room in it that will hold above a dozen. I never remembred so great a Company was in my House at one Time, but once, in all my Seven Years, and that was a Jury of the Parish, and they could not be together, but were divided into three Rooms.

Then there stood up a Stranger; who was sworn.

L. C. J. Well, Sir, do you know the *White-Horse* Tavern in the *Strand*?

First Witness. Yes, my Lord, I do, very well.

L. C. J. Do you know the biggest Room in the House?

First Witness. Yes, I do, my Lord.

L. C. J. How many may Dine there?

First Witness. It may be Twenty People. I have seen a Dozen or Sixteen there often.

L. C. J. Did you know the Tavern a Year ago?

First Witness. Yes, my Lord, this was a Year ago.

Then a Second Witness stood up in the Court, and said, That Twenty-five or Thirty might Dine in one Room that was backward, and another that was forward. And a Third attested, That he was at a Wedding, and there did Dine above Twenty in one Room next the Street.

Mr. Recorder. If she make a Jury to be in three Rooms, that is but four in a Room.

Mr. Just. *Pemberton.* Those Juries are Sixteen, generally, or more.

Langhorn. My Lord, I don't know this Tavern my self; but I thought it very considerable, if they had not a Room that would hold such a Number as he spoke of, Fifty.

L. C. J. But you see how unfortunately it happens. The matter had not been much, if it had been proved; but it is very unlucky, that these Persons should be here in Court, by whom the other is contradicted. It had been better it were never meddled with. That she should be so peremptory, in what Standers-by know to be false, makes this Contradiction in one Thing to give a Suspicion that all your Witnesses may be false in all the rest.

Sir Cr. Levinz. Here is a Gentleman of good Quality, that saith, there have been Fifty in a Room.

Langhorn. My Lord, I hope neither the Court nor the Jury will reflect upon me for this.

L. C. J. No, it can't do that; but it reflects upon your Evidence, especially this Woman.

Langhorn. I have been a Prisoner so long, and I know nothing but what Friends and Relations inform me.

L. C. J. The Thing was reasonably offered, but it proves so unfortunate it will not hold. Have you any more Witnesses to call?

Langhorn. Yes, my Lord.

L. C. J. I pray call them.

Langhorn. My Lord, I desire I may examine them after the King's Counsel have done.

Mr. Just. *Pemberton.* You may say what you will for your Defence, but you must examine no new Witnesses then, Mr. *Langhorn*.

Langhorn. I must ask this Gentleman a Question or two, if the Court think fit.

L. C. J. Propose them to the Court; what is it you would have?

Langhorn. My Lord, it is in relation to a matter that happen'd at *Ireland*'s Trial, I know not whether it be proper, but the Question I would ask is, Whether *Ireland* were here in *August*, or no?

L. C. J. He hath given you no Occasion to ask this Question at this Trial: And is there any Reason that we should examine him to such a Thing? Do you think it reasonable, or according to Law, that Mr. *Oates* should be examined, in your Trial, concerning what he then said, of *Ireland*'s being here in *August*, or not being here, when 'tis no part of his Accusation that he brings against you? Can he be imagined to be prepared for such a Justification, since he does not at all give any Evidence of it here?

L. C. J. North. Since he gave not any Occasion or Use for such a Proof now at this Time, 'tis not fit he should be examined about it: Indeed Yesterday he gave it in Evidence, because it concerned a Circumstance of Time that related to the Prisoners then to be tried.

L. C. J. 'Tis true, as my Lord says, that it was Yesterday proper, because he gave Evidence that *Fenwick* and *Ireland* were here in *August* together. Now that did some way concern him, but you have no Concern at all in it.

Mr. Just. *Pemberton.* That brought it in at that Time, but this is a foreign Matter, it cannot be here.

L. C. J. Have you any more Witnesses, Master *Langhorn*?

Langhorn. My Lord, Mr. *Oates* hath affirmed, when I asked him touching his receiving a Reward, he said, he had his Reward, for he had been out of Purse Six or Seven Hundred Pounds; and it is my Desire to examine a couple of Witnesses touching the Probability of that; for he was so very poor, before this happened, that it is impossible, without a Purse being made for him, to lay out Six or Seven Hundred Pounds.

L. C. J. Look you, here is the Thing: He gives you an Answer, to which he was not in the least bound, nor is it to be charged by you; he says he is out Seven Hundred Pounds, but that is not any Evidence, nor is the Jury to take notice of it, nor is it to affect him. And would you have him give us an Account how he came by that Money?

Langhorn.

Langhorn. My Lord, I'll tell you how far it concerns me; the proving of his Indigency before this Thing happened, will concern me thus far——

L. C. J. If you should prove this Man in an indigent Condition, what is that to the present Purpose? It goes to no part of the Evidence.

Langhorn. My Lord, I ask the Question for this Reason; for certainly if he were so very indigent, it cannot be imagined in probability that any Man would trust him with such a great Sum, unless it were to give this Evidence.

L. C. J. If you have any more Witnesses, call them, and make an end of them; if not, then you may observe what you will to the Court and Jury, after the King's Counsel hath done.

Mr. Just. *Pemberton.* But all your Witnesses you must call now.

Langhorn. Doth your Lordship debar me from using this Copy of the Record of the House of Lords?

L. C. J. To what purpose would you have it read?

Langhorn. Because *Bedlow* therein says, that he had no Person more to charge, either in the House or out of the House, than what he then charged.

L. C. J. What then?

Langhorn. I was not one of those Persons, then he knew nothing against me.

L. C. J. 'Tis but a Memorial taken by a Clerk, and do you think that his Omission shall be conclusive to us?

Langhorn. 'Tis the Journal of the Lords House, my Lord.

L. C. J. North. But can you think that can be used as Evidence here? If you had an Affidavit signed by the Party, and had Witnesses to prove that he did make such an Oath, you say something.

Mr. Just. *Pemberton.* You can't read that against his Testimony, you understand that, being a Lawyer. If you have any Witnesses, call them, but you pick out collateral Matters, and spend our Time to no purpose.

L. C. J. Really, if it were a Thing conducing to the Point, I would very much stretch; but it being such a kind of thing as this is, he says he had nothing to say against any Body else, and I was not named then: What is this to the Fact you are charged with?

Mr. Just. *Pemberton.* Why, it may be, he did not remember it then, will you conclude him, that he should never remember it, or speak of it?

L. C. J. You see that now at these Trials, he says sometimes, this is all I can remember at present, but by and by he recollects himself; would you hinder him from saying then what he remembers?

L. C. J. North. Besides, upon an Affidavit, or an Answer in Chancery, we never allow it, unless we have the Party to prove that he took the Oath.

Langhorn. I desire to know of Mr. *Oates*, whether he did distribute any of these Commissions, and to whom? for he hath said I did.

Oates. That which I say, is this: Those Commissions that I named, they were distributed, but the Persons I do not know; I know the Commissions were for those five Persons, and in *July* or *August* he did say he had distributed them, but he said not to whom; only one, indeed, he sent by his Son, to the eldest Son of my Lord *Arundel* of *Wardour*, to be Commissary General; and he came back, and said, it was delivered.

Langhorn. You do not speak of any other?

Oates. I do not recollect that I know of any other.

Langhorn. I ask for this Reason, because, in the Lords House, he hath charged me, that I sent my Lord *Arundel*'s Commission, and that I sent it by my Son, and that he saw a Letter in my Chamber, of the receipt of it.

Oates. My Lord, there is some part of the Evidence, that does reflect upon the Lords, which I charge not upon Mr. *Langhorn*, because I would not discover my Evidence against the Lords. He goes now to expatiate upon the Informations, but I hope the Court will excuse me, because I reserve it for another Trial.

Langhorn. I desire Mr. *Lydcot* may be asked, whether he did not hear Master *Oates*, at a former Trial, say, (for so I find it in the Narrative) (it was at *Coleman*'s Trial) that he came to me the next Day after the Consult, and communicated it to me, and that he never saw me afterwards.

L. C. J. Do you know any Testimony Master *Oates* gave concerning Master *Langhorn?*

Langhorn. You are not the Person that took the Trial, are you?

Lydcot. I know nothing of the Business, at all. I was at the Trial, but I cannot particularly speak what was said there.

Langhorn. The Persons that took the Trial were summoned to be here. Call Mrs. *Sylliard.* (*But she appeared not.*) Call Mr. *Blayney.*

L. C. J. Here is Mr. *Blayney*, what would you ask him?

Langhorn. I would know of him, what Mr. *Oates* hath testified concerning me?

L. C. J. Do you know what Mr. *Oates* said concerning Mr. *Langhorn?*

Blayney. When, my Lord?

L. C. J. Nay, I can't tell.

Langhorn. At *Coleman*'s Trial, Sir.

Blayney. My Lord, I was present at *Coleman*'s Trial, and I remember Mr. *Oates* did say something about Mr. *Langhorn*, but I have not my Book here, I can't tell what it was.

Langhorn. Here is the Book, Sir, here is the Narrative.

Blayney. That was not printed by my Copy, Sir.

Langhorn. Who were they that did take it?

Blayney. Of my own Knowledge I don't know whose Copy it was, but by hearsay.

L. C. J. It was taken as well as it could be taken, but you must not urge that which is but an Historical Narrative against him.

Mr. Just. *Pemberton.* Mr. *Langhorn*, do you think to convict a Man by an History? To say a Man is forsworn because he does not swear as that History says he did swear?

L. C. J. We will do you all the Right, and give you all the fair Play we can; but we are of Opinion that it signifies nothing, that you can make no use of it.

Langhorn. If I can have no Light, how can I imagine what they will charge me with?

L. C. J. Have you in any other Case observed it? If a Man be indicted of Felony or Treason, any Capital Crime, he is clapp'd up, and is not permitted to have a Copy of the Indictment, nor he cannot by Law.

Langhorn. They know something of what they are accused for, they are confronted before a Justice of Peace.

Mr. Just. *Pemberton.* Why, I'll suppose you had been examined, do you think your Examination would have been Evidence for you here?

Then one Elizabeth Sylliard *was called, but affirming, That she durst not speak unless the Court would promise her Protection against the Rabble, because some of the Witnesses had been abused; which the Court not being able to do, otherwise than by promising to punish those that offered to meddle with her, if she brought them before them, she was, by* Mr. Langhorn's *consent, set aside, and not examined.*

Langhorn. She comes in relation to a Point that happened at *Reading*'s Trial, where Mr. *Bedlow* did depose, That he did not say all he could have said against Mr. *Whitebread* and Mr. *Fenwick*, but that he did know more against them than he gave in Evidence at their first Trial.

Mr. Just. *Pemberton.* What is that to you?

Langhorn. That I take to be a kind of Perjury in him; for they are sworn, *To speak the Truth, the whole Truth, and nothing but the Truth.*

L. C. J. Is this material in your Case what he said about *Whitebread* and *Fenwick?*

Langhorn. It makes it material to make him uncreditable.

L. C. J. Mr. *Whitebread* made that Objection, but he was answered; for he was told, That he could not tell all that he knew at that time, because he was in treaty with Mr. *Reading* about the lessening of his Evidence against them, and the Lords in the *Tower*, and the Lords were to judge what measure they should have from him, by his kindness to *Whitebread* and *Fenwick.* If you have no more, the King's Counsel will go on.

Sir Cr. Levinz. My Lord and Gentlemen of the Jury, you have heard the Evidence that Mr. *Langhorn* hath given for the making of his Defence, which hath been principally to reflect upon Mr. *Oates*; and he first calls Mr. *Hilsley* to prove, that whereas Mr. *Oates* did swear he came over with him, he affirms he did not; but it falls out, that Mr. *Oates* hath counterproved him by such a Circumstance as does contradict him in what he says; for speaking of the Loss of his Money, *Hilsley* said somebody else had told him of it; but producing his Witness for that, he only affirms, that Mr. *Oates* in his Company was told, that Mr. *Hilsley* had lost his Money, but not how nor where; but Mr. *Oates* gives you a particular Circumstance, that he was cheated by a Person he lent his Money to, and that left him to pay the Reckoning, which Mr. *Hilsley* does confess was true, and which he could not hear from the others, for the others did never know it. Gentlemen, they have brought you a great many other Witnesses to prove, that Mr. *Oates* was not in *England* on the 24th of *April*, the time he says he was, and they all agree as to that time, tho' as to other times they are not so exact; but we shall give you as plain and as full an Evidence that he was here at that time, as that you are there now, and shall very fully satisfy you in it. For that of Sir *John Warner*, and Sir *Thomas Preston*, they are Matters that were transacted beyond Sea; to be sure they did not come over by those Names, no more did Mr. *Oates* himself; therefore it would be hard to find out these Persons, or to give you so particular an account of them that were thus in Disguises, and had changed their Names; but truly if that were a matter done in *England*, it were far more easy for us to confront their Testimony in that; for Matters that are done here lie more ready for our proof, than those that are done beyond Sea; for the last Woman that he called, which was the Woman about the *White-Horse* Tavern, her Evidence would have gone as punctually for Truth, if it had been a Matter done in *Flanders*, as any thing could be in the World; but it happening to be near Home, it hath the ill fortune to meet with a very sudden Answer, which is a manifest proof how they stretch to help themselves, and in my Opinion this Contradiction overthrows all their Evidence. Gentlemen, we will call our Witnesses, and prove it as plainly as any thing can be in the World, that Mr. *Oates* was here at that time. First swear *William Walker.* [*Which was done.*]

L. C. J. Do you know Mr. *Oates?*

Walker. Yes, Sir, I have known him Seven or Eight Years.

L. C. J. When did you see him in *England* last Year?

Walker. I saw him the latter end of *March*, 1678, or towards the middle of *April* following. I saw him then in a Disguise, insomuch as that I knowing what he was, and what he had been, I could not a great while recollect the Face of the Man, and it was a great Trouble to me, that having known him so many Years, I should not then know him. I went home, but could not recollect my self that Night; but before I rose again the next Morning, I did recollect my self that it was *Titus Oates*, and I presently turned my self out of my Bed, and went to a Gentlewoman whose Name I did not then well know, to enquire of her about it. After the Salutation, said I, How does Mr. *Oates?* Said she, knocking her Hand upon the Counter, He is an undone Man: Why, what is the Matter, said I? He is turned, said she, to the Church of *Rome:* Do you know where he is, said I? No, said she, but he is lurking up and down the Town, and only dares appear in the Evenings. Well then, said I, I saw him later than you did; for I saw him between St. *Martin*'s-*Lane* and *Leicester-House* Yesterday, but he was in a Disguise: and I told her what Habit he was in.

L. C. J. What time was that?

Walker. It was about Ten of the Clock in the Morning.

L. C. J. But what time of the Year was it?

Walker. It was the latter end of *March*, or the middle of *April.*

Mr. Just. *Pemberton.* It was before the end of *April.*

Walker. Ay, ay, my Lord.

L. C. J. And that contradicts all your Witnesses; for they say, that he was there all *March*, and all *April*, and all *May*, nay from *December* to *June.*

Langhorn. He hath said, the latter end of *March*, or the middle of *April.* I would have him be as certain as he can.

L. C. J. He cannot be certain; for those things in point of time, you know, and all Mankind must agree, that a thing done a Year ago that was of no greater importance at that time, cannot so easily be remembred, or that he should take such special notice of the critical Day. What Man in the World does remember or take notice so as to charge himself in what Week or what Month such an accidental thing as this happened? But to satisfy Mr. *Langhorn* I ask you, Can you speak any more particularly than you have done?

Walker. Because I would not be mistaken, or do any one any wrong, I do rather take an uncertain time than a certain, but I do think it was in the Month of *April*, and towards the middle of the Month; that is all I can say.

Langhorn. But how is he ſure, ſince he is ſo uncertain in his Memory, that this was 1678, and not 1677?

Walker. Becauſe, my Lord, it was but a little more than a Year ſince, and I am able to judge of the Year as well as another.

L. C. J. Do you remember what you went about?

Walker. I was wont, about that time of the Year, to receive Money of my Lord *Thomas Howard*, and upon that Errand I came to Town then.

L. C. J. But are you ſure it was Mr. *Oates* that you ſaw?

Walker. Yes, my Lord, for according to my apprehenſion I did know the Face when I firſt ſaw it, but I could not recollect who it was till I had refreſh'd my Memory, and the next morning I did ſo, and then concluded it was he.

Mr. Juſt. Dolben. How came you hither?

Walker. I was brought here for a Witneſs.

Mr. Juſt. Dolben. Did you diſcover this to Mr. *Oates*, or did Mr. *Oates* firſt come to you, to put you in mind of it?

Walker. I had diſcourſed with ſome Perſons about it a while after the Plot was diſcovered, and ſo I ſuppoſe it came by accident to him.

Then Mrs. Ives *was ſworn, and ſtood up.*

L. C. J. Well, Miſtreſs, what ſay you?

Ives. This is the Gentleman that told me this Buſineſs.

L. C. J. What did he tell you?

Ives. He aſked me when I ſaw *Titus Oates?* I told him I had not ſeen him a long time, that he was gone beyond Sea: He aſked me, if I never ſaw nor heard from him ſince? I told him, No; but of late ſome of his Friends had told me, that he was about the Town, and that they had ſeen him, but they did not know the Place where he lodged. Then, ſaid he, I have ſeen him ſince you; for I was Yeſterday going in *Leiceſter-Fields*, and going along I ſaw him, for he was in coloured Clothes, and very much altered from what he had been.

L. C. J. When was this? How long was this ago?

Ives. It was about the middle of *April* was Twelvemonth, and I remember it by a very good Token; for his Father Mr. *Oates* came then to my Houſe to ſee me, and that is the firſt Month that our new thin Cheeſes come in, and I did then aſk him, if he would not come in and eat ſome new thin Cheeſe; and when he was come in and ſat down eating of Cheeſe, and drinking a Draught of Drink, I was a ſaying to him, Pray, Sir, when did you ſee your Son? Said he, I have not ſeen him of late, I heard from him a little while ago, but I have not ſeen him: Then ſaid I, I can tell you News of him. Here was ſuch a Gentleman in my Shop that ſays he met him in *Leiceſter-Fields*, but in a Diſguiſe, and he told me what Habit he was in.

Sir Cr. Levinz. Set up *Butler.* [*Who was ſworn.*]

L. C. J. How long have you known Mr. *Oates?*

Butler. I have known him two or three Years before he went to Sea.

L. C. J. When did you ſee him laſt Year?

Butler. When he came back, he came to my Maſter's Houſe the beginning of *May* laſt was Twelvemonth.

L. C. J. Who is your Maſter?

Butler. Sir *Richard Barker*, my Lord.

L. C. J. What did he come there for?

Butler. He came to enquire for Doctor *Tongue.*

L. C. J. Did you know him?

Butler. Yes, I did.

L. C. J. Are you ſure that's he?

Butler. This is the Gentleman.

L. C. J. And what ſaid he?

Butler. I was in the Gate about my Coach, and he comes in and aſked me if Dr. *Tongue* was within. I told him, No; at preſent I did not know him, becauſe he was in ſuch a diſguiſed Habit; I knew him very well before, becauſe he went in ſuch a Habit as he does now: But this is the Man, and *Titus Oates* is his Name. Said I, *Mr.* Oates, *you are welcome into* England *again:* But he took no notice, but went forward into the Houſe, but he made but a little Stay there, and came out again; it ſeems ſomebody had affronted him, and laugh'd at him, becauſe he was more like a Shepherd than a Miniſter: His Hair was cut, and he had a gray Coat on, and plain Shoes, and a flapping Hat; and ſo he went out of the Gate, and would not take any notice of me, or what I ſaid.

Langhorn. How does he know it was in 1678, and not in 1677? He ſays it was in the Month of *May* was Twelvemonth.

Butler. I know it by this Circumſtance: In *February* I went down into *Lincolnſhire*, and I came up again the ſame Month: Sir *Richard Barker* was then ſick and in the Country, and there he was a great while; and when he came to Town I did acquaint my Maſter that Dr. *Oates* was there to enquire for Dr. *Tongue*, in the ſtrangeſt Habit that ever I ſaw Man in my Life.

L. C. J. How long after he had been there was it that you did tell your Maſter?

Butler. It was as ſoon as my Maſter came back, as ſoon as I ſaw him, it might be a Week.

L. C. J. Was it about a Week or a Fortnight?

Butler. I do not know exactly.

Mr. Belwood. Then ſwear *Cicily Mayo.* [*Which was done.*]

L. C. J. Do you know Mr. *Oates?*

Mayo. I never ſaw his face before that time, nor had I taken notice of him then, but that there was a Youngman that lived with Sir *Richard Barker*, who had a great acquaintance with him, and ſeeing him in that Garb he called me to the Window, and ſaid, *Mr.* Oates *is ſurely turned Quaker or Jeſuit by the Change of his Habit: No*, ſaid I, *he is no Quaker; for he hath got a Periwig on.*

L. C. J. Maid, When was this?

Mayo. This was before *Whitſuntide.*

L. C. J. Which *Whitſuntide?*

Mayo. Whitſuntide was Twelvemonth.

L. C. J. How long before that was it?

Mayo. It was a matter of a Fortnight before, as I remember.

L. C. J. Are you ſure you know him now?

Mayo. Yes, this is the Man.

L. C. J. North. Did you tell your Maſter of it?

Mayo. I was not ſo well acquainted with him as to ſpeak to Sir *Richard Barker* about it, but the other Servants, they told him.

Mr. Belwood. Set up *Phillip Page.* [*Who was Sworn.*] Do you know Mr. *Oates?*

Page. Yes, my Lord, I have known him theſe five Years.

L. C. J. When did you ſee him?

Page. About *May* was Twelvemonth.

L. C. J. Where?

Page. In Sir *Richard Barker*'s Houſe.

L. C. J. Are you ſure this was the Man?

Page. Yes, I am ſure it was he.

Langhorn. What time in *May* was it?

Page. About the beginning of *May.*

L. C. J. And you take it upon your Oath that you ſaw Mr. *Oates* the beginning of *May* was Twelvemonth in Sir *Richard Barker*'s Houſe?

Page. Yes, my Lord, I do.

Mr. Juſt. Atkins. What is become of the Boy that ſpoke to the Woman about him?

Mayo. He is dead, my Lord.

Sir Cr. Levinz. Then ſwear Sir *Richard Barker.* [*Which was done.*]

L. C. J. Do you know Dr. *Oates*, Sir?

Sir Richard Barker. I have known him theſe many Years, I have known him from a Child.

L. C. J. Did you ſee him about a Year ago?

Sir Rich. Barker. My Lord, I did not ſee him then; I was out of Town; but as the Servants tell your Lordſhip, ſo they told me, when I came Home, that Mr. *Oates* had been there in a ſtrange kind of Habit, that he was either turned Quaker, or Jeſuit. I did very much admire at it, for I had ſeen his Father but a little while before, and he told me nothing of it. I had a mind to have given him a Living while he was in our Church.

L. C. J. When did your Servants tell you they ſaw him?

Sir Rich. Barker. They told me when I came home, which was in the latter end of *Whitſun-Week*, or the beginning, as I remember.

L. C. J. Was it in *Whitſuntide?*

Sir Rich. Barker. It was about that time; they told me the odd kind of Poſture he was in, and that young Fellow that they ſpeak of, told me ſeveral Paſſages of Mr. *Oates.* (He is now dead.)

L. C. J. But when did they ſpeak of it to you?

Sir Rich. Barker. My Lord, when I came home, two or three of them told me of it with great Admiration, as they have told your Lordſhip and the Court; and I ſaid to one of them, *What! did he leave no Meſſage?* They told me he enquired for Dr. *Tongue*, and aſked for me, but that was all they told me.

L. C. J. Come, was it in *May?*

Sir Rich. Barker. Yes, my Lord, it was in *May* was Twelvemonth.

L. C. J. How do you know it was *May* was Twelvemonth?

Sir Rich. Barker. It was laſt Year about the beginning of *May.*

L. C. J. North. Nay, he tells you this, when you aſked him the Queſtion, Whether he knew Mr. *Oates?* Yes, ſaid he, I did know him formerly; and when he was of our Church I did intend then to have given him a Benefice.

Langhorn. Certainly his Change, that is, his becoming a *Roman* Catholick, could not be a thing ſo ſtrange that he ſhould intend then to give him a Benefice.

Mr. Juſt. Atkins. But hark you, Sir, I ſuppoſe you remember it by your own Sickneſs very well?

Sir Rich. Barker. Yes, my Lord, very well; I had a little Diſtemper upon me, and Dr. *Needham* of the *Charter-Houſe* came to ſee me; and I lay ſick a matter of ſix or ſeven Weeks, and the latter end of my Sickneſs I continued taking of Phyſick till I came to Town.

L. C. J. But you are ſure of the Year by that?

Sir Rich. Barker. Yes, my Lord; and yeſterday I ſhould have acquainted your Lordſhip and the Court, that there are ſome Perſons not unknown to ſome of the Bench, if not near allied to them, and that is Sir *William Tyrril*'s Family, of *Lincolnſhire*, his Grandſon, who had been at *Cambridge*, and then came to viſit me, though I happened not to be at home (they being my Wife's Relations); and it was before *Whitſuntide*, becauſe he came to take the Advantage of that Seaſon of the Year: and he had converſed with Mr. *Oates*, but he is not in Town at preſent; and there are two or three of the Univerſity that converſed with Mr. *Oates* at that time.

Mr. Juſt. Pemberton. Are they here?

Sir Rich. Barker. I only tell it you for a Circumſtance.

Sir Cr. Levinz. Then ſet up Mr. *Clay.* [*Who was ſworn.*]

L. C. J. Do you know Mr. *Oates?*

Clay. Yes, I know him very well.

L. C. J. How long have you known him?

Clay. Since laſt *April* was a Twelvemonth.

L. C. J. Where did you ſee him then?

Clay. I ſaw him at Mr. *Howard*'s, my Lord.

L. C. J. What *Howard?* One of my Lord of *Norfolk*'s Brothers?

Clay. Yes, my Lord.

L. C. J. What is his Chriſtian Name?

Clay. His Name is Mr. *Charles Howard*, my Lord.

L. C. J. Where was it?

Clay. In his Houſe.

L. C. J. Where was his Houſe?

Clay. It was part of *Arundel*-Houſe, 'tis now made a new Street.

L. C. J. Did you ſpeak with him there?

Clay. Yes, we ſaluted one another, and he ſaid, *Your Servant, Sir.* I am ſure I ſaw him there.

L. C. J. How often did you ſee him in that Houſe?

Clay. Twice.

L. C. J. In *April* and *May?*

Clay. Yes, in *April*, and in the beginning of *May.*

Langhorn. I aſk you if you do remember any Circumſtance of it, to bring this to your Memory?

L. C. J. By what Token do you remember it, that it was *April* and *May*?

Clay. By this Token, that Mr. *Charles Howard* told me he was one that was come from beyond the Seas, from St. *Omers*; *and*, said he, *he hath some Thoughts of being a* Jesuit, *but I think I shall divert him from that.*

L. C. J. How do you know that it was that Month?

Clay. It was in the latter end of *April*, and the beginning of *May*.

Mr. Just. Dolben. Are you sure it was last Year?

Clay. Yes, I am, it was in the Year 1678.

Langhorn. Was it at Dinner, or no?

Clay. No, no.

Langhorn. Did he dine there that Day?

Clay. I did not see him at Dinner, but I saw him there twice.

L. C. J. Are you a *Roman* Catholick?

Clay. Yes, I am of the Church of *Rome*, but not of the Court of *Rome*.

L. C. J. That is no new Distinction.

L. C. J. North. No, they have the Court of *Rome* distinct from the Church, and particular Favourites of it, as other Princes have, and there are those that profess themselves of that Religion, that won't acknowledge the exorbitant Power that the Pope claims.

Langhorn. Will your Lordship please to ask him, whether he does remember that Mr. *Oates* did at that time play with Mr. *Howard*'s Son, and instruct him, and talk to him about his Learning, and put Questions to him?

L. C. J. Did he talk or put any Questions to Mr. *Howard*'s Son about learning his Book?

Clay. Not any thing that I heard.

Langhorn. Was Mr. *Howard*'s Son there?

Clay. No, not in the Room, as I think, I cannot tell certainly, my Memory is frail.

Then Mr. Smith *was called and sworn.*

L. C. J. How long have you known Dr. *Oates?*

Smith. I knew him before the Fire, he was my Scholar at the School where I was Usher.

Mr. Just. Pemberton. What time did you see him last Year?

Smith. The beginning of *May*.

Mr. Just. Pemberton. How do you know that?

Smith. He came to see me, and dined with me.

L. C. J. Where?

Smith. At *Islington*, at my House there.

L. C. J. How long was he with you?

Smith. Three or four Hours.

L. C. J. What time was it?

Smith. It was, as I take it, the first *Monday* in *May*, and I gave this Reason for my remembrance why it was in *May*, because we dined by the Fire-side, being a little cold, of which we took particular Notice.

L. C. J. And you wondered that you should dine by the Fire-side in *May?*

Langhorn. Was it on a *Monday* in *May?*

Smith. It was on the first *Monday* in *May*, to the best of my Remembrance.

L. C. J. Was there none of the Family there besides?

Smith. Yes, there was my Wife there.

L. C. J. Why did you not bring her to testifie the same?

Oates. He cannot find his Wife.

L. C. Just. North. How long do you say was he with you?

Oates. Three or four Hours.

L. C. J. What did you talk of?

Smith. We talked about his Travels, about his Journey into *Spain*, and to *Valledolid*, and *Salamanca*.

Mr. Just. Pemberton. Was he in a Priest's Habit, or in another Habit?

Smith. My Lord, he was in a Cinnamon-coloured Suit, trimm'd with green Ribbons.

Sir Cr. Levinz. We have done with our Evidence, my Lord.

L. C. J. Now, Mr. *Langhorn*, the King's Council have done with their Witnesses.

Langhorn. Pray call Mr. *Charles Howard* and his Wife.

L. C. J. I do not think Mr. *Charles Howard* will appear.

L. C. J. North. I believe he does not think it safe to come here; we know upon what Account.

But upon calling, after a while, he did appear and stood up.

L. C. J. Well, what have you to say to Mr. *Howard?*

Langhorn. The Question that I would ask him is this: It hath been affirmed here by Mr. *Clay*, that old Gentleman, that about the end of *April*, or beginning of *May* last was a Twelvemonth, he did meet Mr. *Oates* at Mr. *Howard*'s House; I would know the Truth of it.

L. C. J. Mr. *Howard*, you have heard the Question, do you know Mr. *Oates?*

Howard. Yes, my Lord, very well.

L. C. J. How long have you known him?

Howard. Above two Years.

L. C. J. When was he at your House?

Howard. My Lord, he hath been at *Arundel*-House about two Years ago, and several times since.

L. C. J. Was he there about a Year ago?

Howard. Thereabouts he was.

L. C. J. Do you think he was there about *May* was Twelvemonth?

Howard. My Lord, after *July* I remember he was there.

L. C. J. Was he there in *May?*

Howard. No, my Lord, not to my Remembrance.

Langhorn. Pray, Sir, when did your Son die?

Howard. The Fifth of *May* was two Year, 1677.

L. C. J. Why, how does that appear to be any thing in this Case? He did not say that Mr. *Howard*'s Son was there.

Langhorn. He said he was in the House, but he could not tell whether he was in the Room or no.

L. C. J. You asked him whether he talked any *Latin*, or asked him any Questions; and he says, he cannot tell whether the Son were there in the Room or no.

L. C. J. North. He says, *About two Year ago I remember he was at my House, and about a Year ago*; which contradicts all your Witnesses.

Langhorn. No, he says, *About two Year ago I remember he was there, and about a Twelvemonth ago, after* July; but he cannot remember whether he was here in *April* and *May* was a Twelve-month.

Howard. Mr. *Oates* was in my Lodging in *April* 1677, and then my Child was alive; and dined together with him and Mr. *Clay*.

L. C. J. That is two Years ago.

Howard. Yes, my Lord, two Years ago Mr. *Oates* was there with Mr. *Clay*, but not since.

L. C. J. Call Mr. *Clay* again to confront him in that.

Oates. I did not know Mr. *Clay* two Years ago.

L. C. J. You are mistaken, I believe, for Mr. *Clay* does pretend that he did but just begin to know Mr. *Oates* in *April* was a Twelvemonth, and so *Oates* swears too.

Mr. Justice Pemberton. And he says nothing whether you had a Child died or no.

L. C. J. When was the time that you first knew Mr. *Oates?*

Clay. The latter end of *April*, last Year.

L. C. J. Did you ever know him before that time?

Clay. I never did.

L. C. J. Do you remember that ever you dined with him?

Clay. I do not remember the Day exactly, and I do not remember that e'er I dined with him.

Mr. Justice Pemberton. But he is positive that he did not know him but a Year ago.

L. C. J. Do you remember whether Mr. *Howard*'s Son was alive?

Clay. He had a Son alive at that time.

Oates. He had one Son indeed that died a Year before Mr. *Clay* and I met there.

Howard. I speak of my eldest Son, who died two Years ago.

Clay. I never knew him.

L. C. J. Well, 'tis plain there was a Mistake in it, he spoke of a Son that was then, and is now alive, and you speak of your eldest Son that died two Years ago. Have you any more Witnesses, Mr. *Langhorn?*

Langhorn. No, my Lord, I have no more Witnesses.

L. C. J. Well, would you say any thing? If you would, say what you have a mind to say.

Langhorn. My Lord, I am charged here by two Witnesses, the first is Mr. *Oates*; if I can prove any one Point (in answer to that which he hath given in Evidence) not to be true, then I conceive, my Lord, he ought to be set aside: And I think it hath been clearly proved, That whereas he said Sir *Thomas Preston* came over with him in *April*, it hath been clearly proved he was then at *Liege*; and whereas he hath affirmed, Sir *John Warner*, Mr. *Poole*, and two or three more that were at St. *Omers*, came over with him, I had proved that not to be true, beyond any Contradiction: Then, as to the Witnesses about his own not coming over in *April*, Mr. *Hilsley* says he came not over with him in the Pacquet-Boat; and the others say that he was sick in the Infirmary after Mr. *Hilsley* came away: These Points being thus proved, I think there can be no Credit given to what he says; for I can say, and I know it to be Truth, that from *November* 1677, to this very Day, I never saw him. I have been a close Prisoner so long, and have had but one Week's Time to provide, and therefore must be fain to take such Information as my Friends and Relations could pick up, to answer what he hath said in his Narratives, supposing he would have said the same here; therefore I am not able to make any better Defence.

L. C. J. Did you never know Mr. *Oates?*

Langhorn. I have seen him once or twice.

L. C. J. When was that?

Langhorn. In *Michaelmas*-Term, 1677.

L. C. J. Upon what Occasion?

Langhorn. He brought me a Letter from one of my Sons, my younger Son in *Spain*, and then he told me he was going to St. *Omers*: He said he could not be settled in any of the Colleges in *Spain*, and therefore he would go to St. *Omers*: and from that day I never saw him till I saw him in the Court: I hope, truly, I have well proved that he was not here in *England* when he says he was, but that I must leave to the Jury: But surely these Boys cannot be supposed to have any Design, or to be bribed by any Reward, for I never saw the Face of any of them till now.

L. C. J. North. They are all Papists, and speak in a general Cause.

Langhorn. If that be an Objection against them, I think it is hard if they are not to be believed because they are Papists and Friends; then the other, on the contrary, are not to be believed because they are Enemies: I think it is clear that he did not lodge at *Grove*'s House; and I think it is clear that he did not come over in the Pacquet-Boat with Mr. *Hilsley*, and that Sir *Thomas Preston* did not come over with him; nor *Warner*, nor *Poole*; and if any of these Points be clear for me, I think his Testimony ought to be set aside. Now, as to what *Bedlow* says, in truth it is impossible for me to examine any Witnesses, and that I think will be your Lordship's Opinion; it will not seem probable that one that was in my way of Practice should become a Clerk to register Letters, and to keep Accounts of any particular Religious Order, as he makes me to do; or, if I were, that I should admit Mr. *Bedlow* to be privy to those Accounts; but that I must leave to the Court; my Lord, 'tis impossible to prove a Negative: Mr. *Bedlow* is a Person that I have no Acquaintance with; truly I do not know that ever I saw him before this time in all my Life; tho' it is possible I may have seen him, but I do not know that ever I did: Now, that I should admit such a Person to such a Privacy in Accounts of this Nature, (if I were guilty of them) seems very improbable; but yet, as I said, it is impossible to prove a Negative. If I had known what he would have charged upon me before, perhaps I might have made a better Defence; and for those Witnesses that I have had, they were prepared by such Friends as thought they would be useful for me. These Men have had time to get their Witnesses together: I never saw one of mine till they came into the Court. I hope, my Lord, I shall find no Disadvantage in my coming here upon the Account of my Religion, for that would seem

as if you condemned me merely for that: I disclaim all Principles of Disloyalty; and I do assure your Lordship, I do believe it is Damnation to any one that shall go about to kill the King, or deprive him of his Government; I shall leave the rest to your Lordship and the Jury.

L. C. J. Look you, Gentlemen, you have had an Account, in the first Part of the Evidence, in general, That there was a general Design of bringing in *Popery*; and in order to that, as the best and quickest means to accomplish it, to destroy the King. And without doubt they were in the right, for that matter: To destroy the King, was the most effectual Course to introduce Popery they could take. Whether they would do it, or no, is not now any Question; but, How much Mr. *Langhorn*, the Prisoner at the Bar, is concerned in it? And that depends upon the Testimony of Witnesses.

The Testimony that Mr. *Oates* gives against him, amounts but to thus much: *I cannot affirm*, says he, *that Mr.* Langhorn *was at the Consult, on the* 24*th of* April, *at the* White-Horse *Tavern, where they Signed the Agreement to destroy the King: But this I can say, That the next Day, or within a Day or two, I went, by Order from the Fathers,* Whitebread *and* Harcourt, *to* Langhorn's *Chamber, and acquainted him with what they had agreed upon.* And he swears, That Mr. *Langhorn* did lift up his Hands and Eyes, and pray to God to give them good Success. He tells you further, That after some Talk with him, about bringing in of Popery, and destroying of the King, he had also Discourse concerning several Commissions; that he saw about seven or eight of them, and that he told him, he had more: One for my Lord *Bellasis*, to be General, and one for himself to be Advocate-General, with others; but those, he says, he saw and perused them: And tho' he does not know of the Delivery of those several Commissions, yet he does know of the Delivery of one to his Son, to be carried to my Lord of *Arundel*'s eldest Son: And he does say, That Mr. *Langhorn* did tell him, he had sent it; and swears, that he had some Discourse with him, concerning Killing the King.

Bedlow, he comes, and swears, That he was there twice, and that he saw him Transcribe Letters; and that the Effect of one of them was, That they were prepared with Arms, and all things, but Money. That the Garrisons also were ready to be delivered up to them, but they staid only for this, and Six Thousand Pounds would do it, which the *Benedictines* were to raise. If that came, then there was nothing wanting. They had an easy King, whom they could destroy as they pleased; an Army in Readiness, every thing in good Posture, and no Time like this, to bring in Popery: Which Discourse, he says, was before Mr. *Coleman*. Here is the Effect then of those Letters which by him were written into a Book, and in which this Plot and this Contrivance was mentioned. These were Transcribed by Mr. *Langhorn*, says he, while Mr. *Coleman* and I walked in his Chamber. I saw him write them. And he swears it.

Now the Matter is this: If these two Witnesses do swear true, then is this Indictment of *Treason* highly proved. For the contriving, *To bring in Popery*, *To levy War*, and, *To kill the King*, (which, when he was acquainted withal, he lift up his Hands and Eyes, and begged of God to give it good Success; and which *Bedlow* says, was the Effect of the Letters that he Transcribed into the Book) Mr. *Langhorn* himself will not deny to be High-Treason: And when this is sworn here by two Witnesses, he must either invalidate their Testimony, or acknowledge it just, if you find him guilty of the Indictment with which he is charged. Now the Question is, What Defence there is against it?

Mr. *Langhorn* says, If I can disprove a Witness in any one material Thing that he says, then will it take off from his Credit in every thing he says. And first as to Mr. *Oates*; Saith he, I did know him, I must confess, but I never saw him since the Year 1677. The thing that Mr. *Oates* charges him with, is in *April* or *May* 1678, or thereabouts. And Mr. *Langhorn* says, he never saw him since 77. Why, Mr. *Oates*, saith he, was not here in *England*; and produces a great many Witnesses, that came from beyond Sea, to testify, That Mr. *Oates* was there in *April* and *May*, and longer. And whereas Mr. *Oates* says, That there came over in his Company with him, Sir *John Warner*, Sir *Thomas Preston*, Mr. *Poole*, and others; He proves by some Witnesses, That Mr. *Oates* was there both Months; and by others, That Sir *John Warner* was at *Wotton*, and Sir *Thomas Preston* at *Liege*, and *Poole* at St. *Omers*, at the Time that Mr. *Oates* says they came over with him: And this, says he, I hope will be plain Evidence why you should not believe Mr. *Oates*; and the rather, because these Witnesses are such, says he, as that I do not so much as know their Faces; and you will not presume, that People to whom I am wholly a Stranger, should come hither from St. *Omers* to testify a Lye for me.

In Answer to this, I say, 'Tis no good Argument for all that; for though I believe they are Strangers to him, they are not Strangers to the Errand they came about. They came to defend all the *Roman* Catholicks, whom we would hang here for a Plot; and they are sent over for that purpose, as far as their Testimony can go. How far that is, though they are not upon their Oaths, (for the Law will not permit it) I must say to you, in Favour of the Prisoner at the Bar, as I did to the Jury yesterday, You must not take it, therefore, as if it were meer Talk, and no more; nor reject them too much because they do not swear: They would swear, 'tis likely, if the Law would allow it. Only one Remark I must observe to you upon their own Evidence: The St. *Omers* Gardener (which is one of them) takes upon him to give a very exact Account of Mr. *Oates*, in the Months of *April* and *May*; but when I came to enquire, what he knew of him in the Months of *June* and *July*; he tells you, Those were not the Months in Question.

But on the other Side, did not the Principles of their Religion so teach, and make us to know, that they will not stick at any Wickedness to propagate it: Did not the best and chiefest Doctors of their Church preach and print it: Did not his Holiness the Pope allow it; and never condemn any one Book in the World that hath asserted the Lawfulness of DEPOSING and KILLING KINGS, for separating from their Religion: Did not they Teach and Practise all sorts of Equivocations, and that a Lye does God good Service, if it be for the Propagation of the Faith: Were not these young Boys capable of having this Doctrine instilled into them; and, Were not they bred up in Colleges chiefly to serve that End; then Mr. *Langhorn* had said something. Neither are these Things artificially objected against them, for the Doctrines of their Church are so false and pernicious, so destructive and so bloody; and the Way they take to come off from all Vows, Oaths, and Sacraments, by Dispensations before-hand, or Indulgence and Pardons afterwards, is a thing still so much worse, that they are really unfit for Human Society. They should get their Pope, if they would not have it thrown into their Dish, and have it believed by us; I say, they should get the Pope of *Rome* to decry and anathematize such Doctrines of deposing and killing Kings, and discharging Subjects from their Allegiance: But that will never be; for his Holiness the Pope will keep himself where he is, and will part with Nothing that he hath of Advantage over any.

Look you, Gentlemen, thus much I cannot omit, with a good Conscience, to say, The Profession, the Doctrines, and the Discipline of the Church of *Rome* is such, that it does take away a great part of the Faith that should be given to these Witnesses; nevertheless, we must be fair, and should hear them, if we could not answer what they alledge, by Evidence to the contrary. Mr. *Oates*, therefore, to justify himself, hath produced, I think, seven or eight Witnesses, that do prove, that he was here in the latter end of *April*, and beginning of *May*, which does contradict all their Testimony, who do say, he was abroad all along, from *December* to *June*, and that they saw him every other Day.

'Tis true, if we were certain that what these Young Men spake, were indeed so as they say, it is impossible for Mr. *Oates*'s Testimony to be believed. If I were satisfied, that really and truly Mr. *Oates* was not here, but was six Months together there, and that he hath invented this Story, and made this himself; I could no longer confide in the Man, nor find Mr. *Langhorn* guilty: Yet is not the Time really the Substance of the Thing, tho' he hath made it so now, because the Consult was the 24th of *April*, at which he was present; and he did go, he says, to Mr. *Langhorn*, within a Day or two after, to acquaint him with the Resolution of it.

To this end hath Mr. *Oates* produced seven or eight Witnesses that saw him, as they swear. He hath produced a Minister, that says he saw him in a Disguise, but having known him before, recollected him to be the Man. He hath produced a Woman that agrees with that Story; for she says, that he came and talk'd with her about it, and told her then, that he had seen Mr. *Oates* the Day before, and gives you a Token why it was about that time of the Year. Now, if this be not a new Matter, and new found out, this Woman (if she swears true) does justify the other in what he did say a Year ago, when they could never imagine that any great Weight and Moment should be laid upon that Accident of his seeing *Oates* in the Street. He hath produced to you the Coachman of Sir *Richard Barker*, that says, he knew him well, when he came to his Master's House. There he called him by his Name, That asking for Dr. *Tongue*, but not finding him within, he went away presently; That he was in Disguise; That they acquainted their Master with it, as soon as he came home; and their Master says, That so they did. And the Person that then lived in the House, and now is dead, said to the Maid, Yonder is Mr. *Oates*, I think he is either turned Quaker, or Priest; What a kind of Habit he is got into! No, said the Maid, he can't be a Quaker, because he wears a Periwig; but she says, he named him to her, *Oates*, and that this is the Man, she knew him since. 'Tis the same Man that the young Man spoke to her about.

He hath produced farther one of their own Religion, one that is a Papist still, and he says, he saw him twice at Mr. *Charles Howard*'s in *Arundel*-House. There was indeed some Perplexity they would have put upon it, by reason of Mr. *Howard*'s Son being dead a Year before; but the Witness says he did not know the Son. A Papist he confesses himself expressly to be, if not a Priest; and I would not ask him the Question, because 'tis not fair to make him accuse himself: But he does swear expressly, he saw Mr. *Oates* at Mr. *Charles Howard*'s, in *April* or *May*, which contradicts all their Witnesses. He also produces a Schoolmaster, that tells that he dined with him the beginning of *May:* And I remember it, says he, very well, for we dined by the Fire-side, which gave me Occasion to wonder at it, in *May*, and remember it. He says, moreover, that he staid three or four Hours with him, and talk'd of all his Travels in *Spain*. Now must all these People be downright perjured; it can be no mistake, but they are all falsly forsworn, if there be not Truth in it. And when here are seven or eight Witnesses positively swearing against the Affirmation of so many others, we leave the Credit of both Sides to you, who are the Judges of the Fact.

There is indeed (and I will repeat it for you, for I would not miss any thing, as near as I can, that would make for the Prisoner's Advantage), there is a Proof concerning Sir *John Warner*, and *Preston*, and *Poole*, that they were there at the Time, and there hath been no Answer given to it: But I say still, 'tis the same thing; for if you do not believe those Witnesses to speak true, that affirm that *Oates* was there all the time, but rather believe that he was here, by seven or eight People that testify it: I say, if you cannot believe he was there, you will never change your Mind for one Circumstance, whether he came over with Sir *John Warner* and others, or not; for it is but a Circumstance.

Langhorn. They are not the same Witnesses.

L. C. J. 'Tis true, they are not; you have four or five Witnesses that speak apart, but two of them do say, that they knew *Oates* also was there at the same time that they speak that Sir *John Warner* was at home.

Langhorn. Not those two of *Liege*, my Lord, about Sir *Thomas Preston*.

L. C. J. No, they do not, for I leave it to you of the Jury, upon the whole Matter; there is little more to be said by me. If so be Credit is to be given to these Witnesses of *Oates*, more than to the others, then you must find him Guilty, and the rather, because I do a little suspect, they come over instructed, to say what they do. You find they apply themselves to the Thing they came for; and not only the Gardener, but

but another could tell you (which hath a very great Influence upon me, as to their Credit) that the Months of *April* and *May* were the Months in *Queſtion*, and they were not to be examined any farther. So that it looks as if theſe Young-Men were ſent of an Errand; and tho' you do not know them, Mr. *Langhorn*, and are innocent as to any tampering with them, yet I am afraid they are come to ſerve the Catholick Cauſe, as they call it. For they are very well taught; and they keep to thoſe Months of *April* and *May*, of all the Months in the Year. Then they bring the Woman of the *White-Horſe*-Tavern, where the Conſult of the 24th of *April* was; and what is the Uſe they would make of her? Why, it is, that Mr. *Oates* ſhould make a Story of Fifty Fathers being in her Tavern at one Time (but he inſiſts now there was a matter of Twenty), when there was not a Room in her Houſe that would hold Ten: But you hear how ſhe was anſwered, from Teſtimony riſing up in the Court of themſelves, that were acquainted with her Houſe, and know, that Forty People may Dine in two of her Rooms: And the King's Council obſerved well, how Chance itſelf hath put to Silence this Evidence. So that when Matters are alledged to be done at *Home*, there is not ſo great a Difficulty as in proving Things that are done *Abroad*.

I leave it to you, Sirs. Here is a Gentleman that ſtands at the Bar, upon his Life, on the one Hand; but if Mr. *Oates* ſays true, all our Lives, and Liberties, our King, and Religion, are at the Stake, on the other Hand. God defend that innocent Blood ſhould be ſhed, and God defend us alſo from Popery, and from all Popiſh Plots, and from all the bloody Principles of Papiſts, which are very Cruel, as we know by Experience; and you cannot blame us to look to our ſelves. For I muſt tell you, the Plot is proved as plain as the Day, and that by *Oates*; and farther, *Oates*'s Teſtimony is confirm'd by that which can never be anſwered. For when he comes at his firſt Teſtimony, and ſays, that upon the 24th of *April*, ſuch a Conſult was Summoned, and Held, it falls out, that five Days after a Letter is found amongſt *Harcourt*'s Papers, (a principal Perſon in the Deſign,) which does order the Meeting upon the 24th of *April*, being the Day after St. *George*'s Feaſt, and gives them a Caution that they ſhould not come too ſoon to Town; that they ſhould not appear too much in *London*, for fear of diſcovering the *Deſign*, and of diſcloſing *That*, *the Nature of which requires Secrecy*. Plainer than this is hardly to be writ from a Jeſuit, eſpecially in ſo dangerous a Matter. And what can be anſwered to this Letter, that is found in a Prieſt's Hands, four Days after Mr. *Oates* had given in his Information about it?

Put all this together, and if you be ſatisfy'd herein, you may judge the better, as to the particular Buſineſs of Mr. *Langhorn*, how far the Teſtimony of *Oates* and *Bedlow* affect him. You know what you do. And for *Bedlow*, 'tis true, what he ſays, that there is nothing to be ſaid to his Evidence, becauſe no Man can prove a Negative; and he ſwears expreſly, that he had this Diſcourſe with him, of theſe Treaſonable Matters, killing the King, and altering Religion. If this be ſo, and you are ſatisfy'd in that particular, (and that a Man may very well be, as to the Subſtance,) I do not ſee any conſiderable Anſwer that is given. I ſay once more, there is the Life of a Gentleman at Stake, and there are all our Lives at the Stake: Follow you your Conſciences; do Wiſely, do Honeſtly, and conſider what is to be done.

L. C. J. North. With my Lord's Leave, becauſe there hath been mention made of this Letter, which goes much in Confirmation of Mr. *Oates*'s Teſtimony; it is in Court, but it hath not been produc'd at the Bar, I deſire it may, if your Lordſhip pleaſe.

Sir *Cr. Levinz.* It is here in Court, my Lord, we will give your Lordſhip an Account how we came by it. Swear Sir *Thomas Doleman*. *Which was done.*

Sir *Cr. Levinz.* Sir *Thomas*, did you find the Paper amongſt Mr. *Harcourt*'s Papers?

Sir *Thomas Doleman.* I found this Letter among the Papers of Mr. *Harcourt*, that were committed to my Search.

L. C. J. When did you find it, Sir?

Sir *Thomas Doleman.* It was ſome five or ſix Days after Mr. *Oates* had given in his Information to the King and Council.

L. C. J. Do you mark it, Gentlemen? After Mr. *Oates* had told the Council of the Conſult on the 24th of *April*, is this Letter found.

L. C. J. North. 'Tis in Confirmation of Mr. *Oates*'s Teſtimony.

Then the Letter was read, being the ſame with that in Page 847, *in the Trial of* Whitebread, Harcourt, *&c.*

L. C. J. This Letter is only as to the Plot in general, and not to be applied to Mr. *Langhorn* in particular.

Langhorn. Mr. *Oates* might very well be able to ſpeak of this Meeting of this Congregation, as they call it, before this Letter was taken, 'tis eaſy to believe, becauſe Mr. *Oates* being at St. *Omers*, I ſuppoſe the like Letters of Summons might come over to St. *Omers*, to fetch ſome of them over hither.

L. C. J. You ſay well; but if you have but the Luck to give me an Anſwer to a Thing or two, you'll have better Fortune, and more Skill than the *Prieſts*. 'Tis true, he might, perchance, know of the Conſult, if he were at St. *Omers*: But will you tell us what that *Deſign* was? And what is the meaning of putting thoſe Words into the Letter, *That they ſhould not come too ſoon to* London; *nor appear too much about Town, for fear of diſcovering that Deſign*, which they knew required Secrecy in its own Nature?

Langhorn. My Lord, I will tell you what I take to be the Meaning of that Letter. The *Deſign*, was the holding of a Congregation: There were divers of them, and it was like the Meeting of a Dean and Chapter in a College, and he bids them not to come too long before the Time, for they were certainly in very great Danger to be Taken.

L. C. J. What! at that Time? What Danger were they in then?

Langhorn. Yes, my Lord, the Parliament was then ſitting.

L. C. J. But you know what Indulgence there was to all Papiſts at that Time, if they would be but quiet. Well, but put it all together, they were to come to *London*, *not too ſoon*, *nor to appear too much*, becauſe the Parliament was Sitting, *for fear of diſcovering the Deſign*. What, was that only for Mr. *Whitebread*, and his Fellows, to make an Officer! Can it be anſwered by that?

Langhorn. Certainly, their holding of a Congregation in *England* does require Secrecy.

L. C. J. Gentlemen, here is the Thing, this is only an Evidence to the Plot in general, that there is a Plot, and you may make what reaſonable Uſe you think fit of it. It is not a particular Evidence againſt Mr. *Langhorn*'s particular Perſon, only it ſhews there was a Plot, and you have heard what they ſay to him in particular about it. And I'll tell you one Thing more, which if *Oates* ſwears true, concerns you very much. He ſaith, they were a talking of the Ten Thouſand Pounds that Sir *George Wakeman* was to have for poiſoning the King, when their other Attempts had failed, and that he would not take under Fifteen Thouſand Pounds: You, Mr. *Langhorn*, was very angry, and ſaid it was a baſe, covetous Thing in him; and it being ſuch a publick Cauſe, it would have been no matter if he had done it for nothing. I have repeated as much as I can well remember, without any Prejudice to Mr. *Langhorn*'s Teſtimony. And ſo I leave it with you.

Then an Officer was ſworn to keep the Jury, who withdrew to conſider of their Verdict; and the Judges alſo went off from the Bench. The Lord Chief Juſtice telling the Auditory, that the Day being ſo far ſpent, and the Commiſſion determining that Night, becauſe of the Term, Sir Geo. Wakeman, *and the reſt, could not be Tried till next Seſſions. And after a ſhort ſpace the Jury returned, and anſwering to their Name, delivered in their Verdict.*

Clerk of the Crown. Gentlemen, Are you all agreed of your Verdict?

Omnes. Yes.

Cl. of Cr. Who ſhall ſay for you?

Omnes. Foreman.

Cl. of Cr. Richard Langhorn, hold up thy Hand. Look upon the Priſoner: You of the Jury, How ſay you? Is he Guilty of the High-Treaſon whereof he ſtands Indicted, or Not Guilty?

Foreman. Guilty.

Cl. of Cr. What Goods or Chattels?

Foreman. None, to our Knowledge.

Cl. of Cr. Hearken to the Verdict, as the Court hath Recorded it: You ſay that *Richard Langhorn* is Guilty of the High-Treaſon whereof he ſtands Indicted: But you ſay that he had no Goods or Chattels, Lands or Tenements, at the Time of the High-Treaſon committed, or at any Time ſince, to your Knowledge. And ſo you ſay all?

Omnes. Yes.

Mr. Recorder. It is a Verdict according to the Juſtice of the Evidence.

Upon which there was a very great Shout.

Then Mr. Recorder ſent for the Priſoners Convicted before, to receive their Judgment; and they were brought to the Bar, and the Court proceeded thus:

Cl. of Cr. Richard Langhorn, hold up thy Hand: Thou ſtandeſt Convicted of High-Treaſon; What canſt thou ſay for thyſelf, why the Court ſhould not give Judgment on thee to die, according to Law?

Langhorn. I have nothing to ſay.

Cl. of Cr. Thomas White, otherwiſe *Whitebread*, hold up thy Hand: Thou ſtandeſt Convicted, in *Middleſex*, of High-Treaſon; What canſt thou ſay for thyſelf, why the Court ſhould not give Judgment on thee to Die, according to Law?

Whitebread. I can ſay nothing.

Cl. of Cr. John Fenwick, hold up thy Hand: Thou art in the ſame Caſe with him that went laſt before thee: What canſt thou ſay, *&c.*

Fenwick. I have nothing more to ſay.

Cl. of Cr. William Harcourt, hold up thy Hand: Thou art in the ſame Caſe with the Two that went laſt before thee; What canſt thou ſay, *&c.?*

Harcourt. I have nothing at all to ſay.

Cl. of Cr. John Gavan, hold up thy Hand: Thou art in the ſame Caſe with the Three that went laſt before thee; What canſt thou ſay, *&c.?*

Gavan. I have nothing more to ſay, than I did ſay. God bleſs the King, and the Kingdom.

Cl. of Cr. Anthony Turner, hold up thy Hand: Thou art in the ſame Caſe with the Four that went laſt before thee; What canſt thou ſay, *&c?*

Turner. I have nothing to ſay.

Cl. of Cr. Then, Crier, make Proclamation of Silence while Judgment is given, upon pain of Impriſonment. *Which was done on both ſides of the Court.*

* *Mr. Recorder.* You the Priſoners at the Bar: You have been ſeverally Arraigned, and now are ſeverally Convicted of High-Treaſon: And that attended with all the ill Circumſtances, that can be poſſible to aggravate ſo high a Crime. You attempted the Life of the beſt of Kings, who was full of Mercy and Compaſſion, even to You, under whom you might ſtill have lived peaceably and quietly, had not your own Malice and Miſchiefs prevented it. Nor were you ſatisfied with that alone; for you intended thereby to make way for the Deſtruction of the greateſt part of the Kingdom, by a publick Maſſacre, by cutting the Throats of all *Proteſtants*; for that alſo appears to be your Deſign: To effect which, the neareſt Way, and the beſt Means you could think of, was firſt to kill the King. And this was to be done, for the introducing of another Religion, as you call it; which, as we think, we more properly call Superſtition; and ſo root out the beſt Religion that is Eſtabliſhed among us by Law. And I therefore call it the Beſt of Religions, even for your ſakes; for had it not been for the ſake of our Religion, that teaches us not to make ſuch Requitals, as yours ſeems to teach you, you had not had that fair formal Way of Trial, and of being Heard, as you now have been; but Murder would have been returned to you, for the Murder you intended to commit, both upon the King, and moſt of his People. What a ſtrange ſort of Religion is that, whoſe Doctrine ſeems to

* *Sir* George Jefferies.

to allow them to be the greateſt Saints in another World, that can be the moſt impudent Sinners in This! Murder, and the Blackeſt of Crimes here, are the beſt Means, among you, to get a Man to be Canonized a Saint hereafter. Is it not ſtrange, that Men profeſſed in Religion, that uſe all Endeavours to gain Proſelytes for Heaven, ſhould ſo pervert the Scripture, (as I perceive ſome of you have done) and make That juſtify your impious Deſigns, of Aſſaſſinating Kings, and Murdering their Subjects? What can be ſaid to ſuch a ſort of People, the very Foundation of whoſe Religion is laid in Blood? Nay, leſt you ſhould not be able ſo eaſily to perſuade them ſo cleverly to imbibe thoſe Bloody Principles, you do Abſolve them from all the Obligations that they remain under, of Obedience to their Sovereign; you do therefore from the Pulpits publickly teach, That the Oaths of Allegiance and Supremacy ſignify nothing. It's a ſtrange Religion, that applies every thing to theſe wicked and deteſtable Purpoſes.

There is one Gentleman that ſtands at the Bar, whom I am very ſorry to ſee, with all my Heart, in this Condition, becauſe of ſome Acquaintance I have had with him heretofore: To ſee a Man who hath Underſtanding in the Law, and who hath arrived to ſo great an Eminency in that Profeſſion, as that Gentleman hath done, ſhould not remember, that 'tis not only againſt the Rules of all Chriſtianity, but even againſt the Rules of his Profeſſion, to attempt any Injury againſt the Perſon of the King. He knows, that it is againſt all the Rules of Law, to endeavour to introduce any Foreign Power into this Land. So that you ſinned both againſt your Conſcience, and your own certain Knowledge. But your ſeveral Crimes have been ſo fully proved againſt you, that truly, I think no Perſon that ſtands by, can be in any Doubt of the Guilt: Nor is there the leaſt room for the moſt ſcrupulous Man to doubt of the Credibility of the Witneſſes that have been examined againſt you: And ſure I am, you have been fully Heard, and ſtand fairly Convicted of thoſe Crimes you have been Indicted for.

I rather mention theſe things to you, becauſe I know not whether you will think it neceſſary to have any Aſſiſtance, (I mean ſuch Aſſiſtance as by the Law of the Land is to be allowed to Perſons in your Condition, of any Proteſtant Divines, or of any other Proteſtants) to prepare you for another World. And tho' what hath been ſaid proceeds from a Lay-man, to you that are Profeſſed in Religion, yet I hope, it will not be thought amiſs, it being intended for your Advantage. Let that vaſt Eternity, that you are ere long to enter into, you are now on the Brink of it; I ſay, let that prevail with you to conſider, that there is a God in Heaven, who will call you to an Account for every one of thoſe private Conſultations, of which we can never come to any certain Knowledge. Tho' you have put all thoſe Obligations of Secrecy upon your Party, which Religion could tye them by; tho' you give them the Sacrament, not only to oblige them to do wicked Acts, but to conceal them when they are done; yet remember there is a God in Heaven, from whom you cannot keep them ſecret. All your Ties and Obligations, all the Diſpenſations that you can give to your Inferiors, or your Superiors to you, will never diſpenſe with that Account you are to give to the Great God of Heaven.

Gentlemen, with great Charity to your Immortal Souls, I deſire you, for the Love of God, and in the Name of his Son Jeſus Chriſt, conſider theſe Things; for it will not be long ere you be ſummoned before another Tribunal about them: And Great and Dreadful is the Day of Judgment, at which You and all Men muſt appear.

And I hope all Perſons that ſtand by, will take notice, that it is not the Principles of the Proteſtant Religion, to Murder any, (let it be upon their own Heads that profeſs it) for we abhor theſe Things. And we hope theſe publick Teſtimonies of our Religion, and this fair ſort of Trial, will not only confirm thoſe that are Proteſtants now, but will prevail upon thoſe whom they have inveigled into their Perſuaſion, to deſert ſuch a Religion, till ſuch time as they alter their Principles, from the Bloodineſs and Inhumanity they are ſtained with, and which theſe Men have inſtilled into all their Proſelytes. And this I thought fit to premiſe to you in great Compaſſion and Charity. And I pray God it may have that Effect which I deſigned; that is, that it may put you in mind of that Great Immortality that you are to enter upon ere long. And thus, having given you this Hint, and the Law having had its Courſe upon you, you have been fairly Tried, fully Heard, and have nothing to ſay, why that Judgment ſhould not be pronounced, which the Law hath deſigned againſt ſuch Offenders: I am, therefore, in the Name of the Court, to do the Duty which the Law requires of the Court; and I do, in the Name of the Court, pronounce this to be your Sentence:

That you be conveyed from hence to the Place from whence you came, and from thence you be drawn to the Place of Execution, upon Hurdles; That you be there ſeverally hang'd by the Neck; That you be cut down alive; That your Privy Members be cut off; That your Bowels be taken out, and burnt in your View; That your Heads be ſever'd from your Bodies; That your Bodies be divided into four Quarters, and your Quarters to be at the King's Diſpoſe. And the God of infinite Mercy be merciful to your Souls.

After which there was a very great Acclamation.

Whitebread. My Lord, ſince we have not long to live, we deſire we may have the Benefit of the Company of our Friends, that they may be permitted to come at us.

Mr. Recorder. Yea, 'tis fit they ſhould have the Comfort of their Friends and Relations; and God forbid, but we ſhould do all we can to make their Paſſage as comfortable as may be. You muſt keep that Decorum that becomes ſuch as are in your Condition. You know you are under the publick Notice of the World, therefore you muſt uſe the Liberty that is granted to you with that Moderation and Prudence, that 'tis fit to uſe ſuch a Privilege with; for I ſhall not deny you any lawful Favour.

Langhorn. Sir, there will be more People come to me than ordinary, in Regard of their Buſineſs, that I have had in my Hands; I deſire they may have the Liberty to come to me.

Mr. Recorder. I would not deny Mr. *Langhorn* any thing that I could grant him: If it be any Buſineſs that any Perſon would have an Accompt of, which you have been concern'd in for them, they may be permitted to come to you.

Capt. *Richardſon.* There is no Body to be in private with him, to ſay any Thing but what I ſhall hear?

Langhorn. Yes, my Lord, I hope my Wife and Children may.

Mr. Recorder. Yes, God forbid but he ſhould have his Wife and Children with him.

Langhorn. Or any others, that come about Buſineſs?

Mr. Recorder. Yes, Captain, with the Caution I have given you.

Then the Court Adjourned for London, *to* Guild-Hall, *the* 14*th of* July, *and for* London *and* Middleſex, *to the* Old-Baily, *the* 16*th of* July *next. And the Priſoners were carried back to the Goal.*

On *Friday, June* 20, the five Jeſuits were drawn upon three Hurdles to the place of Execution.

In the firſt Hurdle went *Thomas Whitebread* and *William Harcourt*; in the ſecond, *Anthony Turner* and *John Gavan*; and in the third, *John Fenwick*. And being come to the Place of Execution they were all put into one Cart.

Then *Gavan* ſaid, If God give us his Grace, it's no Matter where we die, at the Gallows, or elſewhere. The Executioner faſtning the Halters, *Gavan* ſaid, I hope you will be civil to dying Men.

Executioner. I will be civil to you.

Gavan. I hope they will give us leave to ſpeak.

The laſt Speech of Thomas Whitebread.

I ſuppoſe it is expected I ſhould ſpeak ſomething to the Matter I am condemn'd for, and brought hither to ſuffer; it is no leſs than the contriving and plotting his Majeſty's Death, and the Alteration of the Government of the Church and State. You all either know, or ought to know, I am to make my Appearance before the Face of Almighty God, and with all imaginable Certainty and Evidence to receive a final Judgment for all the Thoughts, Words, and Actions of my whole Life. So that I am not now upon Terms to ſpeak other than the Truth; and therefore, in his moſt holy Preſence, and as I hope for Mercy from his divine Majeſty, I do declare to you here preſent, and to the whole World, that I go out of the World as innocent and as free from any Guilt of theſe Things, laid to my Charge in this Matter, as I came into the World from my Mother's Womb: And that I do renounce from my Heart, all manner of Pardons, Abſolutions, Diſpenſations for Swearing, as Occaſions or Intereſt may ſeem to require, which ſome have been pleas'd to lay to our Charge, as Matter of our Practice and Doctrine; but is a thing ſo unjuſtifiable and unlawful, that I believe, and ever did, that no Power on Earth can authorize me, or any Body, ſo to do. As for thoſe who have moſt falſly accus'd me (as Time, either in this World or the next, will make appear), I do heartily forgive them, and beg of God to grant them his holy Grace, that they may repent their unjuſt Proceedings againſt me; otherwiſe they will, in Concluſion, find they have done themſelves more Wrong than I have ſuffer'd from them, though that has been a great deal. I pray God bleſs his Majeſty both temporally and eternally, which has been my daily Prayer for him, and is all the Harm that I ever intended or imagined againſt him. And I do, with this my laſt Breath, in the Sight of God declare, that I never did learn, or teach, nor believe, nor can, as a Catholick, believe, that it is lawful, upon any Occaſion or Pretence whatſoever, to deſign or contrive the Death of his Majeſty, or any Hurt to his Perſon; but on the contrary, all are bound to obey, defend, and preſerve his ſacred Perſon, to the utmoſt of their Power. And I do moreover declare, that this is the true and plain Senſe of my Soul, in the ſight of him who knows the Secrets of my Heart, and as I hope to ſee his bleſſed Face, without any Equivocation, or mental Reſervation. This is all I have to ſay concerning the Matter of my Condemnation; that which remains for me now to do, is to recommend my Soul into the Hands of my bleſſed Redeemer, by whoſe only Merits and Paſſion I hope for Salvation.

The laſt Speech of William Harcourt.

The Words of dying Perſons have been always eſteem'd as of greateſt Authority; becauſe utter'd then, when ſhortly after they are to be cited before the high Tribunal of Almighty God. This gives me hopes that mine may be look'd upon as ſuch; therefore I do here declare, in the Preſence of Almighty God, the whole Court of Heaven, and this numerous Aſſembly, that as I ever hope, by the Merits and Paſſion of my Lord and ſweet Saviour Jeſus Chriſt, for eternal Bliſs, I am as innocent as the Child unborn of any thing laid to my Charge, and for which I am here to die.

Sheriff How. Or Sir *Edmundbury Godfrey*'s Death?

Harcourt. Or Sir *Edmundbury Godfrey*'s Death.

Sheriff How. Did not you write that Letter concerning the Diſpatch of Sir *Edmundbury Godfrey?*

Harcourt. No, Sir; theſe are the Words of a dying Man, I would not do it for a thouſand Worlds.

Sheriff How. How have you liv'd?

Harcourt. I have liv'd like a Man of Repute all my Life, and never was before the Face of a Judge till my Trial: No Man can accuſe me. I have, from my Youth, been bred up in the Education of my Duty towards God and Man.

Harcourt. And I do utterly abhor and deteſt that abominable falſe Doctrine laid to our Charge, that we can have Licences to commit Perjury, or any Sin to advantage our Cauſe, being expreſly againſt the Doctrine of St. *Paul*, ſaying, *Non ſunt facienda mala, ut eveniant bona*; Evil is not to be done that Good may come thereof. And therefore we hold it in all Caſes unlawful, to kill or murder any Perſon whatſoever, much more our lawful King, now reigning, whoſe perſonal and temporal Dominions we are ready to defend with

with our Lives and Fortunes, against any Opponent whatsoever, none excepted. I forgive all that have contriv'd my Death, and humbly beg Pardon of Almighty God for them. And I ask Pardon of all the World. I pray God bless his Majesty, and grant him a prosperous Reign. The like I wish to his Royal Consort, the best of Queens. I humbly beg the Prayers of all those who are in the Communion of the *Roman* Church, if any such be present.

The last Speech of ANTHONY TURNER.

Being now, good People, very near my End, and summon'd, by a violent Death, to appear before God's Tribunal, there to render an Account of all my Thoughts, Words, and Actions, before a just Judge, I conceive I am bound in Conscience to do myself that Justice, as to declare upon Oath my Innocence from the horrid Crime of Treason, with which I am falsly accused: And I esteem it a Duty I owe to Christian Charity, to publish to the World before my Death, all that I know in this Point, concerning those Catholicks I have conversed with since the first Noise of the Plot, desiring from the Bottom of my Heart that the whole Truth may appear, that Innocence may be clear'd, to the great Glory of God, and the Peace and Welfare of the King and Country. As to myself, I call God to witness, that I was never in my whole Life present at any Consult or Meeting of the Jesuits, where any Oath of Secrecy was taken, or the Sacrament, as a Bond of Secrecy, either by me, or any one of them, to conceal any Plot against his Sacred Majesty; nor was I ever present at any Meeting or Consult of theirs, where any Proposal was made, or Resolve taken or signed either by me or any of them, for taking away the Life of our dread Sovereign; an Impiety of such a Nature, that had I been present at any such Meeting, I should have been bound by the Laws of God, and by the Principles of my Religion (and by God's Grace would have acted accordingly) to have discovered such a deviliſh Treason to the Civil Magistrate, to the end they might have been brought to condign Punishment. I was so far, good People, from being in *September* last at a Consult of the Jesuits at *Tixall*, in Mr. *Ewers*'s Chamber, that I vow to God, as I hope for Salvation, I never was so much as once that Year at *Tixall*, my Lord *Aston*'s House. 'Tis true, I was at the Congregation of the Jesuits, held on the 24th of *April* was twelvemonth; but in that Meeting, as I hope to be sav'd, we meddled not with State-Affairs, but only treated about the Concerns of our Province, which is usually done by us, without Offence to temporal Princes, every third Year, all the World over.

Sheriff How. You do only justify yourselves here. We will not believe a Word that you say. Spend your time in Prayer, and we will not think your time too long.

Tur. I am, good People, as free from the Treason I am accused of, as the Child that is unborn; and being innocent, I never accus'd myself in Confession of any thing that I am charg'd with. Certainly, if I had been conscious to myself of any Guilt in this kind, I should not so frankly and freely, as I did, of my own Accord, have presented myself before the King's most honourable Privy Council. As for those Catholicks which I have conversed with since the Noise of the Plot, I protest before God, in the Words of a dying Man, that I never heard any one of them, either Priest or Lay-man, express to me the least Knowledge of any Plot, that was then on Foot amongst the Catholicks, against the King's most excellent Majesty, for the advancing the Catholick Religion. I die a *Roman* Catholick, and humbly beg the Prayers of such, for my happy Passage into a better Life. I have been of that Religion above thirty Years, and now give God Almighty infinite Thanks for calling me by his holy Grace to the Knowledge of this Truth, notwithstanding the Prejudice of my former Education. God of his infinite Goodness bless the King, and all the Royal Family, and grant his Majesty a prosperous Reign here, and a Crown of Glory hereafter. God in his Mercy forgive all those which have falsly accused me, and have had any Hand in my Death: I forgive them from the Bottom of my Heart, as I hope myself for Forgiveness at the Hands of God.

The last Speech of JOHN GAVAN.

Dearly beloved Countrymen,

I am come now to the last Scene of Mortality, to the Hour of my Death, an Hour which is the Horizon between Time and Eternity, an Hour which must either make me a Star to shine for ever in the Empire above, or a Firebrand to burn everlastingly amongst the damned Souls in Hell below; an Hour in which, if I deal sincerely, and with a hearty Sorrow acknowledge my Crimes, I may hope for Mercy; but if I falsly deny them, I must expect nothing but eternal Damnation; and therefore, what I shall say in this great Hour, I hope you will believe. And now in this Hour, I do solemnly swear, protest and vow, by all that is sacred in Heaven and on Earth, and as I hope to see the Face of God in Glory, that I am as innocent as the Child unborn of those treasonable Crimes, which Mr. *Oates*, and Mr. *Dugdale* have sworn against me in my Trial, and for which Sentence of Death was pronounced against me the Day after my Trial. And that you may be assur'd that what I say is true, I do in the like manner protest, vow, and swear, as I hope to see the Face of God in Glory, that I do not, in what I say unto you, make use of any Equivocation, or mental Reservation, or material Prolocution, or any such like way to palliate Truth. Neither do I make use of any Dispensations from the Pope, or any Body else; or of any Oath of Secrecy, or any Absolution in Confession, or out of Confession, to deny the Truth: but I speak in the Plain Sense which the Words bear; and if I do speak in any other Sense, to palliate or hide the Truth, I wish with all my Soul that God may exclude me from his heavenly Glory, and condemn me to the lowest Place of Hell-Fire: And so much to that Point.

And now, dear Country-men, in the second place, I do confess and own to the whole World, that I am a *Roman* Catholick, and a Priest, and one of that sort of Priests called *Jesuits*; and now because they are so falsly charged for holding King-killing Doctrine, I think it my Duty to protest to you with my last dying Words, that neither I in particular, nor the *Jesuits* in general, hold any such Opinion, but utterly abhor and detest it: And I assure you, that amongst the vast Numbers of Authors, which among the *Jesuits* have printed Philosophy, Divinity, Cases, or Sermons, there is not one, to the best of my Knowledge, that allows of King-killing Doctrine, or holds this Position, That it is lawful for a private Person to kill a King, although an Heretick, although a Pagan, although a Tyrant: There is, I say, not one *Jesuit* that holds this, except *Mariana* the *Spanish* Jesuit, and he defends it not absolutely, but only problematically, for which his Book was called in, and that Opinion expunged and censur'd. And is it not a sad thing, that for the Rashness of one single Man, while the rest cry out against him, and hold the contrary, that a whole Religious Order should be sentenc'd? But I have not time to discuss this Point at large, and therefore I refer you all to a Royal Author, I mean the wise and victorious King *Henry* the Fourth of *France*, the Royal Grandfather of our present gracious King, in a publick Oration which he pronounced, in Defence of the *Jesuits*, amongst other things, declaring that he was very well satisfied with the *Jesuits* Doctrine concerning Kings, as being conformable to the best Doctors on the Church. But why do I relate the Testimony of one single Prince, when the whole Catholick World is the *Jesuits* Advocate? Therein chiefly *Germany*, *France*, *Italy*, *Spain*, and *Flanders*, trust the Education of their Youth to 'em in a very great measure; they trust their own Souls to be govern'd by 'em, in the Administration of the Sacraments. And can you imagine so many great Kings and Princes, and so many wise States should do, or permit this to be done in their Kingdoms, if the *Jesuits* were Men of such damnable Principles as they are now taken for in *England?*

In the third place, dear Country-men, I do protest, that as I never in my Life did machine, or contrive either the Deposition or Death of the King, so now at my Death, I do heartily desire of God to grant him a quiet and happy Reign upon Earth, and an everlasting Crown in Heaven. For the Judges, also, and the Jury, and all those that were any ways concern'd either in my Trial, Accusation, or Condemnation, I do humbly ask Pardon of God, to grant them both temporal and eternal Happiness. And as for Mr. *Oates* and Mr. *Dugdale*, I call God to witness, they by false Oaths have brought me to this untimely End. I heartily forgive them, because God commands me so to do; and I beg of God for his infinite Mercy to grant them true Sorrow and Repentance in this World, that they may be capable of eternal Happiness in the next. And having discharged my Duty towards my self, and my own Innocence towards my Order, and its Doctrine to my Neighbour, and the World, I have nothing else to do now, my great God, but to cast my self into the Arms of your Mercy. I believe you are One divine Essence and Three divine Persons; I believe the Second Person of the Trinity became Man to redeem me: and I believe you are an eternal Rewarder of the Good, and an eternal Chastiser of the Bad. In fine, I believe all you have reveal'd for your own infinite Veracity; I hope in you above all things for your infinite Fidelity; and I love you above all things for your infinite Beauty and Goodness; and I am heartily sorry that ever I offended so great a God, with my whole Heart: I am contented to undergo an ignominious Death for the Love of you, my dear Jesu, seeing you have been pleased to undergo an ignominious Death for the Love of me.

The last Speech of JOHN FENWICK.

Good People, I suppose you expect I should say something as to the Crime I am condemn'd for, and either acknowledge my Guilt, or assert my Innocency. I do therefore declare before God and the whole World, and call God to witness, that what I say is true, that I am innocent of what is laid to my Charge of Plotting the King's Death, and endeavouring to subvert the Government, and bring in a Foreign Power, as the Child unborn; and that I know nothing of it, but what I have learnt from Mr. *Oates* and his Companions, and what comes originally from them.

Sheriff How. If you can make a good Conclusion to your own Life, it will do well; consider if your Letters did not agree with the Evidence, that's another matter.

Fenwick. I assure you, I do renounce all Treason from my very Heart. I have always, and ever shall disown the opinion of such deviliſh Practices as these are of King-killing. If I speak not the whole Frame of my Heart, I wish God may exclude me from his Glory.

Sher. How. Those that murdered Sir *Edmundbury Godfrey* said as you do.

Fenwick. As for Sir *Edmundbury Godfrey*, I protest before God, I know nothing of it: I never saw the Man in my Life.

Sher. How. For my part, I am of Opinion you had a Hand in it.

Fenwick. Now that I am a dying Man, do you think I would go and damn my Soul?

Sher. How. I wish you all the Good I can, but I'll assure you, I believe never a Word you say.

Fenwick. I pray for his Majesty every Day, and wish him all Happiness with all my Heart. Also I do with all my Soul pardon all my Accusers. If the Judge or Jury did any thing amiss, I pardon them with all my Soul, and all Persons directly or indirectly. I am very willing and ready to suffer this Death. I pray God pardon me my Sins, and save my Soul.

And as to what is said, and commonly believed, of *Roman Catholicks*, that they are not to be believ'd or trusted, because they can have Dispensations for Lying, Perjury, killing Kings, and other the most enormous Crimes; I do utterly renounce all such Pardons and Dispensations, and withal declare, That it is a most wicked and malicious Calumny cast upon Catholicks, who do All, with all their Hearts and Souls, hate and detest all such wicked and damnable Practices; and in the Words of a dying Man, and as I hope for Mercy at the Hands of God, before whom I must shortly appear and give an Account of all my Actions, I do again declare, That what I have said is true; and I hope Christian Charity will not let you think, that by the last Act of my Life, I would cast away my Soul, by sealing up my last Breath with a damnable Lye.

Then they were at their private Devotions for about an Hour.

And Mr. Sheriff *How* spake to them; Pray aloud Gentlemen, that we may join with you; we shall do you no hurt, if we do you no good.

Are you aſham'd of your Prayers? Then he ſpake to Mr. *Gavan*, and ſaid, It is reported you did preach at the *Quakers* Meeting.

Gavan. To which he made anſwer, No, Sir, I never preach'd there in my Life.

After they had ended their Devotions, the Executioner pulled their Caps over their Faces, and went down and drew away the Cart, and they were all hanged together 'till they were dead, and then cut down and quarter'd, and their Bodies diſpoſed of according to his Majeſty's Command.

July 14, was appointed for the Execution of *Richard Langhorn*.

When he came down from his Chamber to be put in the Sledge, he had a written Speech with him, but the Sheriff (telling him that he muſt uſe no Papers at the Gallows) took it away, ſo that he repeated there only ſo much of it as he could remember.

When the Hangman was putting the Rope about his Neck he took it and kiſſed it; afterwards he ſaid, I do not know, whether you will allow me liberty of Speech or no; beſides the Noiſe of the People is ſo great, that I believe it is impoſſible to be heard.

I would gladly ſpeak to Mr. Sheriff *How*, [*who coming to him, he ſpake to him thus,*] Mr. Sheriff, I having ſome doubt whether I ſhould be ſuffer'd to Speak in relation to my Innocence and Royalty, I did for that Reaſon prepare what I had to ſay in writing and it is deliver'd into your Hands, and therefore for the particular and preciſe Words and Expreſſions I do refer myſelf to that, and hope you will be ſo juſt to my Memory that you will permit it to be ſeen.

I ſhall therefore make only a ſhort Preface, and I do declare in the preſence of the Eternal God, and as I hope to be ſav'd by the Merits and Death of my dear Jeſus, that I am not Guilty directly nor indirectly of any Crime that was ſworn againſt me: I do not ſpeak this to arraign the Court of Juſtice, either Judges or Jury, but thoſe men who did ſwear it; and the Jury were at liberty to believe or not believe, as they pleaſed; and I do likewiſe ſay with the ſame averment, that I did never in my Life ſee any Commiſſion, or Patent, or any Writing, or any other thing under the hand of *Johannes Paulus di Oliva*.

Sheriff. Nor under no other Hand?

Langhorn. No, nor under any other Hand, of any Commiſſion or Patent for the raiſing of an Army, or any thing elſe againſt the King.

Sheriff. What was the Patent for? nothing?

Langhorn. I never ſaw any, nor do I believe there was any: And whereas I have read in a Narrative that I ſent a Commiſſion by my Son, to the Lord *Arundel* of *Warder*, and that I deliver'd another to the Lord *Petre* (or *Peters*) with my own hands, I take God to witneſs, that I never ſaw him in my Life, or ever to my knowledge ſaw the Face of that Lord; nor did I ſend or know of any thing, that was ſent to my Lord *Arundel* of *Warder* of that nature.

Sheriff. Shorten your Buſineſs Mr. *Langhorn*, you and your Party have ſo many ways to equivocate, and after Abſolution you may ſay any thing.

Langhorn. I refer my ſelf to that Paper I gave you, Mr. Sheriff.

Sheriff. I think it is not fit to be Printed, but I will do you no wrong.

Langhorn. I do not think you will.

Sheriff. You have already printed a Paper, or ſome Body for you.

Langhorn. Sir, I did not Print it, it was done without any Direction or Permiſſion of mine.

Then he ſpake ſo much of the Speech as he could remember; the whole was as follows.

IN regard I could not foreſee whether I ſhould be permitted to ſpeak at my Death, ſo as to make a publick Declaration of my Innocency and Loyalty, as a Chriſtian ought to do; conſidering likewiſe, that if it ſhould be permitted unto me, it would be more adviſable for me rather to prepare beforehand, and ſet down in Writing the very Words in which I ſhould make my Declaration, than to truſt my Memory with them; to the end that the ſame may be well conſider'd of, and digeſted by me, and that all Miſtakes might be prevented, as far as may be: I ſay, in regard of this, I have in the preſent Paper reduced what I have to declare, as to my Innocence and Loyalty. And 'tis in theſe following Words:

I do ſolemnly and ſincerely, in the preſence of Almighty God, profeſs, teſtify, and declare, as followeth; that is to ſay,

1. That I do, with my Heart and Soul, believe and own my moſt gracious Sovereign Lord, the King's Majeſty, King *Charles* the Second, to be my true and lawful Sovereign, Prince, and King, in the ſame Senſe and Latitude, to all Intents and Purpoſes, as in the Oath commonly called *The Oath of Allegiance*, His ſaid Majeſty is expreſſed to be King of this Realm of *England*.

2. That I do in my Soul believe, that neither the Pope, nor any Prince, Potentate, or Foreign Authority, nor the People of *England*, nor any Authority out of this Kingdom, or within the ſame, hath or have any Right to diſpoſſeſs his ſaid Majeſty of the Crown or Government of *England*, or to depoſe him therefrom, for any Cauſe or pretended Cauſe whatſoever, or to give Licence to me, or to any other of his ſaid Majeſty's Subjects whatſoever, to bear Arms againſt his ſaid Majeſty, or to take away his Life, or to do him any bodily Harm, or to diſturb the Government of this Kingdom, as the ſame is now eſtabliſhed by Law, or to alter, or go about to alter the ſaid Government, or the Religion now eſtabliſhed in *England*, by any way of Force.

3. That I neither am, nor ever was at any time or times, Guilty, ſo much as in my moſt ſecret Thoughts, of any Treaſon, or Miſpriſion of Treaſon whatſoever.

4. That I did not in the Month of *November*, or at any other time or times whatſoever, ſay unto Mr. *Oates*, or unto any other Perſon or Perſons whatſoever, in relation to my Sons in *Spain*, or either of them, or in relation to any other Perſon or Perſons whatſoever, that if they did continue in the World, (as ſecular Prieſts, or otherwiſe) they ſhould ſuddenly have great Promotions in *England*, for that things would not laſt long in the Poſture wherein they then were; nor did I ever ſay any Words to that or the like effect to any Perſon or Perſons whatſoever.

5. That I did never in all my Life-time write any Letter or other thing whatſoever, unto, or receive any Letter or other thing, from Father *Le Chaiſe*, or any *French* Jeſuit whatſoever; or from Father *Anderton*, or Cardinal *Barbarino*, or any other Cardinal; nor did I ever ſee any Letter, or the Copy of any Letter or other Paper, or other thing, written or purporting to be written unto the ſaid *Le Chaiſe*, or unto the ſaid Father *Anderton*, or to the ſaid Cardinal *Barbarino*, by any Perſon or Perſons whatſoever, other than the printed Letters printed in the Narrative of the Trial of Mr. *Edward Coleman*, lately Executed, which I never ſaw otherwiſe than in the ſaid printed Narrative; nor did I ever hear any mention made by any Perſon whatſoever of the Name of *Le Chaiſe*, or Father *Le Chaiſe*, before I read the ſaid printed Narrative.

6. That I did never in all my Life-time make any Entry or Entries, into any Book or Books, or take, or make, or write, or cauſe to be written into any Book or Books, or otherwiſe, any Letter or Letters, or any Copy or Copies of any Letter or Letters, written by the ſaid *Edward Coleman*, to any Perſon or Perſons whatſoever.

7. That I did never in all my Life-time enter or regiſter into any Book or Books, Paper or Papers whatſoever, or take, or make, or write, or cauſe to be written any Copy or Copies of any Act or Acts, Conſult, or Conſults, Determination or Determinations, Order or Orders, Reſolve or Reſolves, or other Matter or Things, at any time made, determined, reſolved, paſſed, decreed or agitated at any Congregation or Congregations, Conſult or Conſults, Chapter or Chapters, Aſſembly or Aſſemblies, of the Society or Order of the *Jeſuits*, or of any other religious Order whatſoever; nor did I ever ſee, read, or heard read, nor did any Perſon or Perſons at any time whatſoever, ever communicate unto me any ſuch Act, Conſult, Determination, Order, Reſolve, Matter or Thing whatſoever.

8. That I did never in all my Life-time, to my Knowledge, Belief, or Remembrance, ſee or ſpeak with Mr. *Bedlow*, who gave Evidence againſt me at my Trial, until I ſaw him in that Court wherein he gave Evidence againſt me.

9. That after the Month of *November*, which was in the Year of our Lord 1677, I did never ſee or ſpeak with Mr. *Titus Oates* before-named, until I ſaw him in the ſame Court where he gave Evidence againſt me at my Trial.

10. That I did never ſee, in all my Life-time, to my Knowledge, Belief, or Remembrance, any Commiſſion or Commiſſions, Patent or Patents, Grant or Grants, Order or Orders, Inſtrument or Inſtruments, Writing, or Writings, or other Matter or Thing whatſoever, under, or pretended to be under the Hand and Seal, or the Hand or the Seal of *Johannes Paulus de Oliva*, or any other General of the *Jeſuits* whatſoever, other than the Paper or Inſtrument produced and ſhewed unto me in the ſaid Court at my Trial, which whether it was ſign'd or ſeal'd by the ſaid *de Oliva*, I do not know.

11. That I did never in all my Life-time write, or cauſe or procure to be written, any Treaſonable Letter or Letters whatſoever, or any thing which was or is Treaſon or treaſonable, in any Letter or Letters, Book or Books, Paper or Papers, or otherwiſe howſoever.

12. That I believe, that if I did know, or ſhould know of any Treaſon or treaſonable Deſign, that was or is intended, or ſhould be intended againſt his ſaid Majeſty, or the Government of this his Majeſty's Kingdom, or for the Alteration by Force, Advice, or otherwiſe, of the ſaid Government, or of the Religion now eſtabliſhed in this Kingdom, and ſhould conceal and not diſcover the ſame unto his ſaid Majeſty, or his ſaid Majeſty's Council or Miniſters, or ſome of them; that ſuch Concealment would be in me a Sin unto Death, and eternal Damnation.

13. That I do believe, that it is no ways lawful for me to lye, or ſpeak any thing which I know to be untrue; or to commit any Sin, or do any evil, that Good may come of it. And that it is not the Power of any Prieſt, or of the Pope, or of God himſelf, to give me a Licence to lye, or to ſpeak any thing which I know to be untrue; becauſe every ſuch Lye would be a Sin againſt Truth: And Almighty God, who is perfect Truth, cannot give me a Licence to commit a Sin againſt his own Eſſence.

And I do ſolemnly, in the Preſence of God, profeſs, teſtify, and declare, That as I hope for Salvation, and expect any Benefit by the Blood and Paſſion of my deareſt Saviour Jeſus Chriſt, I do make this Declaration and Proteſtation, and every part thereof, in the plain and ordinary Senſe of the Words, wherein the ſame ſtands written, as they are commonly underſtood by *Engliſh* Proteſtants, and the Courts of Juſtice of *England*, without any Evaſion or Equivocation, or Deluſion, or mental Reſervation whatſoever: And without any Diſpenſation, or Pardon, or Abſolution already granted to me, for this or any other Purpoſe, by the Pope, or any other Power, Authority, or Perſon whatſoever; or, without any Hope, Expectation or Deſire of any ſuch Diſpenſation; and without thinking or believing that I am or can be acquitted before God or Man, or abſolved of this Declaration, or any part thereof, although the Pope, or any other Perſon or Perſons, or Power or Authority whatſoever ſhould diſpenſe with, or take upon him or them to diſpenſe with, or annul the ſame, or declare that it was, or is, or ought to be null or void in part, or in the whole, from the Beginning, or otherwiſe howſoever.

Having made this Declaration and Proteſtation in the moſt plain Terms that I can poſſibly imagine, to expreſs my ſincere Loyalty and Innocency, and the clear Intention of my Soul, I leave it to the Judgments of all good and charitable Perſons whether they will believe what is here in this manner affirm'd and ſworn by me in my preſent Circumſtances, or what is ſworn by my Accuſers.

I do now farther declare, That I die a Member (tho' an unworthy one) of that holy Catholick and Apoſtolick Church of Chriſt, mention'd in the Three holy and publick Creeds, of which Church our Lord Jeſus Chriſt is the inviſible Head of Influence, to illuminate, guide, protect, and govern it by his holy Spirit and Grace; and of which Church the Biſhop of *Rome*, as the Succeſſor of St. *Peter*, the Prince of the Apoſtles, is the viſible Head of Government and Unity.

I

I take it to be clear, that my Religion is the ſole Cauſe which moved my Accuſers to charge me with the Crime, for which, upon their Evidence, I am adjudged to die; and that my being of that Religion, which I here profeſs, was the only Ground which could give them any Hope to be believed, or which could move my Jury to believe the Evidence of ſuch Men.

I have had not only a Pardon, but alſo great Advantages, as to Preferments, and Eſtates, offer'd unto me, ſince this Judgment was againſt me, in caſe I would have forſaken my Religion, and own'd myſelf Guilty of the Crime charged againſt me, and charged the ſame Crimes upon others: But bleſſed be my God, who by his Grace hath preſerv'd me from yielding to thoſe Temptations, and ſtrengthen'd me rather to chooſe this Death, than to ſtain my Soul with Sin, and to charge others, againſt Truth, with Crimes, of which I do not know that any Perſon is Guilty.

Having ſaid what concerns me to ſay as to my ſelf, I now humbly beſeech God to bleſs the King's Majeſty with all temporal and eternal Bleſſings, and to preſerve him and his Government from all Treaſons and Traitors whatſoever; and that his Majeſty may never fall into ſuch Hands as his Royal Father of glorious Memory fell into.

I alſo humbly beſeech thee (O God) to give true Repentance and Pardon to all my Enemies, and moſt particularly to the ſaid Mr. *Oates* and Mr. *Bedlow*, and to all who have been any ways acceſſary to the taking away of my Life, and the ſhedding of my innocent Blood, or to the preventing the King's Mercy from being extended unto me; and likewiſe to all thoſe who rejoiced at the Judgment given againſt me, or at the Execution of the ſaid Judgment; and to all thoſe who are or ſhall be ſo unchriſtianly uncharitable, as to diſbelieve, and to refuſe to give credit unto my now Proteſtations.

And I beſeech thee (O my God) to bleſs this whole Nation, and not to lay the Guilt of my Blood unto the Charge of this Nation, or of any other particular Perſon or Perſons of this Nation. Unite all (O my God) unto thee and thy Church, by true Faith, Hope, and Charity, for thy Mercy's ſake.

And for all thoſe who have ſhew'd Charity to me, I humbly beg (O my Jeſus) that thou wilt reward them with all Bleſſings, both temporal and eternal:

13 *July*, 1679. R. Langhorn.

After which he aſked the Executioner, *whether the Rope was right or no:* He ſaid, *Yes:* Then the Executioner aſked him *whether he did forgive him:* To which *Langhorn* ſaid, *I freely do. I ſhall now recommend my ſelf to God in private.*

Sheriff. You may have liberty.

Then he Croſs'd himſelf, and pray'd again, *Bleſſed Jeſus, into thy Hands I recommend my Soul and Spirit, now at this Inſtant take me into Paradiſe: I am deſirous to be with Jeſus. I am ready, you need ſtay no longer for me.* Upon which he was turn'd off.

LXXXV. *The Trial of Sir* George Wakeman * *Bart.* William Marshal, William Rumley, *and* James Corker, Benedictine *Monks, at the* Old-Baily; *for* High-Treaſon, July 18, 1679. 31 Car. II.

UPON *Friday* the 18th of *July*, 1679, at the Seſſions-Houſe in the *Old-Baily*, *London*, the Court being met, and Proclamation made for Attendance, the Trials proceeded thus:

Clerk of the Crown. Set Sir *George Wakeman*, *William Marſhal* and *William Rumley* to the Bar.

Sir *George Wakeman*, hold up thy Hand. *Which he did. And ſo of the other Two.*

You ſtand Indicted, by the Names of Sir *George Wakeman*, late of the Pariſh of St. *Giles in the Fields*, in the County of *Middleſex*, Bart. *William Marſhal*, of the ſame Pariſh and County, Gentleman, and *William Rumley*, of the ſame Pariſh and County, Gentleman:

For that you as falſe Traitors againſt the moſt Illuſtrious, Serene, and moſt Excellent Prince, Charles *the Second, by the Grace of God, of* England, Scotland, France, *and* Ireland, *King, Defender of the Faith,* &c. *your Supreme and Natural Lord; the Fear of God in your Hearts not having, nor weighing the Duty of your Allegiance, but being moved and ſeduced, by the Inſtigation of the Devil; and the cordial love, true, due, and natural Obedience, which true and faithful Subjects of our ſaid Sovereign Lord the King do, and of Right ought to bear towards Him, our ſaid Sovereign Lord the King, utterly withdrawing, and endeavouring and intending, with all your Strength, the Peace and common Tranquillity of this Kingdom of* England *to diſturb, and the true Worſhip of God within this Kingdom of* England *uſed, and by the Laws of the ſame Eſtabliſhed, to Overthrow, and the Government of this Realm to Subvert, and Sedition and Rebellion, within this Kingdom of* England, *to Move, Stir up, and Procure, and the cordial Love, true, due, and natural Obedience, which true and faithful Subjects of our ſaid Sovereign Lord the King, ought, and of Right are bound, to bear towards Him, our ſaid Sovereign Lord the King, wholly to Withdraw, Put out, and Extinguiſh, and Him, our ſaid Sovereign Lord the King, to Death and Final Deſtruction to Bring and Put, You, the ſaid Sir* George Wakeman, William Marſhal, *and* William Rumley, *the* 30*th Day of* Auguſt, *in the Thirtieth Year of the Reign of our ſaid Sovereign Lord King* Charles *the Second, at the Pariſh of St.* Giles in the Fields, *aforeſaid, in the County aforeſaid, falſly, maliciouſly, ſubtilly, adviſedly, and traiterouſly did purpoſe, compaſs, imagine and intend, Sedition and Rebellion, within this Kingdom of* England, *to move, ſtir up, and procure, and miſerable Slaughter among the Subjects of our ſaid Sovereign Lord the King to cauſe and procure, and our ſaid Sovereign Lord the King, from his Royal State, Title, Power and Government of his ſaid Kingdom of* England, *wholly to deprive, depoſe, caſt down, and diſinherit, and Him, our ſaid Sovereign Lord the King, to Death, and final Deſtruction to bring and put, and the Government of this Kingdom of* England, *and the ſincere Religion of God, within the ſame rightly and by the Laws of the ſame eſtabliſhed, at your Will and Pleaſure to change and alter; and the State of this whole Kingdom of* England, *through all its Parts well inſtituted and ordained, wholly to ſubvert and deſtroy; and War againſt our ſaid Sovereign Lord the King, within this Kingdom of* England, *to levy; and to accompliſh and fulfil thoſe your moſt wicked Treaſons and traiterous Imaginations and Purpoſes, You, the ſaid Sir* George Wakeman, William Marſhal, *and* William Rumley, *and other falſe Traitors unknown, the aforeſaid* 30*th Day of* Auguſt, *with Force and Arms at the Pariſh aforeſaid, in the County aforeſaid, maliciouſly, ſubtilly, adviſedly, and traiterouſly did aſſemble, unite, and gather yourſelves together; and then and there, falſly, maliciouſly, ſubtilly, adviſedly, deviliſhly and traiterouſly did conſult, conſent and agree, our ſaid Sovereign Lord the King, to Death and final Deſtruction to bring and put; and the Religion within this Kingdom of* England *rightly, and by the Laws of the ſame eſtabliſhed, to change and alter to the Superſtition of the Church of* Rome; *and to move, procure, and perſuade them, the ſaid* William Marſhal, William Rumley, *and other falſe Traitors unknown, the Agreement aforeſaid to fulfil and accompliſh, You, the ſaid Sir* George Wakeman, *after, to wit, the ſaid* 30*th Day of* Auguſt, *in the Pariſh aforeſaid, in the County aforeſaid, to them the ſaid* William Marſhal, William Rumley, *and other falſe Traitors unknown, did traiterouſly promiſe to give your Aſſiſtance, the Government of this Kingdom to ſubvert, and the true Worſhip of God, in this Realm rightly and by the Laws thereof eſtabliſhed and uſed, to the Superſtition of the Church of* Rome *to alter: And that You, the ſaid Sir* George Wakeman, *then and there, falſly, maliciouſly, ſubtilly, adviſedly, deviliſhly and traiterouſly, did undertake to kill and murder our ſaid Sovereign Lord the King: And in further Proſecution of the Treaſons, traiterous Conſpiracies, Intentions and agreements aforeſaid, You, the ſaid Sir* George Wakeman, *the ſaid* 30*th Day of* Auguſt, *at the Pariſh aforeſaid, in the County aforeſaid, falſly, traiterouſly, and againſt the Duty of your Allegiance, did receive and had (from a certain Perſon unknown, pretending to be Provincial of the Jeſuits in* England, *and claiming Authority for the Granting Commiſſions in that part from the See of* Rome,) *one Commiſſion to inſtitute and authorize you the ſaid Sir* George Wakeman *to be Phyſician-General of the Army, to be raiſed for the waging War againſt our ſaid Sovereign Lord the King within this Kingdom of* England, *and the ſame Commiſſion then and there, falſly, adviſedly, maliciouſly and traiterouſly did inſpect and read over, and traiterouſly did keep in your Poſſeſſion, and to the ſame falſly, knowingly, adviſedly and traiterouſly did conſent and agree, with that Intention, that you the ſaid Sir* George Wakeman *ſhould have, receive and exerciſe the Place and Office of Phyſician-General of the Army aforeſaid, when you the ſaid Sir* George Wakeman, William Marſhal, William Rumley, *and the ſaid other falſe Traitors unknown, ſhould have performed and accompliſhed your Treaſons, Compaſſings, Imaginations, Purpoſes, and traiterous Agreements aforeſaid. And that you the ſaid* William Marſhal *and* William Rumley, *in further proſecution of your Treaſons, traiterous Conſpiracies, Intentions and Agreements aforeſaid, the ſaid* 30*th Day of* Auguſt, *in the Pariſh aforeſaid, in the County aforeſaid, did falſly, ſubtilly and traiterouſly conſult, conclude, conſent and agree, that you the ſaid* William Marſhal, William Rumley, *and other falſe Traitors unknown, ſhould pay the Sum of* 6000 l. *towards furthering, and conſummating the traiterous Agreements aforeſaid, amongſt the ſaid falſe Traitors had, our ſaid Sovereign Lord the King to kill and murder, the true Worſhip of God within this Realm rightly and by the Laws of the ſame eſtabliſhed, to the Superſtition of the Church of* Rome *to alter, and the Government of this Kingdom of* England *to ſubvert, againſt the Duty of your Allegiance, againſt the Peace of our ſaid Sovereign Lord the King, his Crown and Dignity, and againſt the Form of the Statute in this Caſe made and provided.*

Cl. of Cr. How ſay'ſt thou, Sir *George Wakeman*, art thou Guilty of this High-Treaſon whereof thou ſtandeſt Indicted, or Not Guilty?

Sir George Wakeman. Not Guilty.

Cl. of Cr. Culprit, How wilt thou be Tried?

Sir George Wakeman. By God and my Country.

Cl. of Cr. God ſend thee a good Deliverance. [*And ſo the other two.*]

Cl. of Cr. Set *James Corker* to the Bar, (who was Arraigned, and Pleaded the laſt Seſſions.) *James Corker*, hold up thy Hand. You the Priſoners at the Bar, Sir *George Wakeman*, *William Rumley*, *William Marſhal*, and *James Corker*, Thoſe Men that you ſhall hear called and perſonally appear, are to paſs between our Sovereign Lord the King and you, upon Trial of your ſeveral Lives and Deaths; If therefore you or any of you will challenge them, or any of them, your Time is to ſpeak unto them as they come to the Book to be ſworn, and before they be ſworn. Call *Ralph Hawtrey*, Eſq; who appeared, and there being no Challenges the Twelve that were ſworn are as follows.

JURY.

Ralph Hawtrey of *Riſlipp*, Eſquire.
Henry Hawley of *New-Brentford*, Eſq;
Henry Hodges of *Hanwell*, Eſq;
Richard Downton of *Iſleworth*, Eſq;
John Bathurſt of *Edmonton*, Eſq;
Robert Hampton of *Greenford*, Eſq;

William

* Burn. *Hiſt. Own Times*, Vol. I. p. 467,

William Heyden of *Greenford*, Eſq;
John Baldwin of *Hillingdon*, Eſq;
Richard Dobbins of *Harvile*, Eſq;
William Avery of *Enfield*, Eſq;
William Wayte of St. *Clement Danes*, Gent.
Richard White of *Cripplegate*, Gent.

Cl. of Cr. Crier, Count theſe. *Ralph Hawtrey.*

Crier, One, &c.

Cl. of Cr. Richard White.

Crier. Twelve good Men and True, ſtand together and hear your Evidence.

Then the uſual Proclamation for Information was made, and the Priſoners being bid to hold up their Hands, the Clerk of the Crown charged the Jury with them thus.

Cl. of Cr. You of the Jury, look upon the Priſoners, and hearken to their Cauſe. They ſtand Indicted by the Names of (*prout in the Indictment mutatis mutandis*) and againſt the Form of the Statute in that Caſe made and provided: And he the ſaid *James Corker*, ſtands indicted by the Name of *James Corker* of the Pariſh of St. *Giles in the Fields*, in the County of *Middleſex*, Clerk;

For that he with Thomas White, John Fenwick, William Harcourt, John Gavan, *and* Anthony Turner, *as a falſe Traitor againſt the moſt Illuſtrious, moſt Serene, and moſt Excellent Prince,* Charles *the Second, by the Grace of God, of* England, Scotland, France, *and* Ireland, *King, Defender of the Faith,* &c. *his Supreme and Natural Lord, not having the Fear of God in his Heart, nor weighing the Duty of his Allegiance, but being moved and ſeduced by the Inſtigation of the Devil, the cordial Love, true, due, and natural Obedience, which true and faithful Subjects of our ſaid Sovereign Lord the King, towards him ſhould, and of right ought to bear, wholly withdrawing; and adviſing, and with all his Strength, intending the Peace and common Tranquillity of this Realm to diſturb, and the true Worſhip of God within this Kingdom of* England *uſed, and by the Law Eſtabliſhed, to overthrow; and the Government of this Realm to Subvert, and Sedition and Rebellion within this Kingdom of* England *to move, ſtir up and procure, and the cordial Love, and true and due Obedience which true and faithful Subjects of our ſaid Sovereign Lord the King, towards him ſhould, and of right ought to bear, utterly to withdraw, put out, and extinguiſh, and our ſaid Sovereign Lord the King to Death and final Deſtruction to bring, and put, on the Four and Twentieth Day of* April, *in the Thirtieth Year of the Reign of our ſaid Sovereign Lord, King* Charles *the Second, at the Pariſh of St.* Giles in the Fields, *in the County of* Middleſex *aforeſaid; He the ſaid* James Corker, *together with the ſaid* Thomas White, John Fenwick, William Harcourt, John Gavan, *and* Anthony Turner, *with diverſe other falſe Traitors, Subjects of our ſaid Sovereign Lord the King, to the Jurors unknown, falſly, ſubtilly, adviſedly, malicioufly, and traiterouſly, did purpoſe, compaſs, imagine, and intend Sedition and Rebellion within this Kingdom of* England *to move, ſtir up, and procure, and a miſerable Slaughter among the Subjects of our ſaid Sovereign Lord the King to procure and cauſe, and our ſaid Sovereign Lord the King, of his Kingly State, Title, Power, and Government of his Kingdom of* England, *utterly to deprive, depoſe, caſt down, and diſinherit, and him our ſaid Sovereign Lord the King to Death and final Deſtruction to bring and put, and the Government of this Kingdom of* England, *and the ſincere Religion of God within the ſame, rightly, and by the Laws of the ſame eſtabliſhed, at his Will and Pleaſure, to change and alter, and the State of this whole Kingdom of* England, *thro' all its Parts well inſtituted and ordained, wholly to ſubvert and deſtroy; and War, within this Kingdom of* England, *againſt our ſaid Sovereign Lord the King, to levy: And to accompliſh and fulfil their ſaid moſt wicked Treaſons, and traiterous Imaginations and Purpoſes, He the ſaid* James Corker, *together with the ſaid* Thomas White, John Fenwick, William Harcourt, John Gavan, *and* Anthony Turner, *and other falſe Traitors againſt our ſaid Sovereign Lord the King, to the Jurors unknown, the ſaid Four and twentieth Day of* April, *with Force and Arms,* &c. *in the Pariſh aforeſaid, and County aforeſaid, falſly, malicioufly, ſubtilly, adviſedly, deviliſhly, and traiterouſly did aſſemble, unite and gather together, and then and there, falſly, malicioufly, ſubtilly, adviſedly, deviliſhly, and traiterouſly did conſult, conſent, and agree, our ſaid Sovereign Lord the King to Death and final Deſtruction to bring and put, and the Religion of this Kingdom of* England, *rightly, and by the Laws of the ſame eſtabliſhed, to the Superſtition of the* Roman *Church to change and alter, and the Government of this Kingdom of* England *to ſubvert; and that one* Thomas Pickering, *and one* John Grove, *ſhould Kill and Murder our ſaid Sovereign Lord the King; and that he the ſaid* James Corker, *together with the ſaid* Thomas White, John Fenwick, William Harcourt, John Gavan, *and* Anthony Turner, *and other Falſe Traitors, againſt our ſaid Sovereign Lord the King, to the Jurors unknown, ſhould therefore ſay, celebrate, and perform, a certain Number of Maſſes, then and there amongſt themſelves agreed on, for the Soul of the ſaid* Thomas Pickering, *and for that Cauſe ſhould pay to the ſaid* John Grove *a certain Sum of Money, then and there amongſt themſelves agreed on; and that he the ſaid* James Corker, *together with the ſaid* Thomas White, John Fenwick, William Harcourt, John Gavan, *and* Anthony Turner, *and other Falſe Traitors to the Jurors unknown, in further proſecution of the Treaſons and traiterous Conſultations and Agreements aforeſaid, afterwards, the ſaid Four and Twentieth Day of* April, *at the Pariſh aforeſaid, in the County aforeſaid, falſly, ſubtilly, adviſedly, malicioufly, deviliſhly, and traiterouſly, did ſeverally each to the other engage themſelves, and upon the Sacrament traiterouſly did ſwear and promiſe, to conceal, and not to divulge the ſaid moſt wicked Treaſons, and traiterous Compaſſings, Conſultations, and Purpoſes aforeſaid amongſt themſelves had, traiterouſly to kill and murder our ſaid Sovereign Lord the King, and to introduce the* Romiſh Religion *within this Kingdom of* England, *and the true reformed Religion within this Realm, rightly, and by the Laws of the ſame eſtabliſhed, to alter and change. And that he the ſaid* James Corker, *together with the ſaid* Thomas White, John Fenwick, William Harcourt, John Gavan, *and* Anthony Turner, *and other falſe Traitors to the Jurors unknown, in further proſecution of their ſaid Treaſons and traiterous Intentions and Agreements aforeſaid, afterwards, the ſaid Four and Twentieth Day of* April, *at the Pariſh aforeſaid, in the County aforeſaid, falſly, ſubtilly, adviſedly, malicioufly, deviliſhly, and traiterouſly, did prepare, perſuade, excite, abet, comfort and counſel four other Perſons to the Jurors unknown, Subjects of our ſaid Sovereign Lord the King, traiterouſly our ſaid Sovereign Lord the King to kill and murder, againſt the Duty of his Allegiance, againſt the Peace of our Sovereign the King, his Crown and Dignity, and againſt the Form of the Statute in that Caſe made and provided.*

Upon theſe ſeveral Indictments they have been Arraigned, and thereunto have ſeverally pleaded Not Guilty, and for their Trial put themſelves on God and their Country, which Country you are. Your Charge is to enquire, whether they be Guilty of the High-Treaſon whereof they ſtand Indicted, in Manner and Form as they ſtand Indicted, or Not Guilty, &c.

Mr. Edward Ward, May it pleaſe your Lordſhip, and you Gentlemen of the Jury; Sir *George Wakeman*, Bar. *William Marſhal*, and *William Rumley*, the Priſoners at the Bar, ſtand Indicted; for that they as falſe Traitors againſt our Sovereign Lord King *Charles* the Second, their Supreme and Natural Lord, not having the Fear of God before their Eyes, did traiterouſly endeavour and intend, with all their Strength, the Peace and Tranquillity of this Kingdom of *England* to diſturb, and the Worſhip of God in the ſame rightly, and by the Laws of the ſame eſtabliſhed, and the Government of the Kingdom in all its Parts well inſtituted and ordered, to ſubvert and overthrow, and Sedition and Rebellion within the ſame to move and procure, and to bring and put the King to Death and final Deſtruction; and to that Purpoſe the 30th of *Auguſt*, in the 30th Year of the King that now is, they did falſly, maliciouſly, ſubtilly, adviſedly, and traiterouſly compaſs, imagine, intend, and deviſe, thoſe things that I have enumerated to you; that is, Sedition and Rebellion in the Kingdom to move, the Peace and Tranquillity of the ſame to diſturb, the Worſhip of God to overthrow, and the King from his Royal State, Title, Power and Government wholly to depoſe, and to put the King to Death and final Deſtruction, and the Religion at their Wills and Pleaſures to alter, and to introduce the *Romiſh* Superſtition, and War within the Kingdom to Levy againſt our Sovereign Lord the King. And to accompliſh theſe Treaſons and Purpoſes, they the Priſoners at the Bar, with other falſe Traitors unknown, the Day and Year beforementioned, did aſſemble and meet together, and did then and there conſent and agree to put the King to Death and final Deſtruction. And to perſuade *Marſhal* and *Rumley* to theſe Treaſons, the ſaid Sir *George Wakeman* promiſed his Aſſiſtance; firſt, to ſubvert the Government, and then to alter the Religion to the *Romiſh* Superſtition, and traiterouſly undertook to kill the King: And he did receive for that Purpoſe, from the pretended Provincial of the Jeſuits in *England*, (who claimed an Authority from the See of *Rome*, of granting out Commiſſions) a Commiſſion which conſtituted him Phyſician-General of the Army; which Army was to be raiſed for the levying of War againſt the King, and the Subverſion of the Government and Religion: That he read this Commiſſion, that he kept it in his Poſſeſſion, that he conſented to it, accepted it, and intended to execute the Employment, when their Deſigns were accompliſhed. The Indictment further ſets forth, that *Marſhal* and *Rumley*, and other falſe Traitors, agreed to pay the Sum of 6000*l.* for the carrying on and effecting of this Treaſon; and this is laid, to be againſt the Duty of their Allegiance, againſt the King's Peace, Crown and Dignity, and againſt the Form of the Statute. To this Indictment they have pleaded Not Guilty; if we make out theſe Crimes againſt them, or any of them, you are to find them Guilty.

There is alſo another indicted, that is *James Corker*; For that he is a falſe Traitor againſt the King, and withdrawing his Allegiance, and due and natural Obedience, which he owed to him, as his Sovereign, together with other Perſons there mention'd, *White, Fenwick, Harcourt, Gavan*, and *Turner*, did intend to overthrow the Religion, to ſubvert the Government, and to do all thoſe Treaſons that I have here enumerated, and that they did the 24th of *April*, in the 30th Year of this King, at the Pariſh of *St. Giles in the Fields*, in your County, compaſs and imagine the King's Death, levying of War, and thoſe other Things; and in order thereunto, they did contrive that *Pickering* and *Grove* ſhould kill the King, and that *Corker* and the others ſhould ſay Maſſes for the Soul of *Pickering*, and ſhould pay *Grove* a Sum of Money. That to this they plighted their Faith, and received the Sacrament upon it: And that *Corker* and the others, the Day and Year aforeſaid, traiterouſly perſuaded, excited and abetted four other Perſons to murder the King. To this he hath pleaded Not Guilty; if we prove him Guilty of any of theſe things, we hope you will find it ſo.

Sir *Robert Sayer*. My Lord, and you Gentlemen of the Jury, The Priſoners at the Bar with whom you are charged, ſtand Indicted as principal Actors and Inſtruments of that late moſt Catholick and Bloody Plot ſome time ſince diſcovered; and I hope, by the Bleſſing of Almighty God in a great meaſure prevented. The Deſign, Gentlemen, was againſt the King and the Church; both Church and State were too little a Sacrifice to be offered up to the univerſal Supremacy of *Rome*. They well knew, Gentlemen, that ſo long as God ſhould preſerve the Life of our Prince, and as long as thoſe Legal Pales, wherewith the Church of *England* is encompaſſed, did but continue firm, neither the Gates of Hell nor *Rome* could prevail againſt it. And I wiſh that all Proteſtants were of the ſame Mind.

I ſhall not enter now into any large Diſcourſe of it, nor trace the ſeveral Steps of this Plot, which is ſo well known to all Men of this Nation at this Day, but only touch upon thoſe Parts of it that do concern the Priſoners now at the Bar, unleſs they ſhall give me occaſion to recur to any former Paſſages. Gentlemen, we ſhall make Proof to you, that the 24th of *April*, 1678, there was a very great Conſult of a numerous Company of Jeſuits here in *London*; and there was the Foundation laid, or at leaſt the Execution was then determined of bringing this Plot to its Accompliſhment. To this Conſult we ſhall make it appear, that the Gentlemen at the Bar were privy and conſenting to it. The King muſt die, that is reſolved on, and you have heard formerly of the ſeveral Ways that it was to be acted; ſome Perſons were deſigned to ſhoot him, theſe have received their Trial and condign Puniſhment; then there was another Set, and they were to Stab him, and ſome of theſe have been brought to

to Juſtice too; but then there was a third Sort, (for they did invent all the imaginable Ways of Death) and that was Poiſoning; and that will come principally before you at this Time. And they had choſen out a very proper Inſtrument for it, a Gentleman whoſe Experience rendered him able, and whoſe near Relation to and Dependance upon the Royal Family, gave him a great Opportunity to commit that horrid Crime. But, Gentlemen, tho' his Perſuaſion might go a great way, yet he would not do it *Gratis*, and thereupon he muſt be hired for a great Sum of Money, not under 15000*l.* and then he undertook that great Employment.

We ſhall prove to you, that this was his Bargain, that part of his Wages he had received, for he would be ſure of ſomething in Hand before the Work were done. We ſhall make it appear, Gentlemen, that he was privy alſo to the Conſult (for I apply my ſelf at preſent peculiarly to him) and approved of it. And as a farther Reward, beſides that of Money, he was to be preferred to be Phyſician-General of the Army that was then to be raiſed, that Employment was deſigned for him; nay, he accepted of the Commiſſion, as we ſhall endeavour to prove to you.

We ſhall alſo prove, that the other Gentlemen at the Bar, the other Malefactors that ſtand there, were privy to the great Conſult of the Death of the King. That there was 6000*l.* which was to be furniſhed by the *Benedictine* Monks; for tho' the Jeſuits were the great Engineers, yet all the other Orders were to contribute, and 6000*l.* was to be furniſhed by them. And in the courſe of our Evidence we ſhall give you ſeveral Inſtances which will concern all theſe particular Priſoners now at the Bar; and one truly that there was ſuch a Deſign of Poiſoning, which is very remarkable, and that was from a very great Engineer that hath ſuffered already, and that was Mr. *Ireland*; and wherein I muſt deſire that you would obſerve another thing that falls out very materially, that tho' *Mr. Ireland*, at the time of his Death, and all along, diſowned that he was here in *London* in *Auguſt*, and with great Aſſeverations did affirm it, it will appear by the courſe of our Evidence that he was here in *London* then, and had frequently Diſcourſes that it was an eaſy matter to take off the King by Poiſon: And for that purpoſe do I mention it to you as an Inſtance that Poiſon was one of the great Ways that they intended to murder the King by. And, Gentlemen, you will collect from that Evidence, what Credit is fit to be given to the Words of ſuch dying Men, and whether living Witneſſes that are upon their Oaths, are not rather to be believed, than thoſe whoſe concern it is for more Reaſons than one to perſuade the People that they are innocent. And you will likewiſe collect that thoſe who have lived in the Sin of committing ſuch horrid Crimes as theſe are, will not ſtick to protect that ſame Church (which they would propagate by thoſe Crimes) by denying the plaineſt Truth.

We will not trouble you any further with the Opening of the Evidence, becauſe the Witneſſes are many, and their Teſtimony various; but we ſhall call our Witneſſes, and let them tell it you themſelves.

Mr. Ward. Call *Dr. Oates*, *Mr. Bedlow*, *Mr. Dugdale*, *Mr. Jenniſon*, and *Mr. Praunce*, (who were all ſworn, and *Mr. Dugdale* ſet up.)

Sir Robert Sawyer. Gentlemen, we call firſt *Mr. Dugdale* to give you a general Account of the Plot, not ſo much for the Proof of the things here charged particularly on the Priſoners, as the general Deſign.

Mr. Ward. Pray, Sir, ſpeak your Knowledge of what you know concerning the Plot in general.

Dugdale. I have for this ſeven Years known ſomething of it, but nothing particularly till within theſe two Years. About two Years ſince it was communicated to me by *Mr. Ewers*, *Mr. Gavan*, *Mr. Peters*, *Mr. Lewſon*, and ſome other Prieſts, which I cannot now remember their Names, and they did perſuade me to be of the Management of the Buſineſs, for the carrying on of the Deſign, for the introducing their Religion, and for the killing of the King and the Duke of *Monmouth*; both thoſe two things were communicated to me, upon my Oath, by *Mr. Gavan*, *Mr. Ewers*, *Mr. Peters*, *Mr. Lewſon*, and my Lord *Stafford*.

Mr. Juſtice Atkins. What, *Mr. Gavan* that was executed, do you mean?

Dugdale. Yes, he was the Man, I have had ſeveral Pacquets of Letters which concerned the Plot: All the Letters that came from *Mr. Harcourt*, or from any others concerning the Plot, were directed to me: I have had ſometimes eight, ſometimes nine, ſometimes more Letters at a time, but I never ſaw any, almoſt, but they all tended to the carrying on of this Deſign.

*Lord Chief Juſtice**. Did they ſhew you theſe Letters, or did you open them?

Dugdale. I did open ſeveral of them, a great many, and ſome of them that I could not handſomely ſeal up again, I kept.

L. C. J. They did not know you opened them?

Dugdale. No, they did not all the time.

L. C. J. To what purpoſe did they write?

Dugdale. My Lord, they were to give inſtructions to *Mr. Ewers* how he ſhould manage the Affairs for carrying on the Deſign, how he muſt go about for the raiſing of Money, and for the engaging the Gentlemen in the Country, as particularly *Mr. Gerard* of *Hilderſon*, and *Mr. Howard* of *Horecroſs*, and Sir *James Simons*, and one Gentleman that is dead, one Captain *Atherley*, and ſeveral other Gentlemen were engaged in it, to be Officers when they had accompliſhed their Buſineſs of Killing the King.

Sir Robert Sawyer. You ſay they were to be Officers; what, were they to be Military Officers, or what?

Dugdale. Yes, they were to be Military Officers.

Sir Robert Sawyer. Was there an Army to be raiſed?

Dugdale. Yes, there was an Army ſpoken of to be raiſed.

Sir Robert Sawyer. By whom?

Dugdale. There was Money ready in *July* laſt, for I ſaw Acquittances that came from St. *Omers* that the Money was paid. But then there was Caution given to be ſure not to make any Rumour of Arms or any thing, till the King was diſpatched.

L. C. J. Did they write that in a Letter?

Dugdale. They writ that in a Letter directed to me.

L. C. J. To you?

Dugdale. Yes, to me.

L. C. J. Who writ that Letter?

Dugdale. My Lord, truly I cannot be certain at preſent who it was; but upon recollection I can, may be, remember who it was: but it contained that there ſhould be Caution given to all, to be ſure that none ſhould mention Arms, or any thing, till the King was diſpatched.

Sir Robert Sawyer. From whence did that Letter come, Mr. *Dugdale?*

Dugdale. It came from Mr. *Harcourt*, I am certain, and in Mr. *Grove*'s Pacquet; but I am not certain of the Perſon that writ the Letter, but I can recollect hereafter, perhaps, who it was.

L. C. J. Did it come from beyond Sea, or *London?*

Dugdale. It came from *London*, but I ſuppoſe it came thither from beyond Sea.

L. C. J. The Letter came to you, you ſay; was it dated from any Place, and what?

Dugdale. I am not certain whether it was dated from any Place; there was ſeveral Letters that came from all Parts, ſome from St. *Omers*, ſome from *Paris*, ſome from *Rome*.

Sir Robert Sawyer. Pray what do you know of any Correſpondence that was between your principal Agents in *Staffordſhire*, and thoſe Conſpirators here at *London?*

Dugdale. Yes, there was a Correſpondence between them.

L. C. J. Between whom? Name them.

Dugdale. Betwixt Mr. *Ewers*, Mr. *Gavan*, and Mr. *Vavaſor*, theſe were in *Staffordſhire*; and betwixt Mr. *Ireland*, Mr. *Harcourt*, Mr. *Fenwick* and Mr. *Grove*, theſe I know.

L. C. J. Where were theſe laſt?

Dugdale. In *London* theſe Perſons were, they did write conſtantly three times a Week Letters into *Staffordſhire* about this Buſineſs.

L. C. J. But pray was there any thing mentioned in any of theſe Letters concerning Killing the King?

Dugdale. Yes there was.

L. C. J. Was there any thing plain of that in thoſe Letters?

Dugdale. There was in one from Mr. *Whitebread*.

L. C. J. What did that Letter ſay?

Dugdale. There was one from him that did give a Caution to Mr. *Ewers*, that he ſhould be ſure to chooſe no Perſons but ſuch as were ſtout and hardy, or to that Effect.

L. C. J. To do what?

Dugdale. To kill the King.

L. C. J. Was that expreſſed in the Letter?

Dugdale. Yes, my Lord, it was.

L. C. J. And did they write that they ſhould chooſe hardy Perſons to kill the King? Was that the Subject of it?

Dugdale. Yes, my Lord, it was.

L. C. J. Did it come by the common Poſt?

Dugdale. Yes, my Lord, it did; but they had deviſed it ſo, that there was care taken they ſhould not be diſcovered, they would ſet but two Letters of their Names to them, and they were directed all to me, ſo that I was to bear all the Danger.

Sir Rob. Sawyer. How was the Direction? Was it directed plainly to you on the out-ſide?

Dugdale. Yes, it was; and if it were diſcovered, I was ſworn by Mr. *Ewers* to deny it, and then they could not be diſcovered.

Mr. Juſt. Atkins. Did they give you any Oath to that Purpoſe?

Dugdale. Yes, I was ſworn Ten times at leaſt to Secrecy, and promiſed it on the Sacrament.

Sir Robert Sawyer. Beſides what came in thoſe Letters, had you any Diſcourſe with any touching Killing the King?

Dugdale. Yes.

Sir Rob. Sawyer, With whom?

Dugdale. With Mr. *Gavan*, Mr. *Ewers*, Mr. *Lewſon*, and my Lord *Stafford*.

L. C. J. And would they have perſuaded you to have done it?

Dugdale. Yes, I was to have been employed as an Actor in it, either to have taken his Life away, by Shooting, or by Stabbing, or ſome Way.

L. C. J. Did they propoſe it to you, and how, in what manner would they have you do it?

Dugdale. No, my Lord, I was not told abſolutely in what manner; but I was directed to come to *London*, and I ſhould have Inſtructions about it there.

L. C. J. Tell us again who they were that did ſolicit you?

Dugdale. Mr. *Ewers*, Mr. *Gavan*, Mr. *Peters*, Mr. *Lewſon*, and my Lord *Stafford*.

Mr. Juſt. Atkins. My Lord *Stafford* you ſay?

Dugdale. Yes, I ſaid ſo before, my Lord.

L. C. J. They engaged you in the Buſineſs in general, you ſay, and you were to have Directions about it at *London*, that is that you ſay?

Dugdale. Yes, my Lord, Mr. *Ireland* was to take care of me there.

Sir Rob. Sawyer. Pray, Sir, had you Diſcourſe of the ſeveral Ways, what Ways were to be taken?

Dugdale. I had no particular Way mentioned, but I was told that it was eaſy to be done by Shooting or Stabbing.

L. C. J. Did you ever come to *London* upon that Errand?

Dugdale. No, never.

L. C. J. When they had engaged you to do the Thing, why did not they ſend you about it?

Dugdale. I was not to come till *October*.

L. C. J. When was it that you were engaged firſt?

Dugdale. I had particular Intimation of the Matter of the Plot about two Years before, but I was not to come up till *October*.

L. C. J. Which *October?*

Dugdale. Laſt *October*.

L. C. J. Why, you were engaged a great while before, how chanced you were not to come up till *October?*

Dugdale. I was engaged a Year and a half before, but it was not poſitively then ſaid to me, that I was to be inſtrumental in Killing the King, till that time, which was about *July*, when my Lord *Stafford* came down, and I was to come up in *October*.

L. C. J. I thought you had ſaid that you were engaged in it a Year and half before.

Dugdale.

* *Sir* William Scroggs.

Dugdale. That was only in the Plot in general.

L. C. J. Was there no Time appointed for the killing the King then? When was it that you were firſt engaged to be an Inſtrument to take away the King's Life?

Dugdale. Two Years ago I was ſpoke to about the Plot, but I was not particularly aſſigned till the laſt Summer, and then I was appointed to come to *London* in *October*.

L. C. J. What ſaid they then to you?

Dugdale. My Lord *Stafford* did offer me 500 *l.* he told me I ſhould have that for a reward at preſent, and if Things did go on, I ſhould have a better Reward when the Thing was accompliſhed, but this was for my preſent Encouragement.

L. C. J. When were you to have the Money?

Dugdale. When I came to *London*.

L. C. J. And why did not you come to *London* then?

Dugdale. I was to come to *London*, and the Plot was broke out and diſcovered firſt.

Mr. Ward. Pray, do you know of any Letters about the Death of Sir *Edmundbury Godfrey?*

Dugdale. Yes, there was a Letter came down to my Lord *Aſton*'s, it was directed to Mr. *Ewers*, and it contained in it, *This very Night Sir* Edmundbury Godfrey *is diſpatched:* thoſe were the Words of the Letter.

L. C. J. What Night was that?

Dugdale. I have well remembred it ſince, and it was *Saturday* Night, which was about the twelfth of *October*, or thereabouts, as I remember: it had thoſe Words, *This very Night Sir* Edmundbury Godfrey *is diſpatched*; and it went on with more things relating to the Plot, which I cannot particularly now remember; and I catched Mr *Ewers* at the reading of it, and ſaid I to him, *Do you think this is the way to have the Deſign ſucceed? if this do not overthrow the Plot, I will be hang'd. Not ſo*, ſaid he, *be patient, and do not miſtruſt it, he was a Man that was uſed to puniſh debauch'd Perſons, and it will rather reflect upon them than us.*

L. C. J. Did that Letter come to your Hands?

Dugdale. Yes, it did, but it was writ to Mr. *Ewers*.

Mr. Juſt. Atkins. What Day did it come to you?

Dugdale. Upon *Monday* Morning.

Mr. Juſt. Atkins. When was it writ?

Dugdale. It was writ the *Saturday* Night before.

L. C. J. Did Mr. *Ewers* ſhew it you? or did you break open the Letter?

Dugdale. Mr. *Ewers* ſhewed it me for an Encouragement, that one of our Enemies was taken out of the way.

Mr. Juſt. Wyndham. Did you report it to any Body?

Dugdale. Yes, to the Parſon of the Town, and a Relation of my Lord *Aſton*'s.

L. C. J. What was his Name?

Dugdale. One Mr. *Sandwich* and Mr. *Philips*; ſaid I, *Do you not hear of a Knight, a Juſtice of* Weſtminſter, *that is killed? No*, ſaid they, *we hear nothing of it:* but it ſeems Mr. *Sandwich* went to Dinner to —— and there he did report it.

L. C. J. Why did they look upon Sir *Edmundbury Godfrey* as ſuch an Enemy to them?

Dugdale. They had intruſted him before, but he began to be ſtrict with Dr. *Oates*, ſearching and prying into all the whole Concern, as Mr. *Ewers* told me (for I knew no more than he informed me of) ſo they thought good to take him off.

Sir Rob. Sawyer. Gentlemen, will you aſk him any Queſtions?

Corker. I would have been glad to have heard what he ſaid, but I could not hear the tenth Part.

Sir Rob. Sawyer. Gentlemen, there is nothing that does particularly reflect upon you at the Bar, but is only to prove the general Deſign of the Plot.

Sir George Wakeman. 'Tis the worſt made out that ever I think was Trial.

Dugdale. If there be any more Queſtions, that your Lordſhip or the Court will be pleaſed to aſk me, I will be ſure to anſwer them.

L. C. J. I will tell you the Effect of what he ſays, and that is this; he ſpeaks in general, that there was a Plot to bring in Popery, and in order to that, the beſt way was to kill the King; and to that purpoſe, there were ſeveral Letters ſent Weekly into *Staffordſhire*, and very often directed by the Cover to him, wherein were ſeven or eight ſeveral Letters, as from *Ireland*, and *Harcourt*, and *Grove*, to People that were in *Staffordſhire*; that is, to *Ewers*, and *Lewſon*, and *Vavaſor*; and many times they did write concerning the going on with this Plot of Killing the King, that they muſt uſe great Secrecy in it, and makes mention what Officers they ſhould have for an Army to ſupport that Matter, when they had done; they engaged him particularly firſt, about two Years ago, to be one in it, but more preciſely in *June* or *July* laſt was Twelve-month, and he ſhould have gone, he ſays, in *October* after, up to *London*, in order to it; and there he ſhould have Directions from *Ireland*, how he ſhould manage himſelf. And he gives you an Account, that my Lord *Stafford* promiſed him he ſhould have 500 *l.* as part of his Reward, and when the Work was done, he ſhould be better gratified; and he ſays, he did intend to have gone up in *October* to this Purpoſe, but the Plot broke out, and he was prevented.

Sir Rob. Sawyer. Pray, Mr. *Dugdale*, you have been formerly examined, did you hear any thing of a Maſſacre? or of any particular Perſons to be murdered, beſides the King and Duke of *Monmouth?*

Dugdale. I do not remember any in particular, but they two; but in general, all Proteſtants they intended to cut off.

Mr. Ward. All Proteſtants?

Dugdale. Yes.

Mr. Juſt. Atkins. Pray, Sir, what did induce them to have ſo much Confidence in you? Had you any ſuch Zeal for their Religion?

Dugdale. Yes, inſomuch that they thought I was a Prieſt in the Country.

Mr. Juſt. Atkins. Had you been free of your Purſe? did you give them any Money?

Dugdale. Yes, I gave them for this, and for the Praying for my Soul, the Sum of 400 *l.* which was ſecured upon a Deed of Land; and I promiſed them another 100 *l.* when they made moan for the Want of Money; and when Mr. *Peters* ſaid if they did not make more Haſte with their contributions, they ſhould be at a great Loſs: And Mr. *Gavan* promiſed me, I ſhould be Canonized for a Saint.

L. C. J. When had you given the 400 *l.?*

Dugdale. I had given it them in Money, it was upon a Deed of Land, which was conveyed to Mr. *Gerrard*, and was to be ſold for the raiſing of that Money.

Corker. Mr. *Dugdale*, you make mention of a certain Letter ſent from *London* here, from Mr. *Harcourt*; but not Mr. *Harcourt*'s Letter, in which Letter you ſay it was mentioned that the King ſhould be killed, and that an Army ſhould be raiſed, and ſome ſuch Matters of grand Deſign. Sir, don't you know from whom that Letter came, I aſk you?

Dugdale. I cannot directly at preſent call to mind the Perſon's Name, I may by and by, perhaps.

Corker. Then, my Lord, I appeal to the Court, and beg the Judgment of the Court, whether a Letter of that vaſt Concernment, about killing the King, the Deſtruction of the Nation, and the raiſing of an Army, ſhould be ſent from a Man that he himſelf does not, nor can tell his Name, nor the Place this Letter came from. That a Man ſhould be ſo mad to ſend by the common Poſt a Letter of ſuch vaſt Concern, and yet neither the Party to whom, nor the Party from whom it came, be remembred.

Dugdale. I can give you Satisfaction, as to ſome Letters I have received, and I can tell you in particular from whence they came. One came from *Paris* to St. *Omers*, and ſo from St. *Omers* to *London*, and from thence by a ſpecial Meſſenger to *Tixall* in *Staffordſhire*; and my Lord *Aſton* and Mr. *Ewers* read it one Night, in my ſight, in the Parlour.

Corker. Juſt now he ſaid it was by a ſpecial Meſſenger; before he ſaid, the Letters came by a common Poſt.

Dugdale. I ſpeak of another Letter now, than thoſe I ſpake of before.

L. C. J. He did, indeed, ſay before, that there was a Letter as you repeat it, that had the Importance of killing the King, but he could not particularly charge himſelf with the Perſon that writ it, but, ſaith he, I can now remember another Letter, that was ſent by a ſpecial Meſſenger, and he will tell you who that Letter was writ by, and who it came from. From whom came it?

Corker. That was only to correct a former Lye.

Dugdale. There was *J. W.* writ to it, and I ſuppoſe it was from Sir *John Warner*.

L. C. J. Where was it dated? Whence did it come?

Dugdale. There was one from *Paris*, it was firſt begun at *Paris*, where Advice was firſt to be had, and Aſſiſtance was promiſed, how it ſhould be carried on, and they thought it was the beſt Way, after they had killed the King, for the Papiſts to give the firſt Alarm, that it was thoſe ſtill King-killing Preſbyterians that had done that Act, and that then the Church of *England* Men would be willinger to join with the Papiſts to cut them off.

L. C. J. This was the Subſtance of the Letter?

Dugdale. Yes, this was the Subſtance of the Letter. And the Letters from *London* ſaid, they thought it good Advice, and there were ſeveral Lords in *England* ſet their Hands to it, acknowledging it as good Advice: And in that very Letter there was an Army mentioned, that there ſhould be an Army ready to cut off thoſe that ſhould eſcape having their Throats cut.

L. C. J. Who brought that Letter?

Dugdale, I do not know who brought it from *London* to *Boſcobel*, but there was a ſpecial Meſſenger brought it thence to *Tixall*, and his Name was —— *Carrington*.

L. C. J. You ſay there were ſeveral Lords ſet their Hands to it; what Lords were they?

Dugdale. I have formerly mentioned them, there was my Lord *Stafford*, my Lord *Bellaſis*, and my Lord *Arundel*.

L. C. J. To what Purpoſe did they ſet their Hands to it?

Dugdale. That they approved it as good Advice.

L. C. J. Then, Gentlemen, this is that he ſays, Here is a Letter that was brought by one —— *Carrington*, to my Lord *Aſton*'s, and the Subſtance of the Letter was to juſtify the Killing of the King, by the raiſing of an Army, and that this Letter came from St. *Omers*, and that it had the Letters *J. W.* Subſcribed to it, which was ſuppoſed to be Sir *John Warner*, and that this Letter was looked upon by ſome at *London*, and that they, as approving of it, ſet their Hands to it as good Advice, and then ſent it down into the Country.

Corker. Was the Letter dated from St. *Omers?* Was St. *Omers* writ in the Inſide, what ſay you? Speak.

Dugdale. There were three Letters, I ſay, that came in that Pacquet from St. *Omers*; one came from *Paris*, another from St. *Omers*, and another from *London*.

L. C. J. And all theſe in one Cover?

Dugdale. Yes.

Sir *George Wakeman.* How could the ſame Cover cover all thoſe Letters?

Dugdale. All the Letters were cover'd in *Grove*'s Pacquet.

L. C. J. Here is the Matter; he ſuppoſes there was a Letter writ, firſt at *Paris*, and that is then ſent to St. *Omers*; and then there was a Letter writ there, by Sir *John Warner*, or ſome of them, and ſent to *London*, and peruſed in *England*, by the Lords, and all ſent in one Cover into *Staffordſhire*.

Corker. Your Lordſhip makes Senſe of it, but he made none but Contradictions, and ſaid he did not know whence it came, nor who writ it. You ſay, Sir, you were one of thoſe to kill the King; pray when were you to kill the King?

Dugdale. In *October*, I was to have done it, when I came up.

Corker. My Lord, here is a Plot and a Deſign driven on ſeveral Ways, to murder the King. Dr. *Oates* in his Narrative, as I perceive, gives us a Deſcription of ſeveral Contrivances that were made uſe of to commit this Murder. He, in all his Deſcriptions, tells us only, as I take it, of three Ways of killing the King, the one by *Grove* and *Pickering*, another by the Ruffians, I know not whom, a third was by Poiſon; now Dr. *Oates*, in all his Relations, makes not any mention of a fourth Deſign to kill the King, or of any other Plot or Deſign at *London* to kill the King; but he ſays, if *Grove* and *Pickering* miſcarried, it was to be done by the four Ruffians, and they miſcarrying, it was to be done by Poiſon,

ſon, now comes he with a Thing that never was thought of before, that *Oates* never gives any Relation of.

L. C. J. What then?

Corker. He, my Lord, tells us, that this was to be done in *October*, when all the other Things that were to be done were paſt; and what, ſhould they deſign to kill the King in *October*, when it was to be done before in *July* or *Auguſt*?

L. C. J. Look you, the firſt part of your Objection, wherein you ſay he names but three Ways of killing the King, what do you infer from that? that becauſe this Gentleman ſays there was a fourth, there was not. Dr. *Oates* told you as much as he knew of the matter, but he does not undertake to give you an account of all the Plot or Plotters in this Affair. If you make any reaſonable Objection againſt Mr. *Dugdale*'s Teſtimony, I will allow it, but theſe Inferences I muſt not. That this is a ſtrange Story of Mr. *Dugdale*'s, becauſe 'tis not part of *Oates*'s Diſcovery, is that a reaſonable Objection? But then for the latter Part, that Dr. *Oates* ſays the King was to have been killed in *July* or *Auguſt*, therefore what ſhould they think of killing him in *October*, he tells you, that in *June* and *July* they did engage him in the general Plot, and firſt then to be inſtrumental in killing the King, but he was not to be gone till *October* to *London* to do it.

Corker. When the Thing was done.

Mr. Juſtice *Wyndham.* No, no, becauſe the Thing was not done, or becauſe it might miſcarry by others, therefore he was to come then.

L. C. J. They could not tell when it would be done, or by what Hand it would be done; therefore they were engaging as many as they could, provided the Thing were not done.

Marſhal. Amongſt other Things that ſeem to render his Teſtimony ſuſpected, there is one which is taken from the common Practice of all Men, in Caſes of like Nature, for where there is Danger in Matters of Concernment, Men uſe to be very circumſpect who they chooſe, and make choice of as few as poſſible; but now here is Perſon after Perſon, Conſpiring without End, and Letters to this Perſon, and to that Perſon, and nothing is proved to be done upon it, ſo that here is the greateſt Confuſion imaginable, an Hundred of Men, nay, almoſt a whole Nation are acquainted with it, when a few might ſerve the Turn.

Sir *Rob. Sawyer.* Why do you ſay 'twas known to the whole Nation, when it was ſo cloſe a Conſpiracy?

L. C. J. North. You that are at the Bar; We do not object to what you ſay, as to the Way of it, but as to the Time that you deliver it in; it is the Courſe, that you deliver your Objections when the King's Evidence is done; indeed when the King's Counſel have done what Queſtions they have to aſk of the Witneſſes, then you may aſk them what Queſtions you will, but for the Obſervations that you would make by way of Objection to the Evidence, and as to their Credit, you ſhould reſerve that to the laſt, when the King's Evidence is done.

Priſoners. My Lord, we deſire we may be allowed Pen, Ink and Paper.

* *Sir* George Jefferies. * *Mr. Recorder.* Let them have it.

L. C. J. Indeed there is one Thing very conſiderable on your ſide, and 'tis fit there ſhould be an Account given of it. 'Tis very ſtrange, that a Thing of that Nature ſhould be writ ſo plain, I mean the killing of the King, in a Letter that ſhould be ſent by the Common Poſt; what ſay you to that?

Dugdale. Mr. *Ewers* did it for no other End in the World, but that they intended, if it ſhould be diſcovered, all ſhould be flung upon me, and I was ſworn to deny it, and they were to go free.

L. C. J. What were the Words of the Letter?

Dugdale. In that of Mr. *Whitebread*'s, it was contained downright plainly, *he ſhould chooſe ſuch as were hardy, for the killing of the King.*

L. C. J. And how did that Letter come?

Dugdale. By the common Poſt.

Sir *George Wakeman.* No Man living can believe it.

Mr. Juſt. *Pemberton.* There was no mention of *Ewers*, on the Outſide, nor no Name to it, was there?

Dugdale. No, none at all, my Lord.

Mr. Juſt. *Pemberton.* No Name to the Letters?

Dugdale. Only the two firſt Letters of their Names.

Marſhal. Would they, in ſuch Caſe, can any Man think, be ſo mad as to venture their Lives, and all, for they knew not what? Would the Lords, whoſe Names, he ſays, were ſubſcribed to one of the Letters, engage their Lives and Fortunes in the Signing of a Letter, wherein both were ſo much endangered, and commit it to ſuch an Hazard?

Rumley. Would they ſet their Hands to ſuch a Letter, as they could not be certain into whoſe Hands it might come? and he ſays, he does not know who it came from.

Mr. Juſt. *Pemberton.* Mr. *Dugdale*, was that Letter by a common Poſt, that the Lords ſet their Hands to?

Dugdale. No, it was by a ſpecial Meſſenger.

L. C. J. Look you, Gentlemen, the Anſwer that he gives to your Objection is this; You ſay it is ſtrange, and indeed it is ſo, that ſuch a Deſign ſhould be writ ſo plain in *Engliſh*, in a Letter; but he ſays there was no Body in Danger by it, but himſelf, for there was no Body could tell from whence it came, becauſe only two Letters of the Name were ſubſcribed; and, ſays he, it was directed to me only, and ſo I might have ſuffered, but *Ewers*'s Name was not mentioned, to whom it was intended to go.

Rumley. Yet he ſays he does not certainly know who it came from.

Mr. Recorder. Gentlemen, you have your proper Time for that, if you will make any Remarks.

Mr. Juſt. *Pemberton.* Will you aſk him any more Queſtions? As for your Arguments, you muſt not uſe them now.

L. C. J. North. But they have deſired Pen, Ink, and Paper; is it given to them?

Mr. Recorder. You muſt allow the Priſoners Pen, Ink, and Paper, if they deſire it.

L. C. J. Ay, all of them, if they would have it. [*Which was done.*]

L. C. J. Mr. *Dugdale*, this Letter that came from *Whitebread*, it came with others, did it not?

Dugdale. Yes, my Lord, it did.

L. C. J. The Cover was directed to you, was it not?

Dugdale. Yes, my Lord, it was.

L. C. J. Had the other Letters particular Directions to particular Perſons?

Dugdale. Every Letter was directed to me.

L. C. J. What, beſides the Cover?

Dugdale. Yes, beſides the Cover.

L. C. J. Who were you to communicate them to?

Dugdale, They had a particular Mark that they were known by, there was always a black Croſs upon them. I was to give them to Mr. *Ewers*, and he was to communicate them to others concerned.

L. C. J. What was upon the other Letters?

Dugdale. I had no Letters but what I delivered to *Ewers.*

L. C. J. Was he the only Man that they were delivered to?

Dugdale. Yes, my Lord.

L. C. J. And he diſtributed them as he pleaſed, did he?

Dugdale. Yes.

L. C. J. Had you more Marks than one?

Dugdale. No, my Lord, no more Marks than one.

L. C. J. So you were only Agent between Mr. *Ewers* and them, and none elſe?

Mr. Juſt. *Wyndham.* They were all directed to you, how did he know who they were to go to?

Dugdale. I was to deliver them to him, and he diſperſed them to the ſeveral Perſons, and he rid conſtantly abroad about it.

L. C. J. Were there ſeveral Marks to know who they were to?

Dugdale. My Lord, he knew, by converſing with them, their ſeveral Hands, and ſo could tell, by what was written, what was intended, and what the Buſineſs was, and for whom.

Corker. There muſt have been ſeveral Tranſactions, and a Man muſt have received ſeveral Letters, before he knows another's Hand.

Mr. Juſt. *Pemberton.* Will you aſk him any Queſtions? you muſt not argue upon it yet.

Rumley. How many Letters came to you, pray, from beyond Sea?

Dugdale. An hundred, I believe, in two Years Time.

Rumley. From how many ſeveral Perſons? Methinks you ſhould produce ſome of thoſe Letters.

Dugdale. There were Letters from Sir *John Warner* very often. I cannot remember all.

Rumley. Methinks you might be more ready in your Evidence, than upon every Turn to ſay, You can't remember. Have you none of thoſe Letters?

Dugdale. I burnt thoſe Letters which I kept, before I intended to diſcover the Plot; but in a multitude of Letters, 'tis hard to tell Particulars, I tell you what I remember of them.

Corker. You make mention of killing the King, and raiſing an Army, and theſe were ſpecified in two Letters. In thoſe Matters which concerned the raiſing of an Army, were there only Letters, no Commiſſions ſent, for the raiſing of Forces? Did you never ſee any of the Officers? Did you never communicate with any of them?

L. C. J. Did you ſee any Commiſſions firſt?

Dugdale. No, I never did ſee any of them.

L. C. J. Did you ever talk with any that were intended to be Officers?

Dugdale. Yes, I have.

L. C. J. Name them.

Dugdale. There was Sir *James Symons*, and Mr. *Howard*, I have talked with them.

L. C. J. With them two?

Dugdale. And with one Captain *Adderley*, that is dead.

Corker. Why, there are three Officers towards the raiſing of ſeveral Thouſands of Men.

Mr. Juſt. *Pemberton*, Look you, Mr. *Corker*, you muſt direct your ſelf to the Court, and propoſe your Queſtions here.

Corker. Mr. *Dugdale* tells us, that for the promoting of this Deſign, that he gave 400*l.* and with the ſame Breath ſays, he was to receive 500*l.* Methinks this is to do and undo.

Mr. Juſt. *Dolben.* Pray keep this arguing of yours till the laſt.

L. C. J. North. The Court hath told you already, this is not proper for you. 'Tis true, you muſt have Liberty to aſk Queſtions, becauſe there are ſome Queſtions that elſe may be forgotten, and the Opportunity will be loſt: But when you have aſked thoſe Queſtions, make your own Obſervations upon them in private to your ſelves, and afterwards it will be time for you to argue upon it to the Jury, when the King's Counſel ſhall have done their Evidence: But now to make theſe Inferences will do you little Service, and can't be permitted.

Dugdale. My Lord, I deſire to anſwer it now. It was my Lord *Stafford* that promiſed me the Money, and I went preſently to know of Mr. *Ewers* what it meant, becauſe I had given my Money before, and my Lord *Stafford* did not, I ſuppoſe, know any thing of it.

L. C. J. How long was it before that you gave the Money?

Dugdale. It was two or three Years before; at the Beginning, when the Plot was firſt diſcovered to me, for the introducing of their Religion.

Mr. Juſt. *Atkins.* He was a great Zealot, but my Lord *Stafford* did ſuppoſe the Money might quicken him.

Dugdale. It was for my Encouragement, and I ſhould have a greater Reward after.

Corker. He received the Money, I ſuppoſe, when he was in Priſon for Debt, rather than for any thing elſe.

L. C. J. North. You may obſerve that by and by.

L. C. J. Look you, this is what he hath ſaid, it is all but in general, and he does not name any of you Four: But here was a general Contrivance, he ſays, to bring in Popery; I am afraid that is too true; and as the beſt way to effect that, they reſolved to kill the King; and I am afraid that is too true too, for it was indeed the likelieſt way.

Then ſtood up Mr. Praunce.

Mr. *Ward.* Mr. *Praunce*, pray will you give the Court an Account, only in general, of what you know of any Deſign that was at this time?

Praunce.

Praunce. It was a Fortnight or Three Weeks before *Michaelmas*, I went to one Mr. *Ireland*'s Chamber, in *Ruſſel-Street*, where was Mr. *Fenwick* and Mr. *Grove*, and there they were diſcourſing of 50000 Men that were to be raiſed, for the ſettling of the *Roman* Catholick Religion; and I aſked Mr. *Fenwick*, how that could be done? And he ſaid, Very eaſily, in a ſhort time. Then I aſked him, What poor Tradeſmen ſhould do? And he ſaid, I need not fear, for I ſhould have Church-Work enough, to make Crucifixes, Baſons and Candle ſticks.

Mr. Juſt. *Atkins.* You are a Working-Goldſmith?

Praunce. Yes. Then I aſked, who ſhould govern them? And he ſaid, my Lord *Powis*, my Lord *Stafford*, my Lord *Arundel*, my Lord *Bellaſis*, and my Lord *Petre*. Two or three Days after that, *Grove* came to my Shop to buy ſome Spoons for a Chriſtning; and then I did aſk him, what Office he was to have? He ſaid he did not know, but he ſaid, that my Lord *Bellaſis*, my Lord *Powis*, and my Lord *Petre*, had Commiſſions to govern the Army. And after that, there was one Mr. *Paſton* in *Duke-Street*, I went to him, to know how I could direct a Letter; and after a little Time, we fell into Diſcourſe concerning the Affairs of the Times. He told me, The Lords had given out Commiſſions, one was to Sir *Henry Bennyfield* in *Norfolk*, another was to Mr. *Stoner* in *Oxfordſhire*, and another was to Mr. *Talbot* of *Longford*. He ſaid that they had given Commiſſions for to raiſe an Army.

Mr. *Ward.* What was that Army to do?

Praunce. It was to ſettle the Catholick Religion.

Mr. *Ward.* Did you hear any thing mentioned of killing the King?

Praunce. Yes, I did.

L. C. J. Who told you this that you ſpeak of about the Commiſſions?

Praunce. Mr. *Paſton*, my Lord, in *Duke-Street*.

L. C. J. Was he a Prieſt?

Praunce. No, but he kept ſome in his Houſe, and they ſaid Maſs every Morning.

L. C. J. Is he of any Profeſſion?

Praunce. He was a Counſellor, but doth not practiſe now, he hath an Eſtate of 5 or 600 a Year.

L. C. J. Now go on, and ſay what he told you.

Praunce. He ſaid, there were Commiſſions given out to Sir *Henry Bennyfield*, and one *Talbot* of *Longford*.

L. C. J. When was it he told you this?

Praunce. It was in *Auguſt* laſt.

L. C. J. And did he ſay they had Commiſſions ſent to them?

Praunce. Yes, they had them in the Country, where they were to raiſe their Troops: I heard of more, but I only remembred thoſe Three.

Mr. *Ward.* Do you know one *Meſſenger?*

Praunce. Yes.

Mr. *Ward.* What Diſcourſe had you with him?

Praunce. My Lord's Butler told me ——

L. C. J. Who told you?

Praunce. My Lord's Butler.

L. C. J. What Lord?

Praunce. My Lord *Arundel*. He waited then on one *Sheldon*, that was Almoner to the Dutcheſs of *York*. He told me, That Mr. *Meſſenger* was to kill the King, and he was to have a good Reward for the ſame. Soon after, I was going over *Lincoln's-Inn-Fields*, and met with Mr. *Meſſenger*, and aſked him, Why he would kill the King? He ſeemed to be ſurprized, and ſtarting back ſaid, Who told you that? Said I, Your Butler told me. Oh, ſaid he, we are quite off of that now: But then I was going away, and he called me back, and aſked me, if I would go and drink with him? No, ſaid I, I cannot ſtay at this Time. However, pray, ſaid he, keep Counſel, for we are off that now.

Mr. *Ward.* Will you aſk the Witneſs any Queſtions?

Corker. Yes, my Lord. Thoſe Commiſſions you ſpeak of, when were they ſent? in *Auguſt?*

Praunce. No, I do not ſay ſo; but that Mr. *Paſton* told me of them in *Auguſt*. I cannot tell the Day.

Sir *Rob. Sawyer.* If you obſerve it, Gentlemen, he only tells you what ſome of the Prieſts and Perſons of your Religion acquainted him with; not any thing particularly againſt you.

Mr. *Ward.* Then next we call Mr. *Jenniſon*. *Who ſtood up.*

Sir *Rob. Sawyer.* Mr. *Jenniſon*, pray give the Court an Account of what you know of any Deſign in Hand, or what Diſcourſe you had with any Perſon about ſuch a Thing.

Jenniſon. Sir, in the Month of *June* 1678, I was at Mr. *Ireland*'s Chamber.

Sir *Rob. Sawyer.* Where, Sir?

Jenniſon. In *Ruſſel-Street*, next the *White-Hart*. And there aroſe a Diſcourſe about Religion, and ſome hopes there were, he ſaid, that the *Romiſh* Religion ſhould be publickly owned again in *England*; and when I came in, I remember Mr. *Ireland* did ſay, There was only One in the Way, that ſtop'd the Gap, and hindred the Catholick Religion from flouriſhing in *England* again; and ſaid, it was an eaſy matter to poiſon the King.

L. C. J. Who was by pray when he ſaid ſo?

Jenniſon. His Siſter was by.

L. C. J. Name her, Sir.

Jenniſon. Mrs. *Anne Ireland.*

L. C. J. Who elſe?

Jenniſon. None elſe.

L. C. J. Then there was only you, and *Ireland*, and his Siſter. And you ſay, That they were diſcourſing concerning their Hopes of bringing in Religion, and *Ireland* ſaid, there was but One in the Way, and that it was not an hard matter to poiſon the King.

Jenniſon. Yes, my Lord; and ſo I not knowing any thing at all of the Plot, or imagining the Deſign, did anſwer, Perhaps it may be done, but it would be a very horrid thing if it ſhould. Then Mrs. *Ireland* did rebuke her Brother, and aſked him, Why he talk'd ſo? And then he anſwered with ſome *Salvo*, or other, That he did not think it ought to be done. Then I purſued the Diſcourſe about Religion, and told him, I thought it would never come in by Violence, and that it was a great ſcandal to Religion for the Profeſſors of it to propagate and promote it by any ſuch Ways: And then I put him in mind of the Gunpowder-Treaſon, of the Ill Succeſs it had, and the great Injury it did to the Cauſe. He anſwered, That was only a State Trick, and an Invention of my Lord *Cecil*'s.

L. C. J. Ay, they do ſay ſo, I know; were you a Papiſt then?

Jenniſon. Yes, my Lord, I was.

L. C. J. Are you one ſtill?

Jenniſon. No, my Lord.

Ward. Mr. *Jenniſon*, were you with him again at any time? And what time was it that you met him, as you remember?

Jenniſon. The 19th of *Auguſt*, after I came from *Windſor*.

L. C. J. Where did you ſee him?

Jenniſon. At his own Chamber in *Ruſſel-Street*.

L. C. J. How do you ſo preciſely remember the Day, that it was the 19th of *Auguſt?*

Jenniſon. I remember it by this; the beginning of *Auguſt* I went to *Tunbridge* with Mr. *Tonſtall* and another Gentleman, and there I ſtaid till the 14th, when I came to Town, and ſtaid two or three Days, and on *Saturday* in the Afternoon I went to *Windſor* to take my leave of Mr. *Bowes*, being to go down into the *North*; and there I ſtaid all *Sunday*, and came back again on *Monday* Morning, and came to Town about Twelve o'clock the 19th Day, as I have conſidered it ſince it was, and a *Monday*.

L. C. J. And then you went to *Ireland*'s Chamber, did you?

Jenniſon. Yes, then I went to Mr. *Ireland*'s Chamber.

L. C. J. By the Oath you have taken, becauſe it is very material, not to your Cauſe, but it ſhews how fit it is that the World ſhould know with what Truth or Falſhood theſe Men dare die, and this Man did in particular. It was affirmed by him to the very laſt of his Breath, that he was never here in *London* after the third of *Auguſt*, till ſome time in *September*, but was all the while in *Staffordſhire*; and they did at the laſt Trial produce Sir *John Southcot*, and his Coachman, and his Lady, and I know not how many other Witneſſes, to give an Account where he was from the third of *Auguſt*, all along till the middle of *September*; and they teſtified that they kept Sixteen Days together in his Company; and then they produced People in *Cheſhire* to ſay, that they ſaw him there. Therefore I do now aſk you upon your Oath, Are you ſure that you ſaw *Ireland* here the 19th of *Auguſt?*

Jenniſon. Yes, my Lord.

L. C. J. Do you ſwear that poſitively?

Jenniſon. Yes, my Lord, I do.

Sir *Rob. Sawyer.* He will tell you the Diſcourſe he had with him then.

Jenniſon. After that I came to Mr. *Ireland*'s Chamber, I underſtood he was newly come out of *Staffordſhire*. And he pull'd off his Boots while I was there upon the Frame of a Table, or elſe upon a Jack, I cannot poſitively tell which, but I believe it was on a Frame of a Table. I aſked him, how all our Friends did in *Staffordſhire?* He told me, very well, and that they would be glad to ſee me there. Then he aſked me whence I came, and where I had been? I told him I had been at *Windſor*. He aſked me, what News? How the Court diverted themſelves? I told him, I underſtood his Majeſty took great Delight in Hawking, and Fiſhing, and chiefly in Fiſhing, and uſed to go out very early in the Morning, accompanied only with three or four Perſons of Quality.

L. C. J. Did he aſk you what Company he had? Or did you tell him of your own accord?

Jenniſon. No, I think I told him of my own accord, that the King went out very early, and had but little Company with him. Lord, ſaid he, I wonder the King ſhould go ſo thinly Guarded, he were eaſily taken off, I wonder he ſhould go ſo open. Said I, God forbid, ſure no body would be ſo wicked; and then he qualified it by ſome Expreſſion; ſo that at that time I made no ill Reflection upon it, till after the Plot broke out, and then diſcourſing of it to my Father and my Siſters, I ſaid, I wiſh it be not true, pray God there be nothing in this Plot, becauſe of the Diſcourſe that happened between Mr. *Ireland* and me. 'Tis very ſuſpicious, ſaid I.

Sir *Rob. Sawyer.* At that time had you any Diſcourſe whence he came, and about his wearineſs?

Jenniſon. He ſaid he came out of *Staffordſhire*, and came Poſt. I underſtood he came very early that Morning. I told him that Scholars, ſuch as he, would rather chooſe to come upon an Ambling Horſe, and that I was weary my ſelf.

Sir *Rob. Sawyer.* Were you very well acquainted with Mr. *Ireland* that ſuffered?

Jenniſon. Yes, very well.

Sir *Rob. Sawyer.* Are you ſure he was in *London* the Nineteenth of *Auguſt?*

Jenniſon. Yes, and I talked with him then.

L. C. J. How long had you known him before?

Jenniſon. A Year and a half.

Sir *Rob. Sawyer.* Pray when did you go out of *London* to the *North?* What time did you go away?

Jenniſon. I went the fourth of *September*, as the Coach-Book will make it appear.

L. C. J. The Evidence they gave was, that he did not come to Town till the 13th of *September*, but he was gone the 4th it ſeems to the *North*, and that is before that time. Well, will you aſk him any Queſtions?

Corker. Mr. *Ireland* had been in *Staffordſhire?* Had not he? for the 19th you ſay he came to Town, I do not well remember, but the Deſign of the Ruffians of killing the King, about which *Oates* ſpeaks, was before the 19th, at the Conſult of which *Ireland* was ſo grand an Inſtrument.

L. C. J. That was in *May*, was it not?

Corker. No, that of the Ruffians was in *Auguſt*, as he ſays.

Sir *Rob. Sawyer.* Will you aſk him any Queſtions? Look upon him; you ſee how creditable a Witneſs he is.

Corker. Did you, pray Sir, leave your Religion, and make this Diſcovery before the pretended Plot came out? When did you leave your Religion?

Jenniſon. About three Months ago.

L. C. J. He told you that as ſoon as the Plot broke out, ſaid he, I told my Siſters and my Father of it, and ſaid, I pray God this Plot have not more in it than we are aware of, for I had ſome Diſcourſe with Mr. *Ireland*, which I took no notice of then, becauſe he qualified it at that time, and ſaid it was not lawful, and did make nothing of it then, but now it runs much in my Mind.

Corker. This, he says, but this Man did not leave his Religion, nor make this Discovery till it appeared advantageous to him so to do.

Mr. Recorder. It is an Observation you make, but it had been well if you, and all of that Persuasion, would have left it when you saw what it led to.

L. C. J. I know not what Advantage you mean, nor do I see any colour you have to say so, for they say this Gentleman's Father is one of 1000 a Year, and he is his Eldest Son.

Corker. Are you your Father's Eldest Son.

Mr. Recorder. There is an Elder Brother, my Lord, but he is a Priest.

L. C. J. Is your Elder Brother a Priest?

Jennison. My Lord, I do not know that, he is in *Newgate* about it.

L. C. J. It is reported that he is so?

Jennison. My Lord, I don't know it of my own knowledge.

Corker. He does not know it, and therefore he is not the Heir, and therefore the Advantage of his Estate is not such, but that he might lay hold of this Discovery.

Sir Rob. Sawyer. I hope by and by, Gentlemen, you will make a better Defence than this.

Mr. Just. Pemberton. What you say should be by Way of Question proposed to the Court.

Mr. Recorder. But you take it upon your Oath that you saw *Ireland* the 19th of *August?* Was that after you met with Mr. *Bowes?*

Jennison. I did not meet with Mr. *Bowes.*

Mr. Recorder. How long after you had left him was it?

Jennison. I did not see him there, I went to see him, but he was not there.

L. C. J. But he says precisely that the 19th of *August* he went to Mr. *Ireland*'s Chamber, where he saw him pluck off his Boots, and talking, as if he had come out of *Staffordshire*, Post, so that indeed he was in *Staffordshire*, but not all that time he said he was.

Mr. Ward. Then pray call Mr. *Bowes.* *Who was sworn.*

Sir Rob. Sawyer. Pray, Sir, will you give the Court an Account, when you saw this Gentleman, and about what time he went out of Town?

Bowes. My Lord, I saw him in *August*, the beginning, or about the middle of *August*, in *Tunbridge*, before my coming to Town.

Sir Rob. Sawyer. Pray when did he leave this Town? when did he go out of Town?

Bowes. I cannot point blank tell the time, but I could recollect my self, I believe, in a little time.

Sir Rob. Sawyer. Do you know of his going to *Windsor?*

Bowes. I did not see him there, but he writ a Letter to me that he went thither to meet me there, but I saw him not till he came to Town again.

L. C. J. Who is't you speak of?

Bowes. Mr. *Jennison.*

Sir Rob. Sawyer. What did he write you in that Letter?

Bowes. Sir, the Letter is here in Court, I don't remember the particulars.

Sir Rob. Sawyer. Is it here in Court?

Bowes. Yes, it is, I think.

Mr. Recorder. Shew it him, for it may refresh his Memory about the time. [*Which was done.*]

L. C. J. Is that the Letter?

Bowes. This is the Letter.

Sir Rob. Sawyer. Pray, when did you receive it?

Bowes. It was in *December* before *Christmas*, here is a Gentleman that then saw it.

Sir Rob. Sawyer. Pray, Sir, will you please to look upon it, and then acquaint the Court with some of the Contents.

L. C. J. North. You are sure, Mr. *Bowes*, that Mr. *Jennison* was in Town in *August?*

Bowes. He came then from *Tunbridge.*

L. C. J. That is all, we can make no more of it: Did he meet you at *Windsor?*

Bowes. No, my Lord, I was gone to *Windsor* before, and when he came I was gone out of the Town.

L. C. J. What time went you to *Windsor?*

Bowes. The twelfth or thirteenth of *August*; it was on a *Monday* or a *Tuesday* after I came from *Tunbridge.*

Sir Rob. Sawyer. Then we shall call one Witness more, and we shall prove by him (that is one Mr. *Burnet*) that the seventeenth of *August* he did meet Mr. *Jennison* going to *Windsor.* Pray call Mr. *Burnet.* [*Who was sworn.*]

L. C. J. Pray, Sir, do you know Mr. *Jennison.*

Burnet. I met him as I was coming from *Windsor* that Day *Dotchet*'s Horse-Race was.

L. C. J. What Day was that?

Burnet. I cannot exactly remember the Day.

L. C. J. What Month was it?

Burnet. In *August.*

L. C. J. Was it the middle of *August*, or the latter end?

Burnet. It was about the middle of *August.*

L. C. J. This does not so much relate to you, but it is to give satisfaction to all the World, that what was asserted by Mr. *Ireland* all along, and at his Death, and seems to be justified by so many Witnesses as were produced on that account, to prove that he was not here in *August* is utterly untrue; for this Gentleman, Mr. *Jennison*, swears he saw him here in Town the 19th of *August*; and to prove that Mr. *Jennison* was here, here is Mr. *Bowes* and this other Gentleman that come to fortify his Testimony, who swears precisely, that the 19th of *August* he was at Mr. *Ireland*'s Chamber, where he saw him pluck off his Boots, and talk'd as if he came Post then from *Staffordshire.*

Corker. I suppose it will not be permitted us to make any Argument upon this neither as yet.

L. C. J. No, no.

Sir Rob. Sawyer. But now, Gentlemen, it will behove you to take Notes, for we shall come home to you, and we begin with Dr. *Oates.* [*Who stood up.*]

Mr. Ward. Pray, Sir, will you tell your whole knowledge of this matter, and apply your self as near as you can to every one of the Prisoners at the Bar?

Oates. My Lord, in the Month of *July* Mr. *Ashby* came to Town sick, and being sick, and one of the Society, the Prisoner at the Bar, Sir *George Wakeman*, was his Physician, and being his Physician he did write him some Instructions how he should order himself before he went, and at the *Bath*; That he should, in the first place, take a Pint of Milk in the Morning, and a Pint of Milk at Night, and should drink no Morning's Draughts but Milk, and that he should have one hundred Strokes at the *Bath*, at the Pump; I do not so well understand what that means, but I suppose the Court doth; but these were the words of the Instructions: In this Letter Sir *George Wakeman* did write, that the Queen would assist him to poison the King, and this Letter was brought by a Messenger to Mr. *Ashby.* Within a Day or two after I saw Mr. *Ashby* and Sir *George Wakeman*, the Prisoner at the Bar (he was so called, but I had no acquaintance with him, but just the sight of him) I saw him sit in a writing Posture, I saw him lay by his Pen, rise up and go away, and the same Hand that he left behind him in a Paper where the Ink was not dry, was the same Hand that writ the Letter to Mr. *Ashby.* And, my Lord, in that time of converse, while he was writing this, Mr. *Ashby* did give him some Instructions concerning the Commission he had received of being Physician to the Army. Now, my Lord, in some few Days after there came a Gentleman for some of the Fathers from *Wild-House*, that had the Title either of Sir *Richard* or Sir *Robert*, but he was a middle-statured Man, and a brisk Man, about the Age of four or five and forty, and he came with Commands from the Queen for the Fathers to wait upon her at *Somerset-House*, and I did wait upon these Fathers, there was Father *Harcourt*, Father *Kaines*, Father *Langworth*, and Father *Fenwick*, and another Father, I cannot remember his Name. And, may it please your Lordship, we did attend at *Somerset-House*, and the Fathers went in to the Queen, into a Chamber where she was, and I waited in an Anti-Chamber, and I did hear a Woman's Voice which did say, that she would assist them in the propagation of the Catholick Religion with her Estate, and that she would not endure these Violations of her Bed any longer, and that she would assist Sir *George Wakeman* in the poisoning of the King. Now, my Lord, when they came out I desired that I might see the Queen, and so when I came in I had, as I believe, from her a gracious Smile. Now, if it please your Lordship, while that I was within I heard the same Voice speak thus to Father *Harcourt*, and asked him, whether he had received the last 1000 *l.* and it was the same Tongue, as I can possibly guess, the same Voice which I heard when I was without; and I saw no other Woman there but the Queen, and there were these Fathers. My Lord, in that very Month of *July*, Sir *George Wakeman* was proposed 10000 *l.* in the presence of Father *Harcourt*, and Father *Fenwick*, I think was there, and Father *Ireland.*

L. C. J. Were you there?

Oates. I was there.

L. C. J. Was this Proposal made to Sir *George Wakeman* after this Discourse you heard at *Somerset-House.*

Oates. My Lord, I will not be positive whether it was before or after, but it was near that time this 10000 *l.* he did refuse.

L. C. J. But you say you heard the 10000 *l.* was proffer'd him; pray, who did propose it to him?

Oates. *Ashby* was to do it.

L. C. J. But who did it?

Oates. It was *Ashby* in the name of the Provincial, from whom he had received Instructions so to do.

L. C. J. But you say, in your hearing 10000 *l.* was offered him by *Ashby.*

Oates. Yes, my Lord.

L. C. J. What said he?

Oates. He refused it.

L. C. J. What words did he use?

Oates. He said it was too little.

L. C. J. What was the 10000 *l.* to be given for?

Oates. To poison the King.

L. C. J. Were those the words?

Oates. Yes, they were.

L. C. J. How did the Discourse begin?

Oates. I will tell your Lordship how: There was a Meeting of the Fathers for this very Purpose to treat with Sir *George Wakeman* before *Ashby* went to the *Bath*, and there being a meeting they did break this business to him; but what preamble they made to it I cannot remember. My Lord, as for the other Prisoners at the Bar, Mr. *Corker*——

L. C. J. But before you go from this Matter, you say you know not how they brought it in, but they brought it in some Way, he was to meet them to that purpose, and there *Ashby* did tell him he should have 10000 *l.* What Answer made he to it?

Oates. He said it was too little for so great a Work.

L. C. J. Is that all?

Oates. That is all that I remember.

L. C. J. Did he say what he would have?

Oates. I can't remember that, but he said that was too little.

L. C. J. Did he say he would have five more, or any other Sum?

Oates. No, that was not then mentioned; but there were Letters presently dispatched to *Whitebread* to tell him, that Sir *Geo. Wakeman* had refused 10000 *l.* and then this same *Whitebread* did order the Fathers in *London* to propose five more, which proposal was made to Sir *Geo. Wakeman.* This I speak but by hear-say, and it was accepted, and 5000 *l.* of it received in Part, and Sir *George Wakeman*'s Name was subscribed to the Entry-Book.

L. C. J. Did you see his Name subscribed?

Oates. Yes, my Lord, I did.

L. C. J. Where?

Oates. To the Entry-Book.

L. C. J. Where was that Book kept?

Oates. It was the Book that the Jesuits kept: it was then in our Custody.

L. C. J. Whose Custody?

Oates. The Fathers Custody.

L. C. J. Whose particularly? And at whose Chamber was it kept?

Oates. At *Wild-House.*

Sir Rob. Sawyer. Do you know who was the Keeper of it?

Oates. I cannot positively say that, I suppose the Secretary and the Fathers.

Sir Rob. Sawyer. And what did you see writ in that Book?

Oates. That such a Day, (which Day I cannot remember) but such a Day in *August* so much was proposed to Sir *Geo. Wakeman*, and he accepted it, and received it: those were the Words, or to that Purpose.

L. C. J. Were thoſe the Words writ in the Book?

Oates. Yes, or to that Purpoſe.

L. C. J. Do you know whoſe Hand writ that?

Oates. Yes, my Lord, I can tell whoſe Hand, it was Father *Harcourt* writ thoſe Words.

L. C. J. Sir *Geo. Wakeman*'s Hand was not to it, was it?

Oates. Yes, it was juſt underneath: Received ſo much Money of Father *Harcourt* by the Order of *Edward Coleman:* now there was the Goldſmith's Name to it, I cannot undertake to ſay who it was, but in my Conſcience I think it was *Staley*.

L. C. J. How much was the Money?

Oates. Five Thouſand Pounds.

L. C. J. Was Sir *Geo. Wakeman*'s Hand ſubſcribed to that Receipt?

Oates. Yes, it was.

L. C. J. Once more, what were the Words in the Book?

Oates. Memorandum. Such a Day 15000 *l.* was propoſed to Sir *Geo. Wakeman* which he accepted. I tell you the Purport, and the Words as near as I can.

L. C. J. Was it ſaid for what the Money was propoſed?

Oates. I will not be poſitive in that, I ſuppoſe it was.

L. C. J. But you ſay it was written ſuch a Day 15000 *l.* was propoſed to Sir *Geo. Wakeman*, and by him accepted?

Oates. Yes, my Lord, and then underneath it the Receipt was written, and this Receipt was written thus, *Received in Part of this* 15000 *l.* 5000 *l. of Father* Harcourt *by Order of* Edward Coleman. *Geo. Wakeman.*

L. C. J. Was the Receipt, which is ſaid ſuch a Day, the ſame Day with the other?

Oates. There was no other Date to it.

L. C. J. Had the firſt a Date to it?

Oates. Yes, my Lord, it had.

L. C. J. What Day was it?

Oates. It was in *Auguſt.*

Corker. What Day in *Auguſt?*

Oates. I cannot tell.

Corker. About what time in *Auguſt?*

Oates. It might be betwixt the beginning and the middle.

L. C. J. But we will ſuppoſe for the preſent Queſtion a Day: Suppoſe it was written the 10th of *Auguſt, There was propoſed* 15000 *l. to Sir* G. W. *and by him accepted*; and then comes afterwards this Note, *Received then* 5000 *l. in Part of this* 15000 *l.* with his Name to it. Was there any other Date to that?

Oates. No, that was ſet down at the ſame Day, *Received* 5000 *l. in Part by the Order of* Edward Coleman.

L. C. J. And then Sir *Geo. Wakeman*'s Name was ſet to it at length, was it?

Oates. Yes, it was.

Sir Geo. Wakeman. Where was that Received? In whoſe Chamber?

Oates. I cannot ſay that.

L. C. J. Was there any Place mentioned in the Note where it ſhould be Received?

Oates. No, my Lord. I was then ſick of the Stone, and was not at the Payment of the Money.

L. C. J. But did the Note mention any Name? Received of any Body?

Oates. It was by Order of Mr. *Edward Coleman* 5000 *l.* in part of this 15000 *l.*

Sir Geo. Wakeman. Does he ſay this was in the Entry-Book?

Oates. Yes, it was.

Sir Geo. Wakeman. Where was that kept?

Oates. Sometimes at *Wild-Houſe*, ſometimes Mr. *Langhorn* had the Cuſtody of it.

Sir Geo. Wakeman. I humbly beg of the Court that Mr. *Staley* may be ſent for.

L. C. J. He only ſays he believes Mr. *Staley* paid it.

Sir Geo. Wakeman. Does he mention no Place where it was received?

L. C. J. No.

Sir Geo. Wakeman. Nor no Perſon it was paid to?

L. C. J. No, he ſays, All I ſaw is this, that in the Entry-Book ſometimes kept at *Wild-Houſe*, ſometimes by Mr. *Langhorn*, there was written, *This Day* (which was ſome Day in *Auguſt) was propoſed to Sir* G. W. 15000 *l. and by him accepted*, and under that a Line or two more, which contained, *Then received* 5000 *l. by Order of* Edward Coleman, *being Part of this* 15000 *l.* *Geo. Wakeman.*

Sir Geo. Wakeman. Will your Lordſhip pleaſe to give me leave to ſpeak ſomething now, I may forget it hereafter.

Mr. Ward. We have not done yet.

Mr. Juſt. Pemberton. Sir *George*, they have not yet done with this Witneſs for the King.

L. C. J. North. Take a *Memorandum* of it in your Paper.

Sir Robert Sawyer. Pray, what do you know more of the Priſoner at the Bar, Sir *George Wakeman?*

Oates. This is all I can recollect at preſent.

Sir Robert Sawyer. Do you know any thing of any Commiſſion that he had?

Oates. I did urge that he received a Commiſſion to be Phyſician-General of the Army.

L. C. J. Did you ſee that Commiſſion?

Oates. Yes, I ſaw it in Sir *George Wakeman*'s Hands.

L. C. J. Had you ſeen it before?

Oates. Yes, I had.

L. C. J. Where did you ſee it in his Hand?

Oates. When he was writing at Mr. *Aſhby*'s.

L. C. J. What Note was that he left behind him there?

Oates. It was an Apothecary's Bill, as I ſuppoſe.

L. C. J. What Month was it that you ſaw the Commiſſion?

Oates. It was in *July.*

Mr. Ward. What do you know of his being privy to the Conſult in *April?*

Oates. I cannot ſpeak any thing to that.

L. C. J. Did he write his Name to that Bill?

Oates. I cannot ſay that, my Lord, it was finiſhed, but I cannot be poſitive about the Name.

L. C. J. But you ſay, that you believe that the Name of *George Wakeman* was the ſame Hand with that you ſaw when he writ the Apothecary's Bill?

Oates. It was, as near as I can gueſs, the ſame with that Letter that was writ to *Aſhby*, wherein he does direct him to take a Pint of Milk in the Morning, and a Pint of Milk in the Evening, and that he ſhould have an hundred Strokes at the *Bath:* And this Hand was the ſame with that of the Apothecary's Bill.

L. C. J. You never ſaw Sir *George Wakeman* write in your Life, did you?

Oates. I ſaw him in a writing Poſture, and I ſaw him lay by the Pen.

L. C. J. But you did not ſee him write?

Oates. No, my Lord; but the Gentleman that ſat by him was lame of both his Hands and could not write: And I ſaw him lay by the Pen, and when he was gone away the Ink was not dry.

L. C. J. You ſpeak of that only to ſhew the Likeneſs of the Hand.

Sir Geo. Wakeman. Have you not ſaid that you do not know my Hand?

Oates. I have told the Court before how far I have known your Hand. I ſaw a Letter, that I ſay was ſigned and ſubſcribed *George Wakeman*, and that was the ſame Hand that was to the Receipt, and to the Apothecary's Bill.

Sir Geo. Wakeman. Have you not ſaid poſitively that you do not know it, and is not that Matter on Record?

Oates. I did ſee a Letter ſubſcribed *George Wakeman*, 'tis a fine genteel Hand, and after I ſaw him in a writing Poſture, I ſaw him lay by the Pen, the Ink and Paper was wet; I did not indeed ſee him write, but there was no body in the Room that could write, or in a writing Poſture but he, for the other Gentleman was lame of both Hands.

Sir Geo. Wakeman. But I pray give a poſitive Anſwer to what I aſk you; have you not ſaid you do not know my Hand?

Oates. I do not remember I have ſaid ſo.

Mr. Juſt. Pemberton. But he ſays now he believes that Hand that writ the Letter to *Aſhby*, and the Bill that he ſaw green, when no Body was by that could write but you, were the ſame.

Sir Geo. Wakeman Have not you ſaid, before the King and Council, that you never ſaw me in all your Life, and that you did not know me?

Oates. My Lord, you may be pleaſed to know, when I ſaw Sir *George Wakeman* at the Council I had been up two Nights together, and the King was willing once to excuſe me from ſtaying any further Examination, and being ſo ill and indiſpoſed for want of Reſt, in reſpect both of my Intellectuals, and every thing elſe, I might not charge him ſo home; but now I have a proper Light whereby I may ſee a Man's Face, I can ſay more to him.

Sir Geo. Wakeman. This is juſt *Coleman*'s Caſe, the Light was in your Eyes.

Oates. This is the ſame Gentleman: I deſire he may propoſe his Queſtions to the Court.

L. C. J. This is his Queſtion, whether you did ſay before the King and Council, you did not know Sir *George Wakeman?*

Oates. I do not remember whether I did or did not. I ſaw one called Sir *George Wakeman*, and this is that Man; but I will not ſay, this was the Man that was before the Council when I was there.

Mr. Juſt. Pemberton. Did you ſee the Commiſſion in this Man's Hand?

Oates. Yes, I did.

L. C. J. Did you know this Gentleman before he was at the Council?

Oates. I ſaw this Gentleman with Mr. *Aſhby*, and he can't deny it.

Sir Geo. Wakeman. Can't deny it! Yes. I hope you will be able to prove it. You ſaid you never ſaw me in your Life, before you ſaw me at the Council.

L. C. J. Did you ever ſee him more than once?

Oates. Yes, twice in Mr. *Aſhby*'s Chamber.

L. C. J. What, two ſeveral Days?

Oates. Yes, two ſeveral Days.

Mr. Juſt. Pemberton. Where was it that you ſaw him when the Writing you ſay was green that he left behind him?

Oates. It was at Mr. *Aſhby*'s Chamber.

L. C. J. You never ſaw him before that, did you?

Oates. No.

L. C. J. How often after?

Oates. But once after that.

L. C. J. Was that at the Council?

Oates. No.

L. C. J. Look you what he ſays, he never ſaw you but twice before he ſaw you at the Council.

Oates. I ſaw you when the 10000 *l.* was propoſed to you.

Sir Geo. Wakeman. Where was that?

Oates. At *Wild-Houſe.*

Sir Geo. Wakeman. Did Mr. *Aſhby* lie there?

Oates. He did lie there, becauſe the Provincial was beyond Sea, and he came up to *London* in order to go to the *Bath.*

Sir Geo. Wakeman. What Day was that Propoſal made to me?

Oates. It was before Mr. *Aſhby* went to the *Bath.*

Sir Geo. Wakeman. In what Month?

Oates. In the Month of *July.*

Sir Geo. Wakeman. By whom? By Mr. *Aſhby?*

Oates. Yes.

Sir Geo. Wakeman. In the Preſence of whom?

Oates. Father *Harcourt*, Father *Ireland*, and Father *Fenwick.*

Sir Geo. Wakeman. You will be ſure to name thoſe that can be neither Witneſſes for me nor againſt me.

L. C. J. Who can help that?

Oates. I reckon up ſuch as you did keep Company with.

L. C. J. Do you know when Mr. *Aſhby* went to the *Bath?*

Oates. The latter end of *July*, or the beginning of *Auguſt*, as I remember. And this was before he went: he ſtayed but fourteen or ſixteen Days, as I remember, in Town.

L. C. J. He ſays he ſaw you but twice, once when you writ that Note, and the ſecond time when the Propoſal was made to you.

Sir Geo. Wakeman. And you know all theſe Things, at that Time when I was examined before the King and Council? Turn this way and anſwer me.

Oates. I am not bound to anſwer that Queſtion.

L. C. J. But you muſt anſwer his Queſtions, if they be lawful.

Sir Geo. Wakeman. I ſay, I aſk him, Whether he knew all theſe things before that Time I was examined before the King and Council?

L. C. J.

L. C. J. That muſt needs be, for all theſe Things were done before.

Sir Geo. Wakeman. Then I aſk him this Queſtion, why did you ſay before the King and Council, that you knew nothing of me, but concerning one Letter that was writ from Mr. *Aſhby* to Mr. *Fenwick?* I ſhall prove this upon you; but, my Lord, let me obſerve this, Can any one believe, that if ſuch Evidence had been given in to the King and Council, againſt me, as he now ſpeaks of, that I ſhould not have been immediately taken into Cuſtody, but that I ſhould have my Liberty ſo long as I had?

L. C. J. I will tell you, Sir *George*, you will do very well and properly to call up your Witneſſes by and by, when you come to make your Defence, and to prove what he ſaid at the Council-Table. Pray, Dr. *Oates*, what was the Reaſon you did not give the ſame Evidence then you do now?

Oates. I can, by and by, give an Anſwer to it, when it is proved by him what I did ſay. As to Mr. *Corker*, I ſay this, He had a Patent from the See of *Rome*, to be Biſhop of *London*, and Mr. *Corker* was privy and conſented to a Propoſal that was made by *Langhorn* to the *Benedictine* Monks, whereof he is one. And theſe *Benedictine* Monks did contribute 6000 *l.* to the Society of the Jeſuits, in order to be carrying on of this Deſign. And Mr. *Corker*, tho' he did deny before ſome Juſtices of the Peace, that he did go out of the Kingdom, yet he did go over to *Lampſpring* in *Germany*, and ſtaid there ſome ſhort Time, and he did write a Letter, but whether it was dated from *Lampſpring* in *Germany*, or no, I cannot tell, becauſe there was only the Date of the Month, but not of the Place from whence it came, but the latter end of *Auguſt*, it was, and therein he wrote, that he did conſent to the Propoſal, for the raiſing of the ſaid 6000 *l.* for he is Preſident of the *Benedictine* Monks, and therefore it was neceſſary that he ſhould give the Suffrage, and he had been with Father *Le Chaiſe* and the *Engliſh* Monks in *Paris*, and had given an Account what Proſpect of Affairs he had in *England*, and how the Deſign went on.

L. C. J. Was this in a Letter?

Oates. Yes, it was.

L. C. J. To whom was that Letter directed?

Oates. It was directed either to Father *Hitchcot*, or to Father *Howard*, then in *London*.

L. C. J. You ſaw the Letter?

Oates. Yes, I ſaw the Letter.

L. C. J. Were you acquainted with his Hand-writing?

Oates. I will ſhew you how far I might be acquainted with his Hand. My Lord, this Gentleman, as I think, went away in *July*, as near as I can remember, I won't be poſitive in the Time he went over; but in the Month of *June* I ſaw this Gentleman with Mr. *Fenwick*, and he had given him an Account either of ſome Friend or Kinſman of his, at St. *Omers*, that had not had his Penſion paid, and Mr. *Corker* did give a Note under his Hand, to Mr. *Fenwick*, where to take up ſo much Money, and the Money was to be received of Mr. *Langhorn*.

L. C. J. How much was that Money?

Oates. It was about 20 *l.* or 25 *l.* and he ſubſcribed his Name to it, *James Corker*; for that is his Name, tho' he is Indicted, I know not how, by the Name of *Anthony*: And I have a Summons to give Evidence againſt *Anthony Corker*.

L. C. J. He is Indicted by the Name of *James*.

Oates. And then I ſaw his Name to an Examination that was taken by Sir *Charles Harbord*, and ſome other Juſtices that were of the Houſe of Commons that took the Examination of this *Corker*, and it was the very ſame Hand he uſually writ, only it was not ſo fair, nor ſo well, in his Examination. This is that I ſay againſt Mr. *Corker*.

Sir Rob. Sawyer. Shew him that Hand there: Pray, Sir, look upon it.

[*Then a Paper was ſhewn to him.*]

Oates. This is the ſame Hand.

Corker. Is that a Copy of my Examination before the Juſtices?

L. C. J. It is the Original.

Corker. I am glad it is there.

L. C. J. Shew it the Priſoner.

Oates. Mr. *Corker* did uſe to beſtow the Queen's Charity——

L. C. J. Is that your Hand?

Corker. Yes, my Lord.

L. C. J. Shew him the other.

Corker. Theſe are both my Hand, as far as I can ſee.

Oates. That Note he gave to *Fenwick*, for the receiving this Money, was the ſame Hand with this, and ſo was the Letter that came, as we ſuppoſe, from *Lampſpring* in *Germany*; but I cannot ſay it did ſo, wherein he did give Conſent to the raiſing and giving this 6000 *l.* for the carrying on of the Deſign.

Sir Rob. Sawyer. What was that you had more recollected?

Oates. He did diſpoſe of the Queen's Charity (as it was ſo called) but Mr. *Corker* did ſay, it was to carry on the Deſign; and this he did ſay in the Month of *June*, when he was with Mr. *Fenwick*. Now, what he meant by that Deſign, I leave to the Jury to judge, only ſome Parcels he had diſtributed, Two or Three Shillings to ſome, and Forty Shillings to another, to ſome more, to others leſs: But a great Part of it he did uſe for the carrying on of this Deſign, and he ſaid the Queen had given him Orders ſo to do.

Sir Rob. Sawyer. What do you know of his being privy to the Conſult of the 24th of *April?*

Oates. He did know of it, and I will tell your Lordſhip how I know he knew of it. He did except againſt *Pickering* being choſen.

L. C. J. To do what?

Oates. To do that wicked Thing to kill the King, for ſaid he, *Pickering* is commonly attendant upon the Altar, and he thought it not ſo convenient, that he ſhould be employed about that Buſineſs becauſe he might miſs an Opportunity, by being at High Maſs, whereas another, a Layman, might do it.

Sir Rob. Sawyer. Were you preſent when the Exception was made?

Oates. Yes, it was when the Order was given about the Money, to *Fenwick*.

L. C. J. At whoſe Houſe was it?

Oates. At the *Benedictine* Convent in the *Savoy*.

Sir Rob. Sawyer. Was it expreſſed at that Time what *Pickering* was to do?

Oates. His being privy to the Conſult in *April*, I had it only from his own Mouth, for he wondered that the Jeſuits ſhould employ *Pickering* in that Buſineſs, when they might have a Lay-man, who was more fit; he being a Religious-man, and attending upon the Altar, it was not ſo convenient.

L. C. J. Where was that 6000 *l.* to be raiſed?

Oates. Out of the *Benedictines* Eſtates.

L. C. J. Was he their Preſident?

Oates. Yes, he was.

Mr. Juſt. Ellys. Dr. *Oates*, was he againſt the Thing, the doing of it at all, or againſt *Pickering*'s doing of it only?

Oates. He was only againſt *Pickering*'s doing of it. He would have had a Lay-man employed in it.

Mr. Juſt. Pemberton. That is plain, for he did give Conſent that the 6000 *l.* ſhould be raiſed for the carrying on the whole Deſign.

Sir Rob. Sawyer. Do you know any thing beſides that Letter you have mentioned, which he writ to give his Conſent?

Oates. Nothing, but that becauſe he had given his Conſent, the Money was paid.

L. C. J. Do you know it was afterwards paid?

Oates. I believe that the Money was paid, for our Fathers ſaid that they had received it.

Mr. Recorder. What ſay you to the reſt of the Priſoners?

Oates. Mr. *Marſhal* I do charge with the ſame, that is, that he was actually preſent at the *Benedictine* Convent, when the 6000 *l.* was agreed to be contributed, but it was not to be paid till they had an Anſwer from Mr. *Corker*.

Sir Rob. Sawyer. That Letter you ſpeak of, was an Anſwer to it, I ſuppoſe?

Oates. Yes, my Lord, it was ſo.

Sir Rob. Sawyer. What do you know of the Conſult, was he privy to that?

Oates. I will not be poſitive as to Mr. *Marſhal*'s being privy to the Conſult, I know that he was privy to *Pickering*'s undertaking to kill the King.

Sir Rob. Sawyer. How do you know that?

Oates. Becauſe he was of *Corker*'s Opinion, that they had better take a Lay-man.

Mr. Recorder. What ſay you to *Rumley?*

Oates. He is a *Benedictine* Monk, or at leaſt-wiſe a Lay-Brother. And he was privy to this Conſult, in which the 6000 *l.* was agreed to be paid and given, and I do judge he did conſent to it, for he did pray God that it might have good Succeſs and that the Catholick Cauſe might once again flouriſh in *England*.

L. C. J. North. He was there then, was he not?

Oates. Yes, he was there, but only as a Servant, a Lay-Brother of that Order.

L. C. J. North. Why, is he profeſſed?

Oates. Yes, I think he is.

L. C. J. North. What Time was this, Mr. *Oates?*

Oates. In *Auguſt*.

L. C. J. North. Was it the former part of *Auguſt?*

Oates. I cannot be poſitive, but I think it was.

Sir Rob. Sawyer. Can you ſay any thing more againſt the reſt of the Priſoners?

Oates. I do not recollect any thing more, at preſent.

Mr. Ward. Now, Gentlemen, if you pleaſe to aſk him any Queſtions, you may.

Rumley. Were you there preſent?

Oates. Yes, I was.

Rumley. Was it in the Month of *Auguſt?*

Oates. Yes, it was.

Sir Rob. Sawyer. Will any of you aſk him any more Queſtions?

Corker. He ſays I went in *June* to *Lampſpring*, now I would aſk Mr. *Oates* where *Lampſpring* is?

Oates. We ſuppoſe it to be in *Germany*.

Corker. 'Tis almoſt at the furtheſt end of *Weſtphalia*, and he ſays, that being there, I had Diſcourſe with *le Chaiſe*, and the *Engliſh* Monks at *Paris*, about this Deſign, I would fain make Senſe of this, if I could.

Oates. To ſatisfy Mr. *Corker*, I cannot ſay that he went to *Lampſpring*, but only as he ſaid himſelf; and they uſed to ſay they go to one Place, when they go to another: As *Ireland* ſaid he went to St. *Omers*, when he went into *Staffordſhire*.

Corker. Where, and when, did I give my Conſent to the Deſign about murdering of the King, for you named the 24th of *April?*

Oates. This is that I ſay to the Court, that the Privity that Mr. *Corker* had of the Conſult of the 24th of *April*, was that I had out of his own Mouth, in which he did declare, that he did think the Jeſuits had not done well to make Choice of one of their Order to do that Buſineſs, ſince he was to attend upon the Altar, but it would have been well if they had made Choice of ſome other Lay-man to match *Grove*.

Corker. You tell me, I had a Patent to be Biſhop of *London*.

Oates. I ſaw it in your own Hand.

Corker. Who gave me that Patent.

Oates. I did not enquire into that.

Corker. Did you hear me ſay, I accepted of it, and ſhould be Biſhop of *London?*

Oates. I heard you ſay this, you hoped it would not be long ere you ſhould exerciſe your Epiſcopal Function.

[*At which the People laughed.*]

Oates. I now recollect ſomething more. I remember Mr. *Marſhal* was preſent when Father *Hitchcot* and Father *Howard*, and *Conyers* the *Benedictine* Monk, were there preſent, about the laying of a Wager, whether, or no, the King ſhould eat any more *Chriſtmas*-Pies; and this *Benedictine* Monk, *Conyers*, did lay he ſhould not, and another Gentleman lay'd that he would, and this Gentleman, *Marſhal*, did go halves with *Conyers*, that he would not.

Marſhal. I deſire you would tell my Lords the Judges how long you have known me, and where you have ſeen me.

Oates. I have ſeen this Gentleman ſeveral times, but had never any Familiarity with him, but I have ſeen him officiate at the Altar.

Marſhal. How long have you known me?

Oates.

Oates. Firſt and laſt, two Years; but the firſt time that I knew you, to hear you ſpeak, was when Father *Hitchcot* and the reſt were there.

Marſhal. He ſays he hath known me theſe two Years, and yet never ſpake to me.

Oates. I knew him by ſight.

Marſhal. He looked upon me as a Prieſt, it ſeems, he knew me to be engaged in this Buſineſs, as he ſays, I wonder he ſhould never converſe with me.

Oates. There are a great many that I know by ſight, whom I never did converſe with.

L. C. J. What do you infer from that? It may be, you know ſome of the Bench by ſight, that you never ſpake to before, nor they to you.

Marſhal. What Day of the Month was this Conſult?

Oates. It was in *Auguſt.*

Marſhal. But what Day of *Auguſt?*

Oates. 'Tis a great Privilege that I tell you the Month. It was between the firſt and the middle of *Auguſt.*

L. C. J. He tells you it was the former part, but it lies in his Breaſt, whether he will or no, to tell you the exact Day.

Marſhal. My Lord, 'tis impoſſible to make a Defence, if Circumſtances of Time and Place be not mentioned.

L. C. J. 'Tis fit he ſhould anſwer, if he can tell the Time, but if he cannot, we can't help it.

Marſhal. But if he does not name the very Day he may name the Place.

L. C. J. He does name the Place, it was at the *Benedictine* Convent.

Marſhal. Why can't he as well remember the Day?

Oates. If they will tell me when the Feaſt of the Aſſumption is, which is a Feaſt of their making, then I will give them a pretty near Account when it was.

Marſhal. The Feaſt of the Aſſumption is the 15th of *Auguſt.*

Oates. My Lord, it was either the Day before, or the Day after.

Marſhal. Now he hath avouched this poſitively.

Oates. Nay, I will not be poſitive.

Marſhal. But you were ſo, that it was the Day before, or the Day after.

Oates. I appeal to the Judges of the Court.

L. C. J. If he will ſay it, let him, but People are not to be ſnap'd up thus. Mr. *Oates*, you are upon your Oath, and pray anſwer the Queſtion that is aſked by the Priſoner as poſitively as you can. If you can, ſay ſo, if you cannot, ſay ſo.

Oates. My Lord, I do believe verily it was either the Day before, or the Day after.

L. C. J. Are you ſure it was?

Oates. My Lord, I do verily believe it.

Marſhal. But what Accuſation is it of a Thief or a Murderer upon the High-way, unleſs you tell the Time exactly?

L. C. J. You ſee he will not anſwer poſitively.

Marſhal. Mr. *Oates*, was I at any other Conſult beſides this one?

Oates. Yes, you were, upon the 21ſt day of *Auguſt*, if it fell upon a *Wedneſday.*

Marſhal. What matter is it what Day it fell on?

Oates. If it were a *Wedneſday*, then the 21ſt of *Auguſt* you were at a Conſult, when we had Letters from Archbiſhop *Talbot*, wherein we had an Account of the State of *Ireland*, how the *Iriſh* Affairs did ſtand, but it did not pay an *Iriſh* Letter's Price, and therefore I ſuppoſe it came from this ſide of the Water, tho' it was directed as if it came from *Dublin.* And this was read there, and there was in it a Prayer, that a Commiſſion might be ſent down, and there were ſome Jeſuits and ſome *Benedictines*, amongſt whom *Marſhal* was one, and he did give his Conſent that the Commiſſion ſhould be ſent down.

L. C. J. What Commiſſions were they?

Oates. For Officers in the Army that was to be raiſed there.

Marſhal. Where was that Letter read?

Oates. At the *Benedictine* Convent.

Marſhal. And this, you ſay, was the 21ſt of *Auguſt?*

L. C. J. And that was on a *Wedneſday*, as the Almanack ſays.

Oates. There he agreed to ſend the Commiſſions into *Ireland* for the appointing of Officers, and did conſent to the poiſoning of the Duke of *Ormond.*

Rumley. When was *Pickering* taken?

Oates. He was taken the Night before, or *Michaelmas*-day in the Morning?

Rumley. Were not you there, Mr. *Oates?*

Oates. Yes, I was.

L. C. J. Were you at all the Conſults?

Oates. No, I was ſick, when Sir *George Wakeman* was offered the 15000*l.* and received the Five.

L. C. J. What Conſults were you at?

Oates. I will anſwer to thoſe Conſults that theſe Perſons are affected in; there was one Conſult about the beginning or middle of *Auguſt*, there was another the 21ſt of *Auguſt*, and then there was another Conſult wherein the 5000*l.* was paid, or ordered to be paid, to *Wakeman*, and I was not there.

Rumley. Who was the Meſſenger that took *Pickering?*

Oates. I do not know him.

L. C. J. Was the Conſult of Sir *George Wakeman* after the 21ſt of *Auguſt?*

Oates. No, my Lord.

Mr. Ward. Will you aſk him any more Queſtions?

Oates. My Lord, I deſire I may have leave to retire, becauſe I am not well.

L. C. J. You muſt ſtay, Dr. *Oates*, till after their Defence be over.

Mr. Recorder. If you deſire to have any Refreſhment, you ſhall have it got for you.

Sir Rob. Sawyer. Then we call Mr. *Bedlow* next. [*Who ſtood up.*] Pray, Sir, ſpeak your Knowledge concerning the Priſoners at the Bar.

Bedlow. My Lord, before I ſpeak any thing to the Priſoners, I deſire there may be a Difference between the Clerks of the Counſel and me decided, they have miſtaken a Word in my Evidence, and put in *New-Market*, for *Windſor.*

L. C. J. What does that ſignifiy to the preſent Buſineſs?

Bedlow. I deſire it may not be brought againſt me in my Evidence.

L. C. J. Then 'tis only for a Caution before-hand.

Bedlow. The latter part of the laſt Summer, it was, I think, about the beginning of *Auguſt*, Sir *George Wakeman* was at *Harcourt*'s Chamber, I my ſelf was there firſt, and when he came in, he fetch'd a Turn or two about the Room, ſeeming angry and diſcontented, and aſked *Harcourt* if he had any thing for him? Then *Harcourt* aſked him, How he did proceed? Said he, I don't know whether I ſhall or no; for what Reaſon am I drill'd on, in ſuch a Concern as this? Says Mr. *Harcourt*, Stay, Sir *George*, you need not be ſo haſty as to blame us, for we are better provided for you than you think for. With that *Harcourt* went to his Cabinet, and took out five or ſix Papers, and brought a ſmall Bill, and aſked Sir *George Wakeman*; ſaid he, Sir *George*, how are you provided? Said Sir *George*, I have been ready long ſince, but you have not been ſo punctual with me: But what have you there? Said *Harcourt*, I have a Bill of 2000*l.* From whom? ſaid Sir *George Wakeman.* Then he named a Gentleman, but I don't know him, nor can't remember him. And ſaid he, I came now from *Whitehall*, and receiv'd it from ſuch an one, which he ſaid was by the Queen's Order, and that he had it from her. This Bill is charged upon ſuch a Goldſmith, and named him, he dwelt ſome where about St. *Dunſtan*'s Church, but I can't remember his Name, I'll tell you by and by why I think he dwelt there. As ſoon as Sir *George* had read it, 'tis well, ſaid he, if it be accepted, I find more Encouragement from my good Lady and Miſtreſs, than from any of you all. They had ſome little more Diſcourſe, and Sir *George* aſked of *Harcourt*, who I was? Said he, 'tis a Friend that hath been long engaged in our Buſineſs, and is to do the next great Work to yours. Well, ſaid Sir *George*, I will go and ſee if the Bill be accepted, and you ſhall hear of me to-night; and accordingly he did go. I did not ſtay but a very little time after him, and therefore I collect he could not go far to get the Bill accepted; for I did croſs *Lincolns-Inn-Fields*, and came down a Lane by *Temple-Bar*, and between the *Queen's-Head* and *Chancery-Lane* end I met with Sir *George Wakeman:* Said I, Have you been with your Bill already, and is it accepted? Yes, ſaid he, 'tis accepted. And when is it to be paid? I am to go, ſaid he, in the Afternoon, to receive it.

L. C. J. Who ſaid ſo?

Bedlow. Sir *George Wakeman.*

L. C. J. To whom?

Bedlow. To me. And ſeeing of him return from the City-ward again, I concluded it was not far off, and ſpoke to him as I tell you. Sir *George* and I were not very well acquainted, but I had known him five Years, and upon that Character Mr. *Harcourt* had given of me, I thought I might make bold with him, and when I aſked him and accoſted him with that ſhort Queſtion, Is your Bill accepted? he made me Anſwer it was, and he was to receive it in the Afternoon, and thought it not fit to diſpute any thing with me.

L. C. J. You don't know what Goldſmith it was upon?

Bedlow. It muſt be one that lives about St. *Dunſtan*'s Church, or *Fleet-Street*, for he could not go far in that time.

L. C. J. Where was *Harcourt*'s Chamber?

Bedlow. In *Duke-ſtreet*, next the Arch. Now I aſked *Harcourt* afterwards, whether this was part of the 15000*l?* Said he, We have not adjuſted that Matter yet, but he receiv'd this only as a preſent Supply. And he did in a ſhort time after receive as much as made it up 5000*l.* But I aſked, whether it were for the old Buſineſs? Yes, ſaid he, 'tis for the ſame Deſign, if we ſhould fail of it by other Means. (And ſo was the Diſcourſe to Sir *George Wakeman)* if we ſhould fail of it at *Windſor*, then this Way is to be taken; and if this fail too, we will make ſure of it at *New-market.*

L. C. J. What do you know of the other Priſoners?

Bedlow. Mr. *Corker* I have ſeen with *Kaines* and *Le Fevre*, but never in their Company but once, where being in the great Court at *Somerſet-Houſe*, we walked out of the Court into the Piazza, and there we were ſpeaking of our Buſineſs. *Kaines* was ſaying to me, You brought ſuch a Letter, ſuch a Time, for me, and I have loſt it: I do not know what to do for it. Said I, Do you remember the Contents of it? Yes, ſaid he, I do. Said I, You ſhould take ſuch Letters in ſuch a Character as none could read but your ſelf, and then burn the Letters themſelves. Said he, I hope it will not come to Light, for none will meddle with my Papers, that can do me any Hurt. I heard nothing from Mr. *Corker*, that did relate poſitively to the Murder of the King, but *Corker* and *Le Fevre* were ſpeaking in general, about the Buſineſs, what Letters they had received from beyond ſea how to manage their Affairs.

L. C. J. About what Matter?

Bedlow. About the Plot, what Letters they had received from beyond Sea, and how forward they were in their Proceedings here.

Corker. What did we talk about?

L. C. J. What was it about ſtill?

Bedlow. It was about raiſing the Army, and what Intereſt he had with the People. It was in general, I come not to Particulars.

Corker. Did *Kaines*, or I, or any of us, name any ſuch thing as Plot, Deſign, or the like?

Bedlow. We were diſcourſing of the Buſineſs in general, I don't take upon me to ſpeak to Particulars.

L. C. J. What was it about, ſay you?

Bedlow. About raiſing an Army, what Intereſt he had in the People, who had been ſent into the Country, what they had done, and the like.

Corker. Did you hear any Word of Killing, Army, or Deſign?

Bedlow. Yes, every one of thoſe words were uſed. I don't take upon me to tell how the words were placed.

Mr. Ward. What ſay you to the reſt?

L. C. J. When was this Diſcourſe?

Bedlow. July was Twelvemonth.

Mr. Ward. What ſay you to Mr. *Marſhal?*

Bedlow. Mr. *Marſhal* hath reaſon to know me, and I ſuppoſe will not pretend to the contrary, for he cannot but remember that I knew him when I went to the *Gatehouſe.* He hath carried ſeveral Letters that have been brought from beyond Sea, and others that have been writ in *England*, into the Country, and I have been with him in *Latham*'s Chamber in the *Savoy*, and *Somerſet-houſe*, ſo long ſince as *Latham* was one of the Queen's Monks. He hath carried the ſame Letters that I have brought from beyond the Sea, three or four, or more at a time, to communicate to the Country Gentlemen of the Catholick Party, that were Aſſiſtants to us, particularly to Sir *Francis Ratcliffe* and others, I am ſure he hath carried, and he knew what was the Effect of thoſe Letters, and what were the Anſwers to them; he read them as well as any of them, for I think he is of the ſame Order, to the beſt of my knowledge, tho' I never ſaw him in his Habit.

L. C. J.

L. C. J. What was the Import of the Letters?

Bedlow. I never brought any one Letter to the Religious Fathers (and I have brought a great many) but what did import what I have now given in Evidence, and did relate to the full ſubſtance of what I ſay now.

Sir *Rob. Sawyer.* Can you mention the Particulars of any one Letter that he knew the Contents of?

Bedlow, I do mention one which I very well remember, and that was to Sir *Francis Radcliff*, and I remember it tho' it be long ſince, becauſe I was well acquainted with Sir *Francis Radcliff*'s Son, and I brought Commendations from his Son to *England.*

Sir *Rob. Sawyer.* Well, Sir, What was the Contents of that Letter?

Bedlow. It was a Copy of the Letter from *Le Chaiſe* in *Paris* to the Monks and Jeſuits in *England*, in Anſwer to the firſt Letters that I brought over to them relating to the management of the Deſign.

L. C. J. Was it mentioned in that Letter what the Deſign was?

Bedlow. In that which I carried over to *Le Chaiſe*, it was, that all things were in readineſs and the time now drawing near, for they did hope in a Year or two, or in a little time they ſhould be in a Capacity to put this in practice, and they did not queſtion but to ſubvert the Oppreſſion and Tyranny the Catholicks were under in *England.*

Sir *Rob. Sawyer.* Was Mr. *Marſhal* acquainted with the Contents?

Bedlow. He was one of them that uſed to examine the Anſwers. It was written to him partly, for if he were not a Member of their Order, as I think he is, he was one of the Club and Conſult that ſaw the Contents of all Letters. I have not ſeen him ſo often as I have done the others, but I believe he hath been there as often, but he hath received to my remembrance twice Letters to communicate into the Country concerning the Subverſion of the Government, and the Introducing of Popery.

Mr. Ward. What ſay you to Mr. *Rumley?*

Bedlow. I cannot be poſitive as to my own knowledge, but what Mr. *Harcourt* has ſaid.

L. C. J. Do you know any thing of your own knowledge by him?

Bealow. I have been told he hath communicated Letters of this buſineſs into the Country. And that he was one employed when any Secret Letters were ſent.

L. C. J. So you cannot declare upon your Oath, that you know that Mr. *Rumley* knew the Contents of any Letters relating to the Plot?

Bedlow. No, my Lord, I do not. I have a good remembrance of Faces, but I do not remember his.

Sir *Geo. Wakeman.* What Day was it that I had the Diſcourſe with *Harcourt*, and received the Bill from him as you ſay?

Bedlow. You aſk me a Queſtion as if I were in the ſtate I was formerly in, when I might have an Indulgence for telling a Lye. No, I have no Delight to Damn my Soul, to make you a Martyr; but to ſatisfy you as well as I can, I ſay, it was the beginning of *Auguſt*, or part of the beginning. I do not ſpeak to a Day.

Sir *Geo. Wakeman.* How do you know it was a Bill of Exchange for this Money?

Bedlow. You did read it aloud.

Sir *Geo. Wakeman.* Had I any Acquaintance with you?

Bedlow. No, but Mr. *Harcourt* told you who I was.

Sir *Geo. Wakeman.* And would I upon the firſt ſight of a Man diſcover to him what would endanger my Life?

Bedlow. Ay, and a hundred times more, if Mr. *Harcourt* did but tell you I was his Confident.

L. C. J. What were the Contents of that Note?

Bedlow. It was directed to a Goldſmith, whoſe Name I tell you I cannot remember.

Sir *George Wakeman.* You are good at remembring ſome Sir-Names, why can't you remember this Name as well?

Bedlow. I can remember Names that do relate to any buſineſs, but only hearing this Name by the by, I cannot remember it, for I did not then think it of ſuch Conſequence.

Sir *Geo. Wakeman.* You do not know me?

Bedlow. Yes, I do.

Sir *Geo. Wakeman.* I call God to Witneſs I never ſaw you before in my Life, that I know of. You have a very remarkable Face, and if a Man had once ſeen you he muſt know you again.

L. C. J. Who ſubſcribed that Note?

Bedlow. I don't know, it was one of the Queen's Gentlemen that *Harcourt* had it from. And whereas Sir *George Wakeman* ſays he does not know me, I did take Phyſick of him at the *Bath.*

Sir *Geo. Wakeman.* When was I at the *Bath?*

Bedlow. It was ſome Years ſince.

Sir *Geo. Wakeman.* I never was there but once, and that was a Year and a half ago.

Bedlow. No, Sir, it is more than that, for you were there when the Queen was there.

L. C. J. How long is it ago that you were there, Sir *George?*

Sir *Geo. Wakeman.* It was about two Years ago.

Bedlow. It is three Years this Summer.

L. C. J. Then that is well enough; for that is ſome Years ſince.

Bedlow. I had acquaintance enough with him while he was there.

Sir *Geo Wakeman.* I ſay this, my Lord, if I had been acquainted with Mr. *Bedlow*, I ſhould have known him to be a great Rogue, which is but what he hath ſaid of himſelf; and then I ſhould not have thought it fit to have truſted ſuch an one with ſuch a great Secret as this.

L. C. J. It may be he calls himſelf great Rogue for that which you would have applauded him for, and canoniz'd him too. It may be he thinks he was a Rogue for going ſo far as he did; but perhaps you are of another Opinion.

Bedlow. My Lord, I could not count myſelf an Honeſt Man, that had conſented to the Death of the King and Sir *Edmundbury Godfrey.*

Sir *Geo. Wakeman.* But tho' he gives you an Account of ſuch a Bill delivered to me, yet neither he tells you the Time, nor mentions the Man upon whom it was drawn: Here are all the Marks of Falſhood that can poſſibly be.

L. C. J. No, he does not mention the Man upon whom it was drawn, nor from whom; nor can he ſay that ever you received it; but you were to receive it.

Sir *Geo. Wakeman.* How came he to omit that? but becauſe I ſhould have no Plea for my ſelf when I came to be accuſed of it.

Bedlow. Pray, Sir *George*, don't preſs me to ſay more than I know. I do tell you all that I can ſay of my ſelf.

Mr. Recorder. Have you any more Queſtions to aſk him?

Marſhal. I aſk you this Queſtion; Firſt, Why will you Damn your Soul to ſend me to Heaven? Lay your Hand upon your Heart, and in the Preſence of God declare whether ever you ſaw me in your Life, before you came to the *Gatehouſe?* Whether ever you ſaw me in any Part of the World whatſoever? And whereas you ſay now that I owned that I knew you there; it was ſo far from it, that all the Company that were there, will ſay that you did not know me, and declared yourſelf a Stranger to me.

Bedlow. No, Sir, pardon me; you did not deny but that you had ſeen my Face.

Marſhal. No, all the Company that were there will ſay that you owned yourſelf a Stranger to me; you told me, *Mr.* Marſhal, *be not afraid; I will do you no hurt.* But Mr. *Bedlow*, Where have you ſeen me?

Bedlow. At the *Benedictine* Convent in the *Savoy.* And, my Lord, the firſt Word that I ſaid, when I ſaw him, was, that this Man's Name is *Marſhal*, and he carried ſuch and ſuch Letters into the Country, and Sir *William Waller* can teſtify the ſame. [*Who ſtanding upon the Bench, was ſworn.*]

Mr. Recorder. Mr. *Marſhal*, you had beſt to hearken to what Sir *William Waller* ſays.

Sir *William Waller.* My Lord, I went to the Priſon to ſee Mr. *Marſhal*, and Mr. *Bedlow*, was there with me, Mr. *Bedlow* aſked him if he did not know him, and called him by his Name; he declared he had ſeen him before, but ſaid he did not know him.

L. C. J. Did he call him by his Name as if he knew him?

Sir *William Waller.* Yes, my Lord, he did.

L. C. J. Look you, Mr. *Marſhal*, he ſays that you yourſelf, owned that you had ſeen him before, tho' you were not of his Acquaintance.

Marſhal. What Sir *William Waller* ſays I muſt oppoſe, tho' I am extremely ſorry ſo to do. Sir *William*, you may pleaſe to remember that you came to me after Mr. *Bedlow* was gone.

Sir *William Waller.* No, I was there with you before he came in.

Marſhal. I believe thoſe of the *Gatehouſe* do remember that I ſpoke with Mr. *Bedlow* in private in an interior Room; what you ſpoke was in the open Hall there. You aſked me whether Mr. *Bedlow* had not been there? I told you, Yes; that was in the publick place; whereas Mr. *Bedlow* talked with me only in a private Room.

Sir *William Waller.* My Lord, what I have ſaid is upon my Oath, and 'tis nothing but the Truth.

Marſhal. And I am upon my Life, therefore I am very ſorry I muſt for the Truth ſake, and Defence of my Life, contradict what you ſay. What your Worſhip and I ſpoke was in the publick Room; but what Diſcourſe Mr. *Bedlow* and I had, was in another private Room.

L. C. J. Look you, Sir *William Waller*, was you there when Mr. *Bedlow* was with him?

Sir *William Waller.* I was, my Lord.

L. C. J. Where?

Sir *William Waller.* In the common Room.

L. C. J. What did he ſay concerning Mr. *Bedlow* in the common Room?

Sir *William Waller.* Mr. *Bedlow* called him by his Name, and aſked if he knew him? He ſaid he had ſeen his Face, but did not know him.

L. C. J. Do you hear that, Mr. *Marſhal?*

Marſhal. Truly, my Lord, it goes againſt my Heart to ſpeak any thing in oppoſition to what Sir *William Waller* ſays, for I would not for all the World reflect or ſay any thing that ſhould glance upon Sir *William Waller*, as if he had taken a falſe Oath; but all in the *Gatehouſe*, nay Mr. *Bedlow* himſelf knows, that he had diſcourſe with me in a private Room before Sir *William Waller* came.

L. C. J. Mr. *Bedlow*, ſpeak yourſelf; was Sir *William Waller* there when you came to the *Gatehouſe?*

Bedlow. My Lord, I had an Order from the Council-Board to go and ſee the Priſoner, there was no Body that told me his Name, nor that I knew, knew it; but I would not do it, I was ſo cautious, but in the hearing and company of a Juſtice of the Peace, and therefore I went away before they had called him down, and I went to ſee if the Houſe of Commons were ſitting; and when I came back, Sir *William Waller* was juſt coming thither, and ſo I went in with him, for I met him at the bottom of the Stairs. We came into the common Room, and there was Mr. *Marſhal* with the Keeper, and I was in no other Room, but the common Room. And Sir *William Waller* withdrew to the end of the Room while I aſked him ſome Queſtions; and pray will you pleaſe to aſk Sir *William Waller* whether I did not call him by his Name as ſoon as I ſaw him?

Sir *William Waller.* Yes, my Lord, he did: He aſked him if his Name was not *Marſhal:* And whether he did not know him: And he ſaid he had ſeen his Face, but had no Acquaintance with him.

Marſhal. Were not you with me firſt in that Room which turns in on the right-hand from the common Room?

Bedlow. I do not know any ſuch Room in the *Gatehouſe.*

Marſhal. There were your Guards, Mr. *Bedlow*, and there were ſeveral others in the *Gatehouſe*; they cannot but remember what Room I was brought into: They cannot poſſibly but remember, that when Sir *William Waller* came to me, he aſked me whether Mr. *Bedlow* had been with me.

L. C. J. Look you, Gentlemen, they have done, call what Witneſſes you will, and make your Defence as well as you can.

Marſhal. My Lord, I did not think or imagine any ſuch thing would be ſpoke of; or that there would need any Atteſtation for it.

L. C. J. Look you, they have done; we will hear what your Witneſſes will ſay as long as you will.

Marſhal. My Lord, Mr. *Bedlow* ſeem'd a perfect Stranger to me when he came to the *Gatehouſe*; and to encourage me, told me, *Mr.* Marſhal (ſays he) *do not fear, I will do you no hurt at all: Did not you ſend* (ſaid he) *to ſuch an one, to have Mr.* Bedlow *queſtioned about ſuch and ſuch things?*

Which I denied, and he did not ſeem by any word that he ſpoke, to have ſeen me before in his life.

L. C. J. He told Sir *William Waller* your Name was *Marſhal*, tho' you went by a wrong Name, the Name of *Marſh*.

Marſhal. He might eaſily know my Name, by thoſe that took me.

L. C. J. But I tell you, you went by a wrong Name then, *Marſh*.

Marſhal. My Lord, I am called promiſcuouſly *Marſh* and *Marſhal*. But *Marſhal* is the Name I own.

L. C. J. And that is the Name he knew you by.

Marſhal. I did not call myſelf *Marſh* when I was taken, but told my true Name.

Bedlow. My Lord, I did not hear of any Name at all, but I ſaid, This is *Marſhal*, one of the *Benedictine* Monks, as ſoon as I came in.

Marſhal. Mr. *Bedlow* ſeem'd to encourage me to hope, and bid me not fear; ſaid he, You will have an honourable Bench, and a good Jury. And this, they that were there can teſtify.

L. C. J. Call them: Call your Witneſſes.

Marſhal. But my Lord, I did not know any thing of this. And Sir *William Waller*'s Queſtion that he aſked me was, if Mr. *Bedlow* was with me?

L. C. J. You hear what he ſays.

Marſhal. I am infinitely loth to ſay it, becauſe he ſwears it; and you well know, Mr. *Bedlow*, you talked with your Guards a while, and then turned at laſt to me.

Bedlow. Yes, I did talk with my Guards, but Sir *William Waller* was in the Room as well as I.

L. C. J. By what Name were you committed?

Marſhal. I had Letters about me, writ to me by that Name? and I thought it my Duty to anſwer to that Name that the Letters did call me by.

L. C. J. Well, have you any Witneſſes?

Marſhal. This is a Surprize, I did not know of any ſuch thing.

L. C. J. Have you any Witneſſes, Sir *George Wakeman?*

Sir *George Wakeman.* Yes, my Lord, I have ſeveral.

Marſhal. But, Mr. *Bedlow*, can you ſay you have ſeen me any where before you ſaw me at the *Gatehouſe?*

Bedlow. Yes.

Marſhal. Where?

Bedlow. At the *Savoy*.

Marſhal. And any where elſe?

Bedlow. Yes, and at other Places.

Marſhal. Name one other Place in the whole World, and I will be contented to die.

Bedlow. I will tell you why I cannot name any other Place poſitively. I did carry the Letters thither, there were the Conſults about them, and there I uſed to converſe with you moſt.

Marſhal. Can you prove that ever you were in the *Savoy* in your Life? And I will be hang'd without any more to do. If you can prove it either by Man, Woman, or Child, I will go to the Gallows, and will not ſay one Word more.

Bedlow. My Lord, I have other Witneſſes, but at preſent I cannot produce them: There are ſome in *Kent*, they are ſome of them in one Country, and ſome in another, I reſerve them for another time, but there is Oath made of it before the ſecret Committees of the Lords and Commons.

L. C. J. How can he imagine that this ſhould be put upon him? Therefore you may well believe that he hath never a Witneſs preſent. It may be he hath none can prove he ever was at *Weſtminſter-Hall* in his Life, for who could imagine ſuch a Queſtion ſhould be put to him?

Marſhal. Having been there ſeveral times, I ſuppoſe he did not uſe to go alone; 'tis impoſſible, but if they had been with him often there, he might prove it; if he ſay true, ſure ſome ſhould atteſt it.

L. C. J. 'Tis likely it ſhould be ſo, but he hath them not here.

Mr. Juſt. *Pemberton.* Why, do you think he can bring Witneſſes for every Act that he did in his Life?

Marſhal. If he have them not here, let him have time to produce them.

L. C. J. He hath a Witneſs in *Kent*, would you have us keep up the Jury 'till he ſends for his Witneſs out of *Kent*.

Bedlow. There is my Landlord, at whoſe Houſe I lay ſo long, can teſtify it.

Marſhal. Who is that?

Bedlow. Mr. *Cott* a Belt-maker in the *New Exchange*. He hath gone often with me when I have gone into the Convent, and he hath gone round about, and his Maid that uſed to carry the Portmantle, wherein I brought over the Letters from beyond Sea.

L. C. J. Can you name any one body that ever ſaw you in the *Savoy?*

Bedlow. I do name one; and beſides, my Lord, I lay in the *Savoy* half a Year at one *Woodroff*'s.

Marſhal. Was that the Place you ſaw me in?

Bedlow. No, no body came there but Monks and Meſſengers.

Marſhal. Was you there at the time when the *Savoy* was ſearched?

Bedlow. No, but I gave Sir *William Waller* directions to ſearch in the moſt material Places of it.

Mr. Recorder. He ſays a material thing, if he be in the right, that he did give Directions to Sir *William Waller* to ſearch in the moſt material Places of the *Savoy*. We will aſk that Queſtion of Sir *William* whether he did or no.

Sir *William Waller.* Both Mr. *Oates* and Mr. *Bedlow* did give me Directions to ſearch in the *Savoy*; they told me of ſuch a particular Room where *Pickering* lay, and where ſuch a Cloſet was, and many other things; and it was by their Directions that I made the Search.

L. C. J. Look you what Sir *William Waller* ſays; he ſays that both Mr. *Oates* and Mr. *Bedlow* did deſcribe ſeveral Rooms to him in the *Savoy*, which it was impoſſible for them to make ſuch a Deſcription, if they had not been there before.

Marſhal. I deſire to know when that Deſcription was given?

Sir *William Waller.* Two or three Days before I took Mr. *Marſhal.*

Marſhal. Mr. *Oates* made Searches there before.

L. C. J. But we ſpeak of *Bedlow* now.

Marſhal. But Mr. *Bedlow* might have knowledge from him and others that were there.

L. C. J. Do you think he muſt needs go officiouſly to inform *Bedlow* of what he found, upon an imagination that ſuch a Queſtion ſhould fall out hereon? And if he receiv'd no Information, how then could he deſcribe the Rooms without he knew them?

Marſhal. May there not be ſeveral Houſes that I may give a deſcription of, upon the hearſay of others, tho' I were never in them myſelf?

L. C. J. No, I know not very well how; and there is no reaſon you ſhould imagine he receiv'd information from *Oates*.

Marſhal. My Lord, there is reaſon enough, becauſe both do combine in the ſame Accuſation.

Bedlow. My Lord, I gave Sir *William Waller* Directions to ſearch in ſuch a Place, under ſuch a Bench in *Pickering*'s Apartment, where he found the Gun that was to kill the King.

L. C. J. Well, call your Witneſſes, Sir *George*.

Sir *George Wakeman.* Call Mr. *Chapman*.

L. C. J. But before they begin, Sir *Robert Sawyer*, we muſt do all the Right to every one we can. I do not find, by the ſtricteſt Obſervation that I have made, that Mr. *Bedlow*, who is the ſecond Witneſs, does ſay any great thing, any material thing againſt any one of them; but as for *Rumley* he ſays nothing at all. He ſays, in effect, againſt Sir *George Wakeman*, no more than this, That he ſaw *Harcourt* give him a Note for 2000*l.* which he ſaid was from the Queen; upon which Sir *George* ſaid he was more beholden to his good Lady and Miſtreſs, than to any of them all. The Note he does not know who drew it, nor upon whom it was drawn; nor does he ſay what it was for, more than what *Harcourt* told him, which was in doubtful Words, That it was about the old buſineſs; but *Harcourt* did not tell him this in the preſence of Sir *George Wakeman*, but he ſpoke to *Harcourt* about it. It is no more, than Sir *George Wakeman* receiv'd from *Harcourt* the Bill of Exchange, he does not know upon whom, nor for what.

Sir *Robert Sawyer.* My Lord, he ſays more, with Submiſſion; for he ſays this further, That there was a diſcourſe about the buſineſs; and he did tell you, That Sir *George Wakeman* ſhould complain, that they had not done well with him, and aſked why he was drill'd on; but when the Note was produc'd, he ſaid, My Matters are already prepared, but you are not ſo ready to perform your Promiſes. Then ſaid *Harcourt*, *If you are ready for us, we are ready for you:* And told him, *If he did not do it, they would do it at* New-Market.

L. C. J. What is all this? Pray Mr. *Bedlow* ſtand up again: We are now in the Caſe of Mens Lives, and pray have a care that you ſay no more than what is true upon any Man whatever. I would be loth to keep out *Popery* by that way they would bring it in, that is by Blood or Violence: I would have all things go very fair; Pray what, upon your Oath, was the firſt part of Sir *George Wakeman*'s Diſcourſe with *Harcourt* when they met?

L. C. J. North. Relate again your whole knowledge concerning Sir *George Wakeman*, and the Bill of Exchange, and the Diſcourſe after it, becauſe we are now upon the conſideration of it, what effect it will have upon him.

Bedlow. My Lord, I was with *Harcourt* in the Chamber, and Sir *George Wakeman* came in, and walked a turn or two about the Room, and ſeem'd to be diſcontented. *How do you, Sir* George? Said *Harcourt*. Says Sir *George*, *For what am I drill'd on thus in a Concern of this Importance? What is the matter with you Sir* George? ſaid *Harcourt*. *Why, is this a buſineſs to be ſlighted*, ſaid Sir *George*, *as I am? For I have no performance of your Promiſes. Why*, ſaid *Harcourt*, *what would you have? we are ready for you. Then* ſaid he, *I am ready for you.* And then *Harcourt* ſpoke merrily to him, *Why are you ſo angry, Sir* George? And upon that he goes to his Cabinet, and ſearching among his Bags he found a little Note among them, and gave it to Sir *George*; ſaith he, *There is a Bill for you: I have been to-day at* Whitehall, *and receiv'd it by the Queen's Order, from* ſuch a Gentleman: [whoſe Name I cannot now remember]; *and 'tis upon* ſuch a Man *for* 2000*l.* [but I cannot remember the Goldſmith's Name neither.] *Well*, ſaid Sir *George*, *'tis well ſomebody gives me Encouragement; I have more Encouragement from my good Lady and Miſtreſs, than from any of you. Nay*, ſaid *Harcourt*, *for Encouragement, that you ſhall not want; for the reſt ſhall be paid in due time.*

Sir *George Wakeman.* If the Queen had given me 2000*l.* for the Service I had done her, was that any harm? I have deſerved it, I am ſure, for nine Years Service.

Sir *Robert Sawyer.* What other Diſcourſe had they then?

Bedlow. Said *Harcourt*, *But Sir* George, *this muſt be well followed, and cloſely obſerved, becauſe ſo much depends upon it*; **For if we ſhould miſs to kill him at** Windſor, **or you miſs in your way, we will do it at** New-Market:

L. C. J. Who ſaid ſo?

Bedlow. Harcourt.

L. C. J. Did *Harcourt* ſay, before Sir *George*'s Face, *If we miſs killing him at* Windſor, *and you miſs your way, we will do it at* New-Market?

Bedlow. Yes, he did ſay, *If we miſs killing him at* Windſor, *and you miſs in your way (which we hope you will not) we will do it at* New-Market.

L. C. J. He ſays now quite another thing than he ſaid before.

L. C. J. North.
Mr. Recorder.
Sir *Rob. Sawyer.*
} No, he ſaid the ſame before.

L. C. J. What Anſwer made Sir *George Wakeman?*

Bedlow. Sir *George Wakeman* ſaid, If I find you ready, I will be ready in all things.

L. C. J. Was the Word ſpoke of *Poiſoning?*

Bedlow. I have ſpoken that already. *If we miſs at* Windſor, *and you miſs in your Way*; I do not remember whether the Word *Poiſon* was uſed; but I knew by what Mr. *Harcourt* and others had told me that *Poiſon* was meant by it.

L. C. J. Was all this one intire Diſcourſe?

Bedlow. Yes, my Lord.

Then Sir George *ſaid privately to his Fellow-Priſoners,*

There is my buſineſs done.

Sir *Rob. Sawyer.* Here is a poſitive Proof of the Receipt of Money which coupled with what *Oates* ſays, and the Diſcourſe that Mr. *Bedlow* tells you of, makes it out what it was for. This was paid in Part, was it not, Sir?

Bedlow.

Bedlow. The Anſwer that Mr. *Harcourt* gave to Sir *George*, was, That he ſhould have the reſt in due time.

L. C. J. But what ſay you to *Marſhal*, but that he carried Letters?

Sir *Geo. Wakeman.* Was there no body preſent but you?

Bedlow. There was only *Harcourt*, You, and I.

L. C J. But what ſay you to *Corker?*

Bedlow. Corker hath been in the Company with *Le Faire*, talking of News, what Encouragement they had by Letters from beyond Sea, as thoſe they had from *France*; ſuch and ſuch Letters ſpeak that they are in readineſs of Money, Men and Arms; and if we are ready here, they are ready for us. This was uſually the Diſcourſe, and all upon the ſame Deſign. Now when we talked of this buſineſs, we did not ſay the Word *Plot*, but we all know what was intended by it, that is the Plot.

L. C. J. And what ſaid *Corker?*

Bedlow. He ſaid it was well. He did know what readineſs ſuch and ſuch Perſons were in, when the Deſign was likely to take Effect. I know not their Names; we were talking of ſeveral Perſons ſeveral Times, ſome in *England*, and ſome *beyond Sea.*

L. C. J. What can you ſay to *Marſhal?*

Bedlow. I do ſay, that he hath been to conſult of the return of Letters which were the Anſwers to thoſe I brought from beyond Sea.

L. C. J. Did he know the Contents of thoſe Letters?

Bedlow. Yes, my Lord, he hath been in Conſultation what Anſwer to make again.

L. C. J. And was all this about the Plot?

Bedlow. Yes, for the ſubverting the Proteſtant Religion, and bringing in Popery, and raiſing of an Army.

Marſhal. Can you prove I knew any of thoſe Gentlemen the Letters were carried to?

Bedlow. I name one, that was to Sir *Francis Radcliff.*

Marſhal. How does he know that I know Sir *Francis Radcliff?*

L. C. J. Well, Sir *George*, will you call your Witneſſes?

Sir *Geo. Wakeman.* Call Mr. *Chapman.* [*Which was done.*] My Lord, there was a Letter or Note of Directions from me to Mr. *Aſhby*, and 'tis affirmed by Mr. *Oates*, that in that Letter I ſhould let Mr. *Aſhby* know I did approve well of the Propoſals that were made to me to poiſon the King, and that the Queen would aſſiſt me in it; and that in the ſame Letter there were directions given what he ſhould take, and how many Strokes of the Pump he ſhould make uſe of, and ſeveral other things fit for a Phyſician to direct his Patient in. Now, my Lord, I will prove by this Gentleman Mr. *Chapman*, who is Mayor of *Bath*, that he received this very Note from Mr. *Aſhby*, that he read it from the beginning to the end of it; that there was no Word in it, or mention of the King or Queen in the whole Letter, unleſs it be of the King or Queen's *Bath.* And, my Lord, I think he hath a piece of this Letter ſtill, that Part that was the Phyſical Part he tore off, and kept himſelf. Now 'tis none of my Hand, I never writ a Letter to *Aſhby* upon any occaſion whatſoever; and I will tell your Lordſhip how it came to paſs I did not write that Letter, I hope by a Providence, for I never but uſed to write my Phyſical Directions with my own Hand. It happened that I came home late, and I was very ill; *Aſhby* ſent to me for his Note, becauſe he was to go out of Town the next Morning; being weary and indiſpoſed, I laid me down on the Couch, and ſent for my Man, who is an Apothecary now, and is better able to write ſuch a Letter; I dictated the Letter to him, all my Family, and all that were by, can teſtify the ſame; he knows very well my Hand, and hath part of it to produce; for when the Queen was there, I made uſe of him for my Apothecary, and thoſe Phyſical Directions I ſent down for the *Bath*, I ſent always to him. He is a very good Witneſs as to my Hand.

L. C. J. But you may ſpeak of one Letter, and Mr. *Oates* of another.

Sir *Geo. Wakeman.* Why, did I write two Letters of Directions? what need that? He ſays he ſaw a Letter with my Name ſubſcribed to it.

L. C. J. Yes, it was ſo, and that you ſhould be aſſiſted by the Queen to poiſon the King; and being aſked how he did know that was your Hand? he ſaid, I did not ſee him write, but I ſaw him in the Poſture of writing; and when he went away, there was left on the Table, and the Ink was not dry, a Phyſical Bill, which was the ſame Hand with that the Letter was.

Sir *Geo. Wakeman.* Ay, my Lord, but he does not call that a Letter, but it was a Phyſical Bill, and not a Letter; ſo that there was but one Letter.

L. C. J. But there was a Note of Phyſical directions in the Letter.

Oates. That Letter was at leaſt half a Sheet of a ſide, cloſe written, wherein were thoſe paſſages that I mentioned; but I cannot give an account of all contained in it; but this, my Lord, I remember, that he ſhould take a Pint of Milk in the Morning, and a Pint of Milk in the Evening, and ſhould have ſo many Strokes at the *Bath*; but this was ſeveral Days before *Aſhby* went to the *Bath*, I believe at leaſt ten. Preſently after he came to Town. And I ſay, that this Letter that the Court aſks me how I prove it to be his Hand, I prove it thus: I ſaw him write a Bill to an Apothecary for Mr. *Aſhby* to take ſomething when he was in Town.

L. C. J. But was that buſineſs of being aſſiſted to kill the King in the ſame Letter that the Phyſical directions were in?

Oates. Yes, my Lord.

Sir *Geo. Wakeman.* Then 'tis the ſame Letter.

L. C. J. How does that follow? might there not be two?

Sir *George Wakeman.* There is only that part of it which is the Phyſical Preſcriptions, he hath torn off the other part.

Then Mr. Chapman *was Examined.*

Chapman. My Lord, the 17th of *July* laſt, Mr. *Thimbleby* came to the *Bath.*

L. C. J. Who?

Chapman. Mr. *Thimbleby*; a Man of about Fourſcore Years of Age, a very feeble and infirm Man. Aſſoon as he came to me, he told me that Sir *George Wakeman* recommended me to him, and deſired me that I would provide a Lodging for him as near the King and Queen's Bath as I could: I did ſo; and then he ſhewed me a Letter from Sir *George*, whereof this was the lower part of Half a Sheet of Paper; there was full Directions how to take the Phyſick, and after the taking the *Bolus*, to drink the Waters ſo many Days, and then to uſe the Bath, and after that the Pump, and after that he was to take a Doſe of Pills after his Bathing. I took off this *Latin* Bill that concerns me, my Lord, and gave him the *Engliſh* Part.

L. C. J. Did you read the *Engliſh* part?

Chapman. My Lord, my Son read it, as well as I, who ſhould have come up, and teſtified the ſame, but that it is impoſſible for both my Son and me to leave the Shop and come together, becauſe of my Employment.

L. C. J. But in that Letter there was nothing mentioned of killing the King, was there? nor of the Queen?

Chapman. No, my Lord, not upon the Word of a Chriſtian, except it were the King and Queen's Bath.

Then the Paper was ſhewn him.

L. C. J. Whoſe Hand is that? do you believe it is Sir *George's* Hand?

Chapman. No, my Lord: I have brought ſome of Sir *George Wakeman's* Bills here.

L. C. J. Do you know whoſe Hand it is?

Chapman. No, my Lord.

Mr. Juſt. Atkins. What Name was ſubſcribed to that Letter?

Chapman. There is none ſubſcribed to this Paper.

L. C. J. Was there no Name to it?

Chapman. I did not take notice of that.

L. C J. But look you, this cannot be that Letter, becauſe that Letter Mr. *Oates* ſpeaks of was of Sir *George's* own Hand, as he thinks by Compariſon, and his Name ſubſcribed to it.

Sir Geo. Wakeman. I never writ any other Letter, but what was dictated to my Man, and ſent by *Aſhby* to the *Bath.* My Lord, he hath owned it himſelf before the Houſe of Lords, that I writ but one Letter, and I had my Liberty before. Now it was told him there, that if he had mentioned that Letter when I was examined before the Council, I had been certainly taken into Cuſtody then, and ſhould never have had my Liberty ſo long. I had my Liberty from the laſt of *September*, and could have gone to *Conſtantinople* in the Time I had my Liberty; and certainly I ſhould have provided for my ſelf, if I had known my ſelf guilty, ſeeing ſo many caſt into Priſon upon that Account.

Mr. Recorder. 'Tis not probable that Mr. *Aſhby* would communicate ſuch a Letter to this Gentleman, that had ſuch a Deſign in it.

Sir Geo. Wakeman. But if any one can, let him prove that I had any other Buſineſs with him, than merely the Buſineſs of a Phyſician with his Patient. My Lord, I have a Phyſician in Town, that will teſtify, that I was to meet him in Conſultations about *Aſhby.*

L. C. J. The Anſwer is no more than this, That you did write a Letter, or there was a Letter writ by your directions, to *Aſhby*, which hath not any ſuch matter in it as *Oates* ſpeaks of; but this anſwers not Mr. *Oates's* Teſtimony; 'tis true, the Queſtion will be upon Mr. *Oates's* Credit, how far the Jury will believe him: If Mr. *Oates* ſwears true, then you did write another Letter, and this is not the Letter, and there is no Contradiction in your Anſwer, to what he ſays, but Mr. *Oates* ſtands with the Jury how far they will believe him.

Sir Geo. Wakeman. Gentlemen of the Jury, take notice, I never writ any Letter but that.

L. C. J. How does that appear? if Mr. *Oates* ſwears true, you did write another Letter.

Mr. Juſt. Atkins. Mr. *Chapman*, was there any mention of Milk in that Letter?

Chapman. No, my Lord. It is ridiculous to drink Milk with the Waters, it will make it curdle.

Oates. That is not the Hand the Letter I ſaw was in.

L. C. J. He ſays 'tis not the ſame Hand.

Oates. It was another, a genteel Hand.

Mr. Juſt. Pemberton. And there was no mention made of Milk in it, the Contents are not the ſame.

Sir Geo. Wakeman. The Contents were the ſame: But as for the Milk, it is ſo ridiculous a thing, that never a Phyſician in *England*, but will ſay 'tis perfect Poiſon. I appeal to Mr. *Chapman*, who hath ſo long known the Way there uſed, if any one preſcribed Milk to any one that took the Waters.

L. C. J. Mr. *Oates*, was there, in the Letter you ſaw, where mention is made of the Strokes that were to be received from the Pump, any mention of the Milk to be taken?

Oates. The Direction of the Milk was for the Time he ſtaid in Town.

Mr. Juſt. Atkins. The Milk was to be uſed while he ſtayed here, was it?

Oates. Yes, my Lord.

L. C. J. Look you, there were two Things that he ſhould do, the one of them was to be done while he was here, that was the Milk, the other was to be done when at the *Bath*, and that was the Strokes.

Sir Geo. Wakeman. No, 'tis no ſuch Thing; for he went away two Days after that Letter was written.

Mr. Juſt. Pemberton. Mr. *Chapman*, is this part of the Body of the Letter?

Chapman. Yes, my Lord, upon the Word of a Chriſtian; I tore it off my ſelf.

Mr. Juſt. Ellys. If Dr. *Oates* ſwears true, it cannot be the ſame Letter.

L. C. J. Your Anſwer to it, which ſhould make it probable, is, That it is ridiculous to preſcribe Milk. Now he ſays thoſe were Directions what he was to do before he went to the *Bath.*

Sir Geo. Wakeman. Why ſhould I repeat the Number of the Strokes twice, and write two Letters about one Thing?

Mr. Juſt. Pemberton. Is there any Date upon that Letter?

Chapman. No.

Mr. Juſt. Pemberton. Off of what part of the Letter did you tear it?

Chapman. Off the bottom of it.

L. C. J. North. What, it was writ croſs, was it?

Chapman. Yes, I believe ſo.

Mr. Juſt. Atkins. The Truth of it is, This is no Evidence, and ought not to be offered as ſuch, for 'tis but a Part of a Thing, which we do not know what it was in the Whole.

Chapman. I can give it upon my Oath that there was nothing in it of the King or Queen, except the King or Queen's Bath.

L. C. J.

L. C. J. Mr. *Oates*, if I remember right, you ſay the Directions that you ſaw were at the beginning of the Letter.

Oates. He was very weak when he came to Town, and his Directions to him then were, That he ſhould take a Pint of Milk in the Morning, and that when he went to the *Bath* he ſhould have a hundred Strokes, or thereabouts.

L. C. J. Was this in the beginning of the Letter?

Oates. It was after a Line or two that was Compliments.

L. C. J. Was there any Receipt for Phyſick, in *Latin*, in it?

Oates. No, my Lord, there was not: No, my Lord, it was half a Sheet of Paper; it was full of it ſelf to the bottom; this is not the Letter, my Lord.

Mr. Juſt. Pemberton. He ſays, this is neither the Hand, nor the Name ſubſcribed, nor the Contents of the Letter; all theſe differ.

Sir Geo. Wakeman. I'll tell you the Reaſon why my Name was not ſubſcribed, I was ſick, my Man is here to witneſs, that he carried it himſelf, and delivered it to *Aſhby*.

Mr. Juſt. Pemberton. But, Sir *George*, you do not obſerve, that to the Letter which he ſaw, your Name was ſubſcribed.

Sir Geo. Wakeman. This then is that I deſire may be taken notice of; 'tis not probable that I ſhould write two Letters for the ſame Thing, and I never writ any other Letter in my Life.

L. C. J. This is that you ſay, and let it be taken notice of, That it is not probable that you ſhould write two Letters for the ſame Directions how he might uſe the *Bath*.

Mr. Juſt. Pemberton. This might be writ to ſerve a Turn very well.

Sir Geo. Wakeman. Then I'll tell you the Reaſon why my Name is not to it, and ſo I ſatisfy you about it as much as I can; I was very ill after I had dictated that Letter to him, and went immediately to Bed. It was not writ very fair, or ſomething was left out, which he interlined, and ſo he tranſcribed it again in his own Chamber, and I was then aſleep, and ſo did not put my Name to it, and he went away two Hours in the Morning before I awoke.

Mr. Juſt. Atkins. Who wrote the Letter? Was the Letter you tore off in the Man's Name, or in Sir *George*'s Name?

Chapman. I know not who wrote it.

Mr. Juſt. Atkins. Was it ſaid to be, By my Maſter's Directions? What were the Contents of the Letter?

Chapman. It was only thus, *As ſoon as you come to the* Bath, *after reſting a Day, in the firſt place take your* Bolus, *and after drink the Waters.* Which he did, for ſix Days together.

Oates. My Lord, I would anſwer to this: This was not the Letter, for therein he only told him what he ſhould do before he went to the *Bath*, and how many Strokes he ſhould receive: Beſides, my Lord, there was not one Syllable of the *Bolus* in the Letter, or what *Bath* he was to go into; but when he came there, he was to receive ſo many Strokes of the Pump.

Sir Geo. Wakeman. Nor one Syllable of the Milk in it neither?

Oates. Yes, there was; he did take Milk, Night and Morning, for I attended upon him.

Sir Geo. Wakeman. My Lord, you ſee this Witneſs is a Proteſtant.

Mr. Juſt. Pemberton. Mr. Oates, you ſay that the Letter that you ſaw was written ten Days before he went to the *Bath*?

Oates. Yes, if not more.

Sir Geo. Wakeman. Why ſhould I tell him of an hundred Strokes ſo long before he went to the *Bath*?

L. C. J. You might mention it to give him Satisfaction. Well, have you any more?

Sir Geo. Wakeman. Yes, my Lord. Call *Hunt*. [*Who ſtood up.*]

L. C. J. What do you call him to, Sir *George*?

Sir Geo. Wakeman. This is my Man. What do you know concerning a Letter of Directions that was ſent to Mr. *Aſhby*? Give an Account of it.

Hunt. If it pleaſe your Honour, my Maſter was out late, and coming home, I told him, Mr. *Aſhby* had ſent for ſome Directions for the *Bath*; and being weary and indiſpoſed, (for it was late, and he was not well) ſaid he, *I cannot write my ſelf, do you take my Pen and Ink, and write.* I did take the Pen and Ink, and write; and when I had written, ſomething was falſe in it; *Pray*, ſaid he, *correct that*: I did ſo, and interlined it, and when my Maſter was in Bed I writ it over again, and the next Morning, before he was awake, I carried it to Mr. *Aſhby* my ſelf, and there were only Directions in it what to do at the *Bath*.

L. C. J. When was Mr. *Aſhby* to go to the *Bath*? How ſoon after?

Hunt. He was to go the next Morning.

L. C. J. If what Mr. *Oates* ſwears, be true, this Letter that he ſaw was ten Days before, ſo what he ſpeaks is quite another Thing.

Sir Geo. Wakeman. I never writ any ſuch Letter in my Life, and I hope the Jury will take notice of it.

Mr. Juſt. Atkins. Do you know any thing of Mr. *Aſhby*'s drinking Milk while he was here?

Hunt. No, but he was ſaying he was adviſed by a Friend of his to drink Milk.

L. C. J. When, at the *Bath*?

Hunt. No, when he was in Town.

L. C. J. When he was in Town? that is conſiſtent with Mr. *Oates*'s Teſtimony.

Sir Geo. Wakeman. My Lord, there is a Phyſician that was in Conſultation with me about Mr. *Aſhby*, I think it of great Conſequence to ſhew that I came to him about no Treaſonable Affair, I vow to Almighty God I did not.

L. C. J. If you have any more Witneſſes, call them.

Sir Geo. Wakeman. Call *Elizabeth Henningham*. [*Who ſtood up.*]

L. C. J. Sir *George*, What do you aſk her?

Henningham. I was preſent, my Lord, at the writing of the Letter. His Servant writ, and he dictated to him, every Word of the Letter I ſaw, but there was no ſuch thing in it.

L. C. J. I am very confident that this is true that you ſay, but it is not to the thing that Mr. *Oates* ſpeaks of, and charges you withal: that you did write ſuch a Letter as theſe People mention, and there was nothing in it but like a Phyſician's Directions to his Patient, I do believe, and this was juſt when he was going to the *Bath*? but Mr. *Oates* tells you (if he ſays true) that this Letter he ſpeaks of, to which Sir *George Wakeman* was ſubſcribed, was ten Days before he went to the *Bath*; and that there was no mention of any *Bolus* in that, but the Direction was in the firſt Part how he was to uſe himſelf, while he ſtaid in Town to drink Milk, and when he came to the *Bath*, to uſe the Pump; ſo that this your Witneſſes ſay, and you urge, is true, but not pertinent.

Sir Geo. Wakeman. I ſay, my Lord, it is not probable that I ſhould write Directions ſo long before he went.

Henningham. My Lord, he ſaid himſelf he wanted Directions to go to the *Bath*, in my own hearing.

Mr. Juſt. Pemberton. Yes, he might, and indeed he did ſo, for the firſt contained none, but how he ſhould behave himſelf while he was here.

L. C. J. Have you any more Witneſſes? Pray call them.

Sir Geo. Wakeman. My Lord, I have this to ſay, as I told you before, that I had my Liberty for twenty-four Days after my Examination before the Council. Mr. *Oates* call'd at the Bar of the Houſe of Commons, and there gave an Account of this very Letter that he mentions now, I ſay it was at the Bar of the Houſe of Commons. And thereupon the Commons ſent an Addreſs to the Houſe of Lords, with Aſtoniſhment that I was not under Confinement; and thereupon Mr. *Oates* was called to the Bar of the Houſe of Lords, and was commanded to give an Account what it was he knew concerning me, that ſhould create ſuch an Aſtoniſhment in the Houſe of Commons: He told them of this Letter, and my Lord Chancellor ſaid to him, *Do you know it was Sir* George Wakeman*'s Hand? No*, ſaid he: *How do you know it was his Letter then? I know it only by this*, ſaid he, *it was ſubſcribed*, George Wakeman. If he had ſuch Proof as he ſays he hath now, if he had ſeen me writing, and came into the Room where the Paper I writ was yet wet, whether he would not have mentioned it there when he was examined about the Knowledge of my Hand.

L. C. J. Call your Witneſſes: But what ſay you, Mr. *Oates*, your ſelf to it?

Oates. My Lord, Sir *George Wakeman* had his Liberty becauſe I was ſo weak, by reaſon of being up two Nights together, one whereof was ſo very wet, and being hot, wet, and cold, all in a few Hours time, ſo that I thought it would have coſt me my Life; not being uſed to ſuch hard Services, I did not charge Sir *George* ſo fully: Tho' it may be objected to this Court, that I was bound to ſpeak the whole Truth; and ſo I did, as Opportunity and Health would give me leave. And as to the Letter, and what I ſaid about it in the Lords Houſe, Sir *George* is miſtaken. He ſays here that I ſaid I knew his Hand no otherwiſe, but by ſeeing Sir *George Wakeman* ſubſcribed to it.

Sir Geo. Wakeman. I will prove it by the Record.

Oates. Now, my Lord, I humbly deſire that he may propoſe his Queſtions to the Court: And I deſire to know, whether I did ſay, I did not know it any other ways but by its being ſigned *George Wakeman*.

Sir Geo. Wakeman. Pray, my Lord, be pleaſed to give me leave——

L. C. J. Mr. *Oates*, did you mention in the Houſe of Lords, whether you knew his Hand or no?

Oates. My Lord, I cannot call to mind what I then ſaid, I did ſay, I ſaw ſuch a Letter, ſigned *George Wakeman*; but if he will bring the Record, and one that ſhall ſwear thoſe were the Words, I will leave it to the Jury. But this my Lord, I would add, if you will give me leave; the Words I did ſay as near as I can remember, were theſe, when they aſked me, how I knew Sir *George Wakeman*'s Hand? I ſaid, I ſaw ſuch a Letter ſigned *George Wakeman*. Now, my Lord, upon this Information, they did think fit to take Sir *George Wakeman* up and ſecure him; and now I come Face to Face, and am not only to ſatisfy Judges, but a Jury, I ſhew you what Reaſons I have to believe it, and what they may have, that it was his Hand: For I ſay, I ſaw him in a writing Poſture, I ſaw him lay by the Pen, I ſaw him withdraw from the Paper, I ſaw none but another Gentleman there, that was lame of both his Hands, and the Ink was not dry, and it was the ſame Hand with the Letter.

Sir Geo. Wakeman. Was my Name to that Note?

Oates. No, I will not ſwear that; but the Character of the Hand was the ſame, if I may judge of Writing.

L. C. J. North. Look you, Sir *George*, you ſpoke of Witneſſes you would call to prove what he ſwore in the Houſe of Lords; if you can call any Witneſſes for that, do.

Sir Geo. Wakeman. Call Sir *Philip Lloyd*: I hope your Lordſhip will pleaſe to allow me, at leaſt, this Advantage (I know not whether it be an Advantage) that the Record of the Houſe of Lords may be made uſe of as a Record here. If I prove it by the Record, it will be a good Evidence.

L. C. J. Have you that Record here?

Sir Geo. Wakeman. I have a Copy of that Record, and a Witneſs that will ſwear it.

Then Sir Philip Lloyd *appeared, and ſtood up.*

L. C. J. What do you aſk Sir *Philip Lloyd*?

Sir George Wakeman. I deſire to know of Sir *Philip Lloyd*, what Mr. *Oates* ſaid of me before his Majeſty and the Council, the laſt Day of *September*; Sir, you were there preſent, and ſent by the King to me, and commanded to bring me in to the Council.

Sir Philip Lloyd. I will, my Lord, as well as I can, recollect and tell you, as near as I can, what Mr. *Oates* did then accuſe him of. It was upon the One and Thirtieth Day of *September*, Mr. *Oates* did then ſay he had ſeen a Letter, to the beſt of his Remembrance, from Mr. *White* to Mr. *Fenwick* at St. *Omers*, in which Letter he writ word, that Sir *George Wakeman* had undertaken the Poiſoning of the King, and was to have 15000 *l.* for it; of which, 5000 *l.* had been paid him by the Hands of *Coleman*. Sir *George Wakeman*, upon this, was called in, and told of this Accuſation; he utterly denied all, and did indeed carry himſelf as if he were not concerned at the Accuſation, but did tell the King and Council, he hoped he ſhould have Reparation and Satisfaction for the Injury done to his Honour. His Carriage was not well liked of by the King and Council, and being a Matter of ſuch

ſuch Conſequence as this was, they were willing to know further of it; and becauſe they thought this Evidence was not Proof enough to give them occaſion to commit him, being only out of the Letter of a third Perſon, thereupon they called in Mr. *Oates* again, and my Lord Chancellor deſired Mr. *Oates* to tell him, if he knew nothing perſonally of Sir *George Wakeman*, becauſe they were in a Matter of Moment, and deſired ſufficient Proof, whereupon to ground a Commitment; Mr. *Oates*, when he did come in again, and was aſked the Queſtion, did lift up his Hands (for I muſt tell the Truth, let it be what it will) and ſaid, No, God forbid that I ſhould ſay any thing againſt Sir *George Wakeman*, for I know nothing more againſt him. And I refer my ſelf to the whole Council, whether it was not ſo.

Oates. I remember not one Word of all this.

Sir George Wakeman. My Lord, this is a Proteſtant Witneſs too.

Oates. My Lord, give me leave to make an Anſwer: When I did report this Letter, the Council did aſk me whether or no Sir *George* was any ways concerned in this Letter? I replied, I had it by Report, that Sir *George* had received 5000*l.* of this Money. My Lord, the Council did not preſs me, to my Knowledge; I will not be poſitive; but if the Council did preſs me, and I did make that Anſwer, I do appeal to the whole Board, whether or no I was in a Condition to make any Anſwer at all, when, by reaſon of my being hurried up and down, and ſitting up, I was ſcarce *Compos mentis.*

L. C. J. What, muſt we be amuſed with I know not what, for being up but two Nights? You were not able to give an Anſwer; that when they call and ſend for Mr. *Oates* again to give a poſitive Charge, and then you tell us a Story ſo remote: What, was Mr. *Oates* juſt ſo ſpent, that he could not ſay, *I have ſeen a Letter under Sir* George Wakeman's *own Hand?*

Oates. My Lord, I did, to the beſt of my Remembrance, make mention of that Letter, that Sir *George Wakeman* writ, before the Board. I ſay, to the beſt of my Skill and Knowledge; but I will not be poſitive in it.

L. C. J. You have heard what Sir *Philip Lloyd* ſays.

Mr. Juſt. Dolben. What ſay you, did Mr. *Oates* make any mention of this Letter?

Sir Philip Lloyd. Truly, my Lord, I can't remember that there was any ſuch Letter mentioned. I tell you what I do remember; and afterwards becauſe he came and gave this Depoſition before the Lords and Commons, that he found ſuch a Letter upon the Table from Sir *George* to *Aſhby*, indeed I did very much wonder at it, and it made me reflect upon that other Paſſage at the Council, of his denying to accuſe Sir *George* further, and it hath been in my Mind ever ſince.

L. C. J. And you do declare, that when the Lords of the Council aſked him, whether he knew any thing more particularly againſt Sir *George Wakeman*, he did lift up his Hands and ſaid, *No, God forbid I ſhould charge him any further, I know no more againſt him.*

Sir Philip Lloyd. Yes, my Lord, ſo it was.

Oates. My Lord, I believe Sir *Philip Lloyd* is miſtaken; but however I was ſo weak, and the King and Council were ſo ſenſible of it, that the King himſelf had like to have ſent me away once or twice before, becauſe he found I was ſo weak.

L. C. J. It did not require ſuch a deal of Strength to ſay, *I ſaw a Letter under Sir* George's *own Hand.*

L. C. J. North. Well, it muſt be left to the Jury: If you have any more Witneſſes call them.

L. C. J. Mr. Oates, Sir George Wakeman urged it right, that he ſhould not have been permitted to have his Liberty ſo long, if you had charged him home then.

Sir George Wakeman. Call *Mr. Lydcot.*

Oates. To ſpeak the Truth, they were ſuch a Council as would commit no Body.

Mr. Recorder. That was not well ſaid.

Sir George Wakeman. He reflects on the King and all the Council.

L. C. J. You have taken a great Confidence, I know not by what Authority, to ſay any thing of any Body. But this is naturally true, That when the Council were offended at the Carriage of Sir *George Wakeman* at the Board, and therefore ſent for Mr. *Oates* again, doubting in themſelves, whether what they had would be ſufficient to commit him; for indeed it was only a wild thing, of what was mentioned in a Letter of a third Perſon's, that Sir *George* had accepted of Fifteen thouſand Pounds, and received the Five; therefore, ſaid they, we will know of Mr. *Oates* ſome more Particulars, and ſent for him in again, and aſked him, *Do you know any thing of your own Knowledge?* If he had come in then and ſaid, *Yes, I have ſeen a Letter ſubſcribed under Sir* George Wakeman's *Hand*, would not they have committed him? ſurely they would. And now the Council's not committing him, is an Argument that they had not ſufficient Evidence, and *Oates* did omit at that time to charge him with this Letter.

Then Mr. Lydcot *ſtood up.*

Sir Geo. Wakeman. Mr. *Lydcot*, have you a Copy of the Lords Records?

Lydcot. Yes, it is.

Sir Geo. Wakeman. Pray, what did Mr. *Oates* ſay to my Lord Chancellor in the Houſe of Lords?

L. C. J. You muſt have that which is proper Evidence: You ſhall have all the fair Dealing that can be, and all that can be admitted for your Defence ſhall be.

Sir Geo. Wakeman. My Lord, I humbly thank you, I find it.

L. C. J. Ay, but this is now what the Clerk writes down as Minutes. 'Tis an hard Conſtruction to make this Evidence. Were you preſent when Mr. *Oates* was there and ſaid this?

Lydcot. No, my Lord, All I ſay, is this, This is a Copy of the Record in the Lords Houſe.

L. C. J. Did Mr. *Oates* ſet his Hand to that Record?

Lydcot. Yes, in ſome Places. 'Tis *Titus Oates* ſet in diverſe Places as his Hand to Examinations.

L. C. J. But is Mr. *Oates*'s own Hand ſet to the Record?

Lydcot. I know nothing of that.

L. C. J. This is the Objection. It will be hard, that if a Clerk takes the Depoſitions of *Oates* or any one elſe, and takes them as near as he can, but he never ſubſcribes it, and you prove only 'tis a Copy of what the Clerk wrote, That cannot be allowed as Evidence.

Lydcot. 'Tis a Copy in moſt Places of what is under *Mr. Relf*'s own Hand.

L. C. J. But you can't Swear the Clerk writ true?

Lydcot. No, that I can't.

L. C. J. It may be an Entry of what the Houſe of Lords did upon the Examination; That is not Evidence here.

Mr. Juſt. Pemberton. If you can produce any one that heard *Mr. Oates* give in his Information, you ſay well.

Sir Geo. Wakeman. I believe there is a Difference between the Entry-Book, and the Book of Records, and I hope you will look upon the Book of the Houſe of Lords as the higheſt Evidence, beyond any Verbal Averment. My Life is in your Hands, I aſk you whether it be not ſo, or no?

L. C. J. North. If there be a Record in any Court of Record, that ſuch a Man appear'd in Court, 'tis an Evidence that he was in Court, and a Record for it; but when there is an Examination in a Court of Record, theſe not paſſing the Examination of that Court, but being taken by the Clerks, we always in Evidence expect there ſhould be ſome body to prove, that ſuch an Examination was ſworn, and ſubſcribed to.

L. C. J. Have you any Witneſſes here, that were by, and heard what *Mr. Oates* did then depoſe, and can teſtify what *Mr. Oates* ſaid when he was called in, and particularly what Anſwer he made to that ſingle Queſtion of my Lord Chancellor's, how he came to know it was your Hand?

Sir Geo. Wakeman. I can bring none but theſe Records, or the Lords themſelves, and I can't expect it from them. And that which they call a Record, I am not able to judge whether it be a Record or no.

L. C. J. Were there not others called with him into the Lords Houſe?

Sir Geo. Wakeman. No, there were none but the Lords themſelves.

L. C. J. You ſhould have had the Clerks here that made the Entry, or ſaw him ſet his Hand to the Examination.

L. C. J. North. This is nothing, but, as he ſays, a Tranſcript out of the Journal.

Lydcot. I believe it is written moſt under *Mr. Relf*'s own Hand. There is a great deal of it that contains the whole Narrative that *Oates* gave in.

L. C. J. North. You deſire to give in Evidence what *Mr. Oates* ſaid at the Bar of the Houſe of Lords to what my Lord Chancellor aſked him; if you have any Witneſſes that can prove it, they ſhall be heard.

Sir Geo. Wakeman. My Lord, I have no Witneſſes, only the Record.

L. C. J. This is only a Copy of a Narrative.

Sir Geo. Wakeman. If you will not allow it to be a Record, I can't help it.

Mr. Recorder. This is no Part of the Record of the Houſe of Lords, it can't be allow'd.

L. C. J. Well, have you any other Witneſſes to any thing elſe?

Sir Geo. Wakeman. I deſire you would examine Sir *Philip Lloyd* once more. [*Who was called, but anſwered not.*]

Mr. Recorder. He is gone out of the Court.

L. C. J. Well, what ſay the reſt? Mr. *Corker*, have you any Witneſſes in the firſt Place?

Corker. No, my Lord.

L. C. J. Mr. Marſhal, have you any Witneſſes, Anſwer that firſt, before you enter upon your Defence; you ſhall be heard afterwards.

Then Sir Philip Lloyd *came into Court again.*

Mr. Recorder. Sir *George*, here is Sir *Philip Lloyd* here now, what would you aſk him?

Sir Geo. Wakeman. Sir *Philip Lloyd*, I deſire to know concerning the laſt Examination of *Mr. Oates* and *Mr. Bedlow*, before the Council; (you were there preſent, as I am informed) pray will you tell what you know.

Sir Philip Lloyd. To what Point, Sir?

Sir Geo. Wakeman. To their whole Evidence.

Sir Philip Lloyd. I ſuppoſe what they have given in lately, they have acquainted the Bench with already. It was ſome Day this very Month, but I would know what it is Sir *George* would have me ſpeak to?

L. C. J. What was there relating to Sir *George Wakeman?*

L. C. J. North. But pray conſider, whether it be a Queſtion fit to be aſked of the Clerk of the Council, what was done in Council without leave of the Board. I don't think he is bound to Anſwer the Queſtion.

Mr. Juſt. Pemberton. Sir *George*, if you would aſk him to any one particular Queſtion, it were ſomething.

Sir Geo. Wakeman. I have done with him; I hope he will excuſe me, I have put him to this Trouble.

L. C. J. Then Mr. *Marſhal*, have you any Witneſſes?

Marſhal. I cannot ſay I have any direct poſitive Witneſſes.

L. C. J. Think not that you ſhall be concluded, we are not in haſte, you ſhall have time to ſay what you will; but if you would uſe any Witneſſes, call them.

Marſhal. For the preſent I ſhall have no uſe of any.

L. C. J. Well, *Mr. Rumley*, have you any Witneſſes?

Rumley. I think I have.

L. C. J. I can't tell of any need you have of any, for there is but one Witneſs againſt you.

Corker. But he deſires that his Witneſſes may be heard, 'tis but ſhort.

Sir Rob. Sawyer. There is no need of it, *Mr. Rumley*, we can't inſiſt on it againſt you, you muſt be acquitted.

Mr. Recorder. Will he have his Witneſſes called? If he will, he ſhall, tho' there is no need of it.

Rumley. No, my Lord.

L. C. J. Then, Sir *Robert Sawyer*, would you ſay any thing more for the King, before the Priſoners make their Defence?

Sir Rob. Sawyer. My Lord, there is one thing which I would have anſwered, that is, the variance between what Mr. *Oates* ſaid before the

Council, and what he ſays now, upon the Teſtimony of Sir *Philip Lloyd*, who ſays, that he gave no Teſtimony of this Letter under Sir *George Wakeman*'s Hand; but being aſked, whether he knew any thing of his own Knowledge, he ſaid, he had only met with a Letter from *White* to *Fenwick*, wherein it was ſaid, So much was propoſed to, and accepted by Sir *George Wakeman*: And that he ſhould then declare that he could ſay more; and lifting up his Hands, affirm with a Proteſtation he knew no more. Gentlemen, We hope to give you Satisfaction in this Matter, for it was after a long and tedious Examination; and we ſhall prove to you that he was in great Confuſion, being almoſt tired out with Examination, which is not impoſſible to happen to any Man, tho' of the ſtrongeſt Conſtitution and Memory, after two Nights waking, and continual hurrying up and down. We ſhall call Sir *Thomas Doleman* to prove, that he was under great Confuſion, and that the King and Council were ſo ſenſible of it, that ſome of them would have had him gone away a great while before he did go away. Swear Sir *Thomas Doleman*. [*Which was done.*]

Sir Robert Sawyer. You hear what hath been objected and ſaid by Sir *Philip Lloyd*, will you tell your Knowledge of this Matter?

Sir Tho. Doleman. My Lord, *Mr. Oates* did appear before the King and Council, I think on the *Saturday*, before which was *Michaelmas Eve.* The Council ſat long that Morning, the Council ſat again in the Afternoon, and *Mr. Oates* was employed that Night, I think, to ſearch after ſome Jeſuits, who were then taken, and that was the Work of that Night. The Council, I think, ſat again *Sunday* in the Afternoon, *Mr. Oates* was then examined, the Council ſat long, and at Night he was ſent abroad again to ſearch the Lodgings of ſeveral Prieſts, and to find out their Papers, which he did ſeize upon, and one of the Nights in that Seaſon was a very wet Night; he went either with a Meſſenger, or with a Guard upon him. On *Monday* Morning the Council ſat again, and he was further examined, and went abroad; and *Monday* Night *Mr. Oates* was in as feeble and weak a Condition as ever I ſaw Man in my Life; and was very willing to have been diſmiſſed for that time; for he ſeem'd to be in very great Weakneſs and Diſorder, ſo that I believe he was ſcarce able to give a good Anſwer.

Sir Rob. Sawyer. Was that the time Sir *Philip Lloyd* ſpeaks of?

Sir Tho. Doleman. I think he was call'd in on *Monday* Night.

Sir Geo. Wakeman. I receiv'd the Summons on *Saturday*, by a Letter from Sir *Rob. Southwell.*

Sir Tho. Doleman. You were call'd in on *Monday* Night, the Night before the King went to *New-Market.*

Sir Geo. Wakeman. I appeared upon *Sunday*, and was diſmiſſed by Sir *Philip Lloyd*, who came out and let me know that the King ſaid, he would have the Hearing of it himſelf, the next Day.

Sir Tho. Doleman. Then, Sir, you were call'd in, and you gave your Anſwer; and the whole Council was amazed at the Manner of it: For you did not, in my Opinion, or in the Opinion of ſeveral others, deny it ſo poſitively as one that was Innocent could, but uſed many great Expreſſions of your own great Fidelity and Loyalty to the King, and of your Family, and the Services they had paid the Crown, and did require Satisfaction and Reparation for the Injury done to your Honour.

Sir Geo. Wakeman. My Lord, I will give you a brief Account of it; I leave it to you, whether I behaved my ſelf ill or no; I confeſs, I think I might have behaved my ſelf more ſubmiſſively; there was nothing of Duty wanting in my Mind, but I will give you an Account of what I ſaid, *verbatim.* My Lord Chancellor told me, that I was accuſed of the blackeſt of Crimes; that I had undertaken to poiſon the King. I aſked him who was my Accuſer, he pointed to *Mr. Oates*, and told me *Mr. Oates* was my Accuſer. Says I, *Mr. Oates*, do you know me? Did you ever ſee me before? *Mr. Oates* ſaid, No. Why then, ſaid I, how come you to be my Accuſer? Said he, I will tell you: I was at St. *Omers*, where there was a Conſult of the Jeſuits, at which *Mr. Aſhby* the Rector of the College at St. *Omers* did preſide; and in that Conſult it was debated who was the fitteſt Perſon for that horrid Undertaking of Poiſoning the King, and unanimouſly it was agreed upon at that Conſult, that you were, Sir *George Wakeman* by Name: And now he ſays it was debated here in *England.* Then, my Lord, (ſaid I to my Lord Chancellor) Here is no Proof, therefore I hope there is no need of any Defence. Said he, There is no Smoke, but there is ſome Fire. My Lord, ſaid I, if you underſtand by that, there can be no Accuſation without ſome Guilt, I ſhould be ſorry I ſhould not underſtand both Sacred and Prophane Hiſtory better than to think ſo. Then he preſſed me to know what I could ſay for my ſelf. Said I, my Lord, I come of a Loyal Family, my Father had ſuffer'd very much, to the Value of eighteen Thouſand Pounds and more for the Royal Family. My Brother raiſed a Troop of Horſe for the King, and ſerved him from the beginning of the War to the end. He was Major to the Marquiſs of *Worceſter*, at *Worceſter* Fight, and loſt his Life by the Wounds he received in the King's Service. As for my own Part, ſaid I, I travelled very young, and came over when *Ireton* was Lord Mayor, and both by my Religion and my Name, was ſuſpected to be a Favourer of the Royal Party, and therefore was impriſoned, and did not come out till I had given great Security: and the ſecond time I was committed, was, when I entred into a Plot, the only Plot I was guilty of, I conſpired with Captain *Lucy*, and ſeveral others to attempt ſomething for his Majeſty's Reſtauration, when few durſt appear for him. I was ſeized on in my Bed; there were ſeveral Arms found in my Apothecary's Cellar, and we were both committed to Priſon; and we ſhould both have ſuffered Death certainly, if his Majeſty's happy Reſtauration had not prevented it. When my Lord preſt me ſtill to ſay what I could ſay for my ſelf, as to what was charged on me; I told him, my Lord, I am under the moſt foul and falſe Accuſation that ever innocent Gentleman was, and I expect Reparation; and upon that they were offended, and I was bid to withdraw. And I added this beſide, my Lord, that there was not a Family in *England* that was ſo much inſtrumental in his Majeſty's Reſtauration as that Family was; that Colonel *Charles Gifford* was my near Kinſman, ſo was Colonel *Carles*; and that the *Pendrels* were Menial Servants to the Family; and I hope they deſerve ſome Favour.

L. C. J. What have you to ſay, Sir *George*, in your preſent Defence here? Make what Obſervations you will now, upon the Teſtimony hath been given againſt you.

Sir Geo. Wakeman. My Lord, I ſay this, if it had been allowed me to make uſe of the Records of the Houſe of Lords, it would have made all things ſo evident and clear as nothing can be more; for then, when he was called to that Bar, to give an Account what he had declared to the Houſe of Commons concerning me, he gave an Account of this Letter.

Mr. Juſt. Pemberton. Sir *George*, you muſt not make mention any more of theſe things, that could not be given in Evidence.

Sir Geo. Wakeman. Then, my Lord, I have no more to ſay.

L. C. J. What ſay you, Mr. *Corker?*

Corker. My Lord, I hope the Court will not require that I ſhould bring any particular Evidence in Confutation of what is here alledged againſt me; for, before I came to this Bar, I did not know any particular Accuſation that was againſt me; and therefore I could not be ready to anſwer it, and make my Defence, or bring particular Witneſſes to evidence and ſhew my Innocency. Beſides, my Lord, it is a known general Maxim, That a poſitive Aſſertion is as eaſy to be made, as to prove a Negative, is oft-times hard, if not impoſſible. Men may eaſily deviſe Crimes, and frame Accuſations againſt innocent Men in ſuch a manner, that the contrary cannot poſſibly be demonſtrated. No mortal Man can tell where he was, and what he did and ſaid every Day and Hour of his whole Life. Therefore, I think, 'tis not only Poſitive bare Swearing, but 'tis Probable Swearing, that muſt render a Man guilty of a Crime. Otherwiſe, my Lord, it would be lawful, and in the power of *Oates*, and his Companions here, to hang, by turns, upon bare Oath, all the Innocent Men in the whole Nation, tho' never ſo Innocent, and that for Crimes never ſo ridiculous and abſurd. And I ſay this further, he that Swears againſt another, firſt, ought to be himſelf a Credible Witneſs; and then, ſecondly, ſtrengthned by Probable Circumſtances; Circumſtances that bring along with them ſome Probable Evidence diſtinct from the Witneſſes themſelves: Otherwiſe, I think, that the Party accuſed, without any Proof of his ſide, ought to remain in the Poſſeſſion of his own Innocency. Now, I think, my Lord, there will be never any one of theſe two neceſſary Conditions to be found in the Evidence againſt me; for, Firſt, the Witneſſes againſt me, are Perſons that are, or at leaſt formerly have been, of ſcandalous Lives.

L. C. J. You ſhould Prove it, before you Say it. You ſhall have all things allow'd you that are fit; but you muſt not heap up Contumelies upon Men unproved, or call Men Names, when you have proved nothing againſt them. If you can prove any thing, of God's Name do it; prove them as fully as you can.

Corker. I do only ſay this, They have been reported, and owned by themſelves, as Men that have been of ſcandalous Lives.

L. C. J. If the Jury know it of their own Knowledge, I leave it to them; but you have proved nothing.

Corker. Well, my Lord, but then, in the next place, neither will the poſitive Oaths of Men formerly Infamous, be any convincing Arguments of our Guilt: And then next, as to the other Circumſtances that ſhould render me Guilty, *Mr. Oates* does not here make me Guilty alone of this Grand Conſpiracy; but he involves the Nobility, Gentry, and the whole Body of the Catholicks, in this Treaſon. Now, my Lord, I refer it to the Judgment of the Court, whether ſo many Perſons as he names, and thoſe of ſuch eminent Quality, and of ſuch conſiderable Eſtates in their Countries, Perſons ſettled under ſo good a King, in ſo peaceable a Kingdom; ſo quiet in Condition; Men of Good and Virtuous Lives, and Unblemiſhed Converſations, before this Hour, ſhould hazard their Honours, their Lives, their Families, their Bodies, their Souls, their All in ſuch a Deſign!

L. C. J. What is this to your Caſe?

Corker. My Lord, if this be not probable, I hope I am free of the Plot.

L. C. J. But what is this to your Caſe? Pray hear; you are now making a Speech againſt *Mr. Oates* and *Mr. Bedlow*, That they do accuſe People of great Honour and Quality; he hath given no Accuſation againſt any as yet, that you are to take notice of. You ought to make uſe of nothing as an Argument to the Jury, but of the Evidence that hath been given to the Jury. If you can make uſe of any thing that *Mr. Oates* or *Mr. Bedlow* hath ſaid here to contradict them, or invalidate their Teſtimony, you have ſaid well. But to talk of ſuch a Story, of accuſing Noblemen, and ſuch like, when there is nothing of that before you; you muſt firſt prove what you will infer from.

Corker. My Lord, this I take to be of very great Concern to my ſelf, that ſince the Truth of this Evidence does depend upon the Certainty of the Plot, and this pretended Conſpiracy againſt his Sacred Majeſty; if there be no ſuch Plot and Conſpiracy, and if, by Circumſtances, I can render it improbable, I hope the Jury will take it into Conſideration.

L. C. J. Ay, ay, I am of that Opinion, if thou canſt but ſatisfy Us and the Jury, that there is no Plot, thou ſhalt be quitted by my Conſent.

Corker. I will, my Lord, ſhew you the Improbability of it.

L. C. J. Ay, do but give us one probable Argument, (you being a Learned Man, and a Prieſt) why we ſhould believe, there is no Plot.

Corker. My Lord, I would have endeavoured to have ſhewn you the Improbability of it, but yet I would not urge it, becauſe it may not be ſo grateful to your Lordſhip. But to me, 'tis not probable, that ſo many Honourable and Virtuous Perſons ſhould be involved in a Plot ſo Dangerous, ſo Horrid and Deteſtable in it ſelf; wherein, my Lord, as he ſays, ſo many Thouſands of People, and even a whole Nation, were to be overwhelmed: of which, if a Diſcovery had been made by any Perſon, it would have prevented the utter Ruin of ſo many Millions. 'Tis not Rational or Probable, that ſuch vaſt whole Armies ſhould be raiſed, and Foreign Nations concerned in the Plot. All which, notwith-

withſtanding all the Evidence that can be made out of this Plot, is but only their poſitive Swearing.

L. C. J. Juſt now you made your Objection, that it was a ſtrange thing that ſuch a Deſign ſhould be communicated to ſo many; now you make it a Wonder why ſo few ſhould know it, only *Oates* and *Bedlow*. Your Argument before was, that it was a wonderful thing, that ſo great a Concern ſhould be communicated to any one, and now you wonder more, that none ſhould know it but they two.

Corker. Therefore, my Lord, I from thence argue thus, that ſince there is no other Evidence, nor further Proof of it, than from *Mr. Oates*, and *Mr. Bedlow*, I infer there is no ſuch thing at all.

L. C. J. Yes, as for your Army, there is more than ſo: Do you remember what *Mr. Dugdale* and what *Mr. Praunce* ſay?

Corker. Yes, my Lord, conſidering theſe Perſons, what they are, their vile Oaths, and the Encouragement they have met with, by ſuch Endearments and Careſſes, as they have found, their Credit is not much to be weighed. Now, my Lord, I apply to the Accuſation that is againſt my ſelf.

L. C. J. Ay, ay, that is your beſt way, for it would have been an hard Task for you to prove, that there was no Plot. We were in great Expectation what Arguments you would bring us for it.

Sir Geo. Wakeman. My Lord, will you give me leave to obſerve one Thing more to your Lordſhip and the Court? *Mr. Oates* does mention in his Narrative, of at leaſt Thirty or Forty Pages, and all this upon Oath, (ſo he ſaith in the end of his Narrative) but I would obſerve, that there is not a Letter dated in *France*, or in the *Low-Countries*, or received here, but he ſwears poſitively as to the Date of it, and Reception of it; but now, when he comes to mention any Thing wherein a Man's Life is concern'd, he will not tie up himſelf to a Month.

L. C. J. Yes, he does, and to part of a Month. He tells you, it was the beginning, or middle, or latter end; and he ſpeaks punctually as to the Twenty firſt of *Auguſt*.

Sir Geo. Wakeman. But in all his whole Narrative, he ſpeaks to a Day.

Mr. Recorder. As my Lord ſays, he ſpeaks punctually to the Twenty firſt of *Auguſt*. And as to the Letters, he took the Date of them in his Memorial.

Corker. My Lord, I would only take notice, that at the firſt, *Mr. Oates* thought to take Advantage of ſome Words of mine, at my Examination; he told you, that I had gone into *France*, but that I denied it when I was Examined before the Juſtice of Peace. My Lord, I deny all this; for the Juſtice of Peace examined me where I had lived———

L. C. J. We have nothing of this Matter here before us.

Mr. Juſt. Pemberton. You are to anſwer what he ſays now.

Corker. 'Tis what *Mr. Oates* ſays now, for I knew nothing of it till now. Now, my Lord, as to that, I ſay, I did not deny it before the Juſtice of Peace that Examined me; for I told him, I lived with a certain Lady Twelve Years, till ſhe died; and during that time, I never was beyond the Sea but once, which was five Years ſince, for the Cure of a Quartane Ague that I had, and I went over to *France*; otherwiſe, during all that Time that I was with my Lady, I did not go beyond Sea. Upon this, the Juſtice began to aſk me other Queſtions; whereupon, my Lord, I recollected my ſelf, and ſaid, Sir, I told you I had not been beyond Sea during the Time I had been with my Lady, but that Time, five years ſince; but my Lady being Dead, I went over laſt Summer in *Auguſt* to perfect the Cure of that Ague; for I had it ſeven Years, Spring and Fall. And this I told him of my ſelf, without aſking. The laſt Summer I went over, and there I ſtaid till two Days before *September*; therefore I did commit no Miſtakes in what I ſaid, or uſed any Cloke to cover it. Now, my Lord, he ſays, I went to *Lampſpring*, which is in the farther End of *Germany*.

L. C. J. He ſays, you ſaid ſo.

Corker. Pray aſk him how he knows it? he ſays by my Letters: Sure if this Man were privy to thoſe great Conſpiracies which he charges me to be a Partner in, it is not probable but that I ſhould tell him where I went; and then if I did tell him ſo, I muſt go thither and back again in ſix Weeks Time, which was morally impoſſible to do, to go thither, and to return; for I was but ſix Weeks out of Town.

L. C. J. How you argue, Sir! He ſays, you told him, you went to *Lampſpring*: Say you, Certainly I would tell him true, becauſe he was engaged with me in Conſpiracies; but this can't be true, becauſe of the length of the Way. Is this a way of Arguing? May not you tell him, you go to one Place, and indeed go to another?

Corker. What Reaſon or Motive had I to tell him a Lye?

L. C. J. It is a hard matter for us to give an Account of Jeſuits Anſwers, even one to another.

Corker. I am not a Jeſuit, I won't ſay the leaſt Untruth to ſave my Life. Then as to my being Preſident, as he calls it, of the Congregation; all the Congregation, and all that know us, know that *Stapleton* (formerly Chaplain to the Queen) is and hath been for Twelve Years, Preſident of that Order. And I am confident that all Catholicks, and moſt of the Court, do likewiſe know it to be true, and by Conſequence, it is likewiſe untrue, that there was an agreement made by the Jeſuits and *Benedictine* Monks, when I was at *Paris*, to which I was not privy, but could not go on till I was acquainted with it, and conſented to it. Now, my Lord, if I be not preſident of that Order, that muſt be a Flam and a Story.

L. C. J. You ſay that, Prove who is.

Corker. Mr. *Stapleton* was, as 'tis well known.

L. C. J. Call who you will to prove it, if you can.

Corker. Here is one of the Lay-Brothers of the Order.

L. C. J. Who is that?

Corker. Mr. *Rumley* here.

L. C. J. He cannot be a Witneſs for you, or againſt you, at this Trial.

Corker. My Lord, ſince I did not know of it before, I could not bring any Body.

L. C. J. You put it upon your ſelves.

Corker. My Lord, I ſay then I never was at any Conſult where any ſuch Sum of Money was propoſed or agreed, nor was it requiſite or neceſſary that I ſhould be ſo much privy to it, for I was not Superior of the Order, nor Preſident of it, by reaſon of which my Conſent ſhould be neceſſary, or any ſuch Letter be writ to me, or any ſuch received from me. And then, my Lord, Secondly, I muſt take notice again, he accuſes me of being Biſhop of *London*, and that I did conſent to this Agreement of paying ſo many Thouſand Pounds; if I were guilty of this, and likewiſe of contriving the King's Death, and eſpecially conſenting to *Pickering*'s Murder of the King, when that *Pickering* was taken, I ſhould have been taken too, or I knowing my ſelf Guilty, ſhould have fled.

L. C. J. You excepted againſt *Pickering*, and thought him not a convenient Man, becauſe he was one of your Order.

Corker. I hope he does not poſitively ſay I conſented to the King's Death; he ſays indeed I knew ſomething of it; now I was near him when he was taken. All the Officers that came to take Mr. *Pickering*, came to my Chamber. Mr. *Oates* ſays he was there at the taking of *Pickering*; if I were Guilty of all theſe Things, being Superior and Maſter to this *Pickering*, 'tis a ſtrange thing that he ſhould neither know me, nor own me, nor accuſe me, nor take me, nor apprehend me, until almoſt a Month after; all which Time I had my Liberty; but then taking notice of my going down there, and having further Information of me that I had lodged there, he took me into his Catalogue of Biſhops, and he came to take me. But if I had been guilty of theſe heinous Things, there is no Reaſon but they ſhould have apprehended and taken me when *Pickering*, and *Grove*, and *Ireland*, and Sir *George Wakeman* were taken.

L. C. J. I will tell you what for that: If you were now arraigned for being a Prieſt, you might well make uſe of that Argument, That when they took *Pickering* and *Grove*, if they knew you have been a Prieſt, they ſhould have taken you too, and yet for all that you were a Prieſt, you could not have denied it. But would it have been an Argument, becauſe you were not then taken, you were not ſo? So you might be in the Plot, and not be taken, and 'tis no Argument from your not being taken, that you were not.

Corker. I ſay, my Lord, if he came to diſcover the Plotters, it had been his Duty to have taken me before, if I had been one in the Plot.

L. C. J. So it had been his Duty to have taken you as a Prieſt.

Corker. But I was, as he ſays, equal in the ſame Crime with *Pickering*, and therefore he ſhould have taken me, when he took him.

L. C. J. Have you any thing more?

Corker. Beſides, my Lord, I find he undertook to tell the Names of all thoſe that were engaged in this Conſpiracy, but among them all, my Name is not, therefore 'tis a new Invention of his.

L. C. J. That is not ſaid here, you go off from what is ſaid here.

L. C. J. North. Can you prove that? then firſt do it, and then make your Obſervations upon it, if you can prove what he ſaid before the Lords by Witneſſes; but otherwiſe you muſt not diſcourſe upon what you have not proved.

L. C. J. Here is nothing of that before this Jury.

Corker. I cannot prove it otherwiſe than by the Record. I deſire it may be looked upon, and I refer it to the Conſideration of the Jury, whether if he did ſay he did not know any thing elſe of any Man whatſoever, but what he had then declared, and I am not there accuſed; whether this Accuſation be now to be believed?

L. C. J. That hath been anſwered already.

Mr. Juſt. Dolben. But it is not proved by them.

Corker. I leave it to the Jury whether they will believe it or no.

L. C. J. You ſay well, if you refer it to the Jury, let them conſider it.

Corker. I ſay, they ought to take it into their Conſideration, they are not raſhly to give a Verdict againſt me; and, Gentlemen, I believe I may refer it to your Conſciences, whether you do not know what I ſay to be true in this Buſineſs?

L. C. J. Mr. *Marſhal*, what ſay you to it?

Marſhal. Truly, my Lord, what I have to ſay for my ſelf is this. About a Month ago I was told the Time of my Trial was at hand, and being then full of good Hope, I did endeavour to provide for it, and I had a great Confidence, my Lord, that it would ſucceed; but truly upon the ill Succeſs of the late Trials, either my Hope or my Heart failed me, and I did reſolve to caſt my ſelf upon God and his Providence, and however my Silence might have been interpreted, I did reſolve, with Silence and Submiſſion, to reſign up my ſelf to whatſoever your Lordſhip and the worthy Jury ſhould be pleaſed to decree upon me. But, my Lord, ſince your Lordſhip is pleaſed to fling forth ſome Encouragement, and to hang out the White Flag of Hope, for your Lordſhip hath been pleaſed to uſe many gracious Expreſſions, and ſo, my Lord, upon this, I ſhall, contrary to my former Determination, now endeavour to make Defence for my Life as well as I can: But, my Lord, not being ſo well able to do it, or of ſo quick Capacity as that Learned and Wiſe Counſel which we have here of Counſel for us, to wit, the Honourable Bench of Judges; for, upon Enquiry, why, by Law, we were allowed no Counſel? I was told, that the whole Bench of Judges were always of Counſel for the Priſoner; and indeed they look upon it as an Obligation upon them, as far as Truth and Juſtice will permit them, to plead for us. Now, my Lord, with an humble Heart, I would ſuggeſt ſome Heads of Defence to this Learned, Wiſe, and Honourable Counſel, and leave it to them to manage my Cauſe for me, according to Truth and Juſtice, which they are better able to do for me than I for my ſelf. My Lord, I have, I thank God, no Spleen, nor Hatred in my Heart, againſt the worſt of my Enemies, nor ſhall be deſirous of Revenge, I leave them and their Proceedings to God; neither am I willing to charge Mr. *Oates* and Mr. *Bedlow* with worſe than the Neceſſity of my Defence will occaſion me to ſay of them. Now, my Lord, the beſt of Men may be miſtaken in a Perſon, and if I prove Mr. *Oates* is miſtaken in the Perſon in me, then I charge Mr *Oates* with no great Crime, and yet make my own Defence. Now, my Lord, I offer theſe Things for that Defence, and I hope your Lordſhip will appear my great Advocate, and what I ſuggeſt in a few Heads, you will, I hope, put it into a Method, and manage it better than I can my ſelf. My Lord, when I was firſt brought before Mr. *Oates* (as truly all that were with me

do

do know) I carried myſelf with a great deal of Courage and Confidence, for I was certain that he did not know me, and I did believe it would be only my Trouble of going thither and coming back again.

L. C. J. To go whither?

Marſhal. To *Weſtminſter*. And pray take notice of this: When I was firſt apprehended, I was never ſought for, nor named as a Traitor in this Buſineſs; but coming accidentally into an Houſe to aſk for one, where they were actually Searching, tho' I ſaw the Conſtable at the Door, and Lights in the Houſe, yet I went in and aſked, if ſuch an one was within? I think this Confidence will not rationally ſuppoſe me Guilty, the Houſe being under Suſpicion.

L. C. J. Here is no Proof of all this.

Marſhal. All that were there know it: Sir *William Waller*, which took me, knows it.

L. C. J. Sir *William Waller*, is this ſo?

Sir William Waller. My Lord, when I came to ſearch the Houſe, I placed one at the Door, and him I ordered to let whoever would come in, but no Perſon whatſoever go out. When I was ſearching, this Perſon comes and knocks at the Door, but did not know, I ſuppoſe, of any Perſon ſearching in the Houſe; for when the Door was opened, and he let in, and underſtood it, he preſently endeavoured to get away again.

Marſhal. By your Favour, my Lord, I am very loath to contradict what Sir *William Waller* ſays in any thing, I would willingly believe him a juſt Perſon, that would ſay nothing but the Truth: but God Almighty is my Witneſs that I never knocked, the Door was open, and I came in of my own Accord, both in at the firſt and the ſecond Door. This the Conſtable will teſtify.

L. C. J. And you would not have gone away again if you could, would you?

Marſhal. I will give you better Proof of it: While they were ſearching in an interior Room (and this is well known by them all that were there) I was in an outward Room by my ſelf, this Sir *William Waller* knows, and when they came back and found me there, the Conſtable and the reſt wondered I was not gone. I was left alone by the Door, by my ſelf; the outward Door I found open, and there is another Door which leads out into an Alley, which any Man can open in three Minutes time, and I know how to do it. Now I could not learn it ſince I was taken, for I have not been permitted to go abroad, but been under cloſe Confinement. But if it be worth the while, and you will give me leave to go there, I can ſhew you how 'tis opened in leſs Time than I can ſpeak Three Words.

L. C. J. Would you have the Jury ſtay here while you go and ſhew us the Door? If you have any Witneſſes to prove it, call them. Come, to the Purpoſe, Man.

Marſhal. My Lord, I ſay, if it were worth the while, that it might be made appear, that if I would go away, I could, but I did not get away, but ſtayed with a great deal of Confidence, my Lord; therefore I urge this to the Point, that Mr. *Oates* is miſtaken. After I had been there a while before Mr. *Oates*, Sir *William Waller* wiſhed me to withdraw, and after I had been abſent a while and came back again, Sir *William Waller* wiſhed me to pluck off my Periwig, and turn my Back to him and Mr. *Oates*; I did not then well underſtand the Meaning of it. But afterwards Sir *William Waller*, out of his great Civility, came to ſee me at the *Gate-houſe*, and brought with him two very worthy Perſons, Sir *Philip Matthews* and Sir *John Cutler*. Sir *Philip Matthews* upon Diſcourſe hearing me declare that Mr. *Oates* was a perfect Stranger to me, ſaid, That Mr. *Oates*, in Teſtimony that he knew me, had given ſuch a certain Mark behind in my Head. I told Sir *Philip Matthews*, if he pleaſed to pluck off my Periwig, he ſhould ſee whether there was any ſuch Mark or no; but he being an extraordinary civil Perſon, told me, he would not give me the Trouble. I deſire Mr *Oates* to declare now beforehand, what that Mark was behind my Head, and if there be ſuch a Mark, 'tis ſome Evidence that his Teſtimony is true; but if there be no ſuch, then it will appear to this honourable Court and the Jury, that he did not know me, but was miſtaken in the Man.

L. C. J. I ſuppoſe he does not know you ſo much by the Mark behind your Head, as by that in your Forehead.

Marſhal. But why did he then ſpeak of the Mark behind my Head?

Mr. Recorder. How does that appear, that he did give ſuch a Mark?

Sir William Waller. I ſhall give your Lordſhip a ſhort Account what was done: When I brought him to Mr. *Oates*, I did deſire indeed to ſee his Periwig off, to ſee if there were any Appearance of a ſhaven Crown. After that I had done that, I cauſed him to withdraw till I had taken Mr. *Oates*'s Examination upon Oath, and after I had taken that, I deſired him to come in again, and I read it to him, and taxed him with it, to which he gave a general Denial to every Particular, and thereupon I committed him to the *Gate-houſe*.

L. C. J. What is this to the Buſineſs of the Mark?

Sir William Waller. I do not know of any Mark; but this I do know, that as ſoon as ever he came in, Mr. *Oates* called him by his Name.

Marſhal. I deſire Sir *Philip Matthews* may be called.

Mr. Recorder. He is not here: What would you have with him?

Marſhal. To aſk, if he did not know in particular, that the Mark was ſuch a Spot behind my Head? Hath he not been here to-day?

Mr. Recorder. I can't tell that.

L. C. J. But he called you by your Name, before ever you plucked off your Periwig; ſo ſaith Sir *William Waller*.

Marſhal. That which I was to ſhew, if I could, and truly all my Defence lies upon it, is, that Mr. *Oates* is a perfect Stranger to me, and conſequently hath nothing againſt me. Now if Mr. *Oates* did give a falſe Mark to know me by, and there is no ſuch Mark, I think 'tis a Proof that he is miſtaken.

L. C. J. Sir *William Waller* ſays the contrary, he called you by your Name, and there was no Mark mentioned; but if you will ſuppoſe what you pleaſe, you may conclude what you liſt.

Marſhal. Sir *William Waller* plucked off my Periwig, and bid me turn my Back to him.

L. C. J. That was to ſee whether you were ſhaven, or no.

Marſhal. Sir *William Waller* had not ſo little Knowledge, as to think that the Prieſts go ſhaven here in *England*, where 'tis Death for them, if they be diſcovered. Beſides, my Lord, it was put in the Common News-Books which were diſperſed abroad in the Country, that it was a white Lock behind. Well, if there be any thing of Favour or Inclination to Mercy in the Court, I ſhall find it; but if there be none, it will not ſucceed, tho' I ſpoke ten thouſand times over; nay, tho' it were ſpoken by the Tongue of Men or Angels it would do me no good; therefore I inforce it again to the Jury to take notice of, that there was a particular Mark given.

L. C. J. That you have not proved.

Marſhal. My Lord, I would beſeech you to take notice of what every Man knows, and 'tis againſt Reaſon to believe, that Sir *William Waller*, knowing the World ſo well as he is ſuppoſed to do, ſhould think we went with ſhaven Crowns in *England*.

L. C. J. And therefore Dr. *Oates* muſt look for another Mark, muſt he; how does that appear?

Marſhal. All *England* know, that thoſe who go over to any Seminary or Cloiſter, never come over again to *England* till their Hair be grown out, that it may be no Mark of Teſtimony that they are ſuch Perſons.

L. C. J. Do you think all Mankind knows that?

Marſhal. All that is rational does.

L. C. J. Well, you hear what Sir *William Waller* ſays.

Marſhal. I always looked upon Sir *William Waller* as a very learned upright Perſon, and did rely upon what he ſhould teſtify for my Defence, and he knows when Dr. *Oates* brought in his firſt Teſtimony againſt me, I did beg that what he ſaid ſhould be written down by him. Said Sir *William Waller*, it ſhall not be written down, but I will promiſe you to remember what he ſays. Now I hope Sir *William Waller*, as an honeſt and worthy Gentleman, will keep his Word, and I deſire him to do it, as he will anſwer it before God at the Great Tribunal.

L. C. J. Aſk him what you will. You adjure him, and yet you won't aſk him.

Marſhal. Now, my Lord, I'll tell you how Mr. *Oates* came to know my Name (which is another Proof that he is a Stranger to me.) When I came firſt in, I aſked Mr. *Oates* if he knew me? and looking ſeriouſly upon me, he aſked me what my Name was? Now we knowing no more of a Man's Thoughts but what his Words diſcover, it may ſeem by that very Queſtion that Mr. *Oates* was a perfect ſtranger to me. Now when I told him my Name was *Marſhal*, he was pleaſed to anſwer, You are called *Marſh*. But my Lord, I ſhould conſider that which hath been before offered to your Lordſhip, but that I do not much inſiſt upon, that if Mr. *Oates* had a Commiſſion to ſearch for Prieſts and Traitors, he was as well bound to tell you I was a Prieſt as a Traitor; that is an Argument for me, I ſay. If he had a Commiſſion to apprehend Prieſts, I conceive, if he knew us to be Prieſts, he ſhould by Force of ſuch a Commiſſion have ſeized upon us.

L. C. J. He needed no Commiſſion to do that, he did ſearch to find out Traitors.

Marſhal. He heard us particularly named, looks upon us, goes away, denies that he knows us, gives us leave to ſleep out our Sleep, and if we would to be gone. Therefore 'tis without any Likelihood or Probability that he had any thing to ſay againſt us.

L. C. J. You have not proved one Word of all this.

Marſhal. He owned it himſelf, that he had ſearched the *Savoy* for Traitors, and did not take us. I ſpeak this out of his own Mouth, therefore it is incredible, and I hope the Jury will take notice of it: He was ſearching for Traitors, and knowing me to be a Notorious Traitor as he would have me to be, that he ſhould find me in Bed, have his Majeſty's Officers with him, and not ſeize upon me.

Mr. Juſt. Pemberton. It does not appear to us, you have not proved it.

L. C. J. Sir *William Waller*, did he ſay firſt, *Do you know me?* and then *Oates* aſk his Name?

Sir William Waller. I ſpeak ſolemnly, as in the Preſence of God, there was not one Word of all this.

Corker. I beſeech you, may I ſpeak one Word?

L. C. J. Have you done, Mr. *Marſhal?*

Marſhal. Truly my Lord, I am aſtoniſhed, I proteſt and confeſs before God I am aſtoniſhed. There is Mr. *Gill* the Conſtable who owned this, and promiſed to be here to atteſt it, for there was a diſpute about it between Dr. *Oates* and me: for ſaid I preſently, if you took me in Bed and knew me to be a Traitor, why did you not ſeize me? he anſwered me again expreſly, before Sir *William Waller*, I had no Commiſſion then to ſeize you: but ſaid I, you acknowledge I was then a Conſpirator, and ſuch your Commiſſion was to ſeize. You might have declared to the Officers you knew me to be a Traitor, and have bid them take charge of me: 'tis impoſſible that you ſhould ſo well know it and not do it, ſure.

L. C. J. Was there any ſuch thing as this, Sir *William Waller*.

Sir William Waller. Really my Lord, I do not remember any thing of it.

L. C. J. Mr. *Marſhal*, call your Witneſſes.

Marſhal. Is Mr. *Gill* the Conſtable here? he owned it. I think I had as good make an end, I may leave it here, for what I ſhall ſay I find will be to little Purpoſe.

L. C. J. You do not prove what you affirm.

Marſhal. My Lord, I do not go as Mr. *Oates* and Mr. *Bedlow* do, who bring no Circumſtance of Probability or Likelihood; they only ſay they were ſuch a time amongſt ſuch and ſuch Perſons, and ſuch and ſuch things were agreed, but ſhew no Probability of it. But I inſtance in ſuch things as do carry a Probability in themſelves, and I name thoſe that were by.

L. C. J. And have no Proof of it in the World. And what you call Sir *William Waller* for, he ſays the contrary, there was no ſuch thing.

Marſhal. I ſay, my Lord, what he ſays is to my great aſtoniſhment. Do you remember, Sir *William Waller*, this, that Mr. *Oates* ſaid there, when he was aſked if he ſaw me laſt Summer, I ſaw you not only in *Auguſt*, but in *June* and *July*?

Sir William Waller. I remember ſomething of that.

Marſhal. I humbly thank you, Sir, for acknowledging that.

L. C. J. What uſe do you make of that?

Marſhal.

Marſhal. I ſhall make uſe of that. The Diſpute was ſo eminent betwixt us that it was impoſſible to forget it.

L. C. J. Well, have you done, Mr. *Marſhal?*

Mr. Marſhal. No, my Lord, tho' I had as good hold my Peace. I could not have Witneſſes to diſprove Mr. *Oates* in Particulars of Time and Place, becauſe I could not forſee what Time or Place he would name. My Lord, I had Witneſſes here at the time of my laſt Trial to prove and ſwear, if they might be admitted, that I was here neither in *June*, nor *July*, or *Auguſt*, but ſpent ſome Months at a Place called *Farnborough* in *Warwickſhire*.

L. C. J. Can you prove this?

Marſhal. I can prove that I had ſuch as would have proved it then. Now, my Lord, this is that I ſay, if the Court be inclined to any Favour or Mercy: Life being a Thing of ſuch concern, I hope ſome little Stop may be allowed to have ſome time to bring ſuch People; but if there be no Inclination to Mercy, it would be the ſame thing if the Proof were here.

L. C. J. The Court will do you all Juſtice here, and that is their Mercy.

Marſhal. I am confident I ſhall have great Juſtice done me, I would not have ſaid one Word in my Defence if I did not believe ſo. I took heart by what your Lordſhip had ſaid, and I have already done that which I thought moſt material for it. I have urged firſt the falſe Mark that he gave to know me by. And then his taking me in Bed and diſowning to know me. Beſides Mr. *Oates* hath been poſitive in his Teſtimony about the 21ſt of *Auguſt*, I could not now have Witneſſes to diſprove that, becauſe I knew it not before, but I can have ſeveral Witneſſes to prove, that I had then Witneſſes to prove it, ſufficient Witneſſes from *Farnborough*, who were ſure and certain that I was that very Day there, and would inſtance in ſome particular Reaſons why I was there that Day. And then theſe Witneſſes will ſwear that I was never from thence for three Months at any Diſtance, but twice at a Neighbour's Houſe, and they can tell the Places where I was then.

L. C. J. You come and tell us what other Folks could tell, why have you not them here? Can the Jury take Notice of this?

Marſhal. I hope you will not throw away my Life, when in three Days time I could bring Witneſſes to prove it.

L. C. J. Then we muſt throw away the Lives of the Jury, for they muſt be kept faſting all thoſe Days till they give in their Verdict? for they muſt be ſhut up till then.

Marſhal. My Lord, with your Leave, there have been thoſe that have been upon their Trials, and ſent back to Priſon before the Jury have given a Verdict, and after tried again.

L. C. J. North. Ay, if they be diſcharged quite of you.

L. C. J. I tell you the Jury muſt be kept together cloſe, till they give their Verdict.

Marſhal. The Jury was not kept up when Mr. *Whitebread* and Mr. *Fenwick* were Tried, and they were afterwards Tried again.

L. C. J. The Jury were wholly diſcharged of them.

Marſhal. If you have any regard of my Life you may diſcharge them of me.

L. C. J. Truly this is as reaſonable as any thing you have offered.

Marſhal. If your Lordſhip believe what I ſay is true, you throw away my Life unleſs you grant me this Time. I ſhould be a very infamous Man if I did not prove it then.

L. C. J. If the Jury believe it, I am ſatisfied.

Marſhal. My Lord, I ſhould then come full of Shame, if I did not prove what I ſay; therefore I hope the Court will allow me time to prove what I affirm, that that particular Day, and the Day before, and the Day after I was in the Country, and ſtirred not. And then as to the Day before the *Aſſumption* which he charges upon me, and the Day after, I can bring Witneſſes to prove I was thoſe three Days at another Houſe almoſt 50 Miles off *London*; ſo there is nothing in all that is ſaid againſt me by Mr. *Oates* which comes to be determinative and poſitive in his Teſtimony, but I can diſprove it if time be allowed me, but if that cannot, I can bring ſuch Proof as can teſtify, that I had before thoſe that could evidence it.

Corker. I told your Lordſhip, I think, that the Conſtables and other Perſons that came there to take *Pickering*, ſaid they knew nothing of me, and had nothing to ſay to me. Your Lordſhip tells me, this I ought to prove. I muſt confeſs I could not expect that, when there were ſo many, an hundred People at leaſt, that all thoſe people coming in I ſhould be put to prove it. But here is a Servant that was in the Houſe then, that will tell you the ſame, that will atteſt they ſaid they had nothing to ſay to me.

Mr. Juſt. Pemberton. Call any of your Witneſſes that you have.

Mr. Juſt. Dolben. Mr. *Corker*, you remember that the laſt time you were here at the Bar, you deſired Time becauſe you had not your Witneſſes; it is now above a Month ago, and therefore you have no Reaſon to ſay your Witneſſes are not ready. Let us ſee them, that we may ſee you did not abuſe us.

Mr. Recorder. Who were the Perſons that were then at *Tunbridge?*

Corker. I tell you ſincerely, my Lord, I did not know what they would ſay, but then I did take notice when my Accuſation was read againſt me, That there was a Time mentioned of the 24th of *April*, that I conſpired the Killing of the King. Now I could prove the contrary of that I thought, for I did remember, and ſo my Friends know very well, that always in the Spring-time I go once or twice, moſt commonly about Thirty Miles out of Town, to take the Air. So my Lord, from that Obſervation I did really believe I was actually there at that time; and from this Belief I did then tell your Lordſhip, that I thought I could bring Witneſſes that would prove I was at that Place then. According to your Lordſhip's Order I ſent for the Gentlewoman that kept the Houſe, and ſhe coming up I aſked her, Miſtreſs, ſaid I, can you tell when I was at *Tunbridge*; ſaid ſhe, I believe you were there about or near *April*; but that is not the thing, ſaid I, I aſk you, can you poſitively ſay that it was either before or after the 24th, can you give me any determinate Circumſtance of it. She could not ſwear, nor durſt, what Day I was there exactly; then, ſaid I, go back again; for I reſolved to die in my Innocency without Proof, rather than my Witneſſes ſhould ſpeak what was falſe or doubtful.

Marſhal. I deſire that one *Thomas Sumner* may be called. He was the Man that went down to fetch up the Witneſſes from *Farnborough*.

Mr. Recorder. What is your Witneſs, Mr. *Corker?*

Corker. My Witneſs's Name is *Ellen Rigby*. [*Who ſtood up.*]

L. C. J. What is it you aſk her?

Corker. I deſire ſhe may be aſked, whether ſhe knows that I was in the Houſe when the Search was in the *Savoy*, when Mr. *Pickering* was taken? and whether then they charged me, or ſaid I was a Perſon that they had nothing at all to do with?

Marſhal. And me the ſame.

L. C. J. Do you hear the Queſtion?

Corker. Was not I in the *Savoy* when *Pickering* was taken?

Marſhal. And I?

Rigby. Yes, you were both in Bed then.

Corker. Are you ready to ſwear it if my Lord will permit you?

Rigby. Yes. And the Company that came in never aſked for you, but when they ſaw you, ſaid they had nothing to do with you.

L. C. J. Who ſaid ſo?

Rigby. The Company that came and ſearched the Houſe for *Pickering*.

L. C. J. Was Mr. *Oates* there?

Rigby. Yes, my Lord, Mr. *Oates* was there.

L. C. J. Did he ſay that he had nothing to ſay to them?

Rigby. Several of them did ſay ſo, and he among them. They aſked me who were in the Houſe, I told them ſeveral. They ſaid they had nothing to do with any but Mr. *Pickering*.

L. C. J. North. Who did you tell were in the Houſe?

Rigby. I told them there was *Pickering*, *Marſh*, *Heſkett*, *Corker*, *Smaydon* the Porter and his Wife, two Children, *&c.*

Corker. Now 'tis incredible he ſhould ſearch for Traitors, and, as he ſays, knew us to be ſuch, and ſhould not aſk for us: Nay, when he ſaw us, leave us there, and never bid the Officer ſecure us.

Mr. Juſt. Pemberton. Who did aſk you the Queſtion?

Rigby. There were five or ſix, Mr. *Oates* and Mr. *Bedlow*.

Corker. I deſire to know this of you, Have you not heard all along that *Mr. Stapleton* is Preſident of the *Benedictines*, and how long he hath been ſo, for ſhe was Houſekeeper?

Marſhal. Who is Preſident of the *Benedictines?*

Rigby. Mr. *Stapleton*.

Corker. How long hath he been ſo?

Rigby. Four Years and a Quarter for any thing I know to the contrary.

L. C. J. In his Abſence, who was?

Rigby. I know not who.

L. C. J. Did not *Corker* officiate?

Rigby. Never in his life.

L. C. J. Do you know who did?

Rigby. I can tell he did not.

Corker. Pray aſk her if ſhe knows of any Conſult of the Jeſuits in the *Benedictine* Convent?

L. C. J. How ſhould ſhe know that? was ſhe one?

Corker. Becauſe there can none come to the Houſe, but ſhe muſt entertain them; there was no other Servant at all but ſhe.

Marſhal. Now, my Lord, ſince ſhe is here, let her ſee Mr. *Oates* and Mr. *Bedlow*; aſk her whether ever ſhe ſaw them in the Houſe in her life.

Rigby. I ſaw Mr. *Oates* in the Houſe; he came a begging to Mr. *Pickering* for Charity.

L. C. J. What was the Time?

Rigby. This Summer was Twelvemonth: And Mr. *Pickering* bid me ſhut the Door, and never let that Man come in again.

Marſhal. That was in the very Heat of the Plot, the very nick of time when he was employed to carry on the Conſpiracy, as he ſays; and that then we ſhould ſuffer him to be in ſuch Neceſſity; and ſent away with a Flea in his Ear, when he could gain ſuch Advantages by diſcovering us: Is it likely that we would truſt him with the whole Plot, and yet ſuffer him to want? I appeal to your Lordſhip and the Jury whether that be probable?

Then Sumner *appeared and ſtood up.*

L. C. J. What ſay you to him?

Marſhal. I deſire he may be aſked, whether he does not know that here were Witneſſes to teſtify I was then at *Farnborough*.

L. C. J. This is not a Queſtion to be aſked, what another Body can Swear.

Marſhal. He was ſent down, my Lord, to fetch the Witneſſes up.

L. C. J. Well, to ſatisfy you we will aſk the Queſtion, tho' it be improper: Were you ſent down for Witneſſes?

Sumner. Yes, my Lord.

L. C. J. Why did not they come?

Sumner. They did come.

L. C. J. Why are they not here? The laſt Seſſions was adjourned particularly to a certain Day, and you knew when you were to be tried.

Mr. Recorder. For this very Reaſon, That all might take notice of it, it was adjourned to the 16th Day at this place.

Marſhal. Your Lordſhip does ſuppoſe we have a better Purſe than we have: Would you have them leave their Employments, and come up, and be at great Charges? 'tis not in the Capacity of every one to endure it.

L. C. J. What would you have us do in this caſe?

Marſhal. What is but Reaſonable, Give me but three or four Days time, and I can have my Witneſſes up.

Mr. Juſt. Dolben. I pray aſk them whether they were not told of the time of their Trial?

L. C. J. Why did not you ſend for them before, when you knew what Day it was to be?

Mr. Juſt. Dolben. You knew as much before as you do now. If you did not, what did you ſend for them up for then, more than now?

Corker. There was no Certainty at all of the Time when we ſhould be tried. We were told it was near, but not the very Day; ſome ſaid the 12th, ſome the 14th, ſome the 16th, ſome not at all.

Mr. Recorder. You muſt not ſay ſo; for notice was publickly given here that it ſhould not be till the 16th, and the Seſſions was adjourned till then.

Marſhal. I was told it would be two or three Days after laſt Term. I confeſs God Almighty hath beenpleaſed to give me a long Impriſonment

to prepare for my laſt Cloſe. I do not fear Death, tho' it ſhould appear in far more frightful Shapes, than that we may be like to ſuffer. So, my Lord, it is not ſo much a Concernedneſs for my own Life, as for the Honour and Juſtice of the Court, that I plead for a Reſpite to have Witneſſes that may poſitively and particularly diſprove the Teſtimony of Mr. *Oates*. And all the World will think it an hard Caſe when I do atteſt and call to Witneſs ſuch as have a great Probability to prove what I ſay to be true; when I can have ſuch a numerous Train of Witneſſes to prove that I was that particular Day threeſcore Miles out of *London*, and would poſitively ſwear it, if permitted. It will be hard, and will, I fear, draw an heavy cenſure upon this Honourable Court, if ſome time be not allowed.

L. C. J. It cannot be allowed you, for then we muſt tie up the Jury, and make them faſt all the time.

Marſhal. You may diſcharge them of me.

L. C. J. We cannot do it now.

Mr. Juſt. Pemberton. There is no reaſon for it now, for you had time for your Witneſſes before. What do you come here to make a great Harangue about Witneſſes which you had, and did not bring them.

L. C. J. Did you know they would come to prove, to any Day?

Marſhal. I know they could prove ſuch a Day.

L. C. J. Why then were they not here?

Marſhal. Pray, my Lord, give me leave. I hope I ſhall not ſpeak more than is reaſonable and juſt, and then I care not how it ſucceeds. Every Judge is as much obliged to follow his Conſcience, as any Formality in Law.

L. C. J. Pray teach your own Diſciples, don't teach us: You come and talk here what regard we are to have to our own Conſciences, as if we did not know that better than any Papiſt or Prieſt in the World.

Marſhal. I ſuppoſe that, and 'tis rational too. And I do ſuppoſe that this Bench is infinitely juſt and merciful, and upon that ſuppoſition I plead. Then if there be great reaſon to believe that I can diſprove Mr. *Oates* in his poſitive Teſtimony, then there is great reaſon to believe that I can ſave my Life. And if there be reaſon to believe that I can ſave my Life, I ſuppoſe there will be more regard to this than to any Formality of Law. Be pleaſed to aſk him, whether he were not to fetch Witneſſes that could atteſt this.

L. C. J. What can you ſay?

Sumner. I went down into the Country for Witneſſes.

L. C. J. Why did you not bring them up againſt this time?

Sumner. I had no Order for this time.

Marſhal. We did not know when we ſhould be tried.

Cl. of the Peace. My Lord, I did tell the Meſſenger when the Seſſions was.

L. C. J. Did the Officers here acquaint you when the Seſſions was?

Sumner. I had order from Captain *Richardſon* at firſt, I did aſk leave to go down to fetch his Witneſſes; ſays Captain *Richardſon*, you have order to do what he ſhall direct, to provide him his Witneſſes; that was for the laſt, not for this.

L. C. J. How far were the Witneſſes off?

Sumner. Threeſcore Miles.

L. C. J. Why, you have had notice long enough of your Trials, to get up Witneſſes Threeſcore Miles.

Mr. Recorder. Capt. *Richardſon*, Did not you tell the Priſoners when their Trials would be?

Mr. Juſt. Dolben. They had all notice of the Seſſions by the Adjournment, and ſhould have provided for it.

Capt. Richardſon. Ever ſince the laſt Seſſions they have all of them had the Permiſſion of any People to come to them in order to the preparing for their Trials.

L. C. J. As when?

Capt. Richardſon. As for this Seſſions.

L. C. J. Firſt you did know that the Seſſions did begin on *Wedneſday*; if you had prepared your ſelves againſt *Wedneſday*, you had been delayed but for two Days.

Marſhal. But how could I prepare Witneſſes for that which I did not know would be teſtified againſt me?

L. C. J. Why did you prepare them for the laſt Trial? why had you not the ſame Witneſſes you had then?

Marſhal. Becauſe it was upon ſomewhat he had ſaid upon my taking, that he ſaw me in *June* and *July*, I did provide Witneſſes for it.

Mr. Juſt. Pemberton. He holds to the very Day he ſaid firſt, and this is but plain trifling.

L. C. J. Truly, if the Merit of your Cauſe be no better than ſuch weak Aſſertions, your Defence is but very poor.

Marſhal. But that I humbly offer, is this, whether you will believe I can have ſuch Witneſſes, and therefore ſtay till they be ſent for.

Mr. Juſt. Dolben. We have no Reaſon to believe you.

Mr. Juſt. Wyndham. We have no Reaſon to believe you, when you have had time to prove it, and have not got them.

L. C. J. Why were they not here now?

Marſhal. My Lord, I do give you a Double Reaſon. Then, my Lord, I offer this, that my Name is in no Liſt, Paper, nor Narrative that ever was put forth; and if I had been Guilty, as he ſays, would not he have named me amongſt the other Conſpirators?

L. C. J. No, I think he ſhould not, it would have given you Notice, and too much Opportunity to have gone away.

Marſhal. He gave me leave, when he left me in my Bed.

L. C. J. But yet for all that it does not prove your Innocency. All People that are Guilty, don't run away for it, for you have abundance of Prieſt-holes, and Hiding-holes. Well, have you any more Witneſſes? if you have, Call them.

Corker. Call *Alice Broadhead* [*but She did not preſently appear*;] then I deſire Mrs. *Eliz. Sheldon* may be called; [*Who being in the Gallery, anſwered and came down.*]

Marſhal. I do deſire to know whether ſhe knows who is Preſident of the *Benedictine Monks?*

L. C. J. Who is Preſident of the *Benedictines*, Miſtreſs?

Sheldon. Mr. *Stapleton.*

L. C. J. How many Years hath he been?

Sheldon. A great many Years, my Lord, to my Knowledge.

L. C. J. How many?

Sheldon. Four or five Years.

Mr. Recorder. Where is Dr. *Oates?* call him.

L. C. J. But if he were abſent did not Mr. *Corker* officiate in his place?

Sheldon. Never, my Lord.

Corker. Mr. *Stapleton* was actually at *Paris* when I was there, and therefore I could not officiate in his ſtead; there is another that can teſtify the ſame, that is *Alice Broadhead*, [*Who appeared then.*] Pray aſk her the ſame Queſtion.

L. C. J. Who is Preſident of the *Benedictines?*

Broadhead. Mr. *Stapleton*, I have known him for many Years, and there hath not been for a great many Years any other.

Corker. Then I do deſire that I may obſerve this, That Mr. *Oates* doth ſeem to accuſe me poſitively of nothing, but only of conſenting to the *Benedictines* Contribution of 6000*l.* which he ſays they could not do without my leave, becauſe I was their Preſident; but I have brought three Witneſſes which ſay, and are ready to ſwear, that Mr. *Stapleton* is Preſident, was ſo theſe many Years, and I never was ſo in my Life.

Mr. Recorder. Here is Dr. *Oates* again now. [*But he was not Examined.*]

L. C. J. Have you done now, all Three?

Sir Geo. Wakeman. I ſay, my Lord, I find that it was imputed to me, at leaſt as a ſin of Omiſſion, that when I was before the Council, I did not ſufficiently deteſt, and abominate, and abhor this Crime that is laid to my Charge. I now deteſt, abhor, and abominate the Fact charged on me. I call God to Witneſs, I never was in any Conſultation about it in my Life, I never received any Bill for any Money upon this account, nor did ever receive any Money.

L. C. J. Had not you Two Thouſand Pounds?

Sir Geo. Wakeman. No, my Lord, I wiſh I may never enter into the Kingdom of Heaven, if I received one Farthing for any ſuch thing.

Corker. He ſays, that I was employed in diſtributing Moneys; and I profeſs before God, I never diſtributed any Money upon ſuch Account; all that I had was an Annual Annuity which I gave amongſt the Poor. I proteſt before God, I never in my Life did deliver or hold it as a matter of Faith or commendable Doctrine, That it was lawful for the promoting of the Catholick Religion, to Murder the King, or deſtroy my Country. And I renounce and deteſt it from the bottom of my Soul. And this is all can be expected from a good Chriſtian upon that account; and I hope the Jury will have no prejudice againſt me for that; and neither Pope or any breathing upon Earth can diſpenſe with me from that Obligation.

Marſhal. And if no Door can be opened for a merciful Sentence upon any Conſideration offered by the Living; at the loud Cries of the dying, I hope there may; and all the earneſt Vows, and all thoſe ſolemn Proteſtations of Innocency by ſuch as were lately Executed for the Crimes we ſtand here charg'd with, left behind them as ſacred Teſtimonies of their Loyalty and unviolated Faith to the King. And I beg leave to put before the Eyes of this Honourable Court, and this whole Aſſembly, this Landſkip of Horror, wherein may be ſeen thoſe Caves of Darkneſs, thoſe Baths of glowing Sulphur, ſuch Men muſt be eternally judged to be condemned unto, if what they then ſpoke had not the Characters of the faireſt Truth found inſtamped upon it. Now if a right Survey be taken of this Landſkip, and it be well obſerved what theſe Men ſo ſolemnly ſigned and ſealed to with their laſt Breath, it muſt be confeſſed they either conſpired finally to damn their own Souls, or were not Conſpirators againſt the King, nor were they Guilty of what was charged upon them. Preſent Content, where the Enjoyment is like to continue, works with a ſtrong Influence upon humane Nature, and chains it faſt to the preſent World. But, my Lord, with the approach of Death, Reformation of Conſcience does offer to advance, and we do obſerve thoſe who have lived a very ill Life, frequently to make a good End; but, my Lord, it is a thing ſcarce ever heard of or known, that thoſe who have lived all their Lives well, ſhould die ill. Nor can ſuch as were looked upon while they lived as Perſons of much Integrity, great candor of Spirit, and unqueſtionable truth in all their Atteſtations, Dying, ſhould become Prophane to Blaſphemy, become Irreligious even to Sacrilege, and falſe even to the worſt of Atheiſm. My Lord, this cannot readily be believed, or eaſily imagined; nor will be, tho' it be poſſible; and yet all that will not believe this, muſt own an Innocency where Guilt is ſo ſtrongly ſuppoſed. And if there be great Cauſe to doubt whether thoſe that were lately executed, and were ſuppoſed to be Leaders in this Conſpiracy, were Guilty upon the Conſideration of thoſe ſolemn dying Proteſtations they have made to the contrary; I humbly conceive it may be much more rationally doubted, whether others brought in only by the by, as I am, as a Letter-Carrier, and only as Marginal-Notes to the great Conſpirators, may not wholly be innocent. Now, my Lord, if no Credit be to be given to the Proteſtations of Men dying, that have ever been judged ſober and juſt; how can Faith be repoſed in the Teſtimony of ſuch Living Perſons as know no God nor Goodneſs? And if the reputed juſt Man at the very point of Death can be judged rationally falſe in his Proteſtations, tho' Death be in his Eyes, and Hell threatning to ingulph him; may not he, my Lord, who hath owned himſelf a Villain in print, be thought falſe in his Teſtimony, while Preferment tickles him, Rewards march before him, and Ambition beckons to him, which he greedily follows, tho' God and Conſcience tell him 'tis unjuſt?

England is become now a mournful Theatre, upon which ſuch a Tragedy is acted, as turns the Eyes of all *Europe* toward it; and the Blood which hath been already ſpilt, hath found a Channel to convey it even to the remoteſt Parts of the World. And tho' it inſpires different Breaſts with different Reſentments, yet it may ſpeak a Language that none who are Friends of *England* will be willing to underſtand. Our preſent Tranſactions here, are the preſent Diſcourſe and Entertainment of foreign Nations; and without all doubt will be chronicled and ſubjected to the Cenſure of enſuing Ages. Now my Lord, I have great Reaſon to believe, That not any one of thoſe Honourable Perſons that now ſit Judges over us, would be willing to have their Names writ in any Characters, but thoſe of a juſt Moderation, of a profound Integrity, of an impartial Juſtice, and of a gracious Clemency. And tho' we would not be all thought to be well-withers to the *Roman* Catholick Religion, yet we would be all thought Friends to Religion; and tho' we exclaim againſt Idolatry and new Principles of Faith, yet we all ſtand up for old Chriſtianity;

Chriſtianity; whereas if the Teſtimony of Living Impiety be applauded and admitted of, and the Cries of Dying-honeſty ſcoffed at and rejected, what will become of old Chriſtianity? And if any Voice, Cry, or Proteſtation of Dying Men may paſs for Truth, and obtain Belief, where is now our new Conſpiracy? The Queſtion now ſeems to come to this, the belief of Chriſtianity now in *Roman* Catholicks, and the Appearance of their Innocency, are ſo faſt linked together by thoſe ſolemn Vows and Proteſtations of their Innocency, made by the late Executed Perſons, that no Man can take up Arms againſt the Latter, but muſt proclaim War againſt the Former. Nor can our Innocency bleed, but our Chriſtianity muſt needs by the ſame Dart be wounded. Nor can any Tutelar Hand ſtretch it ſelf forth——

L. C. J. North. You ſpeak *ad faciendum populum*, and ſhould not be interrupted, but only I think you laſh out a little too much.

Marſhal. I ſpeak this to add the Teſtimony and ſolemn Vows of the Dying, to what we ſay Living for our own Defence. And I deſired they may be put in both together, and weighed in the Scales of an impartial Judgment. Now, my Lord, I ſay, the queſtion ſeems not ſo much whether *Roman* Catholicks, are Conſpirators, as whether indeed they be Chriſtians. Nor is it the great Doubt now whether they deſigned to kill the King, but whether they believe there is a God. For whoever grants this laſt, the belief of a God, of a Heaven, and an Hell, and conſiders what Aſſeverations they made at their Death, what ſolemn Proteſtations they inſiſted upon, does with the ſelf-ſame breath proclaim them Innocent.

Mr. Juſt. *Pemberton.* But Mr. *Marſhal*, will you go on to affront the Court in this manner, to vouch for the Truth of their Speeches, which they made at the Gallows, and affirm them Innocent after they have been found Guilty, and executed according to Law?

Marſhal. My Lord, I do not avouch them Innocent, I only deſire there may be conſideration had, and that the Words of ſuch Dying Men may be thought of. If they did believe a God and a Judgment-Seat that they were going to, could they be Innocent and Chriſtians too?

L. C. J. I was loth to interrupt you becauſe you are upon your Lives, and becauſe 'tis fit you ſhould have as much Indulgence as can be allowed. Your Defence hath been very mean, I tell you beforehand; your Cauſe looked much better before you ſpoke a Word in your own Defence, ſo wiſely have you managed it.

Mr. *Recorder.* But really for your particular Part, Mr. *Marſhal*, you abound too much in your Flowers of Rhetorick, which are all to no Purpoſe.

Marſhal. I hope it would be no Offence to inſiſt——

L. C. J. But I will tell you, and I'll be heard as well as you, Sir; Becauſe of the Proteſtations of theſe Men, which you make ſo much a ſtir about. If you had a Religion that deſerved the name of a Religion, if you were not made up of Equivocation and Lying, if you had not Indulgences and Diſpenſations for it, if to kill Kings might not be meritorious, if this were not printed and owned, if your Popes and all your Great Men had not avowed this, you had ſaid ſomething; but if you can have Abſolutions either for Money, or becauſe you have advanced the Catholick Cauſe as you call it, and can be made Saints as *Coleman* is ſuppoſed to be, there is an end of all your Arguments. There is a God, you ſay, and you think we ſhall go to that God becauſe he hath given us the Power, we can let our ſelves in and turn the Key upon Hereticks. So that if they kill a King, and do all the Wickedneſs they can deviſe, they ſhall go to Heaven at laſt; for you have a Trick, either you can directly pardon the killing of a King, or if you excommunicate him he is no King, and ſo you may kill him if it be for the Advancement of Religion. But it will be in vain for you or any Prieſt in *England* to deny this, becauſe we know you Print it and publickly own it, and no body was ever yet puniſhed for any ſuch Doctrine as this. Therefore all your Doings being accompanied with ſuch Equivocations and Arts as your Religion is made up of, 'tis not any of your Rhetorick can make you be believed. I do believe it is poſſible for an Atheiſt to be a Papiſt, but 'tis hardly poſſible for a knowing Chriſtian to be a Chriſtian and a Papiſt. 'Tis hardly poſſible for any Man of underſtanding, ſetting aſide the Prejudices of Education, to be a Papiſt and a true Chriſtian, becauſe your Doctrines do contradict the Foundations of Chriſtianity. Your Doctrine is a Doctrine of Blood and Cruelty, Chriſt's Doctrine is a Law of Mercy, Simplicity, Gentleneſs, Meekneſs and Obedience; but you have nothing but all the Pride that ever a Pope can uſurp over Princes: and you are fill'd with Pride, and mad till you come again into the Poſſeſſion of the Tyranny which you once exerciſed here: inſomuch that 'tis ſtrange to me, but that Princes abroad think you more conducing to their politick Intereſt, elſe ſure they could not endure ſuch Spiritual Tyranny to Lord it over their Souls and their Dominions. Therefore never brag of your Religion, for it is a foul one, and ſo contrary to Chriſt; that 'tis eaſier to believe any thing, than to believe an underſtanding Man may be a Papiſt. Well, Sir, if you have any more to ſay ſpeak it. You have provoked me to this: and indeed I ought to do it, becauſe you have ſo much reflected on the Juſtice of the Court: but if you have any thing to ſay in your Defence; ſpeak it, or to your own particular Caſe. As for your Religion, we know what it is, and what merciful Men you are: and if we look into the bottom of you, we know what you were ever ſince Queen *Mary*'s Days: and if we look into the Gunpowder-Treaſon, we know how honeſt you are in your Oaths, and what Truth there is in your Words, and that to blow up, King, Lords and Commons, is with you a merciful Act, and a ſign of a candid Religion; but that is all a Story with you; for it is eaſier for you to believe, that a Saint, after her Head is cut off, did go three Miles with her Head in her Hand, to the Place where ſhe would be buried, than that there was a Gunpowder-Treaſon. [*At which the People gave a Shout.*]

L. C. J. North. You muſt not meddle any more with the Speeches of thoſe that died.

Marſhal. I did not intend, my Lord, to call any thing of Juſtice in queſtion.

L. C. J. What, do you think we will be impoſed upon in this manner? Perhaps you have Tricks enough to gull your own Party, but you have not to deceive Proteſtants; they can look thro' all your Arts; nay, I never ſaw ſuch Men of weak Parts, as your Prieſts generally are; ſo that I wonder you ſhould have any diſciples, but ſilly Women, or Men without Learning.

Marſhal. If we were guilty of this Conſpiracy, we ſhould gull only our ſelves.

L. C. J. Go you on with one Harangue, I warrant you I will give you another; you ſhall not be hindered to ſay any thing that is pertinent; but this is not at all ſo. We have a Bench of Aldermen have more Wit than your Conclave, and a Lord-Mayor that is as infallible as your Pope. Have you any thing more to ſay for your ſelves?

Marſhal. 'Tis not proper to contradict your Lordſhip, but 'tis a Wonder you ſhould know our Religion better than our ſelves; for I know not of any ſuch Doctrines owned amongſt us.

L. C. J. No! then I believe you have not read your own Books; I ſuppoſe that your Buſineſs is not now to read, but to ſeduce ſilly Women, or weaker Men. What, don't you publiſh them all over the World? Is there any *Index expurgatorius*, into which you have put theſe Doctrines? Surely you know not any thing, if you know not this.

L. C. J. North. If you have any thing more to ſay in the proper Defence of your Trial, pray ſpeak it now.

Corker. As to thoſe damnable Doctrines, we profeſs our ſelves innocent of them. I deſire that the Jury may not go upon ſuch a Prejudice, that I entertain ſuch Principles of Religion, as Matters of my Faith. They are horrid Crimes, I proteſt againſt them, and own them not. I deſire the Jury to take notice of it.

Marſhal. I have this further to offer to your Lordſhip, that Mr. *Bedlow* owned before the Lords that he knew no more to be guilty than he had declared, and among all thoſe I am not named; and this was a Month or ſix Weeks before I was taken.

Mr. Juſt. Pemberton. There is no ſuch thing at all proved here, or given in Evidence, and therefore why do you inſiſt upon it?

Marſhal. In this I appeal to the Knowledge of your Lordſhip: and if you know it, I hope you will be pleaſed to acquaint the Jury with it.

L. C. J. I do not know for my own particular, what Anſwer was made; I was not in the Houſe, nor do I know it.

Judges. None of us know it.

Marſhal. I deſire the worthy Jury to take notice, that among all the Perſons named, there is no ſuch Name mentioned as mine.

Mr. Juſt. Pemberton. There is no ſuch Thing proved here.

Marſhal. They deny all the Lords Records.

L. C. J. Well, have you done? Look you, Gentlemen of the Jury——

Marſhal. I deſire but one Word: Theſe Things I have inſiſted upon as far as I can for my ſelf; but the main Matter I rely'd upon was, that Mr. *Oates* did not know me, neither as to my Calling, Converſation, Words nor Actions. He can bring no Perſon, Man nor Woman, that ever ſaw him in my Company, nor took notice of our meeting together, nor *Bedlow* neither; he can name no Place where he ſaw me, none but the *Savoy*, againſt which no Proof can be found. And then at the Searching of the Houſe, I deſire the Jury to take notice, that at that Time he diſowned us, and ſaid he did not know us. A ſufficient rational Cauſe cannot be given why, he ſhould ſay now he knows me, and did not then take me.

Mr. Juſt. Pemberton. You have ſaid all this before.

Marſhal. Then, my Lord, for a Concluſion, I have been told, and I will only deſire the Jury to take notice of it, that every Jury that finds a Man guilty of Death, upon the Teſtimony of Witneſſes that come in againſt him, do take it ſolemnly upon their Conſciences, that what ſuch Witneſſes ſwear is true.

L. C. J. That they believe they ſwear true: For we have no Infallibility with us: 'Tis one thing to ſay 'tis true, and another thing to ſay we believe it is true. Look you, the Jury may give a Verdict that is falſe, and yet go according to their Conſciences. Do you underſtand that, Prieſt?

Mr. Juſt. Pemberton. You need not teach the Jury what they are to do.

Marſhal. But conſidering in caſe an Oath be falſe, and the Jury have reaſon to doubt what the Priſoners ſay in their own Defence, upon what they hear or have learnt of their own Knowledge, if they find ſuch Doubt grounded upon that double Matter, then they are in great Danger to bring the Fault to their own Doors, and make the Crime of Perjury their own.

Mr. Juſt. Pemberton. What, do you go over Things again and again?

L. C. J. All this ſignifies but little; if you had Popery here, you would get but little by it. We ſhould hardly part with our *Peter Pence* for all your Speeches. We all know what Things are, 'tis not a Parcel of Words patch'd thus together, will do your Buſineſs.

Marſhal. I wiſh all Thoughts were as openfac'd as ours are.

L. C. J. Look you, Gentlemen of the Jury, here are four Priſoners; as to one of them, that is *Rumley*, the Truth of it is, there is but one Witneſs againſt him, and by the Law there ought to be two; ſo I cannot ſay, but you ought to diſcharge him: We do not find, that there is Teſtimony ſufficient, according to the Law, to condemn him, and therefore you ought to acquit him. As to the reſt, here is Sir *George Wakeman*, Mr. *Corker*, and Mr. *Marſhal*; there hath been two ſorts of Evidences given, I will repeat them as well as I can, and as ſhort as I can. There hath been a general Evidence, and a particular Evidence: There was a general Evidence given by Mr. *Dugdale*, of the Plot in general, and by Mr. *Praunce*, and ſomething of Intimation by Mr. *Jenniſon*. Theſe of *Dugdale*, *Praunce*, and *Jenniſon*, do not mention ſo much as the Names of the three Gentlemen that are upon their Lives; but I'll tell you why it was neceſſary, and anſwers a great Objection that they ſeem to make: for you are to believe Men, ſay they, and to believe Men upon probable Circumſtances, ſomething to guide you beſides the Poſitiveneſs of an Oath; and that is well enough ſaid. Now here is ſomething beſides, and that is the Plot; that there was a Conſpiracy to introduce Popery, by the likelieſt Means, which was to kill the King; and that ſuch

People

People as theſe Men were to do it. Now that there was ſuch a general Deſign to do it, is a circumſtantial Evidence, (as to theſe Men I call it ſo.) And theſe are Circumſtances which may anſwer the Objection they make, when they ſay, You are not to give Credit to poſitive Oaths without any thing to govern you by; for you have this to govern you by, beſides the Oath, that there was a Plot.

The Teſtimony of Mr. *Jenniſon* does go more particularly to the Buſineſs of *Ireland*, which I would obſerve, by the way, for the ſake of that Gentleman that ſtands ſo much upon the Innocency of thoſe Men, and would have them to be believed upon their own Aſſertions, becauſe he ſays they dare not die with a Lye in their Mouths. I believe it is notorious enough, Mr. *Jenniſon* that comes here is a Man of Quality, and one againſt whom there is no Objection, and he is juſtified by one or two more. He ſays, he ſaw Mr. *Ireland* the 19th of *Auguſt*, when he, to his Death, took upon him to aver he was then in *Staffordſhire*, and brought ſeveral of his own Religion, who would outface it to the Court, that he kept them Company ſo many Days, and was in the Country all the while. There was a Maid, before this, that came and teſtified that ſhe ſaw *Ireland*, and ſaw him at his own Door, in *Auguſt*, but this Gentleman comes and proves it upon him more particularly, and tells you when, the Day of the Week, and of the Month, that he was with him at his own Lodging, that Night he came from *Windſor*, that he was pulling off his Boots, and pretended to come Poſt from *Staffordſhire*, and ſo that he was in *Staffordſhire* is true, becauſe he came thence Poſt, but he hath always conſtantly deny'd that he was here, and that may ſerve for the Integrity even of their dying Oaths. And you are not going, according to your own Doctrine, ſo immediately to Hell, I hope you ſuppoſe a Purgatory, where you may be purged from ſuch Peccadillo's as this of dying with a Lye in your Mouths.

As for the Teſtimony of the particular Evidence, firſt, againſt Sir *George Wakeman*, Mr. *Oates* ſays he ſaw a Letter ſubſcribed *George Wakeman*; and it was writ to Mr. *Aſhby*, and therein, among other Expreſſions, was this Particular, That the Queen would aſſiſt him to kill the King. He was aſked, How he knew it was his Hand? He ſaid, He had never ſeen his Hand before, but afterwards he ſaw him writing, (as he thinks, writing,) in a writing Poſture, and there he looked upon that Paper when he was gone from it, while it was wet, and that Character, to his thinking, was juſt the Character of the Letter. Now I muſt obſerve this to you. Firſt, Suppoſing it to be true, yet it is ſomewhat hard, for a Man that had never known a Man's Hand in his Life, to ſee a Hand to-day, and ſome time after to come and ſee his Hand to a Bill of Phyſick, and to recollect the Character ſo much backward, as to know, this is that, or that Man's Hand that I ſaw before. 'Tis one thing to know Hands we are uſed to, but 'tis another thing, if we ſee a Hand that we never ſaw before in our Lives, and then by Reflection at another Time, and by compariſon of Hands to ſay this is the ſame, that is hard; but that is ſuppoſing it to be true. Sir *George Wakeman*, as all People will that are accuſed, does deny the Fact, and ſays there was no ſuch thing. Againſt him beſides, he ſays he ſaw, in a Book that the Jeſuit Prieſts kept among them of their Tranſactions and Affairs, he ſaw, in *Harcourt*'s Chamber, a Book, wherein was written, *This Day*, (and there was a certain Day in *Auguſt* named, but he cannot tell what Day,) *This Day agreed with Sir* G. W. *for* 15000 *l. to which he conſented.* And under was written, *Received* 5000 *l. part of* 15000 *l. by Order of Mr.* Coleman. George Wakeman. This he ſays he ſaw, and he believes that to be the very ſame Hand that he ſaw before, ſo it is by a Compariſon of Hands. He does not charge Sir *George Wakeman*, to the beſt of my Memory, with any poſitive Thing of his own Knowledge, more than as I tell you of this Matter.

Sir Rob. Sawyer. Yes, my Lord, he ſays he ſaw his Commiſſion.

L. C. J. Indeed he does ſay, he ſaw a Commiſſion in his Hands, to be Phyſician-General of the Army that was to be raiſed. And that he denied 10000 *l.* and would have 15. The Truth I leave with you, Gentlemen. Look you, Gentlemen, we will ſhow ourſelves what we ought to do, let them be as they will; we would not, to prevent all their Plots, (let them be as big as they can make them) ſhed one Drop of innocent Blood, therefore I would have you, in all theſe Gentlemens Caſes, conſider ſeriouſly, and weigh truly the Circumſtances, and the Probability of Things charged upon them. There is an additional Evidence againſt Sir *George Wakeman*, by *Bedlow:* He ſays he ſaw him have a Note for 2000 *l.* which was ſaid came from the Queen, there were Diſcourſes of doubtful Words, but whether they be plain enough to ſatisfy your Conſciences, when Men are upon their Lives, I leave to you. That Sir *George Wakeman* ſhould ſay, *Are you ready for me? Why am I drill'd on thus, in a Matter of this Concern?* This he would have to imply the poiſoning of the King; but there is but one Thing that ſounds any thing plain to the Matter, and that was this, ſaid he, *If they miſs* (ſpeaking of killing the King) *if they miſs at* Windſor, *and you miſs your Way, then it ſhall be done at* New-Market. This he did ſwear directly, and then Sir *George Wakeman* reply'd, He would be ready. Now if you believe this, then there are two Witneſſes againſt Sir *George Wakeman*, for the Matter of the Bill alone would do nothing, but when he ſays he ſaw ſuch a Bill, it muſt be for ſomething; and if he did ſay ſo, *If they miſs killing him at* Windſor, *and you miſs your Way, we will do it at* New-Market; and he reply'd, *I will be ready*, the Thing is made plain; I leave it to you; and this is all the Evidence againſt Sir *George Wakeman*, as I remember: I hope my Brothers, if they remember more, will repeat it to you. I cannot undertake to repeat every Word; I remember ſo much as is material, and my Brothers I hope will help me out, in what they have better obſerved.

As to Mr. *Corker*, *Oates* ſays, that he ſaw a Letter under his Hand, that is, his Name, I ſuppoſe was to it, wherein he conſented to the raiſing the 6000 *l.* which was to be raiſed out of the *Benedictine* Eſtates, and was in order to the carrying on of this Plot. I do not find that he does prove that he did know Mr. *Corker*'s Hand. And he ſays of him further, he was their Preſident, and ſo it was neceſſary to have his Conſent for the raiſing the 6000 *l.* and particularly he ſays, that he did except againſt *Pickering*'s being deſigned for the Murdering of the King; for, ſaid he, *He is a Man that waits at the Altar, and methinks you ſhould chooſe ſome fitter Perſon. For that*, ſays Mr. *Corker*, *which he ſays, that I was Preſident; I was not Preſident; and he makes it neceſſary for me to ſet my Hand, becauſe I being Preſident, it was ſuppoſed it could not be done without me*; and Dr. *Oates* does intend ſuch a Thing by his enforcing of it too: But he does produce to you two or three Witneſſes, that do ſay, Mr. *Stapleton* hath been Preſident for four or five Years; and ſaid he, *If I were not Preſident, what needs all this ado about my Conſent?* So he contradicts him in that Particular, that he was not Preſident, and it is not only a bare immaterial Thing, becauſe his being Preſident made his Hand more neceſſary to the raiſing the 6000 *l.* And for that Matter of his ſaying, that he did except againſt *Pickering*, and they might have choſe another, he does not charge him to be actually at the Conſultation, but he ſays he knew of it, becauſe he ſaid *Pickering* was not a fit Man to do it. And he ſaid, they had better chooſe a Layman. He proves no Fact, but only theſe Words. And Mr. *Bedlow* he ſpeaks againſt him, and what he ſays is rather leſs than what *Oates* ſays. For 'tis, that he talked with *Le Fevre* the Prieſt about the Plot in general Words. It may be, he was talking with ſome body elſe, and yet he could hear that they talked together in general about it. That is all againſt him.

Againſt Mr. *Marſhal*, 'tis rather leſs than againſt *Corker*, that is, that he did conſent to the 6000 *l.* that ſhould be raiſed among the *Benedictines*, he being a *Benedictine* too, and that he took Exceptions againſt *Pickering*, as *Corker* did, that it was not convenient to employ him in Killing the King. And this is that *Oates* ſays, and that he was a Carrier of Letters up and down, and a Factor that way. And *Bedlow* ſays, that he knew that he carried Letters, and was at the Conſult where they were read and anſwered, and when they aſked him, Where? He ſaid, At the *Benedictine* Convent in the *Savoy*. And names in particular, a Letter to Sir *Francis Radcliff*, and that there was a Diſcourſe concerning the Plot, in his hearing.

They ſay for themſelves, they cannot anſwer any more than by Circumſtances, 'tis a very ſtrange thing, if Dr. *Oates* knew this of us, why did not he take us before? And ſays Sir *George Wakeman*, Why did not he accuſe me of this Letter that he talks of, before the King and Council? He makes an Anſwer (which to me indeed is a very faint one) as if he were ſo weak and tired, that he could not ſpeak any Word farther. When the Council aſked Sir *George Wakeman* what he had to ſay for himſelf, and he behaved himſelf ruggedly, they call for *Oates* again, *What*, ſaid they, *do you know any thing of your own Knowledge? No*, ſaid he, *God forbid; I know nothing more*; as Sir *Philip Lloyd* ſays, and as the Matter ſpeaks: For if he had charged him that he had ſeen that Letter, the Lords would infallibly have committed him. If he had but ſaid, *I ſaw a Letter with his Name to it, which by the Character I believe was his, becauſe I ſaw his writing elſewhere:* And 'tis wonderful to me; I don't know, if a Man be never ſo faint, could not he ſay, *I ſaw a Letter under his Hand*, as well as, *I knew nothing more of him?* There are as few Words in one, as in the other. If he had ſaid, *I beg your Lordſhips or his Majeſty's Pardon, I am ſo weak I cannot recollect my ſelf*, it had been ſomething; but to make a great Proteſtation that he knew nothing of him. This is that that is ſaid by Sir *Philip Lloyd*, on his Behalf.

Theſe other Gentlemen ſay, that *Oates* did not know them, and the Woman does ſay, that ſhe did tell them, when they came to ſearch, that *Corker* and *Marſhal* were there, and Dr. *Oates* and they ſaid, they had nothing to do with any but *Pickering*. They make Anſwer now and ſay, that they had no Commiſſion to take any but him. But 'tis ſtrange indeed, if they were there, and they did ſee them, that they did not apprehend them. For what Defence they make about what Talk was had at the *Gate-houſe*, 'tis all contradicted by Sir *William Waller*. And indeed, if it were poſſible, they have almoſt undone themſelves in their own Defences, by making weak Obſervations, and inſiſting upon trivial Things; improper for the Court to hear, and impertinent for them to urge. But I deal faithfully with you, I will diſcharge my own Conſcience to you. It lies upon the Oaths of theſe two Men. Tho' there was a Plot in general proved, yet that does not affect theſe Men in particular, but was only uſed to anſwer that Objection, that it ſhould not be believed upon poſitive Swearing, Hand over Head, without ſomething elſe. Here was ſomething elſe, the Plot in general, and their being Prieſts, is another Circumſtance to me, who are mad to bring in Popery, and would do any thing to get their Tyranny again eſtabliſhed amongſt us. And there is more than probable Evidence of that I aſſure you.

Sir *Tho. Doleman* did indeed ſay Mr. *Oates* was very weak, ſo that he was in great Confuſion, and ſcarce able to ſtand; weigh it with you how it will, but to me 'tis no Anſwer. I tell you plainly, I think a Man could not be ſo weak but he could have ſaid, he ſaw a Letter under his Hand. It was as ſhort as he could make an Anſwer, and 'tis ſtrange that he ſhould go and make Proteſtation that he knew nothing. And ſo I pray you weigh it well. Let us not be ſo amazed and frighted with the Noiſe of Plots, as to take away any Man's Life without any reaſonable Evidence. If you are ſatisfied with the Oaths of theſe two Men; ſo, I have obſerved to you what Objections they make for themſelves, and thoſe Objections are material: What Sir *George Wakeman* ſays about his not accuſing him before the Council, and what theſe Men ſay that he did not apprehend them. And 'tis very ſtrange, they ſhould have ſo little Knowledge, and ſo little Acquaintance with *Oates* and *Bedlow*, and ſo great a Matter as they ſpeak ſhould be true. And 'tis well enough obſerved, that he was a begging there; 'tis very much that ſuch a Man ſhould know of ſuch a great Deſign on Foot, and they ſhould uſe him in that manner. Theſe are the things that I remember, worthy of your Conſideration. Theſe Men's Bloods are at ſtake, and your Souls and mine, and our Oaths and Conſciences are at ſtake; and therefore never care what the World ſays, follow your Conſciences; if you are ſatisfied theſe Men ſwear true, you will do well to find them Guilty, and they deſerve to die for it: If you are unſatisfied, upon theſe Things put together, and they do weigh with you, that they have not ſaid true, you will do well to acquit them.

Bedlow. My Lord, my Evidence is not right ſumm'd up.

L. C. J.

L. C. J. I know not by what Authority this Man ſpeaks.
Cl. of Cr. Make way for the Jury there; who keeps the Jury?

Then an Officer was ſworn to keep the Jury: The Judges went off the Bench, leaving Mr. Recorder and ſome Juſtices to take the Verdict. And after about an Hour's Space the Jury returned, and the Foreman coming up to the Table, ſpoke thus to Mr. Recorder.

Foreman. Sir, the Gentlemen of the Jury deſire to know, whether they may not find the Priſoners Guilty of Miſpriſon of Treaſon?
Mr Recorder. No, you muſt either convict them of High-Treaſon, or acquit them.
Foreman. Then take a Verdict.
Cl. of Cr. Gentlemen, anſwer to your Names, *Ralph Hawtrey.*
Hawtrey. Here, *&c.*
Cl. of Cr. Gentlemen, are you all agreed of your Verdict?
Omnes. Yes.
Cl. of Cr. Who ſhall ſay for you?
Omnes. Our Foreman.
Cl. of Cr. Sir *George Wakeman*, hold up thy Hand. [*Which he did.*] Look upon the Priſoner. How ſay you, is he Guilty of the High-Treaſon whereof he ſtands Indicted, or Not Guilty?
Foreman. Not Guilty.
Capt. Richardſon. Down on your Knees.
Sir George Wakeman. God bleſs the King and the Honourable Bench.

And in like manner were the other three acquitted. †

After the Verdict was Recorded, the Court adjourned 'till 5 in the Afternoon.

LXXXVI. *The Trial of* Charles Kerne, *at* Hereford *Aſſizes, for* High-Treaſon, *being a* Romiſh *Prieſt.* Aug. 4, 1679. 31 Car. II.

ON *Monday* the Fourth Day of *Auguſt*, *Charles Kerne* was brought to the Bar, and being Arraigned, he pleaded Not Guilty to the Indictment: Then the Court (after the uſual Formalities performed) proceeded to the Trial as followeth.

Cl. of Arr. Gentlemen of the Jury, Look upon the Priſoner, and hearken to his Cauſe. You ſhall underſtand that he ſtands Indicted by the Name of *Charles Kerne*, late of the Pariſh of *Weobly* in the County of *Hereford*, Gent. For that he being born within the Kingdom of *England*, the Twenty Ninth Day of *April*, in the Thirty Firſt Year of the Reign of our Sovereign Lord King *Charles* the Second, by the Grace of God, of *England*, *Scotland*, *France*, and *Ireland*, King, Defender of the Faith, *&c.* Then being a Seminary Prieſt, made, profeſſed, and ordained by the Authority and Juriſdiction challenged, pretended, and derived from the See of *Rome*, the ſaid Twenty Ninth Day of *April*, in the Year aforeſaid, within this Kingdom of *England (viz.)* at *Weobly* aforeſaid, in the County aforeſaid, Traiterouſly did come, was, and did remain, againſt the Form of the Statute in that Caſe made and provided; and againſt the Peace of our Sovereign Lord the King, his Crown and Dignity.

Upon this Indictment he hath been Arraigned, and thereunto pleaded Not Guilty; and for his Trial hath put himſelf upon God and his Country, which Country you are. Your Charge is to enquire whether he be Guilty of the High-Treaſon whereof he ſtands Indicted, or Not Guilty: If you find him Guilty, you are to enquire what Lands, Goods or Tenements he had at the Time of the Treaſon committed, or at any Time ſince; if you find him Not Guilty, you are to enquire whether he did flee for the ſame: If you find he did flee for the ſame, you are to enquire what Lands, Tenements or Goods he had at the Time of ſuch Flight, or at any Time ſince; if you find him Not Guilty, nor that he did flee for the ſame, you are to ſay ſo, and no more; and hear your Evidence.

Cl. of Arr. Call *Edward Biddolph.* [*Who was Sworn.*]
L. C. J. * Give the Jury Pen, Ink, and Paper.
L. C. J. Biddolph, do you know Mr. *Kerne?*
Biddolph. I do not know him now: I did know ſuch a Man about ſix Years ago; I have ſeen him once or twice at Mr. *Somerſet*'s at *Bollingham*, about ſix Years ago.
L. C. J. How long is it ago ſince you ſaw him laſt?
Biddolph. About a Year.
L. C. J. Had you any diſcourſe with him?
Biddolph. No, I never had any.
L. C. J. Look on the Priſoner, can you ſay that is the Man?
Biddolph. No, my Lord, I cannot.
L. C. J. Can you ſay you ever ſaw or knew him?
Biddolph. I cannot.
L. C. J. Set him down. Call another Witneſs.
Cl. of Arr. Swear *Margaret Edwards.* [*Which was done.*]
L. C. J. Do you know Mr. *Kerne?*
Edwards. Yes, my Lord, I do.
L. C. J. How long have you known him?
Edwards, Five or ſix Years.
L. C. J. Where did you know him?
Edwards. At *Sarnsfield*, at Mrs. *Monington*'s.
L. C. J. Were you a Servant there?
Edwards. No, I went thither about Buſineſs.
L. C. J. Where did you firſt ſee him?
Edwards. At Mr. *Wigmore*'s of *Luckton.*
L. C. J. Had you any Diſcourſe with him there?
Edwards. No.
L. C. J. How came you to ſee him at Mrs. *Monington*'s?
Edwards. My Lord, one *James Harris*'s Wife being very ſick, I was deſired by him to go to Mrs. *Anne Monington* to ſeek ſome Remedy for her: He deſired me the rather, for that ſhe being a Papiſt, and I of the ſame Religion, he believed for that Reaſon ſhe would be the more kind to her.
L. C. J. Were you a Papiſt then?
Edwards. Yes, my Lord.
L. C. J. Well, what ſaid Mrs. *Monington* to you?
Edwards. My Lord, ſhe told me ſhe was glad that they had ſent me, for that ſhe did not care to diſcourſe the Diſtempers of a Woman to a Man.
L. C. J. Well, go on.
Edwards. My Lord, after ſhe had diſcourſed to me concerning the ſick Woman, ſhe deſired me to go with her, which I did; and ſhe brought me into the Chapel, where I ſaw Mr. *Kerne* in his Robes.
L. C. J. Were there any more in the Room beſides him?
Edwards. Yes, my Lord, four or five: He was in his Robes and Surplice, and was at the Altar, and gave the Sacrament to the reſt, but I did not receive it.
L. C. J. What did you ſee him do?
Edwards. I ſaw him give the Sacrament.
L. C. J. What did he ſay?
Edwards. He ſaid *Corpus Chriſti*, or ſome ſuch Words.
L. C. J. Did you ſee him deliver the Wafers?
Edwards. Yes, my Lord.
L. C. J. To how many?
Edwards. To Four.
L. C. J. You ſwear poſitively to Four: Did they confeſs to him?
Edwards. Yes, I believe they did.
L. C. J. Did you ever ſee him ſince?
Edwards. No, my Lord, I never ſaw him between that and this.
L. C. J. Did you ever receive the Sacrament before, and of whom?
Edwards. Yes, I received ſeveral times: The firſt time was of Mr. *Duffret*, next of Mr. *Kemble*, then of Mr. *Rowenhill*, Mr. *Standiſh*, Mr. *Morgan*, Mr. *Trindal*; I have received from Mr. *Draycot* at Mr. *Berrington*'s; I have received at Mr. *Blount*'s; but the laſt time was from Mr. *Jennings* at Mr. *Wigmore*'s Houſe.
Priſ. My Lord, I deſire ſhe may be aſk'd whether ſhe came to Mrs. *Monington*'s of her own accord, or was ſent for Phyſick?
Edwards. I was ſent.
Priſ. Did the Man ſend you, or his Wife?
Edwards. The Man.
Priſ. Have a care what you ſay, *Harris*'s Wife is here to trepan you.
L. C. J. Give good Words; you begin to triumph too ſoon. Woman, was it *Harris* or his Wife ſent you?
Edwards. It was *Harris* himſelf that deſired me to go, becauſe I might have more Favour, being a Papiſt.
Priſ. Where did that *Harris* live?
Edwards. At *Lempſter.*
Priſ. I am ſatisfied, 'twas a Miſtake, I thought it had been *Harris* of *Lawton* ſhe had meant.
L. C. J. Will you aſk her any thing elſe?
Priſ. I deſire to know the Time when ſhe ſaw me at Mrs. *Monington*'s?
Edwards. It was in laſt *May* was Twelvemonth, the twenty ninth Day, to the beſt of my Memory.
L. C. J. Do you take it to be certain, or do you believe it only that it was that Day?
Edwards. My Lord, I am certain it was that very Day; for the Woman died that Day, and that Day is writ on the Grave-Stone.
Priſ. I deſire to know of her whether ſhe was ever aſk'd upon her Oath, whether ſhe was ever at Mrs. *Monington*'s ſince that Time?
Edwards. I was not there ſince, nor ever aſk'd the Queſtion, to the beſt of my Knowledge.
L. C. J. What a Queſtion is that?
Priſ. 'Tis very remarkable, for ſhe was aſk'd by a Juryman laſt Aſſizes, it was not upon the Trial, but before the Grand Jury, and ſhe denied then that ſhe was ever at Mrs. *Monington*'s in her Life.
Edwards. I have been there above Twenty times.
Priſ. Call *Roger Hyet.*
L. C. J. By and by your Defence will be proper, in the mean time, what will you aſk her more?
Priſ. I deſire to aſk her what Diſcourſe ſhe had with *Mary Jones*, the other Witneſs, for ſhe has been inſtructing her what to ſay; and that they may be examined aſunder. [*Which was granted.*]
L. C. J. What Diſcourſe had you with the other Woman?
Edwards. My Lord, ſhe told me that ſhe had never in all her Life been before a Judge or Juſtice of Peace; and that ſhe was afraid of coming before one; for ſhe did not know how to behave herſelf.
L. C. J. Did you tell her what ſhe ſhould ſay?
Edwards. No, my Lord.
L. C. J. What did you ſay to her?
Edwards. I told her, that ſhe would hear her Name call'd, and then ſhe muſt anſwer: And I bid her have a care that ſhe ſpoke what ſhe knew, and no more or leſs than the Truth.
L. C. J. Did ſhe tell you what ſhe could ſay?
Edwards. She did.
L. C. J. What?
Edwards. That ſhe liv'd at Mr. *Somerſet*'s, where Mr. *Kerne* uſually was, and that ſeveral People uſed to come thither, and go up Stairs into the Chamber; and ſhe went once to hearken, and ſhe heard Mr. *Kerne* ſay ſomething in *Latin*, which ſhe ſaid was Maſs.
Priſ. Here is a material Queſtion to aſk this Witneſs. I deſire to know where this Woman ſaw me firſt?

† See Obſervations on theſe Trials, in State Trials, Vol. 8. p. 437.

* *Sir* William Scroggs.

Edwards. At Mr. *Wigmore*'s of *Lucton*, as they told me it was him, for I did not know his Name.

Prif. I would know if the Man ſhe ſaw at Mrs. *Monington*'s, was the ſame Perſon ſhe ſaw at *Lucton?*

Edwards. To the beſt of my Knowledge it was.

Prif. I never was at *Lucton* in all my Life.

L. C. J. Call the other Woman: You ſhall now ſee how theſe Women agree.

Cl. of Arr. Call *Mary Jones.* Crier, ſwear her. [*Which was done.*]

Prif. I deſire they may be examined apart.

L. C. J. Let the other Woman go out.

L. C. J. When was the firſt time you ſaw *Margaret Edwards?*

Jones. Yeſterday, and again to-day.

L. C. J. Did ſhe tell you and inſtruct you what you ſhould ſay againſt the Priſoner?

Jones. No, my Lord.

L. C. J. Did you tell her what you could ſay againſt him?

Jones. No.

L. C. J. Did not you tell her that you liv'd at Mr. *Somerſet*'s, and that ſeveral People uſed to come thither and go up ſtairs into the Chamber, and that once you went up to hearken, and heard Mr. *Kerne* ſay Maſs?

Jones. She did ſay ſo to me, but I did not anſwer her any thing.

L. C. J. Did ſhe aſk where you ſaw Mr. *Kerne?*

Jones. Yes.

L. C. J. Where, at *Bollingham?*

Jones. I did tell her that I ſaw him at *Bollingham*, and that I heard him ſay ſomewhat aloud, I think it was *Latin.*

L. C. J. How you anſwer: I aſked you but juſt now, whether you told her that you ſaw Mr. *Kerne* at Mr. *Somerſet*'s Houſe, and that you went up to hearken, and heard him ſay ſomewhat in *Latin?* And you then ſaid you did not, and now you ſay you did.

Jones. She ſpoke to me firſt about it, and I did but anſwer.

L. C. J. What, did ſhe aſk you what you could ſay againſt Mr. *Kerne?*

Jones. Yes.

L. C. J. And what did you tell her you could ſay?

Jones. I told her, that one Sunday Morning ſeveral People came to *Bollingham*, out of the Town and out of the Country, and went up after him, and he ſaid ſomewhat aloud that I did not underſtand.

L. C. J. Did you not tell *Margaret Edwards* that you heard him ſay Maſs?

Jones. No, my Lord.

L. C. J. Call *Margaret Edwards* again. *Margaret Edwards*, Did *Mary Jones* tell you that ſhe heard Mr. *Kerne* ſay Maſs?

Edwards. Yes, my Lord.

L. C. J. Now, *Mary Jones*, what ſay you? Did not you tell her that you heard the Priſoner ſay Maſs?

Jones. No, I am ſure I did not: for I never heard the Word before, nor do not know what it means.

L. C. J. The one Witneſs ſays ſhe did not name Maſs, for ſhe did not underſtand what it was; the other ſays ſhe did; ſo they contradict one another in that.

L. C. J. Mary Jones, when did you ſee Mr. *Kerne?*

Jones. Seven or eight Years ago.

L. C. J. Where?

Jones. At Mr. *Somerſet*'s at *Bollingham*, he lived there half a Year.

L. C. J. What did you ſee him do?

Jones. One *Sunday* Morning I was buſy a waſhing the Rooms, and I ſaw ſeveral People follow him into the Chamber.

L. C. J. Did you ſee him do any thing?

Jones. No, I heard him ſay ſomewhat aloud which I did not underſtand.

L. C. J. How near were you to him?

Jones. There was only a Wall between.

L. C. J. Did you ever ſee him give a Wafer, Marry, or Chriſten?

Jones. No, my Lord: There was a Child Chriſtened in the Houſe.

L. C. J. Who Chriſtened it?

Jones. I cannot tell: There was no one there but my Maſter and Miſtreſs, Mr. *Lachet* and his Wife, and Mr. *Kerne:* I was in the next Room, and I heard words ſpoken by the Voice of Mr. *Kerne.*

L. C. J. What can you ſay more?

Jones. I waſh'd a Surplice.

L. C. J. Whoſe was it, the Priſoner's?

Jones. I cannot tell, becauſe I did not ſee it on his Back.

Prif. How could you know a Voice?

Jones. Very eaſily, there was but a Wall between.

Prif. Was there no Room between?

Jones. No, there was not.

L. C. J. The Woman ſpeaks ſenſibly: If you have done aſking Queſtions, you had beſt call your Witneſſes.

Prif. Call Mr. *Hyet.*

L. C. J. Mr. *Hyet*, you cannot be ſworn, but you muſt ſpeak the Truth as much as if you were: Well, what can you ſay?

Hyet. I aſk'd *Margaret Edwards* if ſhe had been at Mrs. *Monington*'s? ſhe ſaid ſhe had: I aſk'd her if ſhe knew Mr. *Kerne?* She ſaid, ſhe did not.

L. C. J. Was ſhe upon her Oath when you aſk'd her this?

Hyet. No, my Lord.

L. C. J. Have you any more Witneſſes?

Prif. Call Mr. *Weſton*'s Maid.

L. C. J. What can you ſay?

Weſt. M. I ſaw thoſe two Women talking together, and that Woman inſtructed the other what ſhe ſhould ſay.

L. C. J. What ſay you to this?

Edwards and *Jones.* My Lord, we did not.

L. C. J. Look you, they both deny it on their Oaths.

L. C. J. How often between the firſt time and the twenty ninth of *May* was Twelvemonth, did you ſee Mr. *Kerne?*

Edwards. Twice or thrice in *Weobly.*

L. C. J. What can you ſay for yourſelf?

Prif. My Lord, I am very happy that I receive my Trial before your Lordſhip.

L. C. J. Come, ſetting aſide your Apologies, tell what you have to ſay; if you have any more Witneſſes, call them.

Prif. My Lord, here are ſeveral Witneſſes who will prove that that Woman was never at Mrs. *Monington*'s.

L. C. J. That's very improbable; but call whom you will.

Prif. My Lord, here's Mrs. *Monington*, the Perſon ſhe pretends ſhew'd her up, will ſwear ſhe never ſaw the Woman in her life; and upon my Salvation I never ſaw either of them before.

L. C. J. Mrs. *Monington*, the Law will not allow you to be ſworn, but I preſume that a Perſon of your Quality will ſpeak the Truth, as much as if you were upon your Oath. Do you know *Margaret Edwards?*

Mon. My Lord, I do not.

L. C. J. Woman, tell Mrs. *Monington* from whom you came.

Edwards. I came from *James Harris* of *Lempſter.*

L. C. J. Mrs. *Monington*, do you know *James Harris* of *Lempſter?*

Mon. My Lord, I do not.

L. C. J. Do you remember that about *May* was Twelvemonth this Woman came to you for Phyſick for a Woman that was ſick?

Mon. A great many People come to me on that Errand, ſo that it is impoſſible for me to remember any particular Perſon.

L. C. J. Did you ever take up that Woman to hear Maſs?

Mon. That I am ſure I did not, for I never took up any Stranger in my Life.

L. C. J. Did Mrs. *Monington* know you by Face, or by Name?

Edwards. I had been at the Houſe ſeveral times, but this time I was carried up to Mrs. *Monington* by *Mary Lewis* her Maid: Mrs. *Monington* told me that ſhe was very glad that I was ſent, for ſhe ſaid ſhe would not give the Man ſo juſt an Account, becauſe he was a Man.

L. C. J. Mrs. *Monington*, do you remember this?

Mon. This is frequent.

Edwards. Then ſhe told me that I muſt put a Plaiſter of *Diapalma* to the Woman's Back, and give her a Drink with Malt with Raiſins, *&c.*

Mon. As for the Plaiſter, 'tis poſſible I may preſcribe it, but the Drink is no Receipt of mine.

Edwards. My Lord, the Maid when I came in was making a Cheeſe in the Dairy, and I aſk'd for Mrs. *Monington*, and ſhe told me ſhe was within, and ſtraightway brought me up to her: Mrs. *Monington* in a little time fell into diſcourſe with me about Religion; and underſtanding what I was, deſired me to go into the Chamber with her.

L. C. J. What kind of Chapel was it?

Edwards. I will give an Account of it as well as I can remember. When we came up ſtairs, we turn'd in at a Door on the right Hand; the Altar ſtood juſt before the Door; it was richly adorned, the Altar-Cloth was white, and a fine Crucifix on the Altar.

Mon. What were the Cuſhions of?

Edwards. As I remember they were Needlework.

L. C. J. What was the Chapel adorn'd with?

Edwards. With abundance of Pictures: I think the Window was on the left hand of the Altar.

Mon. She has fail'd in the firſt deſcription, for we go not off the Stairs into the Chapel, as ſhe ſays; neither is it adorn'd in the manner as ſhe ſays it is, nor is there any Needlework. Here is a Maid that I deliver all my Medicines to, that perhaps can give a better Account whether this Woman were at my Houſe, than I can.

L. C. J. Call the Maid. You wait on Mrs. *Monington:* Did you ever ſee that Woman?

Maid. No.

L. C. J. I'll ſhew you how you ſhall remember her; ſhe came to Mrs. *Monington* on the behalf of one *Harris*'s Wife, and aſk'd if ſhe were within, and you carried her to your Miſtreſs.

Edwards. My Lord, I was there ſeveral times beſides this, for I carried the Child, Mr. *Thomas Monington*, thither ſeveral times.

L. C. J. Do you remember this?

Mon. I do not remember that ſhe ever brought the Child to me, but another.

Edwards. My Lord, I always lay with him, and tended him, and carried him Abroad.

L. C. J. If you have any thing more to ſay, ſpeak. What ſay you for yourſelf?

Prif. I hope your Lordſhip will ſum up the Evidence.

L. C. J. That I will: I will tell the Jury all I can remember on both ſides; I will not ſhed innocent Blood, neither will I help the Guilty; for I, by the Duty of my Place, am Counſel for the Priſoner in all things fit and legal.

Prif. I deſire the Statute may be read.

L. C. J. Let it be read. What Statute do you mean, that of 27 *Eliz?*

Prif. Yes, my Lord. [*Then the Statute was read.*]

Prif. Now Gentlemen, I deſire you to take into conſideration, whether my Blood ſhall be drawn by the Evidence of a Woman that ſays ſhe ſaw me give a Wafer; or on that Evidence of the other, who ſays ſhe heard me read ſhe knows not what through a Wall: My Lord, it is an Oppreſſion that Statutes ſhould be conſtrued otherwiſe than they are intended. I hope, my Lord, that the Statute will not take hold of a Man for ſaying Maſs, for many ſay Maſſes that are not in Orders.

L. C. J. It is one of the greateſt Evidences to prove a Man to be a Prieſt that can be; for we cannot think of bringing Witneſſes who ſaw you take Orders; Do any ſay Maſs but Prieſts? Is it lawful for any one but a Prieſt to ſay Maſs?

Prif. That of Bread and Wine they do not, but the other they do.

L. C. J. Do any Bury or Chriſten but Prieſts?

Prif. Yes they do *in extremis*; and, my Lord, I do acknowledge that I read Prayers ſometimes, and ſometimes others did. And I deſire your Lordſhip and the Jury will take notice, that I have taken the Oaths of Allegiance and Supremacy.

L. C. J. Is that all you have to ſay?

Prif. Yes, my Lord.

L. C. J. Then Gentlemen of the Jury, The Matter you are to try is, whether *Charles Kerne*, the Priſoner at the Bar, be a Popiſh Prieſt: An *Engliſhman* I ſuppoſe he does not deny himſelf to be; the Queſtion is then if he be a Romiſh Prieſt? If ſo, he is guilty of High-Treaſon by the Statute of 27 *Eliz.* This was a Law made for the Preſervation of the Queen, for the Preſervation of our Religion, and for the Preſervation of all Proteſtants. The Witneſſes are *Margaret Edwards* and *Mary Jones. Margaret* ſays, the firſt time that ſhe ſaw the Priſoner was at Mr. *Wigmore*'s, who told her it was Mr. *Kerne*; and ſhe ſays that ſhe hath ſeen him ſeveral times ſince; twice or thrice at *Weobly*, and the laſt time was the twenty ninth of *May* was Twelvemonth, at Mrs. *Monington*'s, where ſhe ſaw him deliver the Wafer, which is the Sacrament, to four Perſons that were there, but ſhe herſelf did not receive it; and then

ſh:

ſhe gives you an account of the reaſon of her coming then to Mrs. *Monington's*, which was at the requeſt of one *Harris*, whoſe Wife was ſick, to ſeek ſome Remedy from Mrs. *Monington* for the ſick Woman: She tells you how the Maid brought her up to her Miſtreſs, how ſhe acquainted her with her Errand, what Advice Mrs. *Monington* gave her for the ſick Woman, and how that Mrs. *Monington* underſtanding what Religion ſhe was of, took her into the Chapel, whereof ſhe gives you a Deſcription. 'Tis very probable ſhe may go on ſuch an Errand, and yet Mrs. *Monington* not know her; but Mrs. *Monington* cannot poſitively ſay, but believes ſhe was never there: Mr. *Kerne*, I ſuppoſe, will not deny but that he who gives the Wafer is a Prieſt.

Priſ. There is bleſſed Bread which others may give.

L. C. J. When you give ſuch Bread, do you not ſay, *Accipe Corpus Chriſti?*

Priſ. We uſe no ſuch words. [*But it appeared, upon his own repeating of the* Latin *words they uſed upon the giving the Sacrament, that thoſe were part of the Words.*]

L. C. J. The Priſoner made an offer to prove ſome Diſagreement between the Witneſſes; 'tis true, they did differ in ſome ſmall things, as the ſaying the word Maſs, but from hence can no great matter be inferr'd againſt the Evidence; ſo here is one poſitive Evidence.

There muſt indeed be two Witneſſes; now the Queſtion will be about the ſecond Woman's Teſtimony. She ſays ſhe knew Mr. *Kerne* about eight Years ago, when ſhe lived at Mr. *Somerſet's*, and that Mr. *Kerne* lived in the Houſe about half a Year: She tells you that ſhe hath ſeen ſeveral Perſons come thither; and amongſt the reſt, ſhe ſays, that one *Sunday* Morning ſeveral Perſons came thither; and went up with Mr. *Kerne*, and that ſhe was ſo curious as to hearken, and did hear Mr. *Kerne* ſay ſomething in an unknown Tongue: *Kerne* objects that ſhe could not know it was his Voice; but for that, I think Men are eaſily diſtinguiſhed by their Voices; but that I muſt leave to your conſideration.

But now the main Queſtion will be, what it was ſhe heard him ſay? Mr. *Kerne* ſays, that in Times of ſtraitneſs, Perſons that are not Prieſts may read Prayers, and ſo perhaps he may be then reading the Collects.

But then again: She ſays there was a Child Chriſtened in the Houſe, and no one there but Mr. *Somerſet* and his Wife, Mr. *Lachet* and his Wife, and Mr. *Kerne* to do it: She did not ſee him Chriſten it, and 'tis true likewiſe what he ſays, that in their Church they allow others, as Midwives, to Chriſten *in extremis*; not that he confeſſes he did Chriſten.

L. C. J. Call *Mary Jones* again. *Mary Jones*, was it a ſickly Child?

Jones. No, My Lord.

L. C. J. Then that is anſwered: So that if you believe that he did Chriſten the Child, there are two Witneſſes againſt him: I muſt leave it with you as a tender Point on both ſides; I would not ſhed innocent Blood, neither would I willingly let a Popiſh Prieſt eſcape. There is one poſitive Witneſs, and if you believe upon the Woman's hearing his Voice, that he did ſay Maſs, or did Chriſten, for I muſt confeſs ſhe ſays ſhe did not ſee him Chriſten, then you muſt find him Guilty: So I leave it to you upon the whole matter.

The Jury return'd, and were call'd over.

William Barret, *&c.*

Cl. of Arr. Jaylor, ſet up *Charles Kerne.* Gentlemen, Are you agreed of your Verdict?

Jury. Yes.

Cl. Who ſhall ſay for you?

Jury. The Foreman.

Cl. Look upon the Priſoner: What ſay you, is *Charles Kerne* Guilty of the High-Treaſon whereof he ſtands indicted, or Not Guilty?

Foreman. Not Guilty.

LXXXVII. *The Trial of* Andrew Brommich *at* Stafford *Aſſizes for* High-Treaſon, *being a* Romiſh *Prieſt*, Aug. 13, 1679. 31 Car. II.

The Court being ſat, they proceeded to the Trial thus.

THE *Lord Chief Juſtice* having the Night before charged the Sheriff to Return a good Jury, and the Court being ſat, he enquired of him if he had obſerved his Directions; The Sheriff acquainted his Lordſhip, that ſince he had impanell'd the ſaid Jury, he had heard that one *Allen*, of in the ſaid County, being then returned to ſerve on the ſaid Jury, had ſaid in Diſcourſe with ſome of his Fellows, that nothing was done againſt the Popiſh Prieſts above, and therefore he would do nothing againſt them here, nor find them guilty; whereupon his Lordſhip called for the ſaid *Allen* and one *Randal Calclough*, one of his Fellow Jurymen, and another Witneſs upon Oath, who proving the words againſt him, his Lordſhip diſcharged him of the Jury, and committed him to Priſon till he found Sureties for his good Behaviour; and likewiſe three more of the Jury were diſcharged upon ſuſpicion of being Popiſhly affected, his Lordſhip commanding the Sheriff to return good Men in their places; which was accordingly done, and the Jury Sworn, *viz.*

Thomas Higgin,	Jur'	*Richard Trindall,*
John Webb,		*James Beckett,*
Edward Ward,		*William Smyth,*
Thomas Marſhall,		*William Pinſon,*
John Beech,		*Daniel Buxton,* and
Randal Calclough,		*Richard Cartwright.*

Cl. of Arr. Jaylor, ſet up *Andrew Brommich* to the Bar: Crier, make Proclamation.

Crier. O yes! If any one can inform my Lords the King's Juſtices, the King's Serjeant, the King's Attorney or this Inqueſt now to be taken, of any Treaſons, Murders, Felonies, or other Miſdemeanors, committed or done by the Priſoner at the Bar, let them come forth and they ſhall be heard.

Cl. of Arr. Andrew Brommich, hold up thy Hand. Theſe good Men that were lately called, and have now appeared, are thoſe which muſt paſs between our Sovereign Lord the King and you upon your Life or Death: If you will challenge any of them you muſt ſpeak as they come to the Book to be ſworn, and before they be ſworn.

The Priſoner challenging none, the Jury was ſworn, ut ante.

Cl. of Arr. Gentlemen of the Jury, look upon the Priſoner and hearken to his Cauſe. You ſhall underſtand that he ſtands Indicted by the Name of *Andrew Brommich*, late of *Perry Barr* in the County of *Stafford*, Gent. for that he being born within the Kingdom of *England*, the Thirteenth Day of *January*, in the Thirtieth Year of the Reign of our Sovereign Lord King *Charles* IId, by the Grace of God, of *England*, *Scotland*, *France*, and *Ireland* King, Defender of the Faith, *&c.* then being a Seminary Prieſt made, profeſſed and ordained by the Authority and Juriſdiction challenged, pretended and derived from the See of *Rome*, the ſaid Thirteenth Day of *January* in the Year aforeſaid, within this Kingdom of *England*, *viz.* at *Perry Barr* aforeſaid, in the County aforeſaid, Traiterouſly did come, was, and did remain, againſt the Form of the Statute in that Caſe made and provided, and againſt the Peace of our Sovereign Lord the King, his Crown and Dignity.

Upon this Indictment he hath been Arraigned, and hath Pleaded thereunto Not Guilty, and for his Trial hath put himſelf upon God and his Country, which Country you are: Your Charge is to enquire whether he be guilty of the High-Treaſon whereof he ſtands indicted, or Not Guilty: If you find him Guilty, you are to enquire what Lands, Goods, or Tenements he had at the Time of the Treaſon committed, or at any time ſince: If you find him Not Guilty, you are to enquire whether he did fly for the ſame, and what Lands, Goods or Tenements he had at the ſame time of ſuch flight, or at any time ſince; if you find him Not Guilty, nor that he did fly for the ſame, you are to ſay ſo and no more, and hear your Evidence.

Cl. of Arr. Crier, call *Ann Robinſon.* [*Who was ſworn.*]

* *L. C. J. Ann. Robinſon*, what can you ſay againſt *Andrew Brommich.*

* Sir *William Scroggs.*

A. Rob. My Lord, I can ſay that I received the Sacrament of him according to the Church of *Rome* in a Wafer.

L. C. J. When? How long ago?

A. Rob. About *Chriſtmas* laſt.

L. C. J. What Company was there? How many were there in Company?

A. Rob. My Lord, I cannot poſitively tell how many, but I believe there were about ſeven or eight.

L. C. J. Did they all receive at the ſame time?

A. Rob. Yes, my Lord, they did all receive at that time.

L. C. J. Are you a Papiſt?

A. Rob. No, my Lord.

L. C. J. How long were you a Papiſt?

A. Rob. Several Years.

L. C. J. Who firſt ſeduced you?

A. Rob. My Lord, I cannot tell his Name.

L. C. J. Did you ever receive the Sacrament, according to their way, of Mr. *Brommich*, before the time you ſpeak of?

A. Rob. Yes.

L. C. J. How often?

A. Rob. Four times, my Lord; twice at Mr. *Birch's*, and twice at Mr. *Purſal's*.

L. C. J. How came you to give her the Sacrament? [*To the Priſoner.*]

Priſ. My Lord, I never did.

L. C. J. Why, ſhe has ſworn you gave it her ſeveral times, once in particular at *Chriſtmas* laſt, and four times more, twice at Mr. *Birch's*, and twice at Mr. *Purſal's*.

Priſ. My Lord, I cannot help it. I deſire your Lordſhip will take notice of one thing, that I have taken the Oaths of Allegiance and Supremacy, and have not refuſed any thing which might teſtify my Loyalty.

L. C. J. That will not ſerve your turn, you Prieſts have Tricks to evade that.

Priſ. Beſides, my Lord, I never abſconded.

L. C. J. You never abſconded; what is that to giving the Woman the Sacrament ſeveral times?

Priſ. My Lord, I deſire ſhe may prove it.

L. C. J. She does ſo.

Priſ. My Lord, I humbly conceive it was no Sacrament unleſs I were a Prieſt.

L. C. J. What an Argument is that? You expect we ſhould prove you a Prieſt by Witneſſes which ſaw you take Orders; but we know ſo much of your Religion, that none undertake to give the Sacrament in a Wafer, or ſay Maſs, but a Prieſt; and you gave the Sacrament to that Woman in a Wafer, therefore you are a Prieſt.

Cl. of Arr. Crier, call another Witneſs; ſwear *Jeoffery Robinſon.*

L. C. J. What can you ſay to Mr. *Brommich?*

Jeof. Rob. I can ſay nothing againſt him.

L. C. J. Did you ever hear him ſay Maſs?

Jeof. Rob. I cannot tell, I have heard him ſay ſomething in an unknown Tongue; but I know not what it was.

L. C. J. Was it *Latin* that he ſaid?

Jeof. Rob. I cannot tell: I am no Scholar.

L. C. J. Had he a Surplice on?

Jeof. Yes, my Lord, he had.

L. C. J. Robinſon, are you a Papiſt?

Jeof. Rob. Yes, my Lord.

L. C. J. I thought ſo, it is ſo hard to get the Truth out of you.

Cl. of Arr. Crier, ſwear *Jane Robinſon.*

L. C. J. Come, what can you ſay? Did you ever ſee *Brommich* give the Sacrament?

Jane Rob. Not to my Knowledge.

L. C. J. Did you ever hear him ſay Maſs?

Jane Rob. I never ſaw him do any thing; for I only went up and ſaid my Prayers, I took no notice of any thing.

L. C. J. Did you not ſee *Brommich* there?

Jane Rob. I cannot tell.

L. C. J. Why, don't you know him?

Jane Rob. No, my Lord.

L. C. J. Your Huſband knows him. You *Jeoffrey Robinſon*, do not you know Mr. *Brommich?*

Jeof. Rob. Not I, my Lord.

L. C. J.

L. C. J. That's right like a Papist. Did you not but just now say you heard him say something in an unknown Tongue, and saw him in a Surplice, and yet now you do not know him? You have no more Conscience than what your Priests allow you. But though your Priests can persuade you to take false Oaths, I would not have you think they can protect you from the Punishment due to them here or hereafter.

An. Rob. My Lord, they both took the Sacrament with me at the same time from him.

L. C. J. Look you there, was ever the like Impudence seen? Come Friend, consider you are upon your Oath, and do not bring your self into the Snare of a Pillory. Come *Robinson*, I ask you by the Oath you have taken, did you receive the Sacrament with *Ann Robinson* at the time she speaks of at Mr. *Pursal*'s?

Jeof. Rob. Yes, my Lord.

L. C. J. How hard is the Truth to be gotten out of you! But within this County, which abounds so with Priests and swarms with Papists, that you get Popery here like the Itch; if they but rub upon you, you catch it.

Jane Rob. My Lord, he's a weak Man.

L. C. J. Who gave it you?

Jeof. Rob. I do not know.

L. C. J. He'll say no more than his Wife and Priest will give him leave.

L. C. J. Look you Gentlemen of the Jury, here are two Papists that are Witnesses; you are to consider how far they tell the Truth, and how far they conceal it, how they tell their Tale so as to serve a Turn: For here you see the Man said at first he heard him say somewhat in an unknown Tongue, and that he saw him in a Surplice; after that he denies he knows him, but now you see by this Woman the Truth is come out; he hath confess'd and own'd he received the Sacrament at *Pursal*'s with her. We cannot expect more positive Evidence from such People. Come read the Statute.

Anno 27 *Eliz.* cap. 2.

Whereas divers Persons, called or professed Jesuit, Seminary Priests, and other Priests, which have been, and from time to time are made in the parts beyond the Seas, by or according to the Order and Rites of the Romish Church, have of late comen and been sent, and daily do come and are sent into this Realm of England, and other the Queens Majesties Dominions, of purpose (as it hath appeared) as well by sundry of their own Examinations and Confessions, as divers other manifest means and proofs, not only to withdraw her highnesses Subjects from their due obedience to her Majestie, but also to stir up and move sedition, rebellion and open hostility within the same her Highness Realms and Dominions, to the great indangering of the safety of her most Royal Person, and to the utter ruine, desolation and overthrow of the whole Realm, if the same be not the sooner by some good means foreseen and prevented.

For reformation whereof be it ordained, established and enacted by the Queens most excellent Majestie, and the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the Authority of the same Parliament, That all and every Jesuits, Seminary Priests, and other Priests whatsoever, made or Ordained out of the Realm of England, or other her Highness Dominions, or within any of her Majesties Realms or Dominions, by any Authority, Power or Jurisdiction, derived, challenged, or pretended from the See of Rome since the feast of the Nativity of St. John Baptist, in the first year of her Highness Reign, shall within forty days next after the end of this present Session of Parliament depart out of this Realm of England, and out of all other her Highness Realms and Dominions, if the wind, weather, and passage shall serve for the same, or else so soon after the end of the said forty days as the wind, weather and passage shall so serve.

And be it further enacted by the Authority aforesaid, That it shall not be lawful to, or for any Jesuit, Seminary Priest, or other such Priest, Deacon, or Religious, or Ecclesiastical Person whatsoever, being born within this Realm, or any other her Highness Dominions, and heretofore since the said feast of the Nativity of St. John Baptist in the first year of her Majesties Reign made, ordained or professed, or hereafter to be made, ordained or professed by any Authority or Jurisdiction derived, challenged or pretended from the See of Rome, by, or of what name, title or degree soever the same shall be called or known, to come into, be or remain in any part of this Realm or any other her Highness Dominions, after the end of the same forty days, other than in such special cases, and upon such special occasions only, and for such time only as is expressed in this Act. And if he do, that then every such offence shall be taken and adjudged to be High Treason, and every person so offending shall for his offence be adjudged a Traytor, and shall suffer losse, and forfeit as in case of High Treason.

And every person which after the end of the same forty days, and after such time of departure as is before limited and appointed, shall wittingly and willingly receive, relieve, comfort, aid or maintain any such Jesuit, Seminary Priest, or other Priest, Deacon or Religious, or Ecclesiastical person as is aforesaid, being at liberty, or out of hold, knowing him to be a Jesuit, Seminary Priest, or other such Priest, Deacon or Religious, or Ecclesiastical person as is aforesaid, shall also for such offence be adjudged a Felon without benefit of Clergy, and suffer death, losse, and forfeit, as in case of one attainted of Felony.

L. C. J. Come, what have you more to say?

Pris. I desire that there may be notice taken what *Robinson* and his Wife said upon their Examinations before the Justice of Peace.

L. C. J. We are to take notice only of what they say here.

Pris. My Lord, they said here they did not know me.

L. C. J. No: Did not *Robinson* say he heard you say something in an unknown Tongue; that he then saw you in a Surplice? Did we talk of any one but you? Come Jesuit, with your Learning, you shall not think to baffle us: I have of late had occasion to converse with your most learned Priests, and never yet saw one that had either Learning or Honesty.

L. C. J. Have you any Witnesses? Have you any more to say?

Pris. No.

L. C. J. Then Gentlemen of the Jury, the Question you are to try, is, Whether *Andrew Brommich* be a Popish Priest or not: To prove that he is, here is a Woman, one *Ann Robinson*, that swears she received the Sacrament of him in a Wafer once at *Christmas* last, and twice at Mr. *Birch*'s, and twice at Mr. *Pursal*'s, and that he gave it to several others at the same time. There needs not much to persuade you that he who gives the Sacrament is a Priest, for in their Church they allow no one but a Priest to give the Sacrament, so there is one express Evidence against him: And now I must satisfy you in one thing, that you are to give a Verdict not that he is a Priest, but that you believe him in your Conscience upon the whole Evidence, to be a Priest. To make you do this, here is one positive Evidence.

The other Man, when I came to examine him whether he ever heard the Prisoner say Mass; he answered, that he heard him say something in an unknown Tongue, and that he was in a Surplice. This is as much as we could expect from one of their own Religion, who dare say no more than their Priests will give them leave to do. So Gentlemen I must leave it to you, whether or no you will not believe the Testimony of this real positive Witness, and the circumstantial Evidence of the other Man: For you see in what Dangers we are; I leave it upon your Consciences, whether you will let Priests escape, who are the very Pests and Dangers of Church and State; You had better be rid of one Priest than three Felons; so Gentlemen, I leave it to you.

The Jury having staid some time, returned to the Court to give their Verdict.

Cl. of Arr. Gentlemen of the Jury, have you agreed on your Verdict?

Jury. Yes.

Cl. of Arr. Who shall say it for you?

Jury. The Foreman.

Cl. of Arr. Jaylor, set up *Andrew Brommich* to the Bar.

Gentlemen, do you find *Andrew Brommich* Guilty of the High Treason he hath been Arraigned of, or Not Guilty?

Jury. Guilty.

L. C. J. Gentlemen, you have found a good Verdict, and if I had been one of you, I should have found the same my self.

Afterwards he receiv'd the usual Sentence as in High-Treason.

LXXXVIII. *The Trial of* William Atkins, *at* Stafford *Assizes, for* High-Treason, *being a* Romish *Priest*, August 13, 1679. 31 Car. II.

Cl. of Arr. Jaylor, set up *William Atkins* to the Bar: Crier, Make Proclamation.

The Jury were called and Sworn.

Cl. of Arr. Gentlemen of the Jury, Look on the Prisoner and hearken to his Cause. You shall understand that he stands Indicted by the Name of *William Atkins*, late of *Wolverhampton* in the County of *Stafford*, Gent. for that he being born within the Kingdom of *England*, the Fifth Day of *December*, in the Thirtieth Year of the Reign of our Sovereign Lord King *Charles* the Second, by the Grace of God, of *England*, *Scotland*, *France* and *Ireland* King, Defender of the Faith, &c. Then being a Seminary Priest, made, professed, and ordained by the Authority and Jurisdiction challenged, pretended, and derived from the See of *Rome*; the said Fifth day of *December* in the Year aforesaid, within this Kingdom of *England*, viz. at *Wolverhampton* aforesaid in the County aforesaid, Traiterously did come, was, and did remain, against the Form of the Statute in that Case made and

and provided; and against the Peace of our Sovereign Lord the King, his Crown and Dignity.

Upon this Indictment he hath been Arraigned, and thereunto pleaded Not Guilty; and for his Trial he hath put himself upon God and his Country, which Country you are. Your Charge is, to enquire whether he be Guilty of the High-Treason whereof he stands Indicted, or Not Guilty: If you find him Guilty, you are to enquire what Lands, Goods or Tenements he had at the time of the High-Treason committed, or at any time since; if you find him Not Guilty, you are to enquire whether he did fly for the same; if you find he did fly for the same, you are to enquire what Lands, Goods or Tenements he had at the time of such flight, or at any time since; if you find him Not Guilty, nor that he did fly for the same, you are to say so and no more and hear your Evidence.

Cl. of Arr. Crier, call the Witnesses; call *William Jackson*, *Francis Wilden*, *Jo. Jarvis*, *&c.* Swear *Jackson*. [*Which was done.*]

L. C. J. Come, Friend, what can you say concerning *Atkins* the Prisoner being a Priest?

Jackson. My Lord, I can say nothing at all, I was there when he was apprehended, and bound over to prosecute him.

Cl. of Arr. Crier, Swear *Francis Wilden*. [*Which was done.*]

Sir William Scroggs. *L. C. J*.* What can you say concerning *Atkins* being a Priest?

Wilden. My Lord, I have seen him at Prayers.

L. C. J. Was he in a Surplice then?

Wilden. Yes, my Lord.

L. C. J. Did you ever hear him say Mass?

Wilden. I cannot tell.

L. C. J. In what Language were his Prayers?

Wilden. In an unknown Tongue.

L. C. J. Were they in Latin?

Wilden. I cannot tell, my Lord; I am not a Scholar good enough to know.

L. C. J. Are you a Papist?

Wilden. I have been a Protestant since *Christmas*.

L. C. J. 'Tis the Principle of a Protestant to tell downright Truth, and the Principle of a Papist is to equivocate; come speak Truth, and your Conscience will be lighter: Did you ever see *Atkins* deliver the Sacrament in a Wafer, according to the manner and way of the Church of *Rome*?

Wilden. My Lord, I never received it of him my self, but I have seen him give it to others.

L. C. J. Where?

Wilden. At Mrs. *Stanford*'s, at *Wolverhampton*.

L. C. J. To how many?

Wilden. To seven or eight at a time.

L. C. J. Was he in a Surplice then?

Wilden. Yes, my Lord.

L. C. J. I do not know whether the Prisoner can hear what the Witness says; 'tis fit he should know. [*The Prisoner being told, he reply'd, he knew not the Witness.*]

Cl. of Arr. Swear *John Jarvis*.

Crier. My Lord, he refuseth to be sworn.

L. C. J. Jarvis, why will you not be sworn?

Jarvis. My Lord, I was troubled with a Vision the last Night.

L. C. J. You mistake, Friend, old Men dream Dreams, 'tis young Men see Visions, and you are an old Man: Speak the Truth, and I'll warrant you, you will not be troubled with Visions any more; this is a Trick of the Priests. Swear him, Crier. [*Which was done.*]

L. C. J. Come, *Jarvis*, what can you say?

Jarvis. My Lord, he is a Man that hath relieved me and my Children oftentimes when I was in want.

L. C. J. Did you ever hear him say Mass?

Jarvis. My Lord, I am an ignorant Man; I cannot tell; I have heard him say somewhat in an unknown Tongue.

L. C. J. Did you ever confess to him?

Jarvis. Yes, my Lord, I did.

L. C. J. Did you ever receive the Sacrament of him according to the manner of the Church of *Rome*?

Jarvis. Yes, my Lord, I have; I must speak the Truth.

L. C. J. How often?

Jarvis. A great many times.

L. C. J. And had he not his Priest's Habit on when he gave it you?

Jarvis. Yes, my Lord, he had.

Cl. of Arr. Crier, call *Jean Wright*. [*Who was called, but did not appear.*]

Call *Henry Brown*. [*Who appeared and was sworn.*]

L. C. J. Come, Mr. *Brown*, what can you say against the Prisoner? Did you ever receive the Sacrament of him, or hear him say Mass?

Brown. My Lord, I was almost turned from the Protestant Religion to that of the Church of *Rome*; but I never went further than Confession, and that was to this Man, and then I left them.

L. C. J. Indeed you were the wiser.

Cl. of Arr. Crier, call *Tho. Dudley*. [*Who was sworn.*]

L. C. J. What can you say against the Prisoner?

Dudley. I was a little given that way, and have been at Confession with one *Atkins*, and have seen him perform several Rites of the Church of *Rome*, at *Well-head*, at *Ham*.

L. C. J. Do you believe this to be the Man?

Dudley. Yes, my Lord, I do.

L. C. J. Have you any more to say?

Dudley. No, my Lord.

L. C. J. Read the Statute. [*Which was done.*] Have you Witnesses, *Atkins*, or any thing to say for your self?

Pris. No, my Lord.

L. C. J. Look you Gentlemen of the Jury, Here is as full and as positive an Evidence as can be against the Prisoner: The two first Witnesses, *Wilden* and *Jarvis*, are positive. *Wilden* swears he heard him say his Prayers in an unknown Tongue; and further says, that he gave the Sacrament to seven or eight according to the manner of the Church of *Rome* in a Wafer, at *Mrs. Stamford*'s House in *Wolverhampton*. *Jarvis*, the other Witness, swears that he hath been at Confession with him, and hath oftentimes received the Sacrament of him. Here are two other honest Men, that speak very full as to Circumstances; so that in the whole you cannot have a more clear Evidence: And, Gentlemen, I must tell you, it is to these sorts of Men we owe all the Troubles and Hazards we are in, the Fear of the King's Life, the Subversion of our Government, and the Loss of our Religion. It is notorious by what they have done, that they are departed from the Meekness and Simplicity of Christ's Doctrine, and would bring in a Religion of Blood and Tyranny amongst us. As if God Almighty were some Omnipotent Mischief, that delighted and would be served with the Sacrifices of human Blood. I need not say more to you, the Matter's plain; I think you need not stir from the Bar, but do as you will.

The Jury having considered of the Evidence some Time, gave in their Verdict.

Cl. of Arr. Gentlemen of the Jury, are you agreed of your Verdict?

Jury. Yes.

Cl. of Arr. Who shall say for you?

Jury. The Foreman.

Cl. of Arr. Jailor, set up *William Atkins*. [*Which was done.*] Gentlemen of the Jury look on the Prisoner. What say you, Is he Guilty of the High-Treason whereof he stands Indicted, or Not Guilty?

Jury. Guilty.

Cl. of Arr. What Lands, Goods or Tenements had he?

Jury. None to our knowledge.

Cl. of Arr. Look to him, Jailor, he is found Guilty of High-Treason.

He received the Sentence usual in Cases of High-Treason.

LXXXIX. *The Trial of* Thomas Knox *and* John Lane, *at the* King's-Bench, *for a* Misdemeanor, Nov. 25, 1679. Mich. 31 Car. II.

ON *Tuesday* the Twenty-fifth Day of *November*, 1679, at the *King's-Bench* Bar at *Westminster*, *Thomas Knox* and *John Lane* were tried for the Misdemeanor and Offence herein after in the Indictment expressed; which Trial was in manner following.

Proclamation being made in usual manner for Information, and the Defendants called to their Challenges, the Jury were sworn, whose Names follow,

Sir *John Kirke*,
Thomas Harriot,
Henry Johnson,
Simon Middleton,
Hugh Squire,
Francis Derrington,
} Jur' {
John Roberts,
Rainsford Waterhouse,
Thomas Earsby,
Joseph Radcliffe,
James Supple,
Richard Cooper.

Who being numbred, the Clerk of the Crown charged them with the Indictment thus:

Cl. of Cr. Gentlemen, You of the Jury that are sworn, hearken to your Charge; you shall understand that the Defendants stand indicted by the Oaths of Twelve honest and lawful Men of the County of *Middlesex*, by the Names of *Thomas Knox* of the Parish of St. *Margaret*'s, *Westminster*, in the County of *Middlesex*, Labourer, and *John Lane* of the same Parish and County, Labourer, for that whereas *Edward Coleman*, *William Ireland*, and *John Grove*, and other false Traitors against our Sovereign Lord *Charles* II. by the Grace of God of *England*, *Scotland*, *France*, and *Ireland*, King, Defender of the Faith, *&c.* to the Jurors aforesaid unknown, the 24th Day of *April*, in the 30th Year of the Reign of our said Sovereign Lord the King, at the Parish of St. *Margaret*'s, *Westminster*, in the County of *Middlesex*, traiterously amongst themselves had conspired, consulted, and agreed, to bring and put to Death and Destruction our said Sovereign Lord the King, and War against our said Sovereign Lord the King within this Kingdom of *England* to stir up, and the Religion in the said Kingdom of *England*, rightly and by the Laws of the said Kingdom established, to the Superstition of the Romish Church to change and alter, and the Government of the said Kingdom of *England* to subvert; for which their said most wicked Treasons, and traiterous Conspiracies, Consultations, and Agreements, the said *Edward Coleman*, *William Ireland*, and *John Grove*, in due Manner, and according to the Laws of this Kingdom of *England*, were afterwards attainted, and underwent the pain of Death for the same. And whereas *William* Earl of *Powis*, *William* Viscount *Stafford*, *John* Lord *Bellasis*, *Henry* Lord *Arundel* of *Warder*, *William* Lord *Petre*, and Sir *Henry Titchbourn*, Bart. the 30th Day of *November*; in the 30th Year of the Reign of our said Sovereign Lord the King aforesaid, at the Parish of St. *Margaret*'s, *Westminster*, aforesaid, in the County of *Middlesex* aforesaid, of the Treasons aforesaid were lawfully accused, and thereupon, according to due Form of Law, were committed to the *Tower* of *London*, being the Prison of our said Sovereign Lord the King, there safely to be kept to answer for the Treasons aforesaid, whereupon they the said *William* Earl of *Powis*, *William* Viscount *Stafford*, *John* Lord *Bellasis*, *Henry* Lord *Arundel* of *Warder*, and *William* Lord *Petre*, were in Parliament impeached by the Commons in the same Parliament assembled. And whereas *Thomas* Earl of *Danby*, afterwards to wit the said Thirtieth Day of *November*, in the Thirtieth Year aforesaid, at the Parish aforesaid, in the County aforesaid, of certain Treasons and other Misdemeanors was lawfully accused, and thereupon, according to due Form of Law, was committed to the said *Tower* of *London*, there to be safely kept to answer for the Treasons and Misdemeanors aforesaid, of which said Treasons and Misdemeanors he the said *Thomas* Earl of *Danby* is impeached in Parliament,

liament, by the Commons in the ſame Parliment aſſembled, that they the ſaid *Thomas Knox* and *John Lane*, well knowing the ſaid *William* Earl of *Powis*, *William* Viſcount *Stafford*, *John* Lord *Bellaſis*, *Henry* Lord *Arundel* of *Warder*, *William* Lord *Petre*, and *Thomas* Earl of *Danby*, to be accuſed of the Treaſons and Miſdemeanors aforeſaid; and they the ſaid *Thomas Knox* and *John Lane*, being deviliſhly affected towards our ſaid Sovereign Lord the King, their Supreme and Natural Lord, and deviſing, and with all their Strength intending the Peace and Tranquillity of this Kingdom of *England* to diſturb, and to hinder and ſtifle the Diſcovery of the ſaid Treaſons, by the ſaid *William* Earl of *Powis*, *William* Viſcount *Stafford*, *John* Lord *Bellaſis*, *Henry* Lord *Arundel*, and *William* Lord *Petre*, as aforeſaid, ſuppoſed to be committed, and, as much as in them lay, to elude the due Courſe of Law, and the Proſecution of Juſtice againſt the ſaid *William* Earl of *Powis*, *William* Viſcount *Stafford*, *William* Lord *Petre*, *John* Lord *Bellaſis*, Sir *Henry Tichbourn*, and *Thomas* Earl of *Danby*, to retard, they the ſaid *Thomas Knox* and *John Lane*, afterwards, to wit, the Thirtieth Day of *April*, in the Thirty Firſt Year of the Reign of our ſaid Sovereign Lord the King, at the Pariſh aforeſaid, in the County aforeſaid, falſly, maliciouſly and unlawfully did conſult and agree among themſelves, *Titus Oates* Clerk, and *William Bedlow* Gentleman, who Informations of the Treaſons aforeſaid had given, and whom they the ſaid *Thomas Knox* and *John Lane*, the Day and Year aforeſaid, well knew to have given Information of the Treaſons aforeſaid againſt them, the ſaid *William* Earl of *Powis*, *William* Viſcount *Stafford*, *John* Lord *Bellaſis*, *Henry* Lord *Arundel*, and *William* Lord *Petre*, to ſcandalize, and upon the Trial of the ſaid *William* Earl of *Powis*, *William* Viſcount *Stafford*, *John* Lord *Bellaſis*, *Henry* Lord *Arundel*, and *William* Lord *Petre*, to repreſent them to be Perſons of evil Converſation, and Witneſſes not deſerving Credit. And that he the ſaid *Thomas Knox* afterwards, to wit, the ſaid Thirtieth Day of *April*, in the Thirty Firſt Year aforeſaid, at the Pariſh aforeſaid, in the County aforeſaid, in the Names, and with the Conſent and Agreement of the ſaid *John Lane*, and one *William Oſborn*, to diſgrace the Information of the ſaid *Titus Oates* and *William Bedlow*, againſt them the ſaid *William* Earl of *Powis*, *William* Viſcount *Stafford*, *William* Lord *Petre*, *John* Lord *Bellaſis*, and *Henry* Lord *Arundel*, for our ſaid Sovereign Lord the King, to be given, falſly, maliciouſly, ſubtilly, and adviſedly, did write and cauſe to be written three Letters, and thoſe Letters, ſo written, falſly, craftily, unlawfully, and adviſedly, did direct and cauſe to be delivered to himſelf the ſaid *Thomas Knox*, by which ſaid Letters falſly, craftily, and deceitfully, it was declared, That they the ſaid *John Lane* and *William Oſborn* were greatly troubled in their Conſciences by reaſon of certain things which they well knew, and had concealed concerning the unjuſt Contrivances of the ſaid *Titus Oates* and *William Bedlow*, in accuſing the ſaid *Thomas* Earl of *Danby*, to be guilty of the Treaſons and other Miſdemeanors aforeſaid, and that the ſaid *Titus Oates* was a Perſon of a wicked and vicious Life, and made an Aſſault upon the ſaid *John Lane*, and with the ſaid *John Lane* to commit that deteſtable Sin called Sodomy before that time had endeavoured. And that he the ſaid *Thomas Knox*, the ſooner and more effectually to perſuade the ſaid *John Lane* and *William Oſborn* falſly to accuſe the ſaid *Titus Oates* and *William Bedlow*, that they the ſaid *Titus Oates* and *William Bedlow* unjuſtly, and againſt all Truth, had accuſed the ſaid *Thomas* Earl of *Danby*, of the Treaſons and other Miſdemeanors aforeſaid, and ſo to affirm againſt the Evidence of our ſaid Sovereign Lord the King, upon the Trial of the ſaid *Thomas* Earl of *Danby*, for the Treaſons and other Miſdemeanors aforeſaid, to be had afterwards, to wit, the ſaid Thirtieth Day of *April*, in the Thirty firſt Year of the Reign of our ſaid Sovereign Lord the King aforeſaid, at the Pariſh aforeſaid, in the County aforeſaid, falſly, adviſedly, corruptly, and againſt the Duty of his Allegiance, unlawfully gave to the ſaid *John Lane* and *William Oſborn*, divers great Sums of Money, and alſo further falſly, adviſedly, corruptly, and againſt the Duty of his Allegiance, the Day and Year aforeſaid, at the Pariſh aforeſaid, in the County aforeſaid, did promiſe unto the ſaid *John Lane* and *William Oſborn*, that they the ſaid *John Lane* and *William Oſborn*, within a certain Time, by the ſaid *Thomas Knox* to the ſaid *John Lane* and *William Oſborn* propounded, divers other great Sums of Money, and other great Rewards therefore ſhould have and receive, againſt the Duty of their Allegiance, to the great retarding, obſtructing and ſuppreſſing of Juſtice, in manifeſt Contempt of the Laws of this Kingdom of *England*, to the evil and pernicious Example of all others in the like Caſe offending, and againſt the Peace of our ſaid Sovereign Lord the King, his Crown and Dignity. To this Indictment, the ſaid *Thomas Knox* and *John Lane*, by their Attorney, pleaded that they are Not Guilty, nor either of them is Guilty of the Offence aforeſaid, and further withal put themſelves upon the Country, and the King's Attorney likewiſe. And your Charge is to enquire if they are Guilty or Not Guilty, *&c.*

Cl. of Cr. Make an O Yes.

Crier. O yes! if any one will give Evidence on the Behalf of our Sovereign Lord the King, againſt *Thomas Knox* and *John Lane*, of the Miſdemeanors and Offence whereof they ſtand Indicted, let them come forth and give their Evidence.

Mr. Trenchard. May it pleaſe your Lordſhip, and you Gentlemen of the Jury, *Thomas Knox* and *John Lane* ſtand Indicted for a great and high Miſdemeanor, and the Indictment ſets forth, that whereas *Coleman*, *Ireland*, *Pickering*, and *Grove*, and other falſe Traitors did conſpire to deſtroy the King, and change the Religion eſtabliſhed by Law, to levy War againſt our Sovereign Lord the King, and to introduce Popery, and for theſe Treaſons were convicted, attainted, and executed; and further ſets forth, that the Lord *Powis*, Lord *Arundel* of *Wardor*, and others, were accuſed of the ſaid Treaſons, and were committed to the *Tower*, and afterwards were impeached for the ſame by the Commons in Parliament aſſembled; as alſo that *Thomas* Earl of *Danby* was impeached of High-Treaſon and other Miſdemeanors; that the Defendants knowing *Mr. Oates* and *Mr. Bedlow* had given Information of theſe Treaſons, to ſtifle the Evidence, and to ſcandalize them, did falſly conſpire to repreſent them as wicked Perſons, and Men of no Credit. And the Indictment further ſets forth, that the Defendant *Knox*, with the Agreement of *Lane*, and one *Oſborn*, did cauſe ſeveral Letters to be writ, in which it was contrived to accuſe the ſaid *Oates* and *Bedlow*, that they had conſpired falſly to accuſe the ſaid Earl of *Danby*, and that *Oates* was a Perſon of a vicious Converſation, and had a Deſign to attempt an Aſſault upon the Perſon of the ſaid *Lane*, with an Intention to commit that deteſtable Sin of Sodomy; the better to effect which wicked Deſigns, the ſaid *Knox* gave ſeveral Sums of Money to *Oſborn* and *Lane*, and had offered great Rewards unto them. To this Indictment they have pleaded Not Guilty, and you are to try whether they are Guilty or Not, of this Miſdemeanor.

Then Sir John Maynard, *the King's eldeſt Serjeant at Law, purſued the Charge thus.*

Mr. Serj. Maynard. May it pleaſe your Lordſhip, and you Gentlemen of the Jury; this Cauſe is of great Conſequence; and, my Lord, I deſire the Jury to obſerve, that their Queſtion this Day is not to enquire whether the Lords or the other Perſons accuſed and impeached in Parliament are Guilty or Not; but the Queſtion before them, is, Whether the Perſons that ſtand here indicted, are guilty of wicked and vile Endeavours to diſcountenance and ſuppreſs the Evidence, and ſcandalize their Perſons, who were to give Evidence againſt theſe Lords; we are not to give Evidence againſt the Lords, but againſt theſe Perſons.

L. C. J. * You are right, Brother.

Mr. Serj. Maynard. Gentlemen, ſomething I muſt obſerve to you, that is an Inducement to this Matter: That there hath been an horrid and abominable Conſpiracy againſt the King, the Nation, the Religion, and the Law, appears (my Lord) by the Proceedings in Parliament, wherein the Lords and the Commons have ſeveral times jointly declared ſo, and, I think, 'tis ſo publick that no Body will doubt there is ſuch a thing; who is guilty, that is another Matter.

L. C. J. This Court muſt take notice of that, becauſe ſome have been tried, convicted, and condemned for it by this Court.

Mr. Serj. Maynard. Your Lordſhip ſays right. But my Lord, the firſt Diſcovery of this Conſpiracy came from a ſingle Perſon, one that ſtood ſingle and diſcouraged a long time, and that there were Endeavours to diſcourage his further Diſcovery, that will appear. My Lord, when it ſtood ſo, it happen'd that Sir *Edmundbury Godfrey* had taken his Examination, and theſe things will be material in the End of the Cauſe. Sir *Edmundbury Godfrey* having taken the Examination of *Oates*, then the Endeavour was to ſuppreſs this Examination that he had taken, and that by no leſs a Wickedneſs than the barbarous Murder of that honeſt Gentleman, whom you all knew; and they not only took away his Life, but they did ſtrive to baffle and defame him, when he was dead, and that will appear too, and is publick and known. My Lord, all this while ſtood *Oates* ſingle; it fell out by the Mercy of God, that a further Diſcovery was made by *Bedlow*, he was examined, and it is publickly known, and publick Juſtice hath gone upon it.

The next Attempt was to corrupt the Teſtimony of *Bedlow* with Bribes and Rewards, and by other Ways; and the Perſon that tranſacted it, *Reading*, is attainted of it, *Scelere tutandum eſt ſcelus*, when Men have invented and deſigned any great Wickedneſs, they are forced to enter upon others to cover and conceal the former. My Lord, it proceeded now, and comes to that which will be the Queſtion this Day. Having gone all theſe ways, now they return again, to ſee if they can diſgrace and baffle the Evidence *Oates* and *Bedlow* had given, and the way to that is by diſparaging and ſcandalizing them with foul Offences, eſpecially Dr. *Oates*; and that was thus, (as we ſhall prove to your Lordſhip) *Lane* had been a Servant with *Oates*, and the other was one of the like Condition, and he was tampered with to accuſe Dr. *Oates* of that horrid Sin of Sodomy, and I think if he were ſuch an one, little Credit were to be given to ſuch a Man. This was the Deſign they were to accompliſh. And we ſhall prove to you, in order to it, there were Letters (written and contrived by *Knox* indeed) written by *Oſborn* who is not now before you, but a Contrivance of them all. And, my Lord, there muſt be a Pretence; for in Truth theſe Perſons had been examined, and had charged him with this Offence, but upon further Examination they had renounced their Diſcovery.

L. C. J. Had they all given Evidence? Or who did?

Mr. Serj. Maynard. No, my Lord, pardon me, I am not ſpeaking of their Evidence, but only of their Examination before the Lords.

L. C. J. What was it that was there witneſſed?

Mr. Serj. Maynard. Then they pretended this Matter, That they were touch'd in Conſcience, and now they repent, and muſt diſcover the Truth for the Truth's ſake, that themſelves were falſe in making of the Charge, and this, my Lord, muſt be furthered with Bribes and Rewards, as we ſhall prove to you. We ſhall make out the Particulars by Witneſſes, and then we think we may leave it to your Lordſhip and the Jury to determine. In truth, my Lord, it happens in this Caſe as it did long ago, when the firſt Diſcovery was of a like Deſign, and as is told by the Hiſtorian; *Multi ob ſtultitiam non putabant, multi ob Ignorantiam non videbant, multi ob pravitatem non credebant, & non credendo conjurationem adjuvabant.*

Mr. Att. General. † May it pleaſe your Lordſhip, and you Gentlemen of the Jury: I am of Counſel for the King in this Cauſe, whoſe Suit it is. The Evidence hath been opened fully by Mr. *Serjeant*. I ſhall only ſay this, that this is a Counter-part of Mr. *Reading*'s Caſe, only it ſeems in this to differ, that the Counter-part exceeds the Original; for, I think, that it is of a further Extent than his was. It hath been told you by Mr. *Serjeant*, and, I know, the Court will tell you, that it matters not whether thoſe Perſons that are accuſed of the Plot, and impeached for it, were Guilty or Not, it is ſufficient that they are accuſed, and that by theſe Perſons. For any Body to endeavour to ſuppreſs and withdraw the King's Evidence, or to diſgrace the King's Evidence, that is not lawful, be the Crime what it will; but it is a much greater Crime in a Caſe of

* *Sir* William Scroggs.

† *Sir* Creſwell Levinz.

of this Nature of High-Treason, where the Life of the King, the Government of the Kingdom, the Religion, and the true Worship of God established in it, and the Laws of the Nation are in danger: Some of these Persons are guilty, for Mr. *Coleman*, and several others, have been found Guilty, and have been executed for it.

The Design in this Case that lies before you, Gentlemen, to try, was to throw a Disparagement upon the Testimony of those Persons by whose Evidence those Traitors were principally attainted and executed. This is, Gentlemen, to affront the Justice of the Nation, and indeed to cast a Disparagement upon it; and that sure is as great an Offence as can be; the Matter of the Evidence hath been open'd to you, I shall only acquaint your Lordship and the Jury, that it hath been design'd a great while, and so long design'd, that one of the Persons here accused, Mr. *Lane*, one of *Oates*'s Servants, had the Opportunity to get into his Master's Secrets, thereby the more effectually to betray him, and as it will appear by Witnesses, did carry on the Design till it was discovered, and by that Discovery prevented, as to any Success.

Mr. Recorder †. Your Lordship is pleased to observe in the Indictment that is now to be tried, there are but two Persons that stand Indicted, that is, *Lane* and *Knox*. I presume the Gentlemen that are on the other side for each of the Prisoners (for I perceive those that are for the one, are not for the other) may expect that there should be Proof made of what is laid as Inducement in the Indictment, and will not tend immediately to that which will be the Question in this Case: for there is recited in the Indictment the Conviction of *Coleman* in this Place, and others in other Places, for the High-Treason the Evidence whereof these Persons are Indicted for scandalizing, we have here the Records ready to prove it.

L. C. J. I suppose they will admit that.

*Mr. Recorder**. If they will not, we have that which will prove it.

Mr. Withins. My Lord, we shall not stand upon that.

*Mr. Sollicitor General**. We are ready, if you do.

Mr. Serj. Maynard. And you will admit that Doctor *Oates* and Mr. *Bedlow* were Witnesses upon those Trials?

Mr. Withins. Yes, and gave Evidence very considerable.

Mr. Recorder. Then my Lord, we must hint to you, that *Lane*, who is one of the Persons taken notice of in the Indictment, was a Servant to Dr. *Oates*; *Knox* was not in his Service, but *Knox* is a Man that made use of *Lane* as a Handle to the Matter he had design'd; therefore Letters are prepared, but by whom? That we shall give you an Account of was by the Direction of *Knox*, tho' the Letters that will be produc'd, are directed to *Knox* himself.

L. C. J. Your Indictment says so.

Mr. Recorder. But we shall give you an Account, that he was Director of those Letters himself; but as your Lordship may observe, there are not only Letters, but some Accusations or Informations. We shall prove to your Lordship whose Hand-writing they were, and who dictated those Informations: For I think that Mr. *Knox* is pretended to have the most Brains; and I believe Mr. *Knox*, in the Consequence, will appear to have the most Malice. And we shall prove in the next Place, that inasmuch as it would be natural in the course of Justice to ask whether these Persons should not have Money for the Reward of such a Business; we shall prove that there were Treaties with Mr. *Lane*, and one Mr. *Osborn* who is not Indicted, (but was likewise a Servant to Dr. *Oates*, and had thereby an Opportunity of deceiving him) that they had Meetings; how Guineas have been cunningly dropt down, which was to prevent, as I was acquainting your Lordship, any such Question that should be ask'd, what Monies and Rewards they were to have for this great Discovery of any Wickedness that Mr. *Oates* should be guilty of. Mr. *Knox*, he prepares them in this manner. At every Meeting, when they were discoursing and pursuing this Business, then by some *unlucky* Accident or other, Mr. *Knox* he is to drop a Guinea or two, according as Mr. *Lane* and the other Person had occasion, or a Desire to have it; but none were to be given, but as by Accident, as if *Knox* holding his Guineas in his Hand, or in some other accidental way should drop them; and then *Osborn* and *Lane* were to pick them up in a kind of a Jest only, as if *Knox* had accidentally let them fall, and they had as accidentally taken them up. How this came to be discover'd, we must give you an Account. Matters being thus prepar'd by the Instigation of *Knox*, and transacted so far by *Lane* and *Osborn*, they thought it then fit to put their Design in Execution. Accordingly their Informations are produced before a Justice of Peace, who finding the Matters were improbable, (for I think they had some Scrutiny before the Justice of Peace, and before the Lords Committees of the Lords House) one of them, Gentlemen, tho' now he is pleased to say he is *Not Guilty*, yet at that Time had a little more Ingenuity, and did confess the whole Matter, and how he was drawn in, and how far he was concern'd, and how Mr. *Knox* had directed him, and the Money and Rewards he had received, and that besides, divers other Sums of Money had been promised, and great Rewards offered in case this Design had taken effect. We shall call our Witnesses before your Lordship, and give in Evidence the Informations that they had intended to offer; and if we shall prove the Matters that have been open'd to you, I believe the Consequence of this Case will appear as much to concern the Government, as any that hath come to this Bar.

Sir. Fr. Winnington. My Lord, if your Lordship please, we shall now go to prove our Case; the Question was ask'd whether they would admit the several Attainders of those Persons that have been Executed for this Plot. I now ask them, whether they will admit the several Impeachments that are also mentioned in the Indictment, both of the five Lords in the *Tower*, and also of the Lord *Danby*.

Mr. Withins and *Mr. Scroggs*. Yes we do.

Mr. Just. Pemberton. All that they will allow.

Mr. Recorder. Then we begin with Mr. *Radford*. [*Who was sworn.*]

Mr. Att. Gen. What is your Name, Sir?

Radford. *Robert Radford*.

Mr. Att. Gen. Come on, Mr. *Radford*, tell my Lord and the Jury what you know concerning this Business, about *Lane* and *Knox*.

Radford. Sir, if it please your Honour, *R. Lane*, Father of *John Lane*, was a Yeoman of the Guard extraordinary, and I am one of his Majesty's Yeomen of the Guard. As he was in waiting, he was telling me a Story——.

L. C. J. Richard was?

Radford. Yes, *Richard* the Father was telling me that Dr. *Oates* did attempt his Son many times to do such and such things to him, that was in the way of Buggery; said I, *Richard*, I am ashamed of you, that you should cherish your Son in such things as these are; so I went away in Anger, and told him, That if he were my Son, I would correct him severely for it; and said no more, knowing him to be a lying Fellow; and all the whole Guard know him to be a lying Fellow, and that there is no Truth in him.

L. C. J. All who?

Radford. All the Guard; and that is all I can say.

Mr. Just. Jones. When was this?

Radford. Above a Twelvemonth ago. And I knew that he was a lying Man, and I durst not speak of it, because I knew he was so, and was afraid he would have put it upon me.

L. C. J. What, he told you that his Son told him so?

Radford. No, he told me only that his Son was weary of Dr. *Oates*'s Service; and I told him that he was come away once before, and why did he go again? He said his Son could not be quiet.

L. C. J. Did he say his Son told him? The Question is plain: Did he speak it of himself, and not that his Son told him?

Radford. He said only that he had attempted his Son.

Mr. Att. Gen. My Lord, we will call *Thomas Allen*. [*Who was sworn.*]

L. C. J. What is this Man's Name?

Mr. Att. Gen. Mr. *Allen*, my Lord. What do you know of any Application to bring this *Lane* into *Oates*'s Service? Tell your whole Knowledge of the Matter.

Allen. My Lord, about the Month of *December* last, when he was gone out of Dr. *Oates*'s Service ——

L. C. J. Who was gone out of Dr. *Oates*'s Service?

Allen. *Lane*; he desired me to intercede for him again and again, and accordingly he was admitted into his Service again.

Mr. Att. Gen. Did you hear any Discourse before this, of any Attempt upon him?

Allen. How Attempt?

Mr. Att. Gen. Did you ever hear of any Complaints made by *Lane* against Dr. *Oates*?

L. C. J. Did you ever hear *Lane* complain that his Master would be uncivil with him?

Allen. No, I remember nothing of that.

Mr. Recorder. Now, if your Lordship please, we shall give your Lordship an Account, that when he was admitted again, he bragg'd he should get a great Sum of Money; and for that we call Mr. *Samuel Oates*. [*Who was sworn.*]

L. C. J. Are you Brother to Mr. *Oates*?

Mr. S. Oates. Yes, Sir.

Mr. Att. Gen. What do you know of any Sum that this Mr. *Lane* did pretend to get, and on what Account?

Mr. S. Oates. My Lord, about a matter of a Fortnight before he went away from my Brother, I was in the Withdrawing Room——

L. C. J. How long is it ago since he went away?

Mr. S. Oates. It was in *April* last, as near as I can remember.

L. C. J. Well, go on, Sir.

Mr. S. Oates. So there were several Servants in the Room, and they were talking and laughing together; and he was wishing, said he, I wish I had a Thousand Pounds; said some of them to him, What would you do with it? Said he, I would take it and fling it upon the Ground, and tumble in it; says one of them, You may wish long enough before you have it; I question not, says he, but ere long to find a way to get a Thousand Pounds.

Mr. Recorder. Do you hear him, Gentlemen? This was a Fortnight before he went away.

Mr. S. Oates. I can only speak as to *Osborn*, as to the Thing it self.

Mr. Att. Gen. Did you ever hear him say which way he did intend to get this Thousand Pounds?

Mr. S. Oates. No, I do not remember that; but upon these scandalous things coming out, I was considering what he had said, and how he behaved himself in his Service, and upon Recollection, I did think of this Saying of his.

Mr. Just. Pemberton. Ay, he recollected it afterwards.

Mr. Williams. Speak those words over again, as near as you can remember.

Then Mr. S. Oates *repeated his Evidence to the same Effect.*

Sir Fr. Winnington. What is that of *Osborn* that you can say?

L. C. J. What does that signify to these Defendants?

Sir Fr. Winnington. Although he is not a Party that does defend this Matter; yet it is all one entire Act that they three were in Combination to corrupt the King's Evidence, and to stifle it; and tho' so far as it does relate to *Osborn*, it will not convict him being absent; yet it will enlighten the King's Evidence about the Conspiracy, for he is mentioned in the Indictment.

L. C. J. Well, if you think it material, you may ask what Questions you will about it.

Mr. S. Oates. I was asking *Osborn*, a little after he was let out of the *Gate-House*, how he came to repent himself ——

L. C. J. Who had repented himself?

Mr. S. Oates. *Osborn*.

L. C. J. Had *Osborn* repented himself, of what?

Mr. S. Oates. Of what he had given an Account of before the Committee.

Mr. Just. Pemberton. Do you know any thing of that?

Mr. S. Oates. I know nothing but what they did say upon their Examination.

L. C. J. Were you by and present at their Examination?

Mr. S. Oates. I heard nothing but what they said for themselves; I was at some part of their Examination.

Mr. Just. Pemberton. What did *Knox* and *Lane* say?

Mr.

† *Sir* George Jefferies.

* *Sir* Francis Winnington.

Mr. S. Oates. Osborn was a saying, That as we walked, said he, in the Cloisters of the *Abbey*, where he did dictate what we were to do.

L. C J. This is no Evidence. Shall what *Osborn* says at one time, and apart from the rest, be any Evidence here?

Mr. Recorder. No, my Lord; we offer it only as an Evidence of the general Conspiracy.

L. C. J. Osborn is a telling how *Knox* and *Lane* and he did conspire and contrive this Business; is this Evidence against these Defendants? I ask my Brother *Maynard.*

Mr. Serj. *Maynard.* My Lord, if this were single clearly, it were no Evidence; but if it fall out in the Evidence, that we shall prove *Osborn*, *Knox* and *Lane* were all in the Conspiracy, tho' it is not direct Evidence to Convict the other, yet it will enlighten that Evidence we give against them.

L. C. J. Why did you not make *Osborn* a Party?

Mr. Serj. *Maynard.* He is laid in the Indictment to join with them, but he is run away.

Mr. Just. *Pemberton.* My Brother intends it thus, that the Business is so interwoven between them all, that to make it be understood, it is necessary to bring in something about *Osborn.*

Mr. *Sanders.* I pray they may bring something against them first.

L. C. J. Ay, the Counsel say very well on the other side; first prove some Fact against *Knox* and *Lane*, and then prove what you will afterwards.

Mr. Serj. *Maynard.* It is an Inducement to it: But I beseech you, in all Cases that are Capital, are not the King's Counsel at liberty to prove Circumstances as well as the Substance?

L. C. J. The Court will direct it is no Evidence against the now Defendants, unless you prove the Fact upon them.

Mr. Serj. *Maynard.* Unless we do bring it down to *Knox* and *Lane* afterwards, that they were guilty, it will not be any Evidence, I know.

Mr. *Holt.* If it be not Evidence, we conceive, with submission to your Lordship, it ought not to be heard.

L. C. J. Prove something first, Brother, against the Defendants, and then urge this.

Mr. *Recorder.* They need not labour it on the other side. We agree it is no Evidence against the Defendants, but only circumstantial as of the general Conspiracy.

L. C. J. But pray how can it be circumstantial Evidence, and yet no Evidence? Prove the Conspiracy, or it signifies nothing.

Mr. Serj. *Maynard.* If it be circumstantial to make good the Evidence of the Fact, it will be material for us to urge it.

L. C. J. But first prove the Fact.

Mr. *Recorder.* We shall now prove, if your Lordship please, that *Knox*, who is one of the Persons indicted, hath made his Applications to others that had relation to Dr. *Oates*, to endeavour to persuade them to pick out something or other against Dr. *Oates.* Call *Thurston* and *Ray.*

Mr. Serj. *Maynard.* My Lord, we shall first go to the Substance of the Evidence, and then the circumstantial things will be material, which before were not material.

L. C. J. Now you go right, Brother.

Mr. Serj. *Maynard.* We shall go this way, to shew that *Lane* and *Osborn* did accuse Dr. *Oates*; and after they had accused him, they were convicted in their own Consciences, and did confess they had falsly accused him, and afterward did repent of that Repentance; and that *Knox* had an Hand in all this.

L. C. J. I think you have not opened that clear enough; before whom was that Accusation?

Mr. Serj. *Maynard.* Before the Lords, and before Sir *William Waller.*

Mr. *Recorder.* For they were in the *Gatehouse*, and there they sent for Sir *W. Waller* to come to them, and there did confess the matter to him; whom we desire may be sworn.

[*Which was done accordingly.*]

Sir *W. Waller.* My Lord, upon the Twenty ninth of *April*, during the Sessions of Parliament, there was a Committee of Lords appointed for the taking Instructions about this Plot: Being there attending upon the Lords, this Complaint of Mr. *Oates* was brought before them, of the horrid Abuse of two of his Servants. And the Lords were pleased to order Mr. *Warcup* and my self to take their Examinations.

L. C. J. What two Servants were they?

Sir *W. Waller.* They did belong to Dr. *Oates.*

L. C. J. What were their Names?

Sir *W. Waller. Osborn* and *Lane.*

L. C. J. What found you upon their Examination?

Sir *W. Waller.* Upon the Examination of *Osborn* and *Lane*, I did find they did agree together to a Tittle.

L. C. J. Then tell us *Lane*'s Evidence first. If they agreed in a Tittle, tell it us what it was.

Sir *W. Waller.* My Lord, Mr. *Lane* did confess this.

L. C. J. What, upon his Oath?

Sir *W. Waller.* Yes, upon his Oath, my Lord.

L. C. J. To you?

Sir *W. Waller.* Yes, my Lord, that he had been induced by Mr. *Knox* to betray his Master, and for to swear several things against him which *Knox* had drawn up and dictated to him. He did not write them himself, but *Osborn* writ them, and he did sign them. There were four Letters that were brought before us; there were three or four Memorials, as they called them, three or four Informations, which were those Papers that they carried to Mr. *Cheyney* to *Chelsey.*

L. C. J. Who carried them?

Sir *W. Waller. Knox* took *Osborn* and *Lane* with him, and carried them thither, as *Lane* swore. And when they came thither, and he was acquainted with the Business, he looked upon it as so foul and notorious a thing, that he would not meddle with it; but he advised them that they should go (because *Knox* pretended the Lord of *Danby* was much concerned in it) to some other Justice of Peace, or some of the Privy-Council that were Friends of my Lord of *Danby.*

L. C. J. Knox advised this, did he?

Sir *W. Waller.* No, they said Mr. *Cheyney* did. They went afterwards (and they did all confess it) to Mr. *Dewy*, and Mr. *Dewy* gave them the same Answer, that he could not meddle with it. And after this, Mr. *Knox* went and took several Lodgings for them, fearing that Dr. *Oates* would hunt after them; and one Lodging, amongst others, was, I think, the *Three Flower-de-luces* in *White-Friers.* And afterwards they removed to a place in the paved Alley betwixt *Lincoln's-Inn Fields* and *Chancery-Lane.* During which time, *Knox* did bid them stand firm to what they were to do, and they should not want for a considerable Reward, and have wherewithal to maintain them with their Footmen, and live very well. And, my Lord, *Lane* did confess this, that he brought Mr. *Osborn* to *Knox* first into the *Painted Chamber*, and made them acquainted there. And, my Lord, there is one thing that I omitted; Mr. *Lane* did confess to me, that Mr. *Knox* did, at the *One Tun* Tavern I think it was, drop a Guinea upon the Table, and said, I will not give it you, because now I can safely swear that I never gave you any Money; but be sure you stand fast to these Informations, and to what I have dictated to you, and you may be sure you shall be well rewarded for your pains. And he told them this more, *My Lord-Treasurer would never have surrendered himself to the Black-Rod, unless you had promised to stand fast to this Evidence*; that was, to swear to what Evidence he had dictated to them.

L. C. J. Did *Lane* produce the Informations, and those things that *Knox* tempted him to swear?

Sir *W. Waller.* My Lord, they were produced before us.

L. C. J. What were they? What was the Substance of them?

Sir *W. Waller.* One part was to swear that Mr. *Bedlow* should come to Mr. *Oates*, and say to him, That my Lord of *Danby* should offer him a considerable Sum of Money to go beyond Sea.

L. C. J. To whom?

Sir *W. Waller.* To *Bedlow.* And that was only considerable as relating to *Mr. Bedlow* in any part of the Examination: But as to Mr. *Oates*, they were to accuse him of having a design of abusing his Body; for he sent to me ——

L. C. J. Who did?

Sir *W. Waller. Lane* sent twice. Upon his first Examination he did seem to be very shy; but upon the second, he sent one *Rix* to me, one of the Yeomen of the Guard, to let me know, that he was troubled in his Conscience at what he had unjustly done in charging Mr. *Oates*, and that he was desirous to discharge his Conscience of the burden that lay on it, and to wave his own Reputation, that he might acquit the Innocent.

L. C. J. Why, where was the Villany done that he repented of?

Sir *W. Waller.* My Lord, it was in reference to his swearing against Dr. *Oates.*

L. C. J. Where, before the Lords?

Sir *W. Waller.* He was brought that very morning before the Lords; but notice being come that the King was come in, and the House was sitting, he was remanded, and afterwards sent *Rix* to me, to tell me, he was sensible of the Injury he had done to Dr. *Oates*, and would make a Confession of all.

L. C. J. Where had he done him Injury?

Sir *W. Waller.* In reference to those Abuses that he had offered to swear, and I think had sworn, but before whom I don't know; I suppose you will have an Account of that by and by.

L. C. J. So then this is the Substance of what you say as to Mr. *Oates*: That *Lane* sent to you, and shewed you several Papers and Informations against the Credit of *Oates* and *Bedlow*, and told you that *Knox* did tempt him to justify this, and swear it; and that he went with them to a Justice of Peace in order to do it, but he did not care to meddle with it, and bid them apply themselves elsewhere, and afterwards they came to you; and whether it was sworn or no, you cannot tell, but you say he did confess he had wrong'd Mr. *Oates* in those Scandals that he would have put upon him; and that this was by *Knox*'s Advice and Direction?

Sir *W. Waller.* But there is this thing further: He said truly that Mr. *Oates* would be something hasty and passionate, but that he was very religious, and was very constant in sending his Servants to Prayers; and that what he had accused him of, it was an abominable Falshood, and was done by the Instigation of *Knox*, who had encouraged him to it by the Promises of a great Reward.

Mr. Just. *Pemberton.* And it was he that told you of the dropping of the Guinea, was it not?

Sir *W. Waller.* My Lord, he did confess that himself, but he said he lent it.

Sir *F. Winnington.* Pray did *Lane* confess to you from whom this Money and Reward was to be had? For he was not a Person that was likely to bestow so much Money of his own. Was it from any of the Conspirators? Or from whom, that the Reward, and this Money should come, upon your Oath?

Sir *W. Waller*, I have examined them many times as to that, but could never learn any thing.

Mr. Just. *Pemberton.* Sir *W. Waller*, was *Knox* ever before you?

Sir *W. Waller.* Yes, my Lord, I took his Examination, and it was only to excuse himself, that he received the Letters from them, which they said they writ out of trouble of Conscience, and would have him to take their Examinations and to go along with them before a Justice of Peace.

L. C. J. That was *Knox*'s Defence? Said he, they came to me, and I did not go to them, but they desired me to go along with them to a Justice of Peace.

Mr. Just. *Pemberton.* Did you let him know what they had said to you?

Sir *W. Waller.* No, my Lord, I kept that private: But there was one thing very material. That Morning we took *Knox*'s Examination, we were so long about it, that we could not dispatch it in the Forenoon, and therefore ordered *Lane* to be brought before us in the Afternoon; and then did *Knox* write a Note, and sent it up by a Woman that was a Nurse there in the Prison, and there was a Paper convey'd thro' the Door to him to this purpose, *We paid our* ——

L. C. J. Who writ that Note?

Sir *W. Waller. Knox* did, and confessed it to me.

L. C. J. To whom was it convey'd?

Sir *W. Waller.* To Mr. *Osborn* from *Knox*; and it was, *We always paid our Club* ——

Mr. *Sanders.* How do you know it was from *Knox?*

Sir *W. Waller.* He confessed it.

Mr. *Sanders.* Did he shew it you?

Sir *W. Waller.* No, I did not see the Note, but he confessed it.

Mr.

Mr. Just. Pemberton, Pray Mr. *Sanders* don't interrupt them, they are in their Evidence.

Mr. Serj. Maynard. They must do that, for that is the best part of their Defence for ought I know.

Sir W. Waller. The Words, my Lord, were these, *We always club'd, and you paid two Shillings at the Sugar-loaf. Tear this.*

L. C. J. Why, what could this be?

Sir W. Waller. Why, I will tell you, my Lord, it was upon this Account, that he should not gain-say what he had confessed and agreed to, that so they might not be in two Stories.

Mr. Serj. Maynard. My Lord, *Osborne* and *Lane* had formerly accused, and given some Informations against Dr. *Oates*; afterwards you see what happened before Sir *W. Waller*, they renounce what they had done, and then, my Lord, was *Knox* imprisoned, and thereupon he writes this Note, *We always club'd together, and you paid two Shillings at such a Place:* The Circumstances will come out by and by. They met at several Places, and we shall prove that *Knox* bore their Charges, and paid for them, though by this Note he would make it, that they bore their own Charges.

Mr. Just. Pemberton. The succeeding Evidence will open it.

Sir W. Waller. My Lord, here is one thing more that I had forgot: *Lane* did confess, that for the preventing of any Discovery of this horrid Fact, it was agreed amongst them, that if any one should make a Discovery of it, the other two should murder him.

Mr. Sol. Gen. We desire that the Jury may observe that.

Sir W. Waller. He did likewise declare, that the Lords in the *Tower* would not be wanting to acknowledge the Kindness in disparaging the King's Evidence.

Mr. Just. Pemberton. That was *Lane* and *Osborne* did confess that?

Sir W. Waller. Yes, both *Lane* and *Osborne*, swore it positively.

Sir Fr. Winnington. If you have done as to *Lane*, pray acquaint my Lord and the Jury what you know of the Confession of *Knox* upon his Examination.

Sir W. Waller. Knox confessed not any thing, but stood stiff to it, that the Papers and Letters were written by them, and contrived by them.

Mr. Just. Pemberton. And that what he did was at their Request?

Sir W. Waller. Yes, but the rest did both confess, that what was done was wholly by the Contrivance of *Knox*.

L. C. J. Did you ask *Knox* if he had dropp'd a Guinea?

Sir W. Waller. My Lord, he confess'd he had dropp'd a Guinea, but it was only to lend them, and they promised to repay him; and that one morning he dropp'd ten Shillings upon the Bed, and they took it up.

L. C. J. Knox said he only lent it?

Sir W. Waller. Yes, but they positively swore both the one and the other.

Mr. Just. Pemberton. What said *Knox* to that?

Sir W. Waller. He lent them only.

L. C. J. Well, go on, Sir.

Sir W. Waller. And *Lane* did positively confess, that at all the Places, and the several Lodgings, and the Treats and Entertainments they had been at, they were all at *Knox*'s Charge, except twice, which might amount to about eighteen Pence, and that he paid.

L. C. J. What said *Knox* to it?

Sir W. Waller. He deny'd all.

Mr. Just. Pemberton. As to the manner of it, what said *Knox* to the dropping of it?

Sir W. Waller. He confess'd he dropp'd it, but only lent it them.

Sir Fr. Winnington. You say *Lane* was a Servant to Dr. *Oates*, pray whose Servant was *Knox?*

Sir W. Waller. He did belong to my Lord *Dunblane.* And moreover, Mr. *Knox* did confess to me, that the Papers so drawn up and deliver'd into his Hands, had been in the Custody of my Lord *Latimore* for a long time.

Sir Fr. Winnington. Did he so, I hope the Jury will believe him then.

L. C. J. Sir W. Waller does swear, that *Knox* confessed that all those Scandals raised against Dr. *Oates*, had been by his Hands deliver'd into the Hands of my Lord *Latimore*, and were there for some time.

Sir W. Waller. Yes, my Lord.

Sir Fr. Winnington. I did not well hear you, Sir, one thing you were saying in the beginning of your Evidence, that these Gentlemen spoke of my Lord of *Danby*'s not surrendring himself, pray let us hear that over again.

Sir W. Waller. Mr. *Lane* said this, that my Lord of *Danby* would not have surrendred himself to the *Black-Rod*, but that he did depend upon their standing to what Informations they had given in.

L. C J. Upon your Oath *Lane* did say this?

Sir W. Waller. Yes, my Lord.

Mr. Serj. Maynard. My Lord, now we will call another Justice of Peace, that took their Examinations, and we shall then particularly apply ourselves to Mr. *Knox*, that seems to make these Excuses for himself. Call *Mr. Justice Warcup.* [*Who was sworn.*]

Mr. Warcup. I must beg the Favour of the Court, because my Memory is bad, that I may refer to the Informations that were taken before me.

Mr. Just. Pemberton. You may look upon them for the Refreshment of your Memory.

Mr. Warcup. I answer to every Part of this that hath my Hand to it, I desire it may be read.

Mr. Recorder. No, that can't be, you must not read them, but only refresh your Memory by them.

Mr. Warcup. This *John Lane* did confess he liv'd with Dr. *Oates*, and about the Seventh of *April* he left him, and while he liv'd with him, he said, he sent his Servants daily to Prayer in the morning to the Chapel, and left but one at home to dress him, and whilst he was with Dr. *Oates*, he was never charged by his Master with the opening of any Letters, and that the Informations marked 1, 2, 3, 4 and 5 ——

Mr. Williams. Pray, Sir, acquaint the Court as far as you can by your Memory.

Mr. Warcup. Lane, my Lord, before me denied all that he had said, that is, that what he had said before the Lords was true, but that particular Examination before Sir *W. Waller* was by him alone.

Sir Fr. Winnington. Was he upon Oath before you?

Mr. Warcup. Yes, I find he was.

L. C. J. Did you examine him after Sir *William Waller*, or before?

Mr. Warcup. To the best of my Remembrance it was before.

Mr. Just. Jones. He was upon his Oath there too?

Mr. Warcup. Yes, and I must acquaint you I find it at the bottom to be (*Jurat.*) He was brought before the Lords of the Committee for Examinations, and did there likewise at first swear the things in these Notes contained, and did afterwards come to the said Committee, and beg their Pardon, and God's Pardon for what he had sworn, for it was false.

L. C. J. Who did?

Mr. Warcup. Lane did.

L. C. J. Did you hear him?

Mr. Warcup. Yes.

Mr. Just. Jones. Was he upon his Oath the last time, when he said this to the Committee?

Sir W. Waller. Yes, my Lord, I was by too, I heard him.

L. C. J. So he swears backwards and forwards.

Sir Fr. Winnington. Such People us'd to do so.

Mr. Warcup. That particular of the Note, that Mr. *Knox* sent up by the Nurse, I was by and did hear him confess it.

Sir W. Waller. But he did declare there to the Committee, that it was his Voluntary Repentance, and that he was exceeding sensible of the Abuses he had offered to Dr. *Oates*, in this Design of accusing him in such a manner.

Mr. Just. Jones. What, before the Lords?

Sir W. Waller. Yes, my Lord.

Mr. Warcup. Mr. *Knox* did say he sent such a Note up to *Osborne*, and the Words were, as I remember, *We always club'd, and you paid two Shillings at the* Sugar-Loaf, *Tear this.*

L. C. J. Look you, the use I see that would be made of this, is, that *Knox* in a secret way should give intimation to this *Osborne*, that he should not own that he had been treated by him, or any Money spent upon him, and this Note is the cunning way of insinuating that Matter, as I understand it.

Mr. Warcup. I shall humbly acquaint your Lordship with one thing further; *Knox* did confess that he had lain with these People in several private Places, for there were Warrants out for the apprehending them, upon the Information given by Dr. *Oates* of this Contrivance, that he had lain with them at *White-Friers*, and *Charing-Cross*, and at other Places.

Mr. Just. Pemberton. That he had obscured them when they were in danger.

Mr. Warcup. That he had lain with them at that time.

Sir Fr. Winnington. Pray, upon your Oath, when he had told you he had lain with them in any private Lodging ——

Mr. Just. Pemberton. Did he say he had advised them where to lie?

Mr. Warcup. He said he had been with them, and advised them where to lie.

Mr. Just. Pemberton. Did he say he had taken Lodgings for them?

Mr. Warcup. Yes, he did.

Sir Fr. Winnington. Your Question, Sir, hath prevented mine; but I would ask him a Question further. Did he confess to you he paid for those Lodgings?

Mr. Warcup. Truly, my Lord, unless I read the Information, I cannot tell.

Sir W. Waller. My Lord, I perfectly remember this, That *Knox* did confess he had paid for their Lodgings, but they were to pay him again; but both *Osborne* and *Lane* did positively swear he did pay for all, and several times at several Taverns where he treated them, he bid them call for what they would, and they should have it.

Mr. Sol. Gen. What do you know of being at the *Sugar-Loaf* at any time?

Mr. Warcup. I tell you what I find here he confess'd, that they complaining they knew not where conveniently to lodge, this Examinant told them he would endeavour to find them a Lodging, and the very self-same Day, he went by the Direction of one of my Lord *Dunblane*'s Servants, a Coachman, to the *Sugar-Loaf* in *White-Friers*, and took Lodgings as for himself and two of his Friends, and lay there with them to the time of his going from the same Lodging, which was five or six Days.

Mr. Just. Pemberton. And he did it by the Direction of my Lord *Dunblane*'s Coachman?

Mr. Warcup. Yes, my Lord, it is so in the Information.

Mr. Serj. Maynard. Is that Information true?

Mr. Warcup. Yes, my Lord, I am sure he said it, or I should not have writ it down.

L. C. J. Mr. *Warcup*, Had *Lane* recanted what he had said against Mr. *Oates* at that time when the Lodgings were taken?

Mr. Warcup. My Lord, it was before they came to the Lords that they took these Lodgings.

Mr. Just. Pemberton. Ay, that's clear, it was before all came out.

Mr. Warcup. I was commanded by the House of Peers to give my Warrant for the apprehending of them.

L. C. J. The Lords sent to apprehend them upon the Slander of Mr. *Oates*, and then he concealed them.

Mr. Recorder. My Lord, Sir *W. Waller* speaks of one *Rix* that was sent by *Lane* to him to make a Discovery, this is the Gentleman. [*Who was sworn.*]

Rix. May it please your Lordship, there was one *Osborne* that was concern'd with this *Lane*, who is since run away: *Osborne* came first upon the Guard to me, and desir'd me to get him into Service. He desir'd to come into my Lord-Treasurer's Service, and what he desir'd of me was to frame him a Petition to my Lord-Treasurer. We had no Answer till two Days after, and I being upon the Guard with Dr. *Oates*, I did suppose I might get him into his Service, I spoke to Dr. *Oates*, and he entertain'd him; and after he had entertain'd him a while, this *Lane* then being a Servant with him, they both told me they were going off now from Mr. *Oates*.

L. C. J. Who told you?

Rix. Lane and *Osborne*, and that they should get Preferment; they were sworn Brothers together, if one did go, the other would go. I ask'd them

them why they would go away? Oh, said he, I shall keep my Man myself. Say you so, said I, I have been in Town so long, and I could get no such Preferment. Then they told me they should have 100*l.* a Year, and 500*l.* in Money.

Mr. Just. Pemberton. Who told you so?

Rix. Osborne and *Lane* both.

Mr. Just Pemberton. What, 100*l.* a Year, and 500*l.* a-piece.

Rix. Yes: So I asked them how, but they would not tell me, but said *Osborne* to me, for your preferring me to Mr. *Oates*, you shall be no Loser. I met him another time, for *Osborne* came to desire me to lend him a Cravat. Said he, I must come down to your House to-morrow Morning to get a Cravat, I desire I may have a good one, for I am to go before one of the greatest Peers of the Realm to dine with him: Where, said I, to which end of the Town? The other end of the Town, said he to me: But, said I, why do you leave Mr. *Oates?* Oh, said he, let Mr. *Oates* look to himself, for I have enough against him. Then I smelt something of some Design against Dr. *Oates*, and brought it before Justice *Warcup*, and gave in my Testimony, and upon further Inquiry into it, the Lords ordered him to send out his Warrant for the taking of those Fellows, *Knox*, *Lane*, and *Osborne*, which he assigned over to me; in a short time after they were taken, first *Lane* was taken, and in a Day or two *Osborne* and *Knox*, and were examined and taxed with it. *Osborne* he made a Confession before Justice *Warcup*, and they desired me to see *Knox* and *Lane* in Prison, and I did see them in Prison, and when they did come there, *Knox* said, where is *Osborne*, why don't he come to Prison as well as I? I am a better Gentleman than he. Oh, said I, he hath confessed; so he was turned up into the Prison. Said I to Mr. *Lane*, will you drink a Pot of Beer? said he, I don't much care if I do; and said he, Mr. *Rix*, if I have not gone too far against my self, if you will stand my Friend, I will make an honest Confession. Said I, I am glad there is so much Grace in you, I will then do you all the good I can. Pray, said he, will you please to go and call Sir *William Waller?* Why not Justice *Warcup*, said I, who was first concerned in this Discovery? No, he would have only Sir *William Waller*. I came and found him in the Court of *Requests*, so I went with him to *Smith*'s the Tobacconist near the Gate, and sent for *Lane*; the Keeper brought him: I think this was about nine or ten in the Morning, and from that time till about Six at Night he was in Examination. I then went to Mr. *Oates*, and told him *Lane* had made an honest Confession. I waited on Sir *William Waller* till the Afternoon, and then he made an Order, that he having made an honest Confession, should have the Enlargement of the Prison, and not be confined, as others were, which he had. *Lane* sent for me the next Day, I came down in a Day or two after, and his Sister was there with him, they were eating Butter and Radishes, and when I would have paid for the Drink, *Lane* cried No, by no means; for *Knox* hath sent me in Three and twenty Shillings the other Day, and that will serve me, I hope, till I come out: But now, said he, I have made a Confession, I believe I shall have no more Money from him; and I desire you would speak for my Enlargement. I came down to him another time, and he told me he had received a Note, which Note was put up from a Gentlewoman in the Street.

That if he would stand firm to his Text, he should have Five hundred Pounds; nay he should not want One thousand Pounds; but in case they would not stand firm to their Text, the Lord Treasurer would never have come in; and if yet they did not stand firm, he would lose his Head.

L. C. J. Who came that Note from?

Sir W. Waller. He told me this, That there was such Word brought to him by the Nurse, and she told him, That a Gentlewoman very well clad came to her, and desired her to speak to him to *stand fast*, and that *Osborne* and *Knox* would be sure to *stand fast*, and that they two should be too strong for the other, he being but a single Evidence; and more than that, he should not want a Thousand Pounds, if he had occasion for it. I asked the Nurse what the Gentlewoman's Name was, she told me, she had asked, but she would not tell her.

L. C. J. Where is this Woman, this Nurse?

Sir W. Waller. She was Nurse to the Goal, and was turned out upon this Discovery by the Goaler.

Mr. Just. Pemberton. You had this from *Lane*, Sir *William Waller?*

Sir W. Waller. Yes.

Rix. My Lord, after this was done, *Lane*'s Father and Mother told me this at my own House, That had it not been upon their Son's Account, my Lord Treasurer would never have come in; and they told me that one *Hest* should come and tell them so: And *Lane* himself told me, he thank'd God that now he had made an honest Confession, that now his Heart was very light; he had a Burden upon him before, but now he had confessed, and his Heart was light.

L. C. J. What did he confess?

Rix. He did confess, That my Lord Treasurer would never have surrendered himself if he had thought they would not have stood firm, and if they did not stand firm he should lose his Head.

Mr. Williams. You say *Lane* confessed this as of himself.

Rix. Yes, and afterwards his Father and Mother told me so, and he did say as of himself, that he had a Note put under the Door.

L. C. J. But from whom had he that Note?

Rix. From a Gentlewoman in the Street, he told me so.

Mr. Just. Pemberton. What did he say as to *Knox?*

Rix. He told me he was set on by *Knox*, and he drew up all the Writings for him; and *Knox* told him, if you come to be examined at such or such a thing, make a stop, and turn this way and that way.

Mr. Williams. Pray acquaint the Court and the Jury, Did *Lane* tell you how he was drawn into this, and who drew him in?

Rix. Knox was the Man that drew up the Writings, and promised him those Rewards, he said.

Mr. Just. Pemberton. You say he told you that *Knox* promised them? How far *Knox* will be concerned in this Evidence, will be considered afterwards.

Mr. Serj. Maynard. Now we come to *Knox*'s own particular Actings. What hath been said already, hath been out of other People's Mouths, now we come to him himself, and we call *Richard Slightam.* [*Who was sworn.*]

Mr. Att. Gen. Pray, Mr. *Slightam*, will you tell my Lord and the Jury what you know of this *Knox*, what Offers have been made you, by whom, and when, and for what?

Slightam. I was offered Money to carry Notes from the one to the other.

Mr. Sol. Gen. Why, what Office had you there?

Slightam. I was a Prisoner there my self, and Under-goaler too, and I was offered Money to carry Notes between the one and the other, that they might not betray one another.

Mr. Recorder. By whom?

Slightam. By *Knox*.

L. C. J. What did they offer you?

Slightam. I had three Half-Crowns given me at one time by *Knox*, and he promised me he would give me a considerable Sum.

L. C. J. But he did not name the Sum?

Slightam. No.

L. C. J. What did he desire you to do for that Money?

Slightam. He desired me to carry Notes from the one to the other, that they might not betray one another.

Mr. Att. Gen. Between whom? Name them.

Slightam. Knox, *Lane*, and *Osborne*.

L. C. J. What did you say, that they might not betray one another? Why?

Slightam. Yes, that they might not betray one another, for they were fearful that they should, because they could not speak together, to lay their Stories together.

Mr. Att. Gen. And hark you, Sir. What Messages did you carry between them?

Slightam. None, I never carried any.

L. C. J. No, what had you your Money for?

Slightam. I told them of it below, and they would not let me carry any.

L. C. J. But you got your Money?

Slightam Yes, I got some Money.

Mr. Att. Gen. Knox you say gave you the three Half-Crowns. Did you speak with *Lane* and *Osborne?*

Slightam. Lane I spoke with every day, and *Lane* said, he hoped that the Lords would not put him in the Pillory, for all he had sworn falsly.

L. C. J. What Lords?

Slightam. My Lord *Shaftsbury*, and my Lord *Privy Seal.*

Mr. Smith. What did *Knox* say to you after *Osborne* had confessed?

Slightam. That is nothing, said he, if we do but stand firm together, what *Osborne* hath given in Evidence will signify nothing.

Mr. Smith. Why?

Slightam. For two, he said, were better than one.

Sir Fr. Winnington. I think you say you had three Half-Crowns given you by *Knox*, pray who was the first that offered you Money to carry the Notes?

Slightam. It was *Knox*.

Sir Fr. Winnington. Ay, he carried the Purse.

Slightam. Yes, I suppose he did.

Mr. Just. Jones. They were both in the *Gate-house* Prisoners at that time.

Slightam. Yes, so was I. But they were lock'd in several Rooms, and none could come at them.

L. C. J. But you carried no Note nor Messages, upon your Oath?

Slightam. No.

Mr. Williams. Pray call Mr. *Dewy*. [*Who was sworn.*] Pray, Mr. *Dewy*, will you acquaint the Court and the Jury, what Discourse you had with *Knox*, who he came from, what he came about, and what Recommendations he brought with him, and from whom?

Dewy. My Lord, some time in the sitting of the last Parliament that began in *March*, about Ten o'Clock at Night a Message was sent in to me that one would speak with me from my Lord *Latimer:* I was either in bed, or going to bed; and I did not think there was really any such Message, because my Lord *Latimer* did not know me, nor I him. They were very pressing to come in, insomuch as my Man could hardly keep them out. I told them there was nothing sure of so much haste, but what might be done to-morrow, or some other time: So I spoke not with them that Night. Either the next Day, or some short time after, as I remember, Mr. *Knox* came to me with another Gentleman, and he brought Papers in his Hands ready written; he told me that they were Informations of one *Lane* and *Osborne* (as I remember those were the Names he mentioned then) and they were against Mr. *Oates*. Then I began to look upon it as something extraordinary, the Parliament being then sitting, and the Committee of each House having the Examination of this Business. Said I, Mr. *Knox*, you have been a Justice of Peace's Clerk (for I knew him so) and you know it is very unusual to take Informations against a Person without the Party's being present, if he may be had, to cross-examine the Witnesses upon Interrogatories, as the Case may be: And besides this looks as if it were to take Informations against the King: which we never do upon Oath. So I dismissed them, and directed them to the Committee of Secrecy of the House of Commons, for whom it was most proper. This is all I know of this Business.

Mr. Williams. Did Mr. *Knox* tell you any thing that was contained in those Examinations?

Dewy. Yes, he did give me some Information, that *Osborne* and *Lane* did repent of something, but I can't give you Information particularly.

Mr. Williams. Pray tell the Substance of it.

Dewy. I can't remember what the Particulars were, but *Lane* and *Osborne* were the Parties to be examined, and I shifted them off as well as I could.

L. C. J. Did they come along with *Knox?*

Dewy. They were not in my Room, but they were without, I believe.

L. C. J. And did he tell you at the same time that they had recanted?

Dewy. Truly, my Lord, I can't well remember; but he said they repented of what they had falsly accused my Lord Treasurer of.

L. C. J. Did they say they had falsly accused Mr. *Oates?*

Dewy. No, they did charge Mr. *Oates* with some Crime; and they did speak something of false accusing, I can't remember what.

L. C. J. Did not they say, Mr. *Oates?*

Dewy. I remember it now; it was as if Mr. *Bedlow* and Mr. *Oates* had made a Conspiracy against my Lord of *Danby*.

Sir Fr. Winnington. I think you say, you knew Mr. *Knox*, a Justice of Peace's Clerk: Pray, Sir, you are an ingenuous Man, from whom did he pretend to come to you?

Dewy. He came to me from my Lord *Latimer*, as he said.

Sir

Sir Fr. Winnington. Did he say so, that the Lord *Latimer* wished him to go to you?

Dewy. Yes; and I wondered at it, because I did not know my Lord, nor my Lord me.

Mr. Withins. When was this?

Dewy. It was the latter end of *April*, or the beginning of *May*, as I take it; I do not very well remember: But the Substance of it I remember was, that they had over-heard Mr. *Oates* and Mr. *Bedlow* conspiring against my Lord of *Danby*.

L. C. J. Mr. *Dewy*, can you remember whether they did come to give you Information against Mr. *Oates* for abusing their Bodies, or *Oates* and *Bedlow*'s Conspiracy against the Earl of *Danby*?

Dewy. Truly, my Lord, I can't be positive in it; for the Parliament was then sitting, and I shifted them off.

Mr. Just. Pemberton. You never looked into the Information at all?

Dewy. No, I did not, I thought it not proper for me.

Mr. Recorder. Call *Henry Wiggins* and his Mother. [*Who were both Sworn.*]

Mr. Att. Gen. Come on Mr. *Wiggins*, what do you know of any Endeavours of *Knox* or *Lane*, or any of these Persons, to take off or scandalize Mr. *Oates*'s or Mr. *Bedlow*'s Testimony?

L. C. J. What is this Man's Name?

Mr. Att. Gen. Henry Wiggins.

Wiggins. About the latter end of *February* last, Mr. *Knox* and I met at *Charing-Cross*, and we went in and drank together; and he proposed several things to me; first he desired that I would get for him a Copy of the Papers my Master had.

L. C. J. Who is your Master?

Wiggins. Mr. *Bedlow*. And especially what concerned my Lord-Treasurer; as also to take a Journal of all my Master's Actions; and the Names of the Persons that came to him; for, said he, my Lord hears that my Lord of *Shaftsbury* and the Duke of *Buckingham* do cabal with him against my Lord. But if my Lord could but find out his Enemies, he would oppose them, and strive to baffle them. My Lord, to encourage me to this, he told me he would carry me to his Lord, tho' it were at Midnight, to discourse with him.

L. C. J. What Lord?

Wiggins. My Lord-Treasurer: And he said he should give me Encouragement to go on. Said I, Does my Lord know of this? Yes, said he, I told my Lord I had a Friend lived with Mr. *Bedlow*, and he gave me Encouragement to go on and treat with him. And he said moreover, my Lord, Mr. *Oates* and *Bedlow* were two great Rogues; that the King believed not a Word they said; and as soon as he had heard all they could say, they should be hanged.

Mr. Williams. Pray did he propose any Reward to you?

Wiggins. He told me his Lord should give me Encouragement.

L. C. J. What should you do?

Wiggins. He desired me to give my Lord the Papers, and then my Lord should tell me what I should do about my Master.

Sir Fr. Winnington. What did he say of *Oates* and *Bedlow*, Sir?

Wiggins. He said, That *Oates* and *Bedlow* were great Rogues, and that the King knew them to be so; and when he had heard what they could say, he would hang them.

Mr. Williams. Pray upon your Oath, did he offer you any Money, or any Reward?

Wiggins. He offered me not any particular Sum, but he told me I should have Satisfaction and Reward, or any Place in my Lord's Disposal I should be entertained into, if I went away upon this Business.

Mr. Williams. Did he say any thing to you, to invite you, or encourage you to swear against your Master?

Wiggins. No, But he told me my Lord should give me Directions how to go on.

Mr. Recorder. What say you as to *Lane* and *Osborne*?

Wiggins. I did not know them at that time.

Mr. Recorder. What time after was it that you did know them?

Wiggins. I met with them a little while after, and they were discoursing all together, but I had no Discourse with them.

Mr. Recorder. Did *Knox* at any time speak to you, to bring him into the Company of *Lane* and *Osborne*?

Wiggins. No, Sir.

Mr. Recorder. This was the first time you met with him about this Matter?

Wiggins. Yes, it was.

L. C. J. What did you promise *Knox* you would do?

Wiggins. I told him I would do him any Service that lay in my Power, but nothing that would be to my Master's Prejudice; and I was appointed by him to meet him at my Lord-Treasurer's.

L. C. J. And what other Meetings had you besides?

Wiggins. I was but twice with him.

L. C. J. You never agreed to any thing?

Wiggins. I told it my Master, and it was discovered soon after, so that the Lords came to hear it.

Mr. Att. Gen. Where is Mrs. *Wiggins*? What do you know of any Endeavours to corrupt this Evidence?

Mrs. Wiggins. I know no more than what my Son knows; he first came to my House.

L. C. J. Who?

Mrs. Wiggins. Mr. *Knox*; and asking me where my Son was, I told him he lived with Mr. *Bedlow*: And he said, he very much rejoiced at it, and desired to speak with him. I told him, No, he could not, for his Master had so much Employment for him, that it was very seldom I myself could get a sight of him. Said he, I have a little Concern with him; and he living with Mr. *Bedlow*, may do my Lord-Treasurer great Service, and doing my Lord-Treasurer Service, he does his Majesty Service; for his Majesty loves my Lord-Treasurer above all things in the World. And he would not be contradicted, but he would see him. Then the next day I told him he should come, and we appointed to go to him, but he should not see him alone without me, I told him; he told me he desired it not. He came according to the Appointment, and I carried him to *Charing-Cross* to an Alehouse, and there sent a Porter for my Son, and he came: And the first thing he said to him was, I am mighty joyful to know you live with Mr. *Bedlow*; you may do my Lord great Service: In what? says my Son. In letting my Lord know what Company your Master keeps, and what Lords they are that daily and hourly keep Company with your Master, and cabal against my Lord. Said I, Mr. *Knox*, that is the way to bring my Son's Neck to the Stake; that he shall never do. But, says he, I will tell him a way how he shall do himself no harm at all: And then he up and told him, he desired him to write him Letters when he found any thing of Secrecy, and set no Name to it; and if he came at Twelve o'clock at Night, he would let him into my Lord Treasurer's, and no-body should take notice of it: And he would have had him taken a Coach to have gone to my Lady *Danby* presently, to have an Assurance from her Mouth of Encouragement, and that he should have any Place in her Lord's Disposal.

L. C. J. Were you ever with my Lady *Danby*?

Mrs. Wiggins. No, we deny'd it; and it was discover'd. And besides, my Lord, I told him, if he would lay down my Son a Thousand Pounds he should not do it; he should not betray his Trust. And then he said, that the King knew Mr. *Oates* and Mr. *Bedlow* to be two great Rogues; and when he had got what he could out of them, he would hang them.

Mr. Williams. Have you had any Offers of late not to come here as a Witness in this Case?

Mrs. Wiggins. No, my Lord, but there have been Persons three times at my House to know whether I were *Subpœna'd*, yea, or no, as from Mr. *Knox*.

Mr. Williams. Did ever any body persuade you not to come to give Evidence?

Mrs. Wiggins. No.

L. C. J. When was this you speak of?

Mrs. Wiggins. In *February*, the latter end.

Mr. Serj. Maynard. Mr. *Dewy*, who came in company with Mr. *Knox* to you?

Dewy. One Mr. *Blayden*.

Mr. Serj. Maynard. Who is that?

Dewy. Steward to my Lord of *Danby*, I think.

Mr. Serj. Maynard. Here is *Slightam* again, my Lord.

Mr. Att. Gen. What have you to say more?

Slightam. Mr. *Lane* told me they had many Treats, and had so much Money, a Guinea, as I think he told me, to swear against Mr. *Oates*.

L. C. J. Who gave it him?

Slightam. Mr. *Osborne*, or Mr. *Knox*, I can't tell which.

L. C. J. Where did *Lane* tell you so?

Slightam. In Prison.

L. C. J. In what Prison?

Slightam. In the *Gate-house*.

Mr. Williams. Call Mr. *Palmer*. [*Who was sworn.*] We call him to corroborate what that young Man *Wiggins* hath said.

Palmer. What he hath told here, he discovered first to me, and I discovered to his Master, that Mr. *Knox* would have had him to take a Journal of his Master's Actions, and to give it him every Day. My Lord, I am one of the Yeomen of the Guard, and I waited upon Mr. *Bedlow*, and he desired me to help him to a Clerk: and I helped him to *Wiggins*, this young Man. He had not been there three Weeks, or a very little time, when *Knox* came to him to tempt him; and being a Stranger to his Master, he knew not how to discover it to him, and told me, Such a thing is offered to me, but I am a Stranger to my Master, and I know not how to break it to him.

L. C. J. The use you make of this, is no more, but only to corroborate what he hath said, that he told it him while it was fresh, and that it is no new Matter of his Invention now.

Mr. Recorder. It is very right, my Lord, that is the use we make of it. Call *Thomas Dangerfield*. [*Who was sworn.*]

Mr. Williams. Pray, Sir, give an Account what you know concerning Mr. *Knox* and Mr. *Lane*, and what Designs they have had against Mr. *Oates*, and who supported them and maintained them in it.

Dangerfield. My Lord, all that I have to say in this Case, is this: I do think it was in the Month of *June* I was at my Lord *Castlemain*'s, and he asked me, if I had been employed in a Business of *Knox* and *Lane*, that were Prisoners at the *Gate-House*: I told him, Not. His Lordship then wrote a Letter to my Lady *Powis*, and desired I might be employed in it. And she did tell me that it was a thing of material Consequence, and that I should be furnished with Money for the getting of *Knox* and *Lane* out. I took all Opportunities for the doing of it that were necessary. I went to the *Gate-house*, made Enquiry after *Lane*, and took care with his Mother to relieve him, for I heard he was in an indigent Condition at that time.

L. C. J. Did you give his Mother the Money?

Dangerfield. Yes, my Lord, Twenty Shillings, and I had that Money from Mrs. *Cellier* by my Lady *Powis*'s Order. After that time there was one Mrs. *Airy*, who used to carry Money to the Catholicks in Prison, she said that it was possible, as she had been informed from some of the Priests in the *Gate-house*, that some things might be had under the Hands of *Knox* and *Lane* that would be very material against Mr. *Oates*: She said, she had been informed so. I then desired that Mrs. *Airy*, that Pen and Ink might be conveyed to them, that they might have the Convenience of giving it under their Hands, which she promised, and they did convey Pen and Ink under the Door to this Mr. *Lane*.

L. C. J. How do you know that?

Dangerfield. As Mrs. *Airy* told me. Then she came again, and withal told me, that it was Mr. *Knox*'s Desire that *Lane* should do something to signify to him, or satisfy him that he did stand fast; then *Lane* wrote a little Note, and that Note was to this effect. *I will die before I will comply with that Villain* Oates; *and if any good People will do me the Kindness to get me my Liberty, I will do the Catholicks the greatest Service imaginable in discovering what I know about Mr.* Oates. *This I write from the bottom of my heart, and shall die in it. So help me God.*

L. C. J. How came you by the Note?

Dangerfield.

Dangerfield. This Note was written by *Lane*'s own Hand, and given from under the Door to one Mr. *Parſons* a Prieſt in the *Gate-houſe*. This *Parſons* gave the Note to Mrs. *Airy*, and ſhe gave it to me.

L. C. J. Do you know *Lane*'s Hand?

Dangerfield. Yes, very well, as I ſhall ſhew you anon.

L. C. J. What became of the Note?

Dangerfield. My Lord, I don't know what became of the Note; for the Counteſs of *Powis* had it afterwards.

L. C. J. Do you believe it was of *Lane*'s own writing?

Dangerfield. I am very well ſatisfied of it, my Lord, according to the Judgment I am capable to give of Hands; indeed I was not acquainted with his Hand then, but that was the firſt, to my Knowledge, that ever I ſaw of it; but after I having parted with the Note, and ſeeing ſome of his Hand-writing, upon Recollection I can ſay I believe it was his own Hand.

L. C. J. Did you ever ſee the Note again?

Dangerfield. Never afterwards. And then, my Lord, my Lady *Powis* was exceeding glad upon the hearing of it, and, as I was informed of it afterwards, ſhe was the greateſt part of the following Day upon her Knees giving God Thanks for the great Advantage and Strength that was come to their Cauſe.

L. C. J. What! for having a Villain to come over to her ſide that ſwore backwards and forwards?

Dangerfield. Afterwards I received Money ſeveral times, and gave his Mother more to furniſh and relieve him. And ſeveral times afterwards I received Money from Mrs. *Celier* by Order of my Lady *Powis*, for the doing of *Lane*'s Buſineſs, that is, for his Liberty; and I had the Papers from one *Lawſon* an Attorney that had been employed in the ſame Buſineſs before: and, as I was informed by him, a Motion or two was made at this Bar for their Liberty, but however he began to deſpair of it, and I was to undertake it; but withal he ſaid, he was glad he was rid of it, for he had been often employ'd in the Buſineſs of the Catholicks, and it had impair'd his Credit very much, and very freely deliver'd the Papers to me, which indeed were not many. After that, my Lord, I retained Mr. *Sanders*, as I think it was he, but there was a Motion about it, and with great difficulty I did get *Lane* out upon Common Bail; and when I had done ſo, according to my Lady *Powis*'s Order, I brought him to *Powis*-Houſe; and then my Lady *Powis* ordered, that he ſhould go by the Name of *Johnſon*; becauſe if any of the Servants ſhould talk of one *Lane* being in the Houſe, it might come to *Oates*'s Ear, the Houſe might be ſearch'd, and if he were found there, it might be prejudicial to the Lords, and all their Buſineſs. And then, my Lord, Mr. *Wood* came a little after with the ſame Command from his Lord, and he had ſome Order ——

L. C. J. Who is *Wood?*

Dangerfield. That *Wood* is my Lady *Powis*'s Gentleman: And he came and ordered that my Lady *Powis* gave particular Command to the Porter of the Houſe, in my hearing, that he ſhould give order to all the Servants, to have a particular Eye and Care that he did not go from the Houſe, for they were very dubious of him, having made ſo many Equivocations before; for they feared Mr. *Oates* might find him, or he might go voluntarily and make a Diſcovery of himſelf, and ſo contradict all he had given an Account of there. For, my Lord, before this, as ſoon as ever *Lane* was gone out, they were very deſirous to have what he had to ſay put in Writing; but they had not opportunity then, but we let it alone to ſome other time. Then, my Lord, ſoon after, about three Weeks or a Month after; I cannot be poſitive in the time, becauſe I had a great deal of Buſineſs upon my Hands; but I ſuppoſe it was about three Weeks or a Month after, my Lord *Powis* ſent for me to the *Tower*, and told me he was informed that Mr. *Oates* was then making ſearch after *Lane*, and if he found him at his Houſe, it would be very prejudicial to their Buſineſs; and he deſired me to take care, and to ſend him out of the way, that Mr. *Oates* might not find him; which I did; and thinking of ſeveral Places, I could not find any ſo convenient as *Grays* in *Eſſex*, by the Waterſide. I came to *Lane*, and told him that he ſhould be furniſhed with Money and Neceſſaries for his Journey, and in order to it, that very day I took him and gave him a Pair of Shoes and Ten Shillings in his Pocket, and ſent him to *Grays*. I received two Letters afterwards from this *Lane*, by which Letters I am very well ſatisfied, that that Note that he wrote before, that was given under the Door, was his Hand. So then I received a third Letter (I think) my Lord, and in the Letter he told me that ſome Perſon of Mr. *Oates*'s Acquaintance had been in that Town and ſeen him, and he thought it was not material that he ſtaid any longer there, and deſired to be removed. So then I ſhewed my Lady *Powis* the Letter, and I ſuppoſe my Lord *Powis* had an Account of it alſo; but I cannot be poſitive in that, but I had order to remove *Lane*, and by my Lady *Powis*'s means I ſent down one on Horſeback, and he diſcharged ſome Debts *Lane* had contracted in the Houſe, and ſent him away to *London*; and after his return to *London* he continued three days more at my Lord *Powis*'s Houſe; at which time, he ſays, he was forced to lie upon the Chairs, for at that time were the *St. Omers*'s Witneſſes removed from Mrs. *Celier*'s, becauſe they were afraid of being taken up by Sir *William Waller*, who was in ſearch for them. So having ſome other Buſineſs, I did not ſend him away preſently, but I had particular order to ſend *Lane* into ſome other place; and I did adviſe with Mrs. *Celier* where to ſend him, and ſhe ſaid, I think it will be neceſſary to ſend him to *Peterley*, at one Mr. *Waite*'s Houſe in *Buckinghamſhire*; for, ſaid ſhe, they are Catholicks, and will be ſure to take a particular care of him: But I told her it would be too far, and I would think of ſome place nearer; and then I thought it would be neceſſary to ſend him to *Tottenham*, to the *White-Hart*; and there he ſtay'd, I ſuppoſe, four or five Days, or a Week. This was after the Trial of the five Jeſuits, as I remember. My Lord *Powis* ſent to me, and told me; ſays he, I am in ſeveral Doubts about this *Lane*, and if it ſhould be known that he is countenanced by me, or any of our People, it would not be well; ſo I leave him wholly to you, do what you will with him; but I adviſe you to ſend for him up to Town, and give him Ten Shillings a Week to live upon. So when I was at leiſure I ſent for him again from *Tottenham*, and I told him; Mr. *Lane*, it will be very neceſſary that you do take ſome care for a Livelihood about Town; it is not ſafe nor adviſeable for you to be about *Powis*-Houſe; and at that time I took care he ſhould come there no more, and that if my Lord *Powis*'s Servants ſhould meet him, they ſhould take no Notice of him; which they did perform, I ſuppoſe, and as I was told. But before this, and before I ſent *Lane* into the Country the ſecond time, as near as I can remember, *Knox* was at Liberty. I had been endeavouring, as ſoon as I had got *Lane* out of the *Gate-Houſe*, to get *Knox* out alſo; but I found I could not, and I left that. But I have been informed by Mr. *Knox* himſelf, that one Mr. *Nevil*, alias *Paine*, was furniſhed with Money from the Lords in the *Tower*, for the getting of *Knox*'s Liberty; and this *Nevil* himſelf did ſay, as Mr. *Knox* told me, that he did it by their Order; and from this *Knox*, by Mrs. *Celier*'s Perſuaſion, I received ſeveral Papers, which were Informations againſt *Oates*; or at leaſt, thoſe Papers that they had drawn up before they were in Cuſtody. Theſe Papers were ſent by me to the *Tower*, and from thence to Mr. *Nevil* to enlarge upon, I ſuppoſe, as he thought fit; and after to my Lord *Caſtlemain*, and afterwards they were re-ſent to me by Mrs. *Celier*, who order'd me to draw up an Affidavit according to thoſe Directions, and get *Lane* ſworn to the ſame; which I did, and took *Lane*, and aſked him, ſaid I, *Mr. Lane*, here is an Affidavit, can you ſwear it? Yes, ſaid he, I can ſwear it, before I read it to him.

L. C. J. I believe ſo.

Dangerfield. Nay, ſaid I, you know not what it is; ſo I read it to him; ſaid I, Do you know this to be a Truth? Yes, ſaid he, I do know it to be all true; Said I, I will read it again to you, becauſe you are to make Oath of it, and I would not have you do any thing but what is ſafe; and then we went to Sir *James Butler*, but he was not at home then, to have it ſworn.

L. C. J. What was the Purport of that Affidavit?

Dangerfield. My Lord, I cannot well remember the Words, but it was about accuſing Mr. *Oates* of Sodomy.

L. C. J. On whom?

Dangerfield. It was for attempting Buggery on the Body of this *Lane*.

L. C. J. That was the Subſtance of it?

Dangerfield. Yes, my Lord: And I did take this *Lane* to Sir *James Butler*, and he did make Affidavit that it was true: And it was left there before Sir *James Butler*. I ſuppoſe the Affidavit may be in Court, or a Copy of it. So, my Lord, after that *Lane* being gone from *Powis*-Houſe, and I having no manner of Converſe with him more; but only that every *Saturday* I took care he ſhould have his Money; ſometimes I went to his Mother's Lodgings, and left it there for him; ſometimes he would come to me for it. After this we were removed from *Powis*-Houſe to Mrs. *Celier*'s, but he was always certain of Ten Shillings a Week. Sometimes he would pretend that it was too little for him to live upon; and ſometimes I would give him Two, or Three, or Four Shillings more of myſelf; but I had no Order to do that from any body. This is all, my Lord, I do know of *Lane*, as I remember.

Mr. Juſt. Jones. What do you know of *Knox?*

Mr. Dangerfield. *Knox* firſt delivered to me thoſe Papers that were ſent firſt to the *Tower*, and afterwards to *Nevil*, and afterwards to my Lord *Caſtlemain*, and re-delivered to me; and I did deliver them again to *Knox*, after they were enlarged upon: And I believe, after that, *Knox* had prevailed with *Lane* to write them in his own Hand.

L. C. J. Why do you believe ſo?

Dangerfield. Becauſe being writ in a fair Hand, *Knox* told me when the Papers were delivered, Theſe are the main things that I am to work by, and theſe muſt be produced againſt *Oates*, and be writ over in a fairer Hand; and by that, I believe he prevailed with *Lane* to write it in his own Hand.

L. C. J. Whoſe Hand were they in?

Dangerfield. It was a ſtrange Hand I knew not, and I do not believe it was *Knox*'s Hand, tho' indeed I can't tell, I know it not.

Mr. Juſt. Jones. Did *Knox* aſk you who had the Peruſal of thoſe Papers? And who had made Additions to them?

Dangerfield. No; he took the Papers, and took no Notice of any Addition or Enlargement.

Mr. Juſt. Pemberton. Pray, Sir, tell the manner of the delivering of thoſe Papers.

Dangerfield. Firſt, by Mrs. *Celier*'s Perſuaſion, *Knox* delivered me the Papers, which imported the whole Matter of the Charge againſt Mr. *Oates*. Theſe I ſent to the *Tower* by Mrs. *Celier*'s Hands; from thence they were ſent to *Nevil* to be enlarged upon; from thence to my Lord *Caſtlemain*, who was alſo to enlarge upon them; and from thence they were ſent to Mrs. *Celier* again, and from her delivered to me, and I delivered them to *Knox* again. I found by his Diſcourſe, and every thing elſe, that Mr. *Knox* was deſirous of my Correſpondence, but yet ſeemed as if he were ſhy of any body's taking notice of it. Said I to Mr. *Knox*, there is one Mrs. *Downing* that lives at *Lambeth* over the Water, where Mr. *Oates* and Dr. *Tongue*, and ſeveral other Perſons uſed to meet, where I had been informed by ſome of the Catholicks, by *Parſons*, my Lady *Powis*, and ſeveral others, that Mr. *Oates*, Dr. *Tongue*, my Lord of *Danby*, and others, did meet at the Alms-Houſes there, where the Plot was contrived and formed, for they pretended to me there was no ſuch thing really. So, ſaid I, if you will go with me, we will diſcourſe with her about the Matter, for I heard ſhe talked very freely in ſeveral Matters nearly concerning Mr. *Oates*, and my Lord of *Danby*, and other Perſons. So, as I ſaid, I told him, if you will go along with me, I have not been there yet, I will go and diſcourſe with her, and put down what ſhe ſays in Writing. Then Mr. *Knox*, my Brother, and myſelf, did go over to this Mrs. *Downing*, and had much Diſcourſe with her, where ſhe did repeat many Tranſactions that were very agreeable to the Story that I had received from my Lady *Powis*, and ſeveral other Perſons before. *Knox* did ſeem to be very well ſatisfied about it, and promiſed to take cognizance of it, and ſaid, it was very material; but we did not put it down in Writing. I did not, I know not what he did afterwards. We promiſed to come again another time, but I do not remember we did ever go afterwards. But Mr. *Knox* ſolicited me to go with him, and ſome Buſineſs or other did ſtill intervene. That is all that is remarkable of Mr. *Knox*, which I do remember at that time. But I do remember that after we were

removed

removed from *Powis* House, when I was at Mrs. *Celier*'s, nay, I think both before and after, he was often treating with Mrs. *Celier*; but I know not what was their Discourse, nor was I desirous to know. But Mr. *Knox* came then to me, and began to renew his Correspondence; and withal told me, that he had some Likelihood of bringing *Osborne* over to their Party. Said he, I find he is gone again to his Matter, but he shall do his Business (meaning, as I suppose, Mr. *Oates*) for he had, as I understood by him at that time, been tampering with *Osborne*, but he did tell me it was *Osborne*'s voluntary Act, that he did own it, and that he did go to Mr. *Oates* again only to do Mr. *Knox* Service. My Lord, some time after this, *Knox* came to me at Mrs. *Celier*'s, and told me had done the Business; expressing the greatest Joy that could be. What Business, said I? *Osborne* is come over, said he, and I have had an Account from the Beginning to the End of all the Transactions of his Master *Oates*; and I have not only an Account of it, but it is put into Writing; and I took *Osborne* before a Justice of Peace, and he has made Affidavit of it. When I heard this, I thought it would give great Satisfaction to the Lords in the *Tower*, and desired Mr. *Knox* to let me have a Copy of that Affidavit. He told me, No, he thought it would not be material to let me have a Copy, for by that means it might become publick, and be discovered. And, said he, I have some further Design in this; Mr. *Oates* is going down to my Lord *Lovelace*'s in *Oxfordshire*, and *Osborne* is going with him, and he hath promised me to be a Spy upon his Master's Actions, and to give me an Account of all. And this will be material; but I do not think fit to let you have a Copy of the Affidavit at present. Some time after this, I told Mrs. *Celier* the Story, who I suppose went to the *Tower*, and gave the Lords an Account of it. And the next time I had the Honour to see my Lady *Powis*, she was pleased to say, she liked it very well, but did not, as I remember, say any thing of the Copy; but being desirous to see what *Osborne* had sworn, and whether it were agreeable to *Lane*'s Affidavit, that I spake of before, I did desire *Knox* to let me see it, but he had it not about him at that time. Some time after that, as near as I can remember, I was at *Procter*'s Coffee-House at *Charing-Cross*, and Mr. *Knox* came thither, whether by my appointment or his, I can't well tell; but there we met, and one *Bedford* was with me. At that same time Mr. *Knox* desired we would go into a Back-Room; and now, said he, I will give you Satisfaction, and drew out of his Pocket an Affidavit; it was a Sheet of Paper, if not written of every side, I believe of three sides; it was very long; and he read it, my Lord, and I did find by the Contents of it, that it did imply the same thing that *Lane* had sworn before Sir *James Butler*; that is, That Mr. *Oates* should attempt upon *Lane*'s Body, to commit Sodomy, or something very agreeable to it. I told him, Mr. *Knox*, said I, this is very material, this will do you a great deal of Service. The Term is coming on, you would do well to get an Indictment drawn up against Mr. *Oates*. Said he, I will do his Business, and will advise with Persons able to instruct me in it; and I don't doubt but to carry on the Business effectually. And to that purpose I desired him to let me have a Copy of the Affidavit; he promised me I should, and said he would bring it several times; and he came several times to my Lodging, but did not bring it; but I having it read to me, and remembring the Contents of it, the next time I saw my Lady *Powis*, I gave her an Account of it. Said she, this Man is very diligent, and deserves to be encouraged; and, as I believe, gave the Lords in the *Tower* an Account of it too; for then she was lodged at the *Tower* with her Lord, and so her Ladyship told me. And, said she, do you know whether this Man be in a Condition to prosecute this Business against Mr. *Oates*? Said she, I believe he is put upon this by my Lord of *Danby*, and he, I believe, takes care of him to furnish him with Money. Said I, I have endeavoured to trace him out in that thing, and by all his Correspondents I could never find, but only by one, that Mr. *Knox* was ever acquainted, or held Correspondence with my Lord of *Danby*, and that Person is Mr. *Nettervile*, who is a worthy Gentleman of my Acquaintance in the *Pall-Mall*: And being in his Chamber, *Knox* came in, and speaking merrily after his manner to him, said he, *Knox*, when were you at the *Tower* with my Lord of *Danby*? Said he, I hold no Correspondence with him. Yes, said Mr. *Nettervile*, 'tis plain you do; and I believe a Friend of mine saw you go in the other Day: But *Knox* did positively deny it; that was all that ever I heard of his Correspondence with my Lord of *Danby*. After this, when her Ladyship came to me to ask me what Condition he was in to prosecute the Trial; I told her, I believed his Condition was very mean, and it would be very acceptable, if he might or could be furnished with Money. Well, said she, I will take care of it, and give an Account of it to my Lord, and he shall be furnished. And in the mean time, if Mr. *Knox* wants Money, be sure you take care and furnish him; but you need not let it be very considerable, till you see what is raised. Some time after this, Mr. *Knox* came to Mrs. *Celier*'s House to ask for me, I was then in my Chamber, but not ready; he came up to me, and told me, said he, Really I am very poor, I am going to pawn my Sword; or something to that purpose; Can you lend me Five Pounds? Really, Mr. *Knox*, said I, I will tell you, the Affidavit that you read to me, I have given an Account of it to my Lady *Powis*, and I suppose some other Persons of Honour have had an Account of it also; I am satisfied they are; and that the Lords in the *Tower* will take care that Money shall be raised for your prosecuting of Mr. *Oates*. He seemed to smile at this; But, said he, if this should be known, it would be very prejudicial to the Business, and spoil it; but yet however if you can furnish me with Money at this time, you will do me a great Kindness, for I have very great Occasion. I told him, said I, I have not so much Money by me; you come at an unseasonable Time; though indeed I told him a Lye; but I thought it not safe to part with Money without further Order. Mr. *Knox* went away, and I gave an Account of it to Mrs. *Celier*, who went either every Day, or every other Day to the *Tower*. I told her what Mr. *Knox* said, and I do believe (as she told me afterwards) she told my Lady *Powis* of it, and Mrs. *Celier* seem'd to be angry that I did not let him have the Money, and order'd me that at what time soever after that Mr. *Knox* should come to me, I should let him have what Money he wanted. Some time after this, Mr. *Knox* did come to me, and said his Condition was very mean, and you told me, said he, that Care should be taken by the Lords in the *Tower* to furnish me with Money. Said I, Mr. *Knox*, I can let you have 30 or 40 s. if that will do you any Kindness. I have no Order for any Sum at present; but as soon as it comes, it must come to your hands through my Hands; and it must pass as if I lent it you; and you shall give me a Note for it to repay it, lest any thing should come to be discovered, and coming to Mr. *Oates*'s Hearing, should prejudice the Business; though I had been too forward before in giving Mr. *Knox* to Account that the Lords in the *Tower* would contribute to this Business. At that Time, I went up Stairs and fetched down 40 s. and gave it him. He came afterwards, and would have borrow'd more of me at other times, once or twice after that, but I did not furnish him, for I had received no Order to furnish him any further. And this, my Lord, is all the Correspondence I had with him, and as near as I can remember, I have given nothing in but what is a very true Account of the Transaction.

Sir Fr. Winnington. My Lord, I crave one Question of him, if he have done. After the Papers were corrected and written fair, and enlarged upon by the several Persons, did you read them? And what were the Contents of them?

Dangerfield. My Lord, I did not read them, nor did I draw them, but I do believe that the Contents were the same for Substance with the Affidavit that *Lane* made before Sir *James Butler*.

Mr. Williams. Sir, you mention several Sums of Money that you paid to *Knox*, and paid to *Lane*; pray where had you this Money?

Dangerfield. The 40 s. that I gave to *Knox*, it was my own Money; but if I must give an Account where I had it, I believe it came originally from the *Tower*.

Mr. Williams. The Ten Shillings a Week, whence came that?

Dangerfield. Sometimes from the Hands of my Lady *Powis*; at other times from Mrs. *Celier*; sometimes from Mr. *Wood*; and sometimes from my self, and I placed it to Accompt.

Mr. Serj. Maynard. If your Lordship please, we will now proceed to another Part of our Evidence.

Mr. Williams. About what time were they to Indict Mr. *Oates*? Was not this Project on foot when the Presbyterian Plot was on foot?

Dangerfield. My Lord, I don't know what time; but it was by my Advice to be done this Term, and so did *Nevil* advise too.

Mr. Serj. Maynard My Lord, I would read some of the Memorials or Informations, that they were to swear against Dr. *Oates* concerning the Business that you have heard.

L. C. J. Wou'd you have them read, Brother?

Mr. Serj. Maynard. Yes, my Lord.

L. C. J. Who proves them?

Then the Justices of Peace swore them.

Mr. Just. Pemberton, Sir *William Waller*, Did he confess he left them with my Lord *Latimer*?

Sir William Waller. These are the Papers that were confessed to be carry'd to my Lord *Latimer*.

Mr. Warcup. Osborne did swear, that the Informations marked 1, 2, 3, 4, and 5, were all of his own Hand-writing, and were dictated by the said *Knox*.

Mr. Just. Pemberton. And he did confess, that these were the Informations that he had deliver'd to my Lord *Latimer*.

Mr. Warcup. Yes, he did so.

Mr. Serj. Maynard. It will lie on his Part, to prove that they were true.

Mr. Just. Pemberton. Which will you have read, one, or all of them?

Mr. Serj. Maynard. One, or Two, take *Knox*'s first.

[*Which was delivered to the Clerk of the Crown, who read it* in hæc Verba.]

[*Numb.* 1.] The Information of *Thomas Knox*, sworn before me this Day of 1679.

THIS *Informant doth upon his Oath declare, That on the first of this present* April, *there came one* William Osborne, *to the Informant in the* Painted Chamber *in* Westminster, *and told to him the said Informant, that he had something of Moment to reveal to him; and did also desire the Informant to go with him into the Abby, and he would reveal it to him: Upon which the said* Osborne *and the Informant being together, the said* Osborne *did tell the Informant, that his Conscience was mightily troubled, for that he found the* Lord-Treasurer *was maliciously prosecuted by Mr.* Oates *and Mr.* Bedlow; *for that he having been a Servant to Mr.* Oates, *and had often heard Mr.* Oates *and Mr.* Bedlow *consult together, in Mr.* Oates's *Chamber in* White-hall, *and resolve how they might contrive a Way whereby to destroy my* Lord-Treasurer: *And that he had chosen to reveal this Secret, and ease his Conscience to the Informant, rather than to any one else, because he thought he would keep it secret, for his own sake, because he had already suffered by endeavouring to serve the said* Lord-Treasurer; *and thereupon the said* Osborne *shewed to the Informant some Papers written, as he told the Informant, all in his own Hand, and which were relating to the said* Lord-Treasurer. *Upon which the said Informant told the said* Osborne, *that he was no Servant of the said* Lord-Treasurer's, *and did not therefore desire to meddle in it; and that particularly, because he had never spoke with the said* Osborne *before, and desired to be excused; upon which the said* Osborne *did press the Informant; and withal did tell him, that if he did not assist him in this Affair, it was resolved both by him, and one Mr.* Lane, *that they would come in on the Day of the said* Lord-Treasurer's *Trial, and declare the Truth concerning what they knew, concerning the malicious Design of the said Mr.* Oates *and Mr.* Bedlow, *against the said* Lord-Treasurer; *for that they could not rest for fear he should suffer innocently, whilst they could, with so good a Conscience, as they thought, save him. And the said* Osborne *did withal declare, that the aforesaid Mr.* Lane *was resolv'd*

reſolv'd to ſpeak to the Informant upon the aforeſaid Matter: And the ſaid Lane *did accordingly, upon the ſaid Firſt of* April *in the Evening, meet the Informant, and ſhewed him ſome Papers, wherein he had taken ſeveral Memorials relating to his Majeſty, the Queen, my Lord-Treaſurer, and ſeveral other Perſons: And did withal declare to the Informant, that his Conſcience was ſo troubled to ſee the malicious Proceedings of the ſaid Mr.* Oates *and* Bedlow *againſt the ſaid* Lord-Treaſurer, *that he could not reſt in his Bed, until he had diſburdened it, by telling the Truth; and if he had not met with this Informant, he was reſolved to declare it ſpeedily to ſome one elſe; or come himſelf at the Day of the ſaid* Lord-Treaſurer's *Trial, and there declare all that he knew relating to that Affair. And did withal conjure the Informant, as alſo the ſaid* Oſborne, *to keep all they had told him ſecret; for if it ſhould come to the Ears of the ſaid Mr.* Oates *and* Bedlow, *they would endeavour to poiſon or murder them, the ſaid* Oſborne *and* Lane, *the firſt time they ſhould ſee them.*

Tho. Knox.

Then a Second was offered to be read; but there appearing ſcandalous Matter to be in it, reflecting on the King, the Court thought not fit to ſuffer the ſame to be read through.

Mr. Serj. Maynard. My Lord, I think it appears by the Evidence ſufficiently, how they did deſign to accuſe Mr. *Oates.*

L. C. J. Ay, Brother, come let us hear what they can ſay to it on the other ſide.

Mr. Withins. May it pleaſe your Lordſhip, and you Gentlemen of the Jury; I am of Counſel for the Defendant *Knox*, and for *Knox* only.

Mr. Williams. Pray, Sir, hold; my Lord, we have here two Witneſſes more, that will fortify Mr. *Dangerfield* in what he hath ſaid. Call *Suſan Edwards*, and Mrs. *Blake.*

Then Mrs. Blake *appeared and was ſworn.*

Mr. Williams. Pray Mrs. *Blake*, what can you ſay of any Reward *Lane* was to have, for accuſing Mr. *Oates?* Or any Promiſes were made to him?

Blake. All that I can ſay of *Lane*, is this; That *Lane* did ſay once to me, I am here; and I was Dr. *Oates*'s Man, and he would have buggered me: And he did make Complaint for want of Linen; and ſpoke to me to waſh him ſome Linen. Said he, Here I have no Linen, neither will they let me have any; and his Boy here will not ſtir to look for any, unleſs *Willoughby* ſpeak to him. Then the Boy was ſpoke to.

L. C. J. What is all this? What ſays the other Woman?

Mr. Williams. He is called *Willoughby* ſometimes, and ſometimes *Dangerfield*; for he went by both Names: But I aſk you what Money you know was given to him?

Blake. He told me, he was to be allowed Ten Shillings a Week.

L. C. J. This is only to ſtrengthen his Evidence.

Blake. He never ſaid to me, from whom it was.

Then Mrs. Edwards *was ſworn.*

Mr. Serjeant Maynard. What do you ſay, Miſtreſs?

Edwards. May it pleaſe you, I don't know *Lane*; I never ſaw him in my Life, but only when he was ſent for by Mrs. *Celier*, to get an *Habeas Corpus* for *Willoughby*, who was then in *Newgate*; and he did come the next Day, and gave his Anſwer to me.

L. C. J. She ſays nothing, but only he was deſired to get an *Habeas Corpus* for *Willoughby.*

Mr. Sol. Gen. Yes, my Lord, ſhe is called to ſhew you, whether *Lane* had not Money from Mrs. *Celier.*

Edwards. That was the firſt time I ſaw him, and the next Morning I ſaw him again: And when he came to the Door, he told his Errand to me. He ſaid, he could get no *Habeas Corpus*; for he was ſuch a Rogue, no body would meddle nor make with him.

Dangerfield. I would fain have her aſk'd this Queſtion, my Lord, if you pleaſe: Did you ever ſee Mr. *Knox* at Mrs. *Celier*'s Houſe?

Edwards. If I ſee him, I can tell.

Then the Defendant, Knox, *was ſhewn to her.*

Edwards. I cannot ſay, this is the Man: I have heard much talk of Mr. *Knox*, and that he hath been there; but I cannot ſwear this is he.

Dangerfield. My Lord, if your Lordſhip pleaſes, when *Lane* was firſt brought to me to the Counteſs of *Powis*'s Houſe, he was very meanly equipaged, and the Counteſs of *Powis* was informed of it, and did deſire me to take ſome particular care to clothe him, and that I ſhould put him into a Diſguiſe; but at that time I had a Suit of Clothes that were lined with blue, which I gave to him; and I alſo adviſed him to cut off his Hair, and to put on a Peruke, which he did, and hath worn it ever ſince, as I believe.

L. C. J. Well, let us hear what they ſay to it.

Mr. Withins. May it pleaſe your Lordſhip, I am of Counſel in this Caſe for Mr. *Knox*; there are two Perſons here made Defendants: As for Mr. *Lane*, I have nothing to do with him, nor to ſay for him; and his Caſe hath made him appear to be a very evil Man. But, my Lord, I do obſerve that the Indictment conſiſts of two Parts: The firſt is, That theſe two Defendants did conſpire together; and this was the Thirtieth of *April* (and the Proof comes to that Time, for it will be material in our Caſe) that they did maliciouſly and deceitfully combine and conſpire againſt *Titus Oates*, Clerk, and *William Bedlow*, Gentleman, who had diſcovered this horrid Popiſh Plot, and whom they knew to have given Informations of it, to take away their Reputation, and make them Witneſſes of no Belief, or Credit; that is one part of the Indictment. The other Part is, That to further the ſame, Mr. *Knox* did cauſe two or three Letters to be written, as from *Oſborne* and *Lane* to him, purporting thoſe Aſperſions to be laid upon *Oates* and *Bedlow:* For the laſt Part of the Indictment, the Counſel for the King have not thought fit to proceed upon it, and they have not given an Account of the Letters: But for the firſt Part, their conſpiring to take off the Reputation of *Oates* and *Bedlow*, is the only thing they have proceeded upon; as I conceive. I muſt needs ſay, my Lord, that Mr. *Knox*, as well as Dr. *Oates* and *Bedlow*, have had a very great Misfortune to meet with theſe Men.

L. C. J. To meet with whom?

Mr. Withins. To meet with *Oſborne* and *Lane*; for I do not here pretend to lay any Aſperſion, or make any Reflections upon the Credit or Reputation of Dr. *Oates* or Mr. *Bedlow.* I think they have ſerved the Nation too well to be vilified here. But I ſhall ſay this, that as *Oſborne* and *Lane* had a great Deſign to Diſgrace and Diſcredit Mr. *Oates* and Mr. *Bedlow*, ſo they had a Deſign to draw my Client Mr. *Knox* in, to purſue their Malice. I did ſhew you, that they did begin their Evidence, as to Time, in *April*, and they have laid it ſo in the Indictment: We ſhall prove to your Lordſhip, and ſhew you, that before this, and before that Mr. *Knox* knew either *Oſborne* or *Lane*, that they had drawn up this Accuſation againſt Mr. *Oates*, and read it to ſeveral Witneſſes, which we ſhall produce. And afterwards, when they came to adviſe how they ſhould proſecute the ſame, they were adviſed firſt to go to Mr. *Thewer*: He told them that it was a dangerous thing to meddle about, and he would not involve himſelf, but bid them take care what they did in it. Upon this they apply themſelves to my Client Mr. *Knox*, he told them the ſame thing; it is a Matter of great Conſequence, I deſire not to meddle with it. Said they, will you not aſſiſt us in this Buſineſs, when we only diſcover this to acquit our own Conſciences, who knew theſe things to be treating and contriving againſt the King and my Lord of *Danby?* For my part, ſays one of them, I cannot leave the Town till I have diſcovered it. Notwithſtanding this, Mr. *Knox* would not undertake to meddle with it, but left them. They come to him the ſecond Time, and Mr. *Knox* being a young Man, and it ſeems being a Servant in the Family, entered into a Correſpondence with them, to proſecute what they had deſigned to do. There is nothing appears (and this I would obſerve, if your Lordſhip pleaſe) in the whole Evidence, that Mr. *Knox* was to ſwear any thing againſt Dr. *Oates* or Mr. *Bedlow* (as I remember) but he was indeed engaged to carry on the Proſecution, theſe Witneſſes informing him of it; and that it was a Truth, I muſt obſerve to your Lordſhip upon their Evidence, they did inſinuate, as if Mr. *Knox* had been at the Charge of maintaining *Lane:* But I think, that Mr. *Dangerfield* hath pretty well cleared whence that Maintenance came that he gave to Mr. *Lane*; that it came thro' none of the Hands of my Client, Mr. *Knox.*

L. C. J. No, Mr. *Withins*, he is not accuſed for giving him a conſtant Maintenance, but for the Money, the Guineas and Ten Shillings. 'Tis true, it was ſaid, it was to be paid again; but from him they had the Money: And it appears, that he provided Lodgings for them, and paid for their Lodgings.

Mr. Juſt. *Pemberton.* And pray obſerve this, that what Mr. *Dangerfield* ſpeaks of, is of a Time afterwards, after they had been taken and impriſoned, and confeſſed the Matter.

Mr. Withins. But this you obſerve, I hope, my Lord, from Mr. *Dangerfield*'s Evidence; that *Knox* was very poor, had not any thing to maintain himſelf with.

L. C. J. The Sums indeed do not ſeem to be very great; a Guinea, and Ten Shillings in Silver: But whatever it was, he gave it them, and took Lodgings for them, and paid for them.

Mr. Withins. I did intend to obſerve to your Lordſhip, That it is a pretty ſtrange thing, that there ſhould be a Deſign to corrupt Perſons to commit this foul and horrid Offence; and nothing of a Reward or Corruption proved, but two Guineas and ten Shillings.

Mr. Juſt. *Pemberton.* What ſay you to the Promiſes of 500 *l.* and 100*l.* a Year a-piece?

Mr. Withins. That was *Lane*'s own Evidence. *Lane* and *Oſborne* might brag what they would of what they were to have, and from whom; but I believe not one in the Court believed a Word they ſaid. For it does appear that *Lane* did forſwear himſelf backwards and forwards, as the Wind blew. So that, as for what *Lane* hath ſaid, it weighs not: But we ſhall call two Witneſſes, to whom *Lane* declared this Matter in *February* and *March*, before the Time that *Knox* was concerned: So that if we make it appear, that the Contrivance was theirs, and there was only a great deal of Weakneſs and Indiſcretion in Mr. *Knox* to believe ſuch idle Perſons, againſt Perſons that had ſhewed themſelves ſo conſiderable in this Diſcovery; I hope it will not be thought ſuch a Crime in us, ſeeing there is nothing in it, but that a young Man was led away; and only his Folly and his Indiſcretion drew him in, not any Malice or ill Deſign.

Sir W. Waller. My Lord, Mr. *Knox* did confeſs to me, that he did throw down a Guinea, and then *Lane* and *Oſborne* took it up; but they both poſitively ſwore, that he threw it down for this Reaſon, that he might ſafely ſwear he never gave them it.

Mr. Saunders. All that they ſwear is not agreed to be true: My Lord, if your Lordſhip pleaſe, I am of Counſel for the Defendant *Knox*, and as to that part of the Indictment that charges him with writing the Letters, they do not proceed upon.

Mr. Serj. Maynard. Yes, we do, we proceed upon the whole——

L. C. J. They proceed upon the whole, but you may ſay, if you will, they give no Proof of it.

Saunders. Then, as to that, with Submiſſion to your Lordſhip's Judgment, the Defendant is to be found Not Guilty.

Mr. Juſt. *Pemberton.* You muſt obſerve, theſe are not ſeveral Crimes, but one continued Crime, and therefore the Evidence muſt go to the whole.

L. C. J. You do well to obſerve it for your Client; but if you require it of the Counſel on the other ſide, it may be they will give you an Anſwer, if you will undertake to affirm, that they have given no Evidence as to that part of the Indictment wherein it ſays, Mr. *Knox* contrived three Letters to ſcandalize Mr. *Oates.*

Mr.

Mr. *Saunders.* We submit it to the Court whether they have or no. For the other part of the Indictment, wherein it is charged, that he should maliciously contrive with *Lane* to lay a Calumny and Scandal upon Mr. *Oates* and Mr. *Bedlow*, the very Point we are to answer to is this, Whether this were a malicious Contrivance or no, and for that we shall give your Lordship this Evidence: That *Knox* was a young ignorant Man, and drawn in by *Lane* and *Osborne* to patronize their Mischief they intended against *Oates* and *Bedlow*; for, my Lord, Mr. *Knox* was not acquainted with them, or had any thing to do with them, till that they had contrived this matter among themselves: For, my Lord, we shall call you Witnesses to prove, that before *Knox* had to do with them, they would have had another Person to prosecute this Business for them. And if we satisfy you that he was drawn in, I hope it will acquit us; notwithstanding I will observe to your Lordship and the Jury, whether *Lane* be guilty or not guilty does not affect us, if we were only drawn into the Contrivance.

L. C. J. Wherever *Lane*'s Testimony stands singly against *Knox*, it is no Evidence.

Mr. Just. *Jones.* But if he was not in the Plot at the beginning, but was drawn in, and did after proceed with them, as *Dangerfield* proves, I doubt it will not acquit him.

Mr. Just. *Pemberton.* Consider a little your Case; you say here was a Contrivance of two, that *Knox* was not in the beginning, but they offered it to others with whom it would not take. Why, let *Knox* come in when he will, if he does come into the Contrivance, and takes the Papers, and manages the business to fix these Scandals, and encourage them to carry them on, *Knox* is as guilty as all the rest.

Mr. *Saunders.* But if these Men come and tell him these things are true, and we can swear them, and so is drawn in, it takes away the Malice of the Contrivance.

L. C. J. This is the Use the Defendant *Knox* his Counsel make of it: At first *Knox* was not acquainted with the matter; and when he did come to understand it, he thought it to be true, as they affirmed it was true, and, said they, we will go before a Justice of Peace and swear it: He was willing, there being a Discovery of several Conspiracies against his Lord's Life, as they said, he being his Servant, he was willing to prosecute the Business; and this is the Use they make of it.

Mr. Just. *Pemberton.* Come, let us hear your Witnesses.

Mr. *Scroggs.* Call *Frances Lane* and *Mary Lane.*

L. C. J. But I'll tell you what; it will be necessary to clear your selves, as well as you can, of those Papers that were delivered by *Knox* to *Dangerfield*, and went about to the Lords in the *Tower*, and afterward to *Nevil*, and by him amended, and after delivered to *Knox* again by *Dangerfield*: This does shew as if you were concerned in the whole Affair, and in all the matter of the Information, before it was cook'd and after it was dress'd. You must give some Account of that, for that sticks strongly upon you.

[*Then Mrs.* Frances Lane, *and her Daughter* Mary Lane, *were Sworn.*]

Mr. *Scroggs.* Mrs. *Lane*, are not you Mother to *Lane* the Defendant?

Frances Lane. Yes.

Mr. *Withins.* Pray will you give an Account what your Son said to you in *February* last?

Mr. Serj. *Maynard.* We pray they may ask their Questions in general.

Mr. Just. *Pemberton.* Don't you point her to a Time.

L. C. J. Answer me: What hath your Son said to you at any time concerning *Oates?*

Frances Lane. He spoke it about *March.*

L. C. J. What did he say?

Frances Lane. He used him uncivilly, he had no mind to stay with him.

L. C. J. What said you?

Frances Lane. I desired him to stay longer.

L. C. J. How often did he tell you this?

Frances Lane. Several times.

L. C. J. He had left his Service once, had he not?

Frances Lane. Yes.

L. C. J. Was it before or after he left his Service?

Frances Lane. Before and after too.

L. C. J. If he complained he had so used him before, why would he go to him again?

Frances Lane. Because the Times were hard, and I persuaded him.

L. C. J. Ay, but would you persuade him after such an Abuse of your Son as that?

Frances Lane. I thought then he would not do so again.

Mr. Just. *Jones.* When was the first time he complained to you?

Frances Lane. It was about *Christmas.*

Mr. Just. *Jones.* Was it before *Christmas?*

Frances Lane. It was after.

Mr. Just. *Pemberton.* Consider here you bring *Lane*'s Mother to accuse him to excuse your self.

L. C. J. But is this material?

Mr. *Scroggs.* It is material to our Client Mr. *Knox*, who was drawn in here by a couple of Rascals. We prove, that before this time which Justice *Warcup* and Sir *William Waller* have in their Informations, they offered the same Discovery to others.

L. C. J. Call them and prove it, but you will never have the better Name for calling them ill ones.

Mr. *Scroggs.* We lay all upon *Lane* and *Osborne*, who inveigled *Knox.*

Mr. *Saunders.* Pray, Mrs. *Lane*, tell the Court and Jury how and when your Son came acquainted with Mr. *Knox.*

Frances Lane. May it please you, my Lord, *Osborne* brings a Paper to our House, and would have had my Son have read it, but he could not, so he read it himself; and there were some desperate things in it.

L. C. J. What were they?

Frances Lane. I can't tell, they were concerning the King and the Queen and my Lord Treasurer.

L. C. J. When was this?

Frances Lane. In *March* last, at our House, and I desired them they would not meddle with such things, for I said they were things beyond them. My Son promised me he would not meddle with it, but let *Osborne* alone with it; but said I, pray go to one Captain *Thewer*, he is a good civil Man, and a Man of Understanding. So they did go as I directed them.

Mr. Just. *Pemberton.* Who went?

Frances Lane. Osborne did.

Mr. Just. *Pemberton.* Who went with him? for you say They.

Frances Lane. John Lane, my Son.

L. C. J. Was there any thing particular in those Papers concerning Mr. *Oates* being guilty of Sodomy?

Frances Lane. I cannot say in particular; it is a great while ago, but he went to Captain *Thewer*, and he with'd him, after he had read it, said he, don't meddle with any of these things, for it will be the worse for you.

L. C. J. As your Son told you, you were not by.

Frances Lane. Yes, they both told me so. With that says Mr. *Osborne*, I'll find out one Mr. *Knox*, who had been some Acquaintance of Mr. *Wiggins*, Mr. *Bedlow*'s Clerk; and so, said he, I will ask Mr. *Wiggins* if he be acquainted with Mr. *Knox.*

L. C. J. Did your Son at that time know *Knox?*

Frances Lane. No, my Lord, he had never seen him at that time; so my Son went, and they found Mr. *Wiggins* and Mr. *Knox* walking in the *Abbey.*

L. C. J. Was *Lane* with him then?

Frances Lane. He went with *Osborne*, and came and told me, *Knox* would not meddle with them.

L. C. J. Who came and told you so?

Frances Lane. Osborne came and told me so, and my Son.

L. C. J. You were not by?

Frances Lane. No, not I; but, said he, as he told me, I will go to him again; and afterwards he did meet him again, as he said, and delivered them to him.

Mr. *Withins.* Did you ever see *Knox* in your life?

Frances Lane. I had never seen him then.

Mr. *Withins.* Did you ever hear your Son say, he did know *Knox* before that time?

Frances Lane. Never in my life.

Mr. Just. *Pemberton.* But you do not prove that they were not acquainted.

L. C. J. Do you believe *Osborne* said true, Mr. *Saunders?*

Mr. *Saunders.* Not when he spoke to Sir *W. Waller* to accuse my Client of the Contrivance.

L. C. J. In that case, when 'tis against your Client he did not, but in other cases he might; well, go on.

Mr. *Withins.* Which is *Mary Lane?*

Mary Lane. I am she, Sir, I can say no more than my Mother hath said, I was by at the same time.

Mr. *Saunders.* Do you know when *John Lane* came acquainted with *Knox?* was it before *April* last, or after?

Mr. Just. *Pemberton.* How is it possible that any one can swear a Negative?

Mr. *Saunders.* If we can't prove the Negative, nor they the Affirmative, it will be presumed they were not, because it is not known.

Mr. Just. *Pemberton.* Nor do you prove any Informations before given to any one.

Mr. *Saunders.* Yes, To *Thewer.*

Mr. *Withins.* We will ask the Daughter about that.

Frances Lane. She can only prove it by hearing it, for she was sick.

Mr. *Withins.* Young Mrs. *Lane*, what was there in that Paper that *Osborne* brought to your House?

Mary Lane. There was concerning the King, and the Queen, and my Lord-Treasurer.

L. C. J. Was there any thing in it concerning Mr. *Oates?*

Mary Lane. Yes, there was concerning his Beastliness.

Mr. Just. *Pemberton.* Who read it?

Mary Lane. Osborne I did hear read it.

Mr. *Saunders.* Your Brother was not acquainted with *Knox* then?

Mr. Just. *Pemberton.* How can they tell that? 'tis impossible.

L. C. J. The Nature of the thing is such, that it can be proved no otherwise. But it seemed to them that they were of no Acquaintance; it is hard to prove when an Acquaintance begins.

Mr. *Saunders.* And further than this we cannot go in such a Case; for that thing of the great Sums of Money, certainly it was as little a thing as could be; there was no more in the case than a Guinea, and ten Shillings, and three half Crowns, as proved, and he was cheated of them, it seems, for they would not do the Work.

Mr. *Scroggs.* 'Tis an improbable thing that he should be so poor as to sell the Handle of his Sword, and yet be engaged in the Management of such a Plot, and not have Money for it.

L. C. J. There is no great store of Money appears to be given to *Lane*, but he was kept upon a mean Maintenance.

Mr. Just. *Jones.* But it was not without Expectation of a Reward.

Mr. Just *Pemberton.* He tells you the Wages was to be paid when the Work was done.

L. C. J. And when the Roguery was discovered, they had no more Money then.

Mr. Just *Pemberton.* When the Business came to be controverted thus, they had no reason to give it.

Mr. *Saunders.* Though *Lane* had Maintenance, yet our Client *Knox* was not taken such care of; still there was Provision made for him, but none for us, because we were drawn in and did not contrive it.

Mr. Just. *Pemberton.* But remember, Mr. *Saunders*, by the same Hand there were forty Shillings given at one time.

Mr. *Withins.* Well, my Lord, we have done: We say, that we had no part in the Malice of the Contrivance, and therefore ought not to be punished with them.

L. C. J. Well, Mr. *Holt*, what say you for *Lane?*

Mr. *Holt.* My Lord, I am assigned of Counsel for the Defendant *Lane.* I have no Witnesses at all to examine, but only shall make some little Observations upon the Evidnce that is given for the King. As for the Indictment

dictment it ſelf, though it is not ſeveral Crimes, but one complicated Crime; yet the Evidence that is given is only to one part thereof; and therefore I ſubmit it to your Lordſhip, if the Proof be proportionable to the Charge, and whether the Defendant ought not to be found Not Guilty. There hath been great mention made of the writing Letters, yet it would be hard that the Defendant ſhould be found Guilty of ſuch an Offence, when the Proof does not come up ſo high; that would introduce a ſeverer Puniſhment than the Crime proved would juſtify.

Mr. Juſt. *Pemberton.* Pray, Mr. *Holt*, don't go away with that; I muſt ſet you right a little there! The Crime that is laid is, To diſcountenance the King's Evidence, and to make them that they ſhould not be believed. The Means are ſeveral, partly by caſting of Crimes upon them, partly by writing Letters; that Crime is another thing, and therefore if they do not find them Guilty of every one of the particular means, yet the Crime muſt be found.

L. C. J. You are in the right thus far Mr. *Holt*; they have laid the Indictment, That they endeavouring to diſparage the Credit of *Oates* and *Bedlow*, have, for Money's ſake, and by Promiſes and Contrivances, and writing of Letters, wherein was ſcandalous matter againſt *Oates* and *Bedlow*; they thereby did attempt to diſcredit them. Now ſay you, if this matter be not proved, that there was any ſcandalous matter concerning *Oates* and *Bedlow*, then the Contrivance is not proved: But what though all the Facts in the Indictment are not proved, yet if there be enough to prove your Contrivance to Diſcredit them; and if you ſuppoſe the Evidence true that is given, it reſts, I think, plainly upon your Client, and you cannot get off from it: But if there be not ſufficient Proof to maintain the Indictment for the Crime of endeavouring to diſcredit *Oates* and *Bedlow*, unleſs they prove the Letters alſo, you ſay ſomething; but there is the Buſineſs that ſticks on you, they have proved enough without that.

Mr. *Holt.* If the Jury do not find them Not Guilty generally, may they not find them Not Guilty of writing the Letters?

L. C. J. No: For if the other part of the Evidence did not amount to a Proof of a Deſign of Diſparaging their Teſtimony, you had a very ſtrong Objection of it: But if they lay five things, and they prove but one of them upon you; if that one ſerves to the Diſparaging of *Oates* and *Bedlow*, which is the Subſtance of the Indictment, that maintains the Indictment.

Mr. *Holt.* It does ſo, my Lord; but not the Aggravations.

L. C. J. All that you ſay then is in mitigation of a Fine; but if all be true that is proved upon your Client, as I ſee no reaſon to doubt it, you will ſave but little by this Defence.

Mr. *Holt.* My Lord, as to the Matter, it all depends upon the Credit of the Witneſſes, and Credibility of the Circumſtance in themſelves, and one with another. Some of the Evidence is but very ſlight, and ſure were but produced to ſpend Time.

L. C. J. Indeed there was a great deal of it to little purpoſe: for ought I ſee, this Trial needed not to have been above an Hour.

Mr. *Holt.* As for his ſaying he ſhould have a 100*l.* a Year, and the bettering of his Fortune, it was but his Vanity and Extravagance.

L. C. J. Mr. *Holt* does argue as much for his Client as the Caſe will bear.

Mr. *Holt.* They have endeavoured to lay all upon us; now if ſo be we are affected with any ſevere Evidence, I think the ſame Evidence (to requite them) does affect them.

L. C. J. This is a kind of Battle-Royal, where every one hath two Enemies to oppoſe.

Mr. *Holt.* Here is Mr. *Dangerfield*, he comes, and in his Evidence tells you, That my Lady *Powis* was ſo long upon her Knees to thank God that her Party was ſo much ſtrengthen'd by the Acceſſion of *Lane:* My Lord, I deſire the Quality of Mr. *Lane* may be taken notice of; a Footman and a young raſh Fellow, one that both for Age and Quality could not be very conſiderable.

L. C. J. But two Witneſſes are better than one, Mr. *Holt*; do you remember that? *Knox* uſed that Expreſſion, If *Lane* do but keep firm, we ſhall be too hard for *Oſborne* alone, for two Witneſſes are better than one; but by that he counted *Lane* worth ſomething.

Mr. *Holt.* You muſt conſider, what he was to ſwear, they could ſcarce get an Evidence ſo proper for what they would have him ſwear.

L. C. J. Mr. *Williams*, what Anſwer can you give to all the Tranſactions that Mr. *Dangerfield* tells you of about *Knox?* Beſides, take notice of this; you would have this to be a Contrivance by *Lane* and *Oſborne*, to be between themſelves, and that your Client muſt be a Stranger to it; and when he comes to know it, he knows it only as a Remorſe of Conſcience that they tell him they have, and deſire him to go with them before a Juſtice of Peace to ſwear it, and he hearing ſomething that might affect his Maſter the Earl of *Danby*, and believing that all was true, did encourage that matter only for his Maſter's Service, and thought he did a good Act in it. But your ſubſequent Behaviour ſhews it was a Conſpiracy rather; for, firſt, your ſecret ways of ſending your cunning Notes, *We all club'd together, and you paid two Shillings at the Sugar-loaf; tear this*; which ſhews, and does to my apprehenſion ſignify, as if he would never own that he ſpent any thing upon them, and that he was bountiful to them. And then the giving of Money to the Man to convey Notes, that they might not betray one another; do not all theſe ſubſequent Actions, eſpecially thoſe *Dangerfield* tells you of, and receiving the Papers after they were enlarged upon, ſpeak it a Conſpiracy? What can you ſay to all this?

Mr. *Williams.* My Lord——

Mr. Juſt. *Pemberton.* Stay a little, and anſwer all together. Do but conſider with your ſelf, thoſe Informations your Client Mr. *Knox* did own he took, and before they were ſworn, and carried them to my Lord *Latimer*'s Lodgings, and he himſelf owns, that he took Lodgings for them, and lay with them, and when the Lords were in purſuit of them.

L. C. J. And then does he ſteal them from place to place, and takes Lodgings for them, and pays for them.

Mr. Juſt. *Jones.* He brings one of them to make Affidavit, and will keep it by him, is ſhy of ſhewing it: afterwards does ſhew it, this makes him a Contriver too, as well as an Executor.

Mr. *Saunders.* If your Lordſhip pleaſe——

Mr. Juſt. *Pemberton.* Conſider too the Papers that were put in too of Caution, that *Knox* and they ſhould not be found in ſeveral Tales; for *Knox* had been examined before they were: what was the meaning of thoſe Inſtructions?

L. C. J. If you have any Witneſſes to wipe your ſelves clean from the matter of receiving the Papers from *Dangerfield*, and taking Lodgings for them when they were under that Accuſation, do.

Mr. *Saunders.* I have a word to anſwer upon the Teſtimony of Mr. *Dangerfield.*

Mr. Juſt. *Pemberton.* Conſider this, that he attempted another Man upon the ſame Account; your Client did tempt *Wiggins* to do the ſame thing to his Maſter.

Mr. *Saunders.* That was in *February* before, and all that he ſaid was, that he would have had out of Mr. *Bedlow*'s Servant, what Company his Maſter kept, and what he did.

L. C. J. You do obſerve right.

Mr. Juſt. *Pemberton.* And to have betrayed his Papers to him.

L. C. J. That does not reach this Indictment indeed; but that thing that he would have tempted him to, was to have diſcovered, and to have a Tranſcript of all the Papers that concern'd my Lord of *Danby*; that he ſhould watch his Company, and know what Lords were with him, that he might make his oppoſition as well as he could, and that he ſhould have what Place he did deſire under my Lord. It does not affect the Caſe of the Indictment, but it ſhews you are a Tempter of Men, and that you are a Cautioner, that you would hire a Man to betray his Maſter's Papers, which is not fair, let the Maſter be who he will.

Mr. Juſt. *Pemberton.* It facilitates the belief of this.

L. C. J. Yes; Ay, ay, it is to make the Jury more apt to credit what the Evidence of this particular Fact is.

Mr. *Saunders.* My Lord, let me offer this Word, and I ſubmit: Mr. *Dangerfield* himſelf does ſwear, that *Lane* brought him a Paper containing the ſame matter that he did falſly accuſe Mr. *Oates* of, and he read it over three times to him, and then he ſwore it before Sir *James Butler.* My Lord, I will put my Cauſe upon that Point, Whether Mr. *Dangerfield* did not believe it to be true at that time.

Mr. Juſt. *Jones.* Your Client is the more miſchievous Man, to contrive it ſo, as to make the thing to be believed when it was falſe.

L. C. J. The uſe of the Argument he makes is this; That as Mr. *Dangerfield* might be deceived into a belief that the Information was true, ſo might Mr. *Knox* as well, when he ſaw one ready to ſwear it: But hath *Dangerfield* done thoſe ſubſequent Acts which he hath done in the Confederacy, for which he is now Indicted?

Mr. *Saunders.* He ſwears in his Information, that they came to his Hands from *Lane* and *Oſborne.*

L. C. J. Well Gentlemen, you of the King's Council and of the Jury, you need not any ſumming up of the Evidence, I think the thing is evident.

Mr. Juſt *Pemberton.* Gentlemen, it is a very clear Caſe, as clear as the Day; I think you need not go from the Bar; but do as you will.

[*Then the Jury laying their Heads together, agreed without delay, and without moving from the Bar.*]

Cl. of Cr. Gentlemen, Are you all agreed of your Verdict.

Omnes. Yes.

Cl. of Cr. Who ſhall ſay for you?

Omnes. Foreman.

Cl. of Cr. How ſay you, are the Defendants Guilty of the Offence and Miſdemeanor whereof they ſtand Indicted, or not Guilty?

Foreman. Guilty.

[*At which the People gave a great Shout.*]

Mr. Serj. *Maynard.* My Lord, I pray the Verdict may be Recorded.

Mr. Juſt. *Jones.* Let it be ſo. Come, where are theſe two young Fellows? Let us ſee if they can ſhew their Faces now.

[*And they were brought into the middle of the Court.*]

Knox. Will your Lordſhip give me leave to ſpeak one Word for my ſelf?

Mr. Juſt. *Jones.* No, no, there's no ſpeaking now; take them into your Cuſtody, Marſhal.

[*Which was done, and the Court broke up.*]

They were afterwards ſentenced: *Thomas Knox* to a Fine of 200 Marks, a Year's Impriſonment, and to find Sureties for his good Behaviour for three Years. *John Lane* to a Fine of 100 Marks, to ſtand in the Pillory for an Hour, and to be Impriſoned for one Year.

XC. *The Trials of* LIONEL ANDERSON, *alias* MUNSON, WILLIAM RUSSEL, *alias* NAPPER, CHARLES PARRIS, *alias* PARRY, HENRY STARKEY, JAMES CORKER, WILLIAM MARSHAL, *and* ALEXANDER LUMSDEN, *with the Arraignment of* JOSEPH KEMISH, *at the* Old-Baily, *for* High-Treason, *being* Romish *Priests*, Jan. 17, 1679. 31 Car. II.

Cl. of Cr. KEEPER, set *David Joseph Kemish* to the Bar.

[*Which was done.*]

David Joseph Kemish, hold up thy Hand. [*Which he did.*] *Thou standest Indicted by the Name of* David Joseph Kemish, *of the Parish of St.* Giles's in the Fields, *in the County of* Middlesex, *Clerk; for that thou being born within the Dominions of our Sovereign Lord the King, and being a Priest, made and ordained by Authority derived from the See of* Rome, *after the Feast of the Nativity of St.* John Baptist, *in the first Year of the Reign of Queen* Elizabeth, *and before the Fifteenth of* November, *in the Thirtieth Year of the Reign of our Sovereign Lord the King that now is, The Laws and Statutes of this Kingdom of* England *not regarding, nor the Penalties in the same contained any ways fearing, the said 15th day of* November, *in the 30th Year of the King aforesaid at the Parish of St.* Giles's in the Fields, *in the County of* Middlesex *aforesaid, traiterously, and as a false traitor of our Sovereign Lord the King, thou wast and didst remain and abide, against the Form of the Statute in this Case made and provided, and against the Peace of our Sovereign Lord the King, his Crown and Dignity. How sayest thou,* David Joseph Kemish, *Art thou Guilty of this High-Treason whereof thou standest Indicted, or Not Guilty?*

Kemish. Not Guilty.

Cl. of Cr. Culprit, How wilt thou be Tried?

Kemish. By God and my Country.

Cl. of Cr. God send thee a good Deliverance.

Kemish. I cannot speak, I am not able to stand upon my Legs a quarter of an Hour.

* Sir *William Scroggs.*

* *L. C. J.* What does he say?

Capt. *Richardson.* He says he is so ill and weak he is not able to stand.

L. C. J. Then he must have a Stool.

Kemish. I am not able to speak in my own Defence, and I have had no Time to prepare my self.

L. C. J. Captain, He shall speak softly to you, and you shall report it to the Court again.

Capt. *Richardson.* You may speak softly to me, and I will give an Account what you say.

L. C. J. How will he be Tried? Ask him.

Kemish. I would desire my Trial might be deferr'd till I be in a Condition to answer for my self.

L. C. J. What say you, Brothers, I think his Request is very reasonable; he appears not to be in a Condition of taking his Trial now, and Mr. Attorney is willing he should be set aside till next Sessions.

* Sir *Creswel Levinz.*

* *Mr. Att. Gen.* 'Tis, I think, very fit, if your Lordships please.

Mr. Just. *Dolben.* He must Plead first. Have you recorded his Plea?

Cl. of Cr. Yes, 'tis recorded.

L. C. J. Why then look you, Capt. *Richardson*, you must take him back; the Court does think fit, and Mr. Attorney does think fit, by reason of his extraordinary Infirmity, that it is not seasonable to Try him now. And that the World may not say we are grown Barbarous and inhumane, we are all contented he should be set by. Therefore let him be returned back, and in the mean time you must take care that he have that reasonable looking to as is fit for a Man in his Condition to have.

L. C. Baron. Acquaint him with what the Court says to you.

Capt. *Richardson.* I will, my Lord.

Mr. Att. Gen. My Lord, I desire that the Judges may declare their opinion in it.

L. C. J. They have done so already, we do all consent to it; therefore take him, and go get him a Bed.

Cl. of Cr. Set *William Russel*, alias *Napper*, to the Bar. Who was Arraigned upon an Indictment of the same Form, only the Day of the Fact differing, which was laid to be the 27th of *November*, in 30 *Car.* 2. To which he likewise pleaded Not Guilty, and put himself upon the Country.

Cl. of Cr. Set *Henry Starkey* to the Bar. Whose Indictment was the same, only the Time differing, which was the 26th of *January* 30 *Car.* 2. And he also pleaded Not Guilty, and put himself upon the Country.

Cl. of Cr. Set *William Marshal* to the Bar. Who being Arraigned upon a like Indictment, and the Time mentioned to be the 15th of *January* 30 *Car.* 2. And being asked, Whether Guilty, or Not Guilty, answered thus:

Marshal. My Lord, I do find by this Indictment, That I am Arraigned for the same Crime for which I was Tried before: I do humbly desire to know, Whether, according to Law, I can be tried twice for the same Fact?

L. C. J. No, according to the Law you cannot be tried twice for the same Fact, nor are you; for before you were Indicted for having an Hand in the great Conspiracy, for being a Conspirator in the Plot, and now you are tried for being a Priest, and abiding in *England.*

Marshal. I was tried before your Lordship as a Traitor.

L. C. J. You were so.

Marshal. Now I am tried for a Priest.

L. C. J. Which is another Treason.

Marshal. If I am tried for a Priest, I conceive I cannot be tried unless as a Criminal Priest: And I conceive I cannot be tried as a Criminal Priest, unless it be as a Priest that hath had some Attempt or Design against the Government.

L. C. J. Nay, you mistake there: There may be Priests that have had no Hand in the Plot; if you were acquitted for the Plot, yet you remain a Priest still. Do you suppose then that every Priest had a Hand in the Plot?

Marshal. My Lord, I humbly conceive, that Priesthood, as Priesthood, is no Crime at all.

L. C. J. That is no Crime at all.

Mr. Just. Dolben. Come, you must plead without more ado; and you must not use any more Speeches.

L. C. J. You must be governed in all things by the Direction of the Court.

Marshal. I do submit to the Direction of this Honourable Bench: But, my Lord, give me leave to say, I suppose I am Indicted upon 27 *Eliz.* Now if it be made appear, that according to that Statute Priesthood alone is not Treason ——

Mr. Just. Dolben. Then you must speak it afterwards, but now you must plead.

Marshal. But if it be at least made doubtful, then it becomes matter of Law; and I have just occasion to insist upon it, and pray Counsel.

Mr. Just. Dolben. You must plead to the Indictment first.

Marshal. Why, can I ask Counsel after Plea pleaded?

L. C. J. Yes, you may, if matter of Law arise, and you may have Counsel as to that matter.

Mr. Just. Atkins. The Court is of Counsel for you in such a Case.

L. C. Baron. But you must plead first.

Mr. Just. Pemberton. You cannot be heard at all till you have pleaded to the Indictment.

L. C. J. Pray take the Directions of the Court.

Marshal. I have a great deal of reason to submit to this Honourable Court that hath been so full of Mercy and Clemency, and therefore I do answer, That I am Not Guilty.

Cl. of Cr. How wilt thou be Tried?

Marshal. By the King and my Country.

L. C. J. No, no, that will not do.

Marshal. By God and my Country.

Cl. of Cr. God send thee a good Deliverance. Set *Alexander Lumsden* to the Bar. Whose Indictment being of the same Nature, only reciting the Fact to be 11 *Maii* 31 *Car. 2di*, he pleaded Not Guilty, and put himself upon the Country.

Cl. of Cr. Set *James Corker* to the Bar; who was also Arraigned for the same Treason, done upon the 24 *October*, 30 *Car 2di.* And being asked, Whether Guilty or Not Guilty, answered in these Words.

Corker. My Lord, I humbly beg the Judgment of the Court; I humbly conceive, my Lord, I have been already tried and acquitted for this Crime.

L. C. J. Look you, that hath been over-rul'd already in the Case of *Marshal* just now, who is in the same Condition: You are not now tried for the same Fact for which you were tried before.

Corker. My Lord, I suppose there is something particular in my Case; I was expresly Indicted as Clerk, one that received Orders from the See of *Rome.*

Mr. Just. Pemberton. His Addition was Clerk, that is all.

L. C. J. But you were not charged in that Indictment for this Fact.

Corker. My Lord, I pleaded to that Indictment under that Qualification of Clerk.

L. C. J. So Men do when they say in the Indictment Labourer, plead to it in that Qualification; but if a Man plead by the Name of Gent. the Question is not whether he be a Gent. or no, but whether he be Guilty of the Fact he is Indicted for: And the Question in your Case was not whether you were Clerk or were not Clerk, but whether you had a Hand in the Plot or no.

Mr. Just. Atkins. If the Jury had found you a Priest at that time, it had been a void Finding, more than they were to enquire of.

Mr. Belwood. He was told so at that time, he was not tried for a Priest.

Mr. Just Ellis. After you have pleaded, then you may urge what you have to say.

Corker. Then I say, I am not Guilty. *And he put himself upon the Country.*

Cl. of Cr. Set *Lionel Anderson*, alias *Munson*, to the Bar. Whose Indictment was for being a Priest, and abiding here the 28*th Jan.* 30 *Car.* 2. And he pleaded Not Guilty, and put himself upon the Country.

Cl. of Cr. Set *Charles Parris*, alias *Parry*, to the Bar. Whose Indictment was of the same nature, for abiding here 30 *Maii* 31 *Car.* 2. And he also pleaded Not Guilty, and put himself upon the Country.

Cl. of Cr. Set all the Prisoners to the Bar that are to be Tried. *William Russel, Henry Starkey, William Marshal, Alexander Lumsden, James Corker, Lionel Anderson*, and *Charles Parry.*

Capt. Richardson. They are all on.

Russel. My Lord, I have been confin'd, I have not had my Liberty till within these two or three days.

L. C. J. What then?

Russel. I have not had my Friends to come to me to advise me upon what Account I was to be Tried.

Capt. Richardson. He says, he wanted his Friends to advise for what he was to be Tried.

L. C. J. Why, he knows he is to be Tried for a Popish Priest.

Capt. Richardson. Here is one says he is sick.

L. C. J. Who is that?

Capt. Richardson. 'Tis *Anderson.*

Mr Just. *Pemberton.* Then he must have a Chair to sit down on.

L. C. J. We will try him first that is sick.

Then the Prisoners were called to their Challenges, and the Jury of

Middleſex appearing upon their Summons, and none of them being excepted againſt, the Twelve that were firſt called and ſworn, were the Gentlemen following:

John Bradſhaw,		*Anthony Hall,*
Lawrence Wood,		*Samuel Jewel,*
Matthew Bateman,		*Richard Bealing,*
John Vyner,	Jur'	*Thomas Hall,*
Francis Mayo,		*Richard Bromfield,*
Martin James,		*Samuel Lynne.*

Then they were number'd, and Proclamation for Information in uſual manner was made.

L. C. J. Come, begin with the ſick Man *Anderſon*; and ſet away the reſt.

Cl. of Cr. Lionel Anderſon, hold up thy Hand. You that are ſworn, look upon the Priſoner and hearken to his Cauſe. He ſtands Indicted by the Name of *Lionel Anderſon, &c.* Upon this Indictment he hath been Arraigned, and thereunto hath pleaded Not guilty; and for his Trial hath put himſelf upon God and his Country, which Country you are. Your Charge is to enquire, whether he be guilty, *&c.*

Mr. Belwood. May it pleaſe your Lordſhip, and you Gentlemen of the Jury; the Priſoner at the Bar, *Lionel Anderſon, alias Munſon*, ſtands Indicted for High-Treaſon; and it is alledged in the Indictment, That he being born within the King's Dominions, and made a Prieſt, and having received Orders by pretended Authority from the See of *Rome*, he did the 28th Day of *January* laſt come into the Kingdom of *England*, that is, as 'tis laid, in the Pariſh of St. *Giles in the Fields*, in this County; and there he did abide contrary to the Form of the Statute. And this is laid to be Traiterouſly done. To this he hath pleaded Not Guilty, and we are to prove it upon him by the King's Evidence, whom we are now to call.

Anderſon. My Lord, for my ſtaying in the Kingdom, I had the King's expreſs Command, and an Order from the Council-Board: In the Year 71, they ordered Mr. *Peter Welſh*, and my ſelf, with four or five others, who had in Writing aſſerted his Majeſty's juſt Rights over all his Subjects, whether Proteſtant or Papiſt, againſt thoſe ſo frequently imputed Uſurpations of the Court of *Rome*. After this Plot was diſcovered I came to the King, being afraid of being involved in the general Calamity, and ſaid to him, *Sir, I deſire to know what to do?*

L. C. J. Do, Why?

Anderſon. Good my Lord hear me out. My Lord *Privy-Seal* brought me an Order from the Council-board, and ſo 'tis Recorded; and I think Dr. *Oates* will be ſo juſt to me, as to acknowledge that he hath ſeen it, and this is all that I have to ſay.

L. C. J. If you have an Order from the Council to protect you, you muſt apply your ſelf elſewhere; our Buſineſs is to try the ſingle Iſſue, whether you have offended againſt the Law.

Anderſon. My Lord, I that am but a poor little *Individuum*, who am born with an innate and implicit Obedience to my King, pray judge whether it lie in my power to diſpute with him and his Council, whether they can legally do this or no? Or that I ought to obey the King's Command. My Lord, I am put upon a hard *Dilemma*; if I (notwithſtanding his Majeſty's Command to the contrary) go out of the Kingdom, then the ſevere Imputation upon us is urged againſt me, That I have, with my Religion, renounced my natural Allegiance: And if I ſtay, then by the Law (as you tell me) I forfeit my Life.

Mr. Belwood. This is not a Time for him now to inſiſt on this matter.

L. C. J. Reſerve your ſelf till the King's Counſel have done, and the Evidence given.

Mr. Juſt. Jones. Let him ſave his Speech till ſuch time as he comes to anſwer for himſelf.

L. C. J. Give him a Chair if he be not able to ſtand.

Sir J. Keiling. May it pleaſe your Lordſhip, and you Gentlemen of the Jury, *Lionel Anderſon*, otherwiſe *Munſon*, the Priſoner at the Bar, ſtands indicted here, for that he being a Subject born within the Dominions of the King, hath taken Orders from the See of *Rome*, and hath contrary to the Law come into *England*, and ſtaid here as a Traitor: For this Treaſon he is Indicted, and the Indictment is grounded upon the Statute of the 27th *Eliz.* a Statute made almoſt an hundred Years ſince, and it was upon great occaſion: For it tells you plainly, That theſe Prieſts that had taken Orders from the See of *Rome*, were not only buſy in ſeducing and perverting the King's Subjects to the *Romiſh* Superſtition; but they had made many Attempts upon the Government, raiſing Sedition and Rebellion, and levying War againſt their Sovereign; which is evident from the Preamble of the Statute it ſelf. And it is true, the Lenity and Mildneſs of our Princes hath in a great meaſure let this Statute lie aſleep; they have not been willing to execute the Severity of the Law upon all occaſions at all times: But the occaſion being renewed at this time, for the remedying of which this Statute was principally made (that is to ſay, raiſing Seditions and Commotions, and Rebellion againſt the King, the Particulars of which I ſhall not enlarge upon, it hath been notorious in this place) that is the Reaſon of the preſent Proſecution of theſe Perſons: Who have not been contented to enjoy the Indulgence of our Princes, (which hath been extended to them, notwithſtanding all their former numerous Affronts that they have given) but have raiſed new Commotions, and made Attempts upon the Perſon of our King, and of our Government, and that is the Occaſion upon which theſe Perſons come to be tried. It is not purely (though that is a main Ingredient) that they are tried *quatenus* Prieſts, but as ordained by the See of *Rome*, and coming into *England* and abiding here. For a Prieſt, if he be ordained by the See of *Rome*, if he comes not here, can do no hurt; but it is his coming and abiding here, that makes him the Subject of this Puniſhment, and hath occaſioned this Man's Proſecution. Now, my Lord, we ſhall prove that this *Anderſon* alias *Munſon*, hath taken Orders from the See of *Rome*, whoſe Authority conſtituted him a Prieſt, and this we ſhall prove by ſeveral Inſtances and ſteps; and then we doubt not but you will take that Care for the Preſervation of the Government, and for the Peace and Quiet of the Nation, which becomes you, and give a Verdict according as your Evidence ſhall lead you.

Mr. Serj. Strode. My Lord, we ſhall call our Evidence. The Fact is this, That this Perſon being a Subject of the King's, and having received Orders from the See of *Rome*, that is, being a *Romiſh* Prieſt, did come and abide here contrary to the Statute; not that his Prieſthood is the Crime, no 'tis his being a Subject of the King's and owning an Authority from Abroad, and thereby denying the Authority of his own Sovereign. To prove this, we ſhall call Dr. *Oates*, Mr. *Bedlow*, Mr. *Dangerfield*, and Mr. *Praunce*. [*Who were all ſworn.*] Set up Mr. *Dangerfield* firſt. Mr. *Dangerfield*, tell my Lord and the Jury what you know of the Priſoner at the Bar, Mr. *Anderſon*.

Dangerfield. What I do know againſt him?

L. C. J. Yes, for being a Prieſt.

Dangerfield. What, that particularly?

L. C. J. Yes, that particularly.

Dangerfield. My Lord, about the latter end of *May*, or beginning of *June*, when I was a Priſoner for Debt in the *King's-Bench*, this Perſon took occaſion to ſpeak privately to me, and deſired me to go into his Room: He told me he had received a Letter from my Lady *Powis*, and that Letter was burnt. But the next Letter that came from my Lady *Powis*, he would ſhew it me. And he did ſo; and the Contents of the Letter was, as near as I can remember, juſt thus: Sir, you muſt deſire *Willoughby* to ſcour his Kettle; which was to confeſs, and receive the Sacrament to be true to the Cauſe. A little after, that was Saturday, and I think it was the next Day, being Sunday, I went into Mr. *Anderſon's*, alias *Munſon's* Chamber, and there I went to Confeſſion, and received Abſolution. And he ſent me to another Perſon to receive the Sacrament, who was ſaying Maſs at that time. And when I had received the Sacrament, and return'd to him again, he did tell me, That he, as a Prieſt, did give me free Toleration to go and be drunk, and drink with one *Stroude*: and I aſked him, being ſomething ſcrupulous in the matter, Whether I might lawfully do it, having but juſt received the Sacrament? he told me, Yes, he gave me Authority ſo to do, being for the good of the Cauſe.

L. C. J. Were you a *Papiſt* then?

Dangerfield. Yes, I was.

Mr. Juſt. Atkins. You went to Confeſſion to him, and received Abſolution?

Mr. Belwood. What was the good of the Cauſe that he meant?

Mr. Serj. Strode. If you pleaſe, give an Account of the whole Thing.

Dangerfield. That was, as I was employed in a general Affair for the *Catholicks*: For I was to uſe my Endeavour to bring over *Stroude* to be a Witneſs for the Lords in the *Tower*, concerning the Plot, and to invalidate Mr. *Bedlow's* Teſtimony.

Anderſon. Here I am upon my Life and Death; all the World knows me, that hath heard of my Name ——

Mr. Juſt. Pemberton. Pray make no Speeches, if you will aſk any Queſtions you may.

Anderſon. No, I won't. Pray do not interrupt me; I perceive you have a Pique againſt my Life, and it may be I am as ready to give it, as you are to deſire it; I wiſh that all the Puniſhments of Hell and Damnation may come upon me, if ever I open'd my Mouth to this Rogue for one Farthing, or about any ſuch Buſineſs in the World.

L. C. J. You muſt not call him Rogue in open Court. Let us have that Reſpect ſhewn us that is fitting, and ſo ſhall you have; but this Language we muſt not ſuffer.

Anderſon. In the firſt place, I will bring all the Priſoners in the *King's-Bench* Priſon to teſtify, That I deſired to be removed to *Newgate*, for here was the greateſt Rogue come in that was in *England*.

Mr. Juſt. Pemberton. This muſt not be ſuffer'd.

L. C. J. If you will aſk him any Queſtions, you may.

Anderſon. Well, come. Mr. *Dangerfield*, in the firſt place, Who ever ſaw you with me? 'Tis impoſſible but ſome body muſt ſee you with me, if we were together, as you ſay.

Dangerfield. My Lord, there is one *Hill*, that is now a Priſoner in the *King's-Bench*, that ſaw me ſeveral times go into his Chamber.

L. C. J. Was there any body by when you confeſſed your ſelf to him?

Mr. Juſt. Dolben. Confeſſions uſe to be in ſecret.

Dangerfield. No, my Lord, he was not in the Chamber, neither was it reaſonable he ſhould, but he ſaw me go in often.

Anderſon. Surely, Mr. *Dangerfield*, you and I could not be ſo well acquainted, but ſomebody or other muſt take notice, that we ſpoke together ſometimes. Now if you can produce any one body that will teſtify it, I will be bound to be hang'd, and ſay no more.

Mr. Juſt. Atkins. He is not bound to bring Witneſſes to this purpoſe. He ſwears the Fact charged upon you poſitively.

Dangerfield. This *Hill*, my Lord, that is in the *King's-Bench*, hath made Oath of it before Mr. Juſtice *Foſter*.

Anderſon. But, my Lord, this one thing I have to ſay againſt this Rogue; there is a Statute, made ſince his Majeſty's happy Reſtauration, which judges what ſhall be Treaſon during his Majeſty's Life: And after enumerating the Crimes, and directing that the Offender *ſhall be convicted by the Oaths of two Lawful*, adds, *and Credible Witneſſes*: As if the Prudence of our Legiſlators, which brings good out of evil, and meaſures the Subjects future Safety by paſt Practices, judges that Clauſe neceſſary, *and credible*.

L. C. J. Pray ſpeak out, Sir, for I cannot hear you.

Anderſon. My Lord, I underſtand the Meaning applicable to me thus, That ſince the Statute does uſe the Word (Credible) as well as Legal, it does judge that both would be very neceſſary. Now that he is not a credible Witneſs I can prove ——

L. C. J. Why is he not credible? Certainly if he be legal he is credible.

Anderſon. No, my Lord, that does not follow. Firſt the ——

Mr. Recorder. 'Tis not his time to make this ſort of Defence.

Mr. Juſt. Dolben. He ſhould have done it before the Witneſs was ſworn, if he would except againſt his Teſtimony.

L. C. J. But why is he not a good Witneſs, pray?

Anderſon. My Lord, a Man pilloried twice, that hath broke Priſon once, and committed other heinous Offences ——

L. C. J. Where is the Record of any of this?

Anderſon.

Anderſon. My Lord, I'll tell you how I prove it. That worthy Gentleman, Colonel *Manſel*, whom this Villain would have involved in——

L. C. J. You muſt not do thus, abuſe Perſons with Words, without Proof.

Anderſon. What, to prove it is Day?

Mr. Juſt. Pemberton. He muſt not be ſuffer'd ſo to do.

Anderſon. Why, here is Captain *Richardſon*, [*Taking him at the ſame time by the Shoulders*] knows what I ſay to be true: Come, ſpeak, you have been familiarly acquainted with that Rogue, (*pointing at* Dangerfield.) [*Captain* Richardſon *laughing*, *I muſt not witneſs.*] My Lord, I will do thus no more; indulge a little to my Innocency and Infirmity.

Mr. Juſt. Pemberton. You don't ſeem to have ſo much Infirmity upon you.

Anderſon. My Lord, I will produce that worthy Gentleman, Colonel *Manſel*, whoſe innocent Blood was deſign'd to be ſhed by that Villain; who ſtood qualified then (as he doth now) with that magnificent Title of the King's Evidence; but as ſoon as Colonel *Manſel* urged, that he was Pillory'd twice, *&c.* our worſhipful King's Evidence was clap'd up, and Colonel *Manſel* left at Liberty.

L. C. J. Have you that Record here?

Anderſon. I have not.

Sir John Keiling. We pray we may go on then.

Mr. Serj. Strode. Set up Dr. *Oates.* Dr. *Oates*, will you tell what you know of this Matter?

Oates. My Lord, he is a Prieſt. I can in Sincerity ſay it; I have heard him ſay Maſs my ſelf.

L. C. J. Where?

Anderſon. 'Tis very true, I did it; but, my Lord, I will ſhew you, Maſs is no Proof of a Prieſt: For, 1. The Statute makes a Difference between ſaying Maſs, and being a Prieſt; in puniſhing Prieſts with Death; but ſaying of Maſs, with a pecuniary Mulct of 200 Marks, and a Year's Impriſonment.

Oates. He does execute the Office of a Prieſt, for I have been at Confeſſion with him as a Prieſt, and have ſeen him conſecrate the Sacrament, and I have ſeen his Letters of Orders as a Prieſt.

L. C. J. Did he wear the Habit of a Prieſt?

Oates. Yes, at Maſs.

Mr. Belwood. Pray, Sir, are you ſure you ſaw his Orders as a Prieſt?

Oates. Yes, I did.

L. C. J. Of what Order is he?

Oates. A *Dominican* Frier he is.

L. C. J. What can you ſay to that?

Anderſon. I can ſay enough; but what can I ſay againſt the King's Evidence? Your Lordſhip ſees this makes a very fine Jingle, but there is no Proof of it.

L. C. J. We can go no further than the Evidence. He ſays, You are a *Dominican* Frier: That he heard you ſay Maſs: That he ſaw you conſecrate the Sacrament. And I am ſure you allow none but a Prieſt to do that.

Anderſon. I underſtand by the Laws of *England*, that I am try'd upon a Statute which makes Prieſthood a Crime. Now I will aſk Mr. *Oates* a Queſtion: Mr. *Oates*, can you prove, that I received Orders from the See of *Rome?* You are to prove, by this Statute, three things againſt me. I am tried upon a Penal Statute, which ought to be conſtrued moſt in favour of the Priſoner.

Mr. Juſt. Pemberton. Aſk him any Queſtions, if you will, but this is not your Time for arguing.

L. C. J. Look you, we muſt do with you as we have done with others, and will do with the reſt. If you mean that this Statute ſhould never have any Effect, that is, that the Prieſts ſhall not be convicted as ſuch, unleſs we can produce Witneſſes that ſaw them take Orders, then you have avoided all the Statute; but if ſo be it be plainly proved, that you have done the Acts of a Prieſt, thoſe that none are allow'd of to do, or undertake to do, but a Prieſt, is not this a Satisfaction, and a plain one too, to yourſelf and all the World, that this Iſſue, Whether you are a Prieſt or not a Prieſt, is well proved in the Affirmative?

Oates. My Lord, I ſaw his Letters of Orders.

Anderſon. My Lord Chief Juſtice, I would ſpeak a little to what you ſay

Mr. Juſt. Pemberton. Look you, Sir, you muſt not have ſuch Liberty as this granted to you. You may, if you will, aſk Queſtions, but it is not your Time to diſpute.

Mr. Juſt. Jones. You muſt not invert the Order of Trials. When a Witneſs is call'd, he muſt give his Evidence. If you will aſk him any Queſtions, you may do it. But if you will obſerve any thing, you have time to do it when the King's Witneſſes are all heard.

Mr. Juſt. Atkins. Dr. *Oates*, the Priſoner did not underſtand ſure what you ſaid. Did not he confeſs to you he had Orders from *Rome?*

Oates. Yes, he did confeſs ſo.

L. C. J. You confeſſed it yourſelf.

Anderſon. My Lord, how comes it to paſs, that I did not come here in a Yellow Coat, and was arraigned for a Fool, and not for a Traitor? If I am a Prieſt, that I ſhould tell him I was ſuch an one.

L. C. J. Nay, I can't tell, becauſe you did not put it on. If you would aſk him any Queſtions, do.

Anderſon. Yes, Whether you do know me to be an *Engliſhman?* And whether you ſaw me take Orders from the See of *Rome?*

Oates. You ſaid you were an *Engliſhman*, and a Gentleman, and the Son of an *Engliſh* Gentleman.

L. C. J. Do you deny you are an *Engliſhman?*

Anderſon. I am not, nor no Man is to be try'd upon a Preſumption; 'tis but a Conceit in Law, and penal Laws are to be taken ſtrictly, and in favour of the Priſoner.

L. C. J. Methinks you ſpeak very like an *Engliſhman.*

Mr. Belwood, My Lord, we call now Mr. *Bedlow.* You know the Queſtion, what it is, Sir, concerning the Priſoner's being a Prieſt.

Bedlow. He is a Prieſt, and an *Engliſhman*, if his Mother was honeſt, and he honeſtly born; for he is Mr. *Anderſon's* Son of *Oxfordſhire*, a Gentleman of 2 or 300 *l.* a Year; I know him and his Father very well.

Anderſon. My Lord, could I but apprehend that I lay under ſo great a Guilt, as to have been acquainted with ſo great a Rogue as this Fellow is, I would have been my own Executioner, and not have expected my Sentence at this Bar.

L. C. J. Do you know him well?

Bedlow. Very well, both him and his Father; his Father is an *Oxfordſhire* Gentlemen.

Anderſon. Now I think I ſhall prove the Rogue perjur'd: Is my Lord Chief Baron in the Court?

Court. Yes, he is.

Anderſon. Why then my Father has the Honour to be well known to his Lordſhip, who knows this to be falſe.

L. C. Baron.* No, no, Mr. *Bedlow*, he is a Gentleman's Son of Quality in *Lincolnſhire.*

L. C. J. You are miſtaken, you are miſtaken, his Father is a *Lincolnſhire* Gentleman.

Anderſon. And yet this Rogue is upon his Oath; but indeed all his Life is full of ſuch Miſtakes.

Bedlow. I don't know, my Lord Privy-Seal's Nephew told me ſo.

L. C. J. But what ſay you to him, as to his being a Prieſt?

Bedlow. I have heard him ſay Maſs.

L. C. J. Did you ever receive the Sacrament from him?

Bedlow. Never. But I have ſeen him adminiſter the Sacrament, and he was in a Prieſt's Habit.

L. C. J. Where?

Bedlow. I think it was at the *Venetian* Reſident's; I am ſure it was at ſome of the Ambaſſador's Houſes.

Anderſon. This Matter is ſo unlikely, I know not what to ſay to it.

Mr. Juſt. Pemberton. Will you aſk him any Queſtions?

Anderſon. Upon my Salvation I never ſaw him before.

Mr. Juſt. Dolben. It is a ſtrange thing, that you ſhould take upon you to ſay upon your Salvation you never ſaw him: How many might come into a Room, and you not ſee them while you are at Maſs?

L. C. J. He might ſee you, tho' you did not ſee him: He might come in, and you not ſee him.

Mr. Juſt. Atkins. Is that any Argument, or any thing to the Purpoſe, or does that contradict the Evidence? Does the Miniſter, or ought he to know all his Congregation whilſt he is in preaching?

Anderſon. I never ſaw him, I ſay. My Lord, I'll give you but one Argument, which is call'd *Argumentum congruentiæ.*

Mr. Juſt. Jones. Will you aſk him any Queſtions?

Anderſon. To what Purpoſe will it be for me to aſk him?

Bedlow. When he was firſt taken I was not ſtirring; but while I was making ready they told me there was one ſuſpected to be a Prieſt. I heard him ſpeak in the next Room, and I knew his Voice, and ſaid, That is Mr. *Anderſon.* I preſently knew his Tongue before I ſaw him.

L. C. J. You knew him very well then?

Bedlow. I never had any great Converſe with the Man: When he was taken they aſked me, If I knew any thing of this Man about the Plot? I told them, No; but he was in Orders from the Church of *Rome*, for I heard him ſay Maſs at ſuch a Place. He told me, ſaid he, I have been in Orders, but I revok'd them, and turned Proteſtant.

Mr. Belwood, Set up Mr. *Prance.* Pray, Sir, tell what you know.

Prance. My Lord, I have heard him ſay Maſs ſeveral times at *Wild-Houſe*; and he hath given the Sacrament there, and I have ſeen him take Confeſſions——

L. C. J. How often?

Prance. Several times.

L. C. J. Then you know him very well?

Prance. Yes, very well.

Anderſon. I never ſaw him in my Life.

L. C. J. But he hath ſeen you.

Anderſon. My Lord Chief Juſtice, I will bring Witneſſes to prove, That I did never ſay Maſs at *Wild-Houſe*, nor went to the Chapel: For ſome (forſooth) would needs have me to have been Excommunicated for writing for the King's Temporal Juriſdiction over all his Subjects (independent of the Pope) as appears by a Letter of the Biſhop of *London* on my behalf to Sir *Clement Armiger.*

L. C. J. How long have you known him?

Prance. Seven Years.

L. C. J. How often have you ſeen him ſay Maſs?

Prance. A dozen times.

Anderſon. It may ſeem ſtrange that I ſhould have the Impudence to deny what this worthy Gentleman ſays. Mr. *Prance*, dare you ſay you know me?

L. C. J. Why, were you never there?

Mr. Juſt. Jones. Well, well, will you aſk him any Queſtions?

Anderſon. Who did I give the Sacrament to?

Prance. A whole Rail-full hath been at the Sacrament at a time; ſeveral People I have ſeen receive it from him.

L. C. J. Did he deliver the Sacrament to you?

Prance. No, he did not, I commonly received at *Somerſet-Houſe.*

Mr. Serj. Strode. We have done, my Lord.

Mr. Juſt. Jones. The King's Counſel have done with their Evidence, and now you may ſay what you will.

Anderſon. My Lord Chief Juſtice, may I ſpeak now?

L. C. J. Yes, you may.

Anderſon. My Lord, all the World knows me, and I am known to moſt of the dignified Clergy in *England:* My Lord Biſhop of *London*, and Dr. *Lloyd*, and the Biſhop of *Durham* ſent to me to tell me, that if they knew of my Trial they would be here. My Lord, I have lain under an ill Cenſure for Scribbling and Writing againſt the Temporal Power of the Church of *Rome.* I never ſaid Maſs in any Popiſh Church, I am confident, theſe ten Years; that I have ſaid Maſs, I won't deny. I would

* William Mountague, *Eſq;*

would not tell a Lye to ſave my own Life; nay, nor would I tell a Lye to take away the Life of the greateſt Villain upon Earth; no, not that Rogue [*Pointing to* Dangerfield.] But, my Lord, I proteſt there is not one Word true that hath been ſworn againſt me, but what Dr. *Oates* hath ſaid concerning my ſaying Maſs. Oh! my Lord, I would not deny it if I were to be hanged preſently; and is not that a great Evidence of my Innocence and Sincerity? But this does not prove that I am guilty of what I am accuſed for; for I am indicted upon a Penal Statute, and three things muſt be proved ſtrictly to bring me within that Law: Firſt, that I am an *Engliſhman*——

L. C. J. 'Tis proved you are an *Oxfordſhire* Man.

Anderſon. No, my Father is *Lincolnſhire*, and my Lord Chief Baron knows him.

L. C. Baron. I do know a Gentleman of that Name there.

Bedlow. I was told he was *Oxfordſhire*.

Mr. Juſt. *Dolben.* He ſpeaks himſelf to be an *Engliſhman*. All the World knows it by your Speech.

Anderſon. I know my Father is ſo.

L. C. J. Why do you deny it your ſelf?

Anderſon. 'Tis one thing to deny it, and another thing to have it proved ſo: I am not to prove it, they are.

L. C. J. He ſays you are ſo.

Anderſon. He talks like a Parrot: Theſe things are to be proved ſtrictly; no Man's Life is to be taken away by Preſumption; which is but a Conceit in Law, and ought not to overthrow that Maxim of Law, that Penal Laws ought to be taken moſt ſtrictly in favour of the Priſoner: And I ought to be proved, *ad literam*, within the Law; and that according to the Statute made ſince his Majeſty's happy Reſtoration, by two lawful Witneſſes; and not only by two lawful, but by two credible Witneſſes too. I ſuppoſe the Gentlemen of the Jury being apprized of theſe my Exceptions to theſe Witneſſes, notwithſtanding give Credit to them, whom perhaps they would not truſt for 6*d.* in their Shops, and make themſelves their Compurgators; and, as in waging Law, do take it upon their Conſcience, that what theſe Rogues ſay is true.

L. C. J. So they do.

Mr. Juſt. *Dolben.* If theſe things are not well proved nothing will be proved.

Mr. Juſt. *Atkins.* Have you any Witneſſes that you would call?

Mr. Juſt. *Pemberton.* If you will call any, you may.

Anderſon. How ſhall I call them, when I did not know of my Trial?

Sir George Jefferies. *Mr. Recorder*.* If you will ſend for any Witneſſes the Court will ſtay, if they be to any thing material.

Anderſon. My Lord, I have againſt this Gentleman, Mr. *Dangerfield*, almoſt all the Priſoners of the *King's Bench* for Witneſſes.

L. C. J. Call them, and name them.

Anderſon. Mr. *Adderley*, Mr. *Puller*, who can ſay that I never drunk a Pot of Ale with this Man while he was there.

L. C. J. Who would you ſend for?

Anderſon. Thoſe Perſons, to prove that I had a Grudge and Prejudice againſt this Man, and that I deſired to be removed to *Newgate* for that very Reaſon.

Mr. Juſt. *Dolben.* But the Queſtion is, Whether you be a Prieſt, or no? And you can't ſend for any one that knows you, but will ſay, That he hath taken you for a Prieſt all along.

Anderſon. But ſtill it is but a Preſumption, not a Proof.

Mr. Juſt. *Dolben.* The Jury is to be Judge of that, how far that goes.

L. C. J. What do you expect for Proof? Do you imagine there ſhould be no Proof to convict you upon that Statute, unleſs we produce ſome Witneſſes that actually ſaw you take Orders?

Anderſon. Yes, I ſuppoſe ſo, my Lord, becauſe Penal Statutes are to be taken ſtrictly.

L. C. J. Look you then, How vain would you make a Statute of *England*, the Laws of your Country? How idle a Thing were it to expect any Poſſibility of Proof, ſuch as to convict a Prieſt, if this be the Interpretation of the Law, That no Man ſhould be convicted by a Jury upon this Statute, but one againſt whom two Witneſſes ſhould ſwear they ſaw him take Orders? Where can we find ſuch a Witneſs?

Anderſon. Admit that this Law were thus evaded, yet there would be no Inconvenience, and I would prove it to your Lordſhip by Authority: It was the Opinion of all the Judges, delivered about nine Years ago to the King and Council, upon a Queſtion about Laws againſt the *Romiſh* Recuſants; they all agreed, That this Law was only made *in terrorem*.

Mr. Juſt. *Pemberton.* Look you, Sir, you muſt not talk ſo, it is not to be permitted.

Mr. Juſt. *Dolben.* Will you go to Arraign the Judges here?

L. C. J. No, no; the King's Counſel did very honeſtly and prudently upon that Matter: For ſaid Sir *John Keiling*, 'Tis very true, our Kings have not, ſince this Law was made, put the Statute in Execution unto Rigour, 'till you your ſelves occaſioned it: But ſtill the Law was a good Law, and abſolutely neceſſary at its making, as neceſſary as the Preſervation of the Queen's Life, and the Quiet of her Dominions; and now it is become as neceſſary for the Preſervation of the Proteſtant Religion, which all your Arts are employed to undermine; and more neceſſary again, for the Preſervation of our King's Life, againſt which your Contrivances are ſo bent.

Mr. Juſt. *Pemberton.* Do you think that you ſhall be heard here to diſpute againſt the Law, and ſay it was no matter for the Law, it is a void Law; and ſcandalize the Judges, that they gave it for their Opinion, that it was only *in terrorem?*

Anderſon. No, I diſpute for the Law.

Mr. Juſt. *Pemberton.* You muſt employ your Time otherwiſe, if you intend to be heard.

Anderſon. Then this is that I require; I deſire theſe things may be proved: Firſt, That I am an *Engliſhman*, and then I took Orders from *Rome*, and then that I abode here contrary to the Statute, which Things in this Penal Statute muſt be proved.

L. C. J. You have, upon the Matter, proved the Firſt your ſelf in your Appeal to my Lord Chief Baron, that he knew your Father, who is a *Lincolnſhire* Man.

Anderſon. I might be bred and born beyond Sea, tho' my Father was ſo.

L. C. J. If you will give no Proof to the contrary, a little Proof will ſerve the Jury's Turn, hearing you ſpeak, and knowing your Father was a *Lincolnſhire* Man.

Anderſon. No Negative can be ſworn, they muſt prove the Affirmative.

L. C. J. That will turn the Proof upon you to the contrary.

Mr. Juſt. Atkins. A reaſonable Proof againſt you, with ſuch Probability, will put it upon you to diſprove it.

Mr. Juſt Pemberton. Look you, Mr. *Anderſon*, if you have any Witneſſes to call for, or ſend for, the Court will give you Leave to ſtand by a little and ſend for them; but if you continue to argue in this manner, the Court will give their Directions to the Jury.

L. C. J. But, Mr. *Anderſon*, the Court will do you all the Juſtice that can be expected. If you have any material Witneſſes to be ſent for, the Court will have Patience till they come; but then you muſt be ſure they are material Witneſſes, for we will not go to loſe time upon a bare Surmiſe. If it be only to prove this Negative, that Mr. *Dangerfield* was never in your Company in the *King's Bench*, it will ſignify nothing, for there are three Witneſſes without him.

Mr. Juſt. Pemberton. Have you any Witneſſes to prove that you were born beyond Sea, or any thing that is material, we will ſtay for them.

Mr. Juſt. Ellis. There is nothing now in queſtion, but whether you be an *Engliſhman* and a Prieſt; and if you can prove that you are not ſo, you ſay well. But I think you deny not now but that you are a Prieſt, only you would have us prove that you are an *Engliſhman*. Your Speech betrays you, and there is ſo much Evidence againſt you, that I have not heard in any Caſe as I know of. And all your Witneſſes will be to little Purpoſe.

Anderſon. Only this I deſire to obſerve, That I have been a Man always countenanced by the beſt of Kings, and his Privy-Council; and if the Parliament had not been diſſolved, I had been protected by the Parliament: Now, I ſay, if your Lordſhips think me worthy of any Conſideration (as I have been a Man that have given ſeveral Teſtimonies of my Loyalty, and Obedience to the Government) I deſire your Lordſhips would pleaſe to ſtay till you know the King's Pleaſure.

L. C. J. You know where you muſt apply your ſelf for that; we are barely upon our Oaths, and ſo is the Jury too, to try the Fact, whether you be a Prieſt; and this I will tell you, and I muſt ſay to you, I dare appeal to your own Conſciences, whether this Iſſue, your being a Romiſh Prieſt, is not as plainly and evidently prov'd to the Satisfaction of all Mankind, as any thing can be?

Anderſon. But it is all by Preſumption ſtill.

L. C. J. Well, Gentlemen of the Jury, the Matter that he inſiſts upon, are two things; Firſt, ſays he, You have not prov'd me to be an *Engliſhman*, and yet at the ſame time he appeals to ſuch as knew his Father to be an *Engliſh* Gentleman; and his Language, his Tongue betrays him. 'Tis true, ſome kind of Evidence is to be given, that he is an *Engliſhman*, he himſelf tells you, that he is born of *Engliſh* Parents; but 'tis a foreign Matter, that he ſhould be born beyond Sea. And if it were ſo really, then it comes on this ſide; if he can produce any Witneſs, he ſays ſomething; otherwiſe we leave it to you, whether you are not ſatisfied in your Conſciences, by hearing him ſpeak, and underſtanding who his Father was, that he is an *Engliſhman*. The next thing is for his being a Prieſt: I do not know, nor can there be expected a plainer Proof than this that hath been given, becauſe he doth thoſe Acts which none but a Prieſt amongſt them does; he ſays Maſs, he conſecrates the Sacrament, he takes Confeſſion, he gives Abſolution, and all this proved by four Witneſſes.

Anderſon. That the Clerk does at Maſs, he gives Abſolution.

L. C. J. Does or can any but a Prieſt Abſolve?

Oates. My Lord, the Clerk, he that ſerves at Maſs at that Time, gives *pro forma* Abſolution to the Prieſt, without which, the Prieſt cannot approach to the Altar; after he hath made a general Confeſſion for the whole Congregation, the Clerk abſolves the Prieſt, that he may abſolve the Congregation.

L. C. J. Well, the Fact is plain upon you; we muſt never expect to convict a Prieſt upon this Statute, if ſuch Proof is not ſufficient.

Mr. Juſt. Dolben. He does acknowledge that Dr. *Oates* hath heard him ſay Maſs.

L. C. J. Go on to the next.

Mr. Belwood. The next we will try, ſhall be *James Corker*, [*With whom the Jury was charged, as with the other.*]

Mr. Belwood. May it pleaſe your Lordſhip, and you Gentlemen of the Jury; *James Corker*, the Priſoner at the Bar, ſtands Indicted for High-Treaſon, for that being born within the King's Dominions, and made a Prieſt by Authority from the See of *Rome*, did traiterouſly come and abide in *England*, contrary to the Law. To this he hath pleaded Not Guilty.

L. C. J. Well, call your Witneſſes.

Mr. Serj. Strode. Dr. *Oates*, Mr. *Bedlow*, and Mr. *Prance*. [*Who were all ſworn.*] Dr. *Oates*, pray tell my Lord, and theſe Gentlemen, what you know of this Mr. *Corker*'s being a Prieſt.

Oates. My Lord, he hath ſaid Maſs at *Somerſet-Houſe*; and before the Proclamation and Declaration in 1674, made againſt the Catholicks, he was one of the Queen's Prieſts, he is a *Benedictine* Monk, and he hath ſaid Maſs at *Somerſet-Houſe*; and I have heard him ſay Maſs at the *Savoy*.

L. C. J. In a Prieſt's Habit?

Oates. Yes, I have ſeen him in a Monk's Habit.

Corker. When?

L. C. J. Have you ever ſeen him give the Sacrament?

Oates. Yes, I received the Sacrament from him my ſelf.

L. C. J. Where?

Oates. In the *Savoy*.

L. C. J. Did he conſecrate the Sacrament?

Oates. Not that that I received; I cannot ſay whether he did or no.

L. C. J. Do any Adminiſter the Sacrament but Prieſts?

Oates. They are in Orders firſt. And 'tis againſt the Laws of the Church for any but Prieſts to do it.

L. C. J. None uſe to do it but Prieſts, do they?

Oates. I cannot tell; but he that I took it from, I always took to be a Prieſt: Beſides, I ſaw his Patent to be Biſhop of *London*; and they don't uſe to make them Biſhops before they be Prieſts.

L. C. J. Did he ſhew it you?

Oates. I ſaw it.

Mr. Juſt.

Mr. Juſt. *Atkins.* From whom was that Patent?
Oates. It was from the See of *Rome.*
Mr. Juſt. *Atkins.* Under what Seal was it?
Oates. I can't tell that; but I remember that I ſaw the Patent.
L. C. J. Well, will you aſk him any thing?
Corker. When was it that you heard me ſay Maſs?
Oates. The firſt time that I heard him ſay Maſs is near upon three Years ago; and then I heard him ſay Maſs about the laſt Winter was two Years.
L. C. J. How often have you heard him ſay Maſs?
Oates. Several times; a dozen times I believe.
Corker. Was there any body with you when you heard me ſay Maſs?
Oates. I believe there was an whole Church full at *Somerſet-Houſe.*
Corker. Can you nominate any in particular?
Mr. Juſt *Atkins.* How can he do that? He ſays there was an whole Church full.
Mr. Juſt. *Pemberton.* Will you aſk him any more Queſtions?
Corker. No.
Mr. Serj. *Strode.* Then ſet up Mr. *Bedlow.* Pray, Sir, will you tell my Lord and the Jury, what you know of Mr. *Corker*'s being a Prieſt.
Bedlow. I have ſeen him wear the Habit of a *Benedictine* Monk, before the ſuppreſſing of the Convent in the *Savoy*; and I have ſeen him confeſſing ſeveral People in *Somerſet-houſe.*
L. C. J. And gave them Abſolution?
Bedlow. Yes.
L. C. J. Do they uſe to let them ſee when they confeſs?
Bedlow. They confeſs in publick, but they ſpeak ſo ſoftly we cannot hear; but the whole Chapel ſometimes may be full of people Confeſſing.
L. C. J. When was this?
Bedlow. About four or five Years ſince, when Father *Lathum* was there.
L. C. J. Did you ever hear him ſay Maſs at Father *Lathum*'s?
Bedlow. No, I never ſaw him ſay Maſs, but only confeſs.
L. C. J. Did you never ſee him deliver the Sacrament?
Bedlow. No, my Lord.
Corker. When you ſaw me in my Habit, was it when you came to Father *Lathum*'s?
Bedlow. I judge ſo, it was ſeveral times, with ſeveral of them.
Corker. Can you nominate any one that ſaw me at the ſame time?
Bedlow. There were a whole Chapel full of Catholicks.
Mr. Juſt. *Pemberton.* That is no great Matter whether he can or no.
Mr. Juſt. *Atkins.* 'Tis an immaterial Queſtion, Why do you aſk it?
Bedlow. My Lord, what I did was done ſo privately, that if I went but from *Strand-bridge* to the Monks, I either took a Boat and went by Water, or a Coach and went round about, to avoid ſuſpicion.
Mr. *Belwood.* Then ſet up Mr. *Praunce.* Pray Sir tell what you know of this.
Praunce. I have heard him ſay Maſs at Mr. *Paſton*'s in *Duke-ſtreet.*
L. C. J. How often?
Praunce. Never but once.
Corker. When, Sir?
Praunce. It may be two Years ago.
Mr. Juſt. *Atkins.* That is another Place too, Mr. *Corker.*
L. C. J. Have you any thing to aſk him?
Corker. No, my Lord.
L. C. J. What have you then to ſay for yourſelf?
Corker. My Lord, this I have to ſay for my ſelf, and I do proteſt it to be true: I never in my Life did ſay Maſs or hear Confeſſions at *Somerſet-houſe.*
L. C. J. What ſay you to Mr. *Paſton*'s?
Corker. No, nor at Mr. *Paſton*'s; nor ever was in the Company of that Man, nor ever ſaw him there in my Life, to my knowledge.
L. C. J. That may be.
Corker. I likewiſe proteſt, that I never ſaid Maſs in any publick Place ſince I was born.
L. C. J. It may be you count not Mr. *Paſton*'s a publick Place.
Corker. If it be a private Place, then I ſhould know who were in the Company, and who were admitted there.
L. C. J. No, you were not two or three Years ago ſo nice and cautious whom you admitted to ſee you in the Exerciſe of what you call your Religion; becauſe the Execution of the Law was not ſo ſtrict as now-a-days it is. And therefore it is very probable, and may very well be, that you were at Mr. *Paſton*'s Houſe, and yet not know all the Company.
Corker. But I ſay, I never did ſay Maſs there.
Mr. Juſt. *Pemberton.* Here are three Witneſſes againſt you, and do you think your bare Word will be taken againſt their three Oaths?
Mr. *Recorder.* What ſay you to the *Savoy*, Mr. *Corker?* I aſk you, becauſe I would know whether you can ſpeak truth in any thing.
Corker. I would not tell a Lye, tho' I ſhould thereby ſave my Life: And I do again proteſt before God and the Court, I never in my Life ſaid Maſs or heard Confeſſions at *Somerſet-houſe* Chapel, nor at Mr. *Paſton*'s in *Duke-ſtreet.* And as to the *Savoy*, ſeeing I will be ſincere, I ſhall only ſay, that as my Denial will not clear me, ſo I beg I may not be my own Accuſer.
L. C. J. Here is one hath ſwore it.
Corker. 'Tis only *Oates*, my Lord.
L. C. J. Well Gentlemen of the Jury, you hear what is proved againſt him by three Witneſſes, that they heard him ſay Maſs and receive Confeſſions, and deliver the Sacrament. They tell you what Order he was of, and that they ſaw him do the Acts of a Prieſt.
Corker. I appeal to all the World that ever came to *Somerſet-houſe*, whether ever any one heard me ſay Maſs there.
L. C. J. Here is one hath.

Mr. Serj. *Strode.* We will try *William Marſhal* next. [*Who was charged upon the Jury as the other.*]
Mr. *Belwood.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury, *William Marſhal*, the Priſoner at the Bar, ſtands indicted for High-Treaſon. The offence is not for being a Prieſt barely; but that he being born an *Engliſhman*, within the King's Dominions, and having received Orders from *Rome*, did, againſt the Laws of the Kingdom, come and abide here.
Mr. Serj. *Strode.* Swear Dr. *Oates* and Mr. *Bedlow.* [*Which was done.*] Dr. *Oates*, pray ſtand up.
L. C. J. What can you ſay to Mr. *Marſhal*'s being a Prieſt?
Oates. I have heard him ſay Maſs in the *Savoy*, and I have ſeen him in that Poſture that the Prieſts are in when they give Abſolution.
L. C. J. Have you ſeen him in a Prieſt's Habit ſay Maſs?
Oates. Yes, in his Habit as a *Benedictine* Monk.
Mr. Juſt. *Jones.* Did you ever ſee him give the Sacrament?
Oates. Yes, and conſecrate the Hoſt.
Mr. Juſt. *Jones.* Well, have you any thing to aſk him?
Marſhal. When was this?
Oates. I have known him theſe three Years to be a Prieſt.
Marſhal. That is a Year longer than you knew me at the Trial.
Oates. It is a great while ſince that Trial.
L. C. J. Ay, that is a good while ago.
Marſhal. But where, Mr. *Oates*, and when?
Oates. At the *Savoy.*
Marſhal. When?
Oates. Within the compaſs of three Years, ſeveral times.
Marſhal. How does that afford me any occaſion of Defence? I can make no Plea, unleſs he aſcertains Time.
Mr. Juſt. *Pemberton.* 'Tis good Evidence, without confining himſelf to preciſe time.
L. C. J. He ſays a dozen times within that compaſs.
Marſhal. But why does he not name ſome particular time; for unleſs he name the time, how is it poſſible for us to diſprove him?
L. C. J. He tells you many times in three Years.
Marſhal. But when?
L. C. J. Why, within three Years.
Mr. Juſt. *Dolben.* What if he could tell you when?
Marſhal. Let him name the Day, then we could diſprove him; and let him name the Day, and if I do not diſprove him, I'll be hang'd.
L. C. J. 'Tis an improper Queſtion that you aſk.
Mr. Juſt. *Pemberton.* He is not bound to name the Day.
Oates. Well, I will pitch upon a Day now.
Marſhal. When was it?
Oates. Several times laſt Summer was Twelvemonth.
Marſhal. What, before the Plot?
Oates. Several times in that Summer before the Plot was diſcovered; and ſeveral times the Winter before, when I came over from *Spain.*
Marſhal. Did you hear me ſay Maſs before you went over to *Spain?*
Oates. Yes I did.
Mr. Juſt. *Dolben.* Call another Witneſs.
Mr. *Belwood.* Mr. *Bedlow.*
Mr. Serj. *Strode.* Pray will you tell what you know of Mr. *Marſhal.*
Bedlow. I know a great deal of him.
L. C. J. What of his being a Prieſt?
Bedlow. I have ſeen him in his Habit of a *Benedictine* Monk in the *Savoy.*
L. C. J. Have you heard him ſay Maſs?
Bedlow. No, my Lord, I have not; But he hath been preparing to go to take Confeſſions.
L. C. J. Did he own himſelf to be a Prieſt?
Bedlow. He was in the Habit of Prieſt, but I never ſaw him execute any part of the Office of a Prieſt.
Mr. Juſt. *Pemberton.* Did you hear him declare, that he hath been going at any time to take Confeſſion?
Bedlow. The Monks have ſaid when he hath been gone, that he went to take Confeſſions.
L. C. J. Upon your Oath, have you ever heard him own himſelf to be a Prieſt, or ever ſay that he was going to take Confeſſion?
Bedlow. No, my Lord; but I have ſeen him in a Monk's Habit, and within half an hour he was in a ſecular Habit: For when they went abroad they took Confeſſions in their ſecular Habit.
L. C. J. How often have you ſeen him in a Monk's Habit?
Bedlow. I do not know whether it were more than once; and I aſked then, Where is our Father going?
Mr. Juſt. *Pemberton.* And what ſaid they to you?
Bedlow. He was going to take Confeſſions.
Mr. Juſt. *Dolben.* Have not you yourſelf been confeſſed by *Marſhal?*
Bedlow. No, my Lord.
L. C. J. What ſay you to him, will you aſk him any Queſtions?
Marſhal. I do not, I think, need to aſk this Witneſs any Queſtions.
L. C. J. That ſhall be obſerved for you, if it be to your advantage. If you have any thing to ſay for your ſelf, pray ſpeak it.
Marſhal. If there be but one Witneſs, what need I make any Defence?
L. C. J. What ſay you to Mr. *Oates*'s Teſtimony?
Marſhal. As for Mr. *Oates*, if your Lordſhip will but promiſe, that it ſhall not prejudice me, as to the point of having but one Witneſs, I have much to ſay for my ſelf: But I think I need not trouble your Lordſhip with it.
Sir *John Keiling.* Were not you here when *Marſhal* was tried for the Plot?
Bedlow. Yes.
Mr. Juſt. *Pemberton.* You muſt not aſk him any Queſtions about that.
Marſhal. My Lord, I ſay, if your Lordſhip will but grant, that the Witneſſes may have free Acceſs, and go away ſafe ——
Bedlow. I believe the Court, upon his Trial, was ſatisfied that he was in Orders, received from the Church of *Rome.*
Sir *John Keiling.* Swear Mr. *Praunce.* [*Which was done.*] What did you hear him ſay at his laſt Trial?
L. C. J. This is hard Evidence truly.
Mr. Juſt. *Jones.* If he would do it voluntarily of himſelf, he might, we did not aſk him the Queſtion.
Praunce. My Lord, I ſtood juſt by him when he ſtood at the Bar, and I heard him ſay this to the other Man, Mr. *Corker*, *Though we are Prieſts, this does not reach us.*
L. C. J. But is this good Evidence?
Praunce. I did hear him ſay he was a Prieſt.
Mr. Juſt. *Pemberton.* We did all hear him ſay ſo, I believe.
Mr. Juſt. *Atkins.* I dare ſay none of the Court aſked him the Queſtion.
Marſhal. My Lord, I was not aſked, nor had any occaſion, and certainly I ſhould not pick an occaſion to condemn my ſelf: If I did it, I did it without occaſion. Beſides, my Lord, I humbly conceive, that there muſt be Proof againſt a Man, or his Confeſſion won't make him Guilty.
Mr. Juſt. Pemberton. I would not have you too ſure of that.

Marſhal. Certainly if a Man do confeſs at another time, without Proof againſt him that will not do.

Mr. Juſt. Pemberton. I believe the Jury will take your own Confeſſion.

L. C. J. Don't be over-confident of that, for we have Memories too as well as you.

Mr. Juſt. Pemberton. You are not bely'd by Mr. *Praunce*, I believe, Mr. *Marſhal*

Mr. Juſt. Ellis. If he have confeſſed it, that is ſure Proof enough.

Sir John Keiling. Swear Mr. *Dugdale.* [*Which was done.*] You were at the laſt Trial, Sir; I only aſk of you, Can you remember any thing of this?

Dugdale. To the beſt of my remembrance, I heard him own that he was a Prieſt.

Sir John Keiling. Then ſay what you can for yourſelf.

Marſhal. My Lord, I have only one material Witneſs againſt me. They ſay that I ſaid ſo; if I did ſay ſo, I muſt ſay it to the Court; and if it was to the Court, it muſt be upon ſome Queſtion aſked me.

L. C. J. You muſt not ſay ſo; I am afraid if you appeal to the Court, it will do you no good.

Mr. Juſt. Dolben. It is plain that you are ſo free of your Diſcourſe, that you might ſay things that were not pertinent.

L. C. J. 'Tis not proper for the Court to give Evidence; if we did, we ſhould do you little Service in this matter.

Marſhal. I do believe I ſhall receive all Juſtice from the Court. And I have experienced it ſo already. Now as to the preſent Teſtimony againſt me, I conceive that only Mr. *Oates* is a material Witneſs; no one elſe ſwears that they ever ſaw me officiate or perform the Duty of a Prieſt. As for Mr. *Oates*, he ſays he heard me ſay Maſs ſeveral times the laſt Summer before the Plot. And Mr. *Oates* did ſay he was preſent in *June*, *July*, and *Auguſt*. Sir *William Waller*, tho' he was pleaſed to forget other things, yet did remember that, and did teſtify that he ſaw me in *June*, *July*, and *Auguſt*. Now then I humbly conceive, if he heard me ſay Maſs at any time in that Summer, it muſt be in one of thoſe three Months. Was it in any one of them?

Oates. My Lord, I came over in *April* from St. *Omers*, and I did, as I remember, hear him ſay Maſs one time before I went again, and heard him ſay it ſeveral times after, which was about the middle of *June*, I think.

Marſhal. Now I ſay, if this Honourable Court will but pleaſe to promiſe, that the Witneſſes that come hither ſhall come and go ſafe, I believe there are Witneſſes that may contradict Dr. *Oates*.

L. C. J. What can your Witneſſes prove? you muſt not make Bargains with the Court.

Mr. Juſt. Pemberton. Why ſhould you ſuſpect that your Witneſſes ſhould not go free?

Marſhal. Becauſe ſome have received great Abuſes.

Mr. Juſt. Atkins. It was ſo ſaid, but not made out.

Mr. Juſt. Pemberton. There was only one Perſon that came here, and affirmed ſo, but he did not prove it.

Mr. Recorder. And the Court did ſay that they ſhould be puniſhed that did it.

L. C. J. The Witneſſes none of them, that I know of, were abuſed.

Bedlow. It was only the King's Witneſſes that have been abuſed.

L. C. J. What can your Witneſſes prove?

Marſhal. He came over the 24th of *April*, and I can prove that from the beginning of *April*, to the end of *July*, I was not within threeſcore Miles of *London*.

Oates. As to his officiating as a Prieſt, I cannot ſpeak poſitively as to the Time, but I think in laſt Summer was twelvemonth.

Mr. Juſt. Dolben. He ſays, he thinks he did once in that time, but he is ſure that he did ſee you ſeveral times that Summer.

Marſhal. But what part of the Summer?

Oates. From the time of my coming over again, to the time of the Diſcovery of the Plot.

L. C. J. When was it that you heard him firſt?

Oates. When I heard him firſt was in the Year 1677, before I went into *Spain*: I went away in the Month of *April*, and I am ſure he ſaid Maſs before I went into *Spain*; and when I came back again in the Winter, I came in *November*, and ſtaid in Town about ten Days, and then went to the *Savoy*, and heard him ſay Maſs.

Marſhal. What *November?*

Oates. Before the Summer I came out of *Flanders*.

L. C. J. He ſays he went into *Spain* in *April*, (77.)

Marſhal. And he heard me ſay Maſs before he went over?

Oates. Yes.

Marſhal. Pray look, my Lord, Mr. *Oates* will confeſs himſelf, he was but newly reconciled to the Church of *Rome*, a little while before he went.

Oates. I was reconciled to the Church on *Aſh-wedneſday*, and I went in *April* following.

Marſhal. Where did you hear me ſay Maſs then?

Oates. In the *Savoy*, at that time, before I went into *Spain*.

Marſhal. Do you pretend to have known the *Savoy* ever before your coming back again?

Oates. Yes, I do.

Mr. Juſt. Pemberton. He does ſwear it.

Marſhal. So he does, but he can't prove it. Mr. *Oates* came over in the Company, as he ſays, of Mr. *Thimbleby* and Mr. *Hitchcock*, and by his means he did get to be commended to be received into the Order of the *Benedictines*, and he was then ſent to Mr. *Pickering* in order to it; Now, my Lord, is it credible that Mr. *Oates* having no acquaintance with the *Savoy* before he had acquaintance with Mr. *Hitchcock*, which was when he came from *Spain*, ſhould hear me ſay Maſs before he went thither?

Mr. Juſt. Pemberton. All this is but a Story to the Court.

L. C. J. What a wild Inference do you make from this unintelligible Buſineſs?

Marſhal. Mr. *Oates* ſays ſo himſelf.

Mr. Juſt. Dolben. We all know you ſaid Maſs ſo openly in the *Savoy*, that any People whatſoever might come, and you did not know who they were.

L. C. J. Though he was not one of your Order, yet he might know you.

Marſhal. To my knowledge there were never three Maſſes ſaid in the World at the *Savoy*.

Mr. Juſt. Dolben. The World knows the contrary.

Marſhal. Let Mr. *Oates* be poſitive in any thing, and we will diſprove him.

Mr. Juſt. Pemberton. He hath gone as near it as is neceſſary; he tells you, after his Reconciliation, before he went over into *Spain*.

Marſhal. But I ſay, he could not be at the *Savoy* before he was acquainted there, and I can bring Witneſſes to prove, that I was not then at the *Savoy*; but I pray, my Lord, will theſe Witneſſes do me any good?

L. C. J. What will they prove?

Marſhal. That all the Summer from the beginning of *April* to the end of the Summer, I was in the Country, threeſcore Miles from *London*.

Oates. I am not ſo poſitive in that, my Lord, but as near as I remember, before I went into *Spain* again. Your Lordſhips all know that I was not ſo poſitive as to any one time; but the Summer before the Plot broke out, I heard him ſay Maſs ſeveral times in the Summer.

L. C. J. Now he is poſitive that he ſaw you ſay Maſs in the Summer before the Plot was diſcovered. The Subſtance of his Depoſition was your ſaying Maſs, the Time is not material: He tells of a many times within that Compaſs.

Marſhal. How ſhall I diſprove that?

Mr. Recorder. He hath given you one particular time from *Aſh-wedneſday*, when he was reconciled to *Rome*, till he went to *Spain* in *April*.

Marſhal. If he names Times, then I am able to diſprove him: And he did name one, but when he ſaw me offer to prove by Witneſſes, that I was not then in Town, he goes off from it.

Mr. Juſt. Pemberton. 'Tis impoſſible for Witneſſes to be poſitive to a Day, a Week, or ſuch a thing.

Mr. Juſt. Ellis. How is it poſſible to be ſo, unleſs it be a thing that he had taken ſuch particular notice of, as to intend to ſwear to it, and give Evidence about it afterwards? Now, I believe Dr. *Oates* at that time had no thoughts of giving Evidence as to any ſuch matter; but this he is poſitive in, That he did hear you ſay Maſs at the *Savoy*.

Marſhal. My Lord, if Mr. *Oates* had ſaid he had ſeen me officiate at *Somerſet-houſe* or *Wild-houſe*, it might have been ſomething like; but at the *Savoy* it is known, that none are let in but Friends, nor could Mr. *Oates* come in, but upon a particular acquaintance.

L. C. J. How does that appear ſo?

Marſhal. By thoſe that live in the Houſe.

Mr. Juſt. Pemberton. You muſt not ſpend the Court's time in this manner of Diſcourſe: If you have any Witneſſes that you think in yourſelf are material, the Court will ſuffer you to call them, and pray call them preſently.

Marſhal. Here is the Houſe-keeper her ſelf that will witneſs that ſhe never ſaw Mr. *Oates* there.

L. C. J. If the Great *Turk* had come there with a pair of Beads and a Crucifix, you would have let him come in: But in the mean time, Mr. *Oates*, you have given him a pretty compaſs of time, whereby he hath an Opportunity of diſproving what you ſay: And you give him one particular ſhort time; but can you give any time afterwards in the Summer you ſpeak of, within any month, or two, or three; becauſe you ſay at ſeveral times?

Oates. I cannot be poſitive, but I will tell you one time was the *Sunday* before they held their Conſpiracy, which was, I verily believe, the *Sunday* before the 21ſt of *Auguſt*.

L. C. J. Do you believe it was in *Auguſt?*

Oates. Yes, I do, and confine my ſelf to the Month of *Auguſt*.

Marſhal. Then call *Ellen Rigby*.

Oates. I was acquainted with Mr. *Pickering* ſoon after my being reconciled; and being acquainted with him, I went along with him ſeveral times to the *Savoy*.

Mr. Juſt. Pemberton. What do you talk of one *Hitchcock*, and I know not whom? he was acquainted with *Pickering* before.

Marſhal. When my Lord?

L. C. J. Preſently after he was reconciled.

Marſhal. Well, but you pretend now, that ſince you came over here you were in the *Savoy*; Had you a Key to get in?

L. C. J. He was reconciled on *Aſh-wedneſday*, he went in *April* to *Spain*.

Marſhal. Here is *Ellen Rigby*.

L. C. J. Well, what would you have with her?

Marſhal. I aſk, Did ſhe ever ſee Mr. *Oates* in the Summer before laſt?

Mr. Juſt. Pemberton. Don't you lead your Witneſs with ſuch Queſtions.

L. C. J. Do you know Mr. *Oates?*

Rigby. I have ſeen him when I ſaw him come to aſk Charity of Mr. *Pickering*.

L. C. J. How often?

Rigby. Twice or thrice.

L. C. J. What time in the Summer?

Rigby. I cannot ſay; but I ſaw him in Summer was Twelvemonth.

Oates. Why then did not this Woman, when ſhe knew this Evidence that would lay a Blemiſh upon me, come and give it for *Pickering*, to have ſaved him?

Mr. Juſt. Dolben. Will you give me leave to aſk this Woman this Queſtion; Whether ſhe ever heard you ſay Maſs?

Marſhal. Ay, my Lord, with all my heart; and if ſhe ſays ſhe hath, I will be hanged without any more ado.

Mr. Juſt. Dolben. Then you are ſure your Proſelytes will ſay any thing you would have them?

Marſhal. I my ſelf am a perfect Stranger to the *Savoy* in a manner.

Mr. Juſt. Pemberton. Is he not acquainted with the *Savoy?*

Rigby. Yes, he was there one Month when *Pickering* was taken.

Marſhal. Pray aſk her whether ever, before Mr. *Oates* went over, ſhe ſaw him in the *Savoy?*

L. C. J. You ſhall have your Queſtion aſk'd; but do you think you can build upon that; if ſhe did not ſee him, he did not ſee you? Did you ever ſee Dr. *Oates* there betwixt *March* and *April*, before he went over into *Spain?*

Rigby. No, there was no body in the Houſe but Mr. *Pickering*.

L. C. J. Was there never Maſs ſaid in the Houſe?

Rigby. Yes, while her Majeſty's Servants were in the Houſe.

L. C. J. But was there Maſs never ſaid ſince in the Houſe?

Rigby. Never ſince I came out of it, which was a Twelvemonth ago.

Mr. Juſt. Pemberton. Was there not Maſs ſaid in three or four Years time there?

Rigby.

Rigby. Not in our Houſe, I lived but in one Houſe.

Marſhal. I call her to know, whether Dr. *Oates* was there? And, my Lord, here is that which I inſiſt upon; That none is let in there to hear Maſs, but thoſe that have ſome particular Acquaintance and Intimacy in the Houſe.

L. C. J. She only ſpeaks to one particular part of the Houſe; ſhe can't but ſay Maſs was ſaid in the other parts.

Rigby. There was no Maſs ſaid there, that I know of.

L. C. J. Why, was there no Maſs ſaid but in that particular Houſe you liv'd in?

Rigby. I can't ſay that.

L. C. J. But the Queſtion is, Whether ever you, Mr. *Oates*, ſaw him ſay Maſs in this Woman's Houſe?

Oates. I do not know that I ever ſaw this Woman in all my Life, before the Trial.

Marſhal. He came there under a diſguiſed Name:

L. C. J. He tells you he went along with *Pickering*.

Oates. Pickering ſerv'd the Maſs.

L. C. J. Well, call your Witneſſes, if you have any other.

Marſhal. I can prove that I was out of Town the whole Summer, from the beginning of *April* to the end of the Summer: But if Mr. *Oates* will not ſtand to any time, I cannot be able to diſprove him: But then I'll only offer one or two things more.

L. C. J. When did you come to *London?* in *Auguſt?*

Marſhal. I will tell you as near as I can to a Day. I came in the middle of *Bartholomew*-Fair, which begins the 24th of *Auguſt*.

L. C. J. So it was the latter end.

Mr. Juſt. Pemberton. Well, if you have any Witneſſes, call them, and do not ſpend the Court's time in vain.

Marſhal. My Lord, I have ſomething very material, I think, to offer: The only material Witneſs that is now againſt me, was a Witneſs againſt me in my laſt Trial: Now I do conceive, that I being found Not Guilty at the laſt Trial, that Witneſs ought to be look'd upon as perjur'd: And I appeal to the Court, whether it were ſo or no.

Mr. Juſt. Atkins. That's a falſe Collection, Mr. *Marſhal.*

L. C. J. 'Tis a ſtrange Inference you make: Do you think that every Witneſs is perjur'd, becauſe the Jury don't find according to what he ſays? He is not perjur'd, for he may ſwear true, and the Jury not believe him.

Marſhal. I ground it, my Lord, upon what my Lord *Jones* ſaid to the Jury that ſat upon *Coleman*; who at their going out told them, either they were to find him Guilty, or bring in two Men perjur'd. Thus it was his Opinion, that the finding of the Jury contrary to the Evidence, did make them perjur'd; and there was none of the Court did oppoſe him.

Mr. Juſt. Jones. What then?

Marſhal. And if this were the Senſe of the whole Court, That a Man muſt either be found Guilty, or the Witneſſes perjur'd; that is my Caſe, and he is not to be believ'd.

L. C. J. See how unconſequentially you talk: The Court might ſay, that you muſt believe theſe Men perjur'd, if they ſwear a poſitive thing and you find it not: But if you make uſe of it thus, that therefore they are perjur'd, 'tis falſe, for they are not ſo till they be convicted upon Record: And tho' the Jury don't believe them, yet they may ſwear true.

Marſhal. 'Tis true.

L. C. J. Then you make no Inference from it.

Marſhal. My Lord, I am before the ſame Court that I was try'd by before, and before the ſelf-ſame Judges, who know that upon my Trial he was not believed, and therefore is perjured.

Mr. Juſt. Pemberton. You muſt conſider that ſometimes the Jury will go againſt the Direction of the Court; but if the Witneſs be not believed by them, that does not argue that he does not ſwear Truth, or is perjur'd: I tell you my Brother *Jones* might ſay, You muſt find this Man Guilty, or think theſe Men perjur'd: Many times a Judge will ſay ſo, but the Jury often find againſt the Direction of the Court; ſhall theſe Men be perjur'd then preſently?

Mr. Juſt. Jones. There were two poſitive Witneſſes, as poſitive as could be in the World, and nothing at all to contradict them.

Mr. Recorder. Will you give the Jury leave to believe you, Mr. *Marſhal?* For you yourſelf ſaid you were a Prieſt.

Marſhal. Yes, if I ſaid ſo, I humbly deſire the Jury to take notice of it, that they are the ſelf-ſame Witneſſes that brought ſuch a poſitive Teſtimony the laſt time; which if the Jury had believed, they muſt of neceſſity have brought me in Guilty; I would not ſpend the time of the Court, but I would obſerve this; it was all ſworn poſitively, That I did conſent to the King's Death, and other things.

L. C. J. You had the better luck.

Marſhal. Then they are not to be believed now.

L. C. J. This is to no purpoſe, neither is it to be ſuffered: For you break in contrary to all the Laws of Practice, if we ſuffer this as an Argument, That becauſe an Evidence was not believed in one Caſe, therefore he is perjur'd: And the Jury gave in a Verdict contrary to the Witneſſes, that therefore he is perjur'd in another Caſe.

Marſhal. This does invalidate the Teſtimony ſure of ſuch a Witneſs.

L. C. J. You have ſaid it often enough, come pray conclude.

Mr. Juſt. Pemberton. No, Mr. *Marſhal*, you muſt not be ſuffer'd in theſe Harangues to impeach the Witneſſes; if you have any thing material againſt Dr. *Oates*, or if you can ſhew any Record of his Conviction of Perjury, it may be ſomething.

Marſhal. My Lord, it is for my Life, and 'tis the ſecond time that I plead for my Life, much beyond my expectation; and therefore I hope I may have the freedom to ſpeak: And though I confeſs this Jury is not obliged to proceed according to the Verdict of the former Jury; yet this Jury, as well as that, is obliged to proceed according to the appearance of Truth: And his being found falſe in his Teſtimony the laſt time, ſhould make him of no Credit here.

Mr. Juſt. Dolben. It is not ſo, they are not to take notice of it, unleſs you bring them a Record of Conviction.

Mr. Juſt. Pemberton. He gave a good Evidence then no doubt of it, though they would not believe it.

Mr. Juſt. Atkins. Upon what Grounds that Jury went, is unknown to us.

Marſhal. Then, my Lord, another thing is this: The Law does except againſt all Witneſſes who are ſtrongly or rationally ſuppoſed to have a Spite or Malice againſt the Priſoner, much more where there is a manifeſt Sign that he hath a Malice. Now I will endeavour to ſhew how it comes to my Caſe: Mr. *Oates* accuſed me laſt time of Treaſon, and that in the higheſt nature; if this had been true, he had ſhewn himſelf a good Subject, and me Diſloyal: And the Jury not believing him, I was found the good Subject: Now he purſues his malice.

L. C. J. You ſhall not go on in this manner, and make ſuch notorious falſe Inferences; that becauſe it was not found according to his Teſtimony, therefore he is perjur'd: The Jury did not believe it, might not he ſpeak true for all that? Hath not many a Witneſs ſworn true, yet the Verdict gone againſt their Evidence? And therefore you don't mind: Ye are all giddy-headed, if you once get a thing into your Heads, you can't get it out again.

Mr. Juſt. Atkins. If the Jury did not believe it, a great many others did.

L. C. J. All you build upon is but a falſe Concluſion; becauſe the Jury found you Not Guilty, therefore they found him perjur'd.

Marſhal. My Lord——

Mr. Juſt. Pemberton. Pray Sir, if, you will ſpeak any thing that is material and modeſt, the Court will admit of it; but if you only go to throw Dirt upon the King's Witneſſes, Men of good Reputation, and Men that have ſhew'd themſelves honeſt, and that have ſpoke Truth all along; ne'er a one of their Teſtimonies but what is confirm'd by another's; ſo that not one of them ſtands ſingle, and for you to ſay they are ill Men.

Marſhal. My Lord, I do not ſay they are ill Men, I ſpeak of Matter of Fact.

L. C. J. You conclude falſly; and if you did but mind it, you would never repeat it over and over again: That becauſe the Jury did not believe his Evidence, therefore he is perjur'd: Do you ſuppoſe then that any other Jury ſhould never believe him?

Marſhal. My Lord, I reckon his Evidence is not ſo good; and if I am found Not Guilty, there muſt be Malice in him to accuſe me.

L. C. J. Look you, Gentlemen, The ſingle Queſtion is; Whether he be a *Romiſh* Prieſt or no? It is proved by Mr. *Oates*, that he hath ſeveral times heard him ſay Maſs, that he hath ſeen him deliver the Sacrament, and ſeen him Conſecrate the Hoſt. He inſiſted upon it how often; Mr. *Oates* ſays, ten or a dozen times, in what time he cannot charge himſelf particularly with a Month or two; but at laſt he did tell him poſitively, becauſe *Marſhal* ſaid, How is it poſſible I can make my Defence to Generals, unleſs you fix ſome time? Therefore, ſays he, I was reconciled to the Church of *Rome* on *Aſh-Wedneſday*, and afterwards between that and *April*, when I went into *Spain*, I heard him ſay Maſs, that was once; but I heard him ſay in the Summer ſeveral times: being aſked, What part? he ſays, I cannot ſay exactly, but I think in the Month of *Auguſt*; if he had ſaid any thing as to the particular time between *Aſh-Wedneſday* and his going into *Spain*, it had been ſomething, but againſt that he makes no Pretence, as to his ſaying Maſs in the *Savoy*, that can contradict it. If he can ſtill he ſhall call his Witneſſes that can prove he did not ſay Maſs between the *Aſh-Wedneſday* and the *April* he went into *Spain:* He does indeed ſay, that he was a great part of the Summer in the Country, in *June* and *July* to *Bartholomew*-Fair, threeſcore Miles off; but to that Mr. *Oates* ſays it was ſome time in *Auguſt*, and ſo he might be in the Country till then, and yet ſay Maſs after; he might come to Town the 26th, or 27th, or 28th, and he might be here in *Auguſt:* So you hear no Evidence that contradicts, ſuppoſing it proved true, what he imagines his Witneſſes can ſay; the laſt time that he charges him to have ſaid it in the Summer, may be true according to his own Word and Confeſſion when he came to Town. Then there is Mr. *Bedlow*, he only tells you he ſaw him in a Prieſt's Habit, but he did not ſee him execute the Office of a Prieſt, but he looked upon him as a Prieſt, called him Father: and that is all that he charges him with; that is concurring Evidence, and backs Mr. *Oates*, but alone perhaps it would be very weak. But they ſet up here *Prannce*, and he ſays directly, that at the Trial he did confeſs himſelf to be a Prieſt; and he ſeems to deny it, and would appeal to the Court; but his appealing to the Court would not help him in that Caſe. So I leave this to you upon this Evidence; if you believe Mr. *Oates*, that ſwears he ſaw him before he went into *Spain*, and after, ſay Maſs, with the concurring Evidence of Mr. *Bedlow*, that ſaw him in his Habit, and with the ſubſequent Evidence of thoſe two more that do ſwear that he did ſay ſo, you muſt find him Guilty; and a Man's own Confeſſion is Evidence againſt himſelf; and if Mr. *Marſhal* will recollect himſelf, he would not be too poſitive in that Point. If all theſe Particulars ſatisfy your Conſcience, I ſay, that he is a *Romiſh* Prieſt, you muſt find him Guilty; if you are unſatisfied, you muſt acquit him.

Cl. of Cr. Set *William Ruſſel* to the Bar. *William Ruſſel*, alias *Napper*, hold up thy Hand: You that are ſworn, look upon the Priſoner, and hearken to his Cauſe, *&c.*

Mr. Belwood. May it pleaſe your Lordſhip, and you Gentlemen of the Jury, *William Ruſſel*, alias *Napper*, ſtands Indicted for High-Treaſon: The Offence charged in the Indictment, is, That being born within the Kingdom of *England*, and having received Orders from the See of *Rome*, he did come and abide here. To this he hath pleaded, Not Guilty

Mr. Serj. *Strode.* Swear Dr. *Oates*, and Mr. *Prannce.* Dr. *Oates*, Will you tell my Lord and the Jury, what you know of Mr. *Ruſſel*'s being a Prieſt?

Oates. My Lord, this *Ruſſel* went by the Name of *Napper*, and is a *Franciſcan Frier*, and I heard him ſay Maſs ſeveral times at *Wild-houſe.*

L. C. J. What, in his Habit?

Oates. In Prieſt's Habit.

L. C. J. When was this?

Oates. The laſt Summer before the Plot; I have heard him twenty times ſing Maſs.

Mr. Juſt. *Jones.* Did you ever ſee him give the Sacrament?

Ruſſel. Where pray was this?

Oates.

Oates. At *Wild-houſe.*
Ruſſel. What is his Name?
L. C. J. Oates.
Ruſſel. I do not know him, I ſay, my Lord.
L. C. J. Did he do it publ ckly?
Oates. Yes, in the Chapel.
Mr. Juſt. *Jones.* Did he give the Sacrament?
Oates. I did receive the Sacrament from him.
Ruſſel. Why, firſt of all, I ſay I do not know him.
L. C. J. It may be ſo, more know *Jack Pudding*, than *Jack Pudding* knows.
Ruſſel. Well then if one Witneſs muſt ſtand, I have no more to ſay.
L. C. J. Will you aſk him any Queſtions?
Ruſſel. He ſays he heard me a Month ago.
L. C. J. No it was laſt Summer was Twelvemonth.
Ruſſel. Then he muſt prove it.
Capt. Richardſon. He does prove it, he ſwears it.
Ruſſel. Well, I can make it appear, laſt Summer was Twelvemonth I was in the Country.
Oates. And I heard him ſay Maſs, *November*, 1677, he was then one of the Chaplains of *Wild-houſe.*
Ruſſel. Give me leave to recollect my Memory.
Mr. *Belwood.* Set up Mr. *Praunce.* You hear the Queſtion: Sir, Is the Priſoner at the Bar a Prieſt?
Praunce. Yes, I have heard him ſay Maſs twenty times in his Habit.
L. C. J. Did he give the Sacrament?
Praunce. Yes, I ſaw him give the Sacrament to ſeveral, and he did hear Confeſſions; he had a great many People about him.
Ruſſel. When was this?
Praunce. Two or three Years ago.
Ruſſel. Where?
Praunce. At the *Spaniſh* Ambaſſador's at *Wild-houſe.*
Mr. At. Gen. My Lord, here is Sir *William Waller*, that took him, with his Veſtments and all his Trinkets. [*Who was ſworn.*]
L. C. J. Come what ſay you, Sir *William?*
Sir *W. Waller.* That Morning I took him, as ſoon as I came into the Room, I aſked him his Name: He told me his Name was *Ruſſel:* I aſked him, if he ever went by any other Name? He denied it for ſome time, but looking amongſt ſome of his Papers, I found ſome Letters directed to him by the Name of *Napper*; and then he did confeſs his Name was *William Ruſſel Napper.* Searching among his Clothes, I found ſome Religious Habits; I aſked him, if they were his, and he confeſſed and owned 'em to be his.
Ruſſel. It was in my Cuſtody; it was none of mine.
L. C. J. Why did you ſay ſo then?
Ruſſel. I kept it for another.
L. C. J. But you told him it was your own, What ſay you to that?
Ruſſel. I do not remember that.
Mr. Juſt. *Dolben.* Well, he ſwears it.
L. C. J. Here are two poſitive Witneſſes againſt you, what ſay you to it? What ſay you to his ſaying, He hath heard you ſay Maſs twenty times?
L. C. Baron. What ſay you to the ſaying Maſs at the time Dr. *Oates* ſpeaks of?
Ruſſel. I believe he is miſtaken as to the Time and Year: I was entred into the Houſe in——78.
Mr. Juſt. *Pemberton.* Then you think it was at another time?
Ruſſel. He could not hear me at that time, for I was then in the Country.
L. C. J. Have you any thing to ſay? It ſhall be allowed you, it was at another time, but it ſeems it is true. Look you Gentlemen, you have a very plain Buſineſs of it; here are two Witneſſes that ſwear they ſaw him give Abſolution, deliver the Sacrament, and heard him ſay Maſs, and one ſays twenty times: And Sir *W. Waller*, who ſays, that he confeſt the Prieſt's Habit to be his own.
Ruſſel. Conſider my Circumſtances, and give me a little time; I have not had any time to get my Friends near me, or to prepare my ſelf.
L. C. J. I do not ſee any Good time would do you: I think the beſt uſe you can make of your time is to repent.
Oates. My Lord, the Court here is peſtered with Papiſts; here are a great many about here.
L. C. J. If they be Witneſſes, we cannot keep them out.
Mr. *Bedlow.* Some of them may be Witneſſes, but all are not; and if they be, they come to catch Advantages.
Mr. Juſt. *Dolben.* I don't underſtand why they ſhould be turned out.
Mr. Juſt. *Pemberton.* Let them alone: Be at quiet.
L. C. J. No, no, they will revile us, that they had not an open and a fair Hearing; we won't have it ſaid, that we do any thing in Huggermugger; what we do is done openly and honeſtly.

Cl. of Cr. Set *Charles Parris*, alias *Parry*, to the Bar. Hold up thy Hand: You that are ſworn, *&c.*
Mr. *Belwood.* May it pleaſe your Lordſhip, and you Gentlemen of the Jury; the Offence for which the Priſoner at the Bar ſtands Indicted, is High-Treaſon, the ſame Offence for which the reſt have been Indicted——
L. C. J. Then call your Witneſſes.
Mr. Serj. *Strode.* Dr. *Oates*, and Mr. *Praunce.* [*Who were ſworn.*]
L. C. J. What can you ſay againſt the Priſoner, as to his being a Prieſt?
Oates. My Lord, he is a reputed Prieſt, and hath ſaid Maſs ſeveral times: I have heard him ſay Maſs at *Wild-houſe*, not in the publick Chapel, but in another Room.
L. C. J. Where do you ſay?
Oates. Once at *Wild-houſe.*
L. C. J. Where elſe?
Oates. At Mr. *Paſton*'s.
L. C. J. When was this, Winter or Summer?
Oates. Within the Compaſs of a Year, reckoning——77 and——78; it was on a *Saturday* one time, and twice at Mr. *Paſton*'s, and once or twice, I cannot tell which, at the other Place.
L. C. J. And in the Prieſt's Habit?
Oates. Yes, in the Prieſt's Habit.
L. C. J. And did you ſee him conſecrate the Hoſt?
Oates. Yes.
L. C. J. And give the Sacrament?
Oates. Yes.
Parry. My Lord, as to that he ſpeaks of——77, or——78, what Month of——78 I deſire to know.
Oates. I cannot confine my ſelf to a Month; I knew him to be a Prieſt, but I was little acquainted with him, but he was a reputed Prieſt.
Mr. Juſt. *Jones.* But you are ſure this is the Man?
Oates. Yes, this is the Man.
Parry. Am I the Man? What is my Name?
Oates. You went by the Name of *Johnſon.*
L. C. J. Did you never go by that Name of *Johnſon?*
Parry. No, my Lord, but by this Name of *Parry*; *Parry* is my Name, and by that Name I went, and never by any other Name than *Parry*, whatever he ſays.
L. C. J. Why by that ſame Name you are Indicted, and you are the Man that he ſaw.
Mr. Juſt. *Pemberton.* Will you aſk him ever a Queſtion?
Parry. I have aſked him already what I would aſk him.
Sir *John Keiling.* Then ſet up Mr. *Praunce.*
L. C. J. What do you ſay as to Mr. *Parry?*
Praunce. I know he is a Prieſt, and have heard him ſay Maſs at the *Venetian* Ambaſſador's, and at Mr. *Paſton*'s, and he went by the Name of *Johnſon.*
Mr. Recorder. Did you go by that Name?
Parry. No, I never went in my Life but by my own Name, *Parry*; that is my Name, whatever he ſays, and I am not aſhamed of it.
L. C. J. How often?
Praunce. Once at *Paſton*'s, and two or three times at the *Venetian* Ambaſſador's.
L. C. J. And you ſaw him give the Sacrament?
Praunce. Yes.
L. C. J. In his Habit?
Praunce. Yes.
Parry. At what time?
Praunce. I believe it might be half a Year before the Plot: And I know you by another Circumſtance: You brought a Chalice to my Houſe, and it was whole, and you broke it, and told me, I muſt not touch it until it was broke, and ſo you defaced it.
L. C. J. That was an holy Veſſel, was it not?
Praunce. Yes; and he told me I muſt not touch it till it was broken in pieces.
L. C. J. If you had not been a Prieſt, he had been as holy as you, and he might have touch'd it as well as you.
L. C. Baron. His breaking was to deſecrate it.
Praunce. He bought ſome Oil-Boxes of me about that Time.
Parry. I do not know this Man.
Praunce. You were ſeveral times with me.
L. C. J. Why, have you forgot the Chalice you brought to his Houſe?
Parry. I have no reaſon to forget my ſelf, for I never did any ſuch thing, for I never bought, or ſold to him any Chalice, or any ſuch thing; and beſides, ſuppoſe I had, that doth not argue that I am a Prieſt.
L. C. J. No, but if he were ſo holy as to touch the Chalice, he would be a Prieſt. But there is no great Streſs laid upon that, but to ſhew you that he knows you, he did not miſtake the Man. The Streſs of the Evidence lies, that he heard you ſay Maſs at the *Venetian* Ambaſſador's, and at *Paſton*'s, and then Dr. *Oates* ſpeaks of *Wild-houſe.*
Parry. I was never in my Life at the *Venetian* Ambaſſador's, nor at Mr. *Paſton*'s, nor at *Wild-houſe.*
L. C. J. Can you ſwear that he is the Man?
Bedlow. No.
L. C. J. Then ſet him aſide.
Bedlow. I had Order to ſend for two Witneſſes out of *Monmouthſhire*——
L. C. J. Here is Proof enough.
Mr. Juſt. *Pemberton.* What have you to ſay for your ſelf?
Parry. I have this to ſay, and can ſhew it evidently, that is, I have Witneſſes to prove, that I never was at *Wild-houſe* to Officiate in the Years 77 and 78 before the Plot: And for theſe ſix or ſeven Months that Mr. *Praunce* does alledge I was in *London*, I was in the Country.
L. C. J. When?
Parry. Six or ſeven Months before the Plot?
L. C. J. He did not confine himſelf preciſely to any ſix or ſeven Months.
Parry. My Lord, I deſired him to fix upon a Month.
Mr. Juſt. *Pemberton.* He cannot do it.
L. C. J. If he can, let him; we will aſk him the Queſtion; when was it that you ſaw him do thus?
Praunce. My Lord, I am not certain what time it was, but about two, or two Years and an half ago, I am not certain, it is impoſſible for me to remember it.
Mr. Juſt. *Pemberton.* You muſt take him in what he ſays; this he is ſure of, he did hear you ſay Maſs and give the Sacrament, but as to the Time, he believes it to be about this time, but he is not poſitive, nor can be in it.
Parry. He only believes it now, becauſe he knows I have Witneſſes for that time: He hath ſworn it poſitively, it was ſix or ſeven Months before the Plot, and I have Witneſſes to produce, can prove how long before the Plot I was in the Country.
L. C. J. Call your Witneſſes.
Parry. Call *Lanſcroon* and *Jacob.*
L. C. J. How long was it before the Plot, as near as you can tell the Time, Mr. *Oates?*
Oates. I have heard ſo many Prieſts, that I cannot poſſibly give an Account of the Day.
Parry. I deſire to know of Mr. *Oates*, who was Ambaſſador at *Wild-houſe* at that Time when he ſays he heard me.
Mr. Recorder. Were you never at *Paſton*'s?
Parry. No.
Mr. Recorder. Nor at the *Venetian* Reſident's?
Parry. No.

Mr. Recorder.

Mr. Recorder. Mr. *Parry* was not, but Mr. *Johnſon* was.

Parry. I know not Mr. *Johnſon*, my Name is *Parry*; I hope it is not juſt I ſhould be hang'd for another Perſon.

Mr. Recorder. I mean Mr. *Johnſon*, alias *Parry*.

L. C. J. Mr. *Praunce*, you are ſure that is the Man?

Praunce. Yes, and I heard him confeſs himſelf to be a Prieſt.

Parry. 'Tis falſe.

L. C. Baron. And this is the Man that brought the Chalice to you.

L. C. J. Why, did you never go with a Chalice to this Man, and break it?

Parry. My Lord, I never bought any thing of him, nor ſold any thing to him, nor had any Converſe with him.

Sir John Keiling. I do never wonder at their denying any thing. I would fain know whether he would not deny the Sun ſhines now or no?

Parry. And then for the private Room, what Room of the Houſe was it?

Praunce. I took him up in the middle of *Cheapſide*, and therefore I muſt ſure know him.

Parry. He did not know me, but only took me on Suſpicion at Random, becauſe I was in the Company of a *Roman Catholick*.

Then the Witneſs Lanſcroon *ſtood up.*

L. C. J. What would you have this Man aſked?

Parry. About the Year 77 and 78, wherein Mr. *Oates* alledges he heard me, let them anſwer to that, how long I was at *Windſor?* And whether I did not dwell conſtantly there?

L. C. J. Well, you hear the Queſtion. How long was he at *Windſor?*

Lanſcroon. From what Time do you aſk?

Mr. Juſt. Pemberton. Nay, you muſt not be led into an Anſwer. How long was he at *Windſor?*

Lanſcroon. From *Chriſtmas* 77, to *Allhallantide* 78.

Mr. Juſt. Ellis. And was he never at *London* all that Time?

Lanſcroon. No.

Mr. Juſt. Pemberton. How can you tell that?

Mr. Juſt. Atkins. Was he always in your Sight all the Time?

Lanſcroon. Yes, he was there always.

Mr. Juſt. Atkins. Were you there always yourſelf?

Lanſcroon. Yes.

L. C. J. What are you?

Lanſcroon. A Painter.

L. C. J. And was you and he always together at that Time?

Lanſcroon. Yes.

L. C. J. What in a Room?

Lanſcroon. Yes.

L. C. J. Can you affirm, that for a Twelvemonth together, you ſaw him every Day?

Lanſcroon. Yes.

Mr. Recorder. How many Years ago do you ſpeak of?

Lanſcroon. From 77 to 78.

Mr. Recorder. I don't aſk you that, but how many Years ago 'tis?

L. C J. When came he down to *Windſor?*

Lanſcroon. Chriſtmas (77.)

L. C. J. The Teſtimony of Mr. *Oates* goes to *November*, and he ſpeaks of *Chriſtmas* following.

Mr. Recorder. How many Years ago was it, I aſk?

Lanſcroon. A Year ago laſt *Chriſtmas*.

Mr. Recorder. That is 78 and 79.

Mr. Juſt. Pemberton. Your Witneſs is underſtood, Mr. *Parry*.

Then ſtood up the other Witneſs Jacob.

L. C. J. What ſay you about Mr. *Parry*'s being at *Windſor?*

Jacob. He was a Gentleman that came along with me in the Coach to *Windſor*.

L. C. J. When?

Jacob. Before *Chriſtmas* (77.)

L. C. J. How long before?

Jacob. Ten Days. He came there to take Air for his Health, he was not well.

L. C. J. How long ſtaid he there?

Jacob. He ſtaid at *Windſor* till *Allhallantide* after, he ſtaid there a Year.

L. C. J. Did you ſee him there every Day of that Year?

Jacob. Yes.

L. C. J. Why, what Reaſon had you to ſee him every Day?

Jacob. He dined every Day at our Houſe.

L. C. J. Your Houſe? What Houſe?

Jacob. The Painter's.

Mr. Juſt. Dolben. However, that is but from *Chriſtmas*, and he ſpeaks of *November* before.

L. C. J. Did he dine there all that Time?

Jacob. Yes.

L. C. J. Did he dine there every *Friday* conſtantly?

Jacob. Yes

L. C. J. Did he never keep a Faſt in all that time?

Jacob. No.

L. C. J. Did he dine a *Wedneſdays* and *Fridays?*

Jacob. Yes.

L. C. J. There was one *Good-Friday* in that Time.

Oates. Pray aſk this Witneſs if he never heard him ſay *Maſs?*

Mr. Juſt. Dolben. Then he muſt be ſworn, and may be he will deny it.

L. C. J. Did he dine of *Aſhwedneſday* and *Good-Friday?*

Jacob. Yes, my Lord.

L. C. J. So, he ſays you eat of *Good-Friday* and *Aſhwedneſday*; the Pope ſhall know it.

Mr. Recorder. What ſay you? Did he eat Fleſh upon thoſe Days?

Jacob. Yes, he did.

L. C. J. You can tell what he did eat, can you?

Mr. Recorder. Did he eat Beef, or Mutton?

Mr. Juſt. Dolben. Go, you talk like an idle Boy.

L. C. J. He tells you, that you eat Meat too, that is more.

Parry. My Lord, we eat Fiſh, and ſuch things all Catholicks do.

Mr. Recorder. Ay, the Prieſts do, but their Pupils do not, they will not allow it to them.

L. C. J. Well, have you done, have you any more Witneſſes?

Parry. I would aſk Mr. *Oates*, and deſire him to anſwer me to it, what did he depoſe againſt me before my Lord *Shaftsbury*, *viz.* That he heard me ſay Maſs in *Wild-Chapel*, and there heard Mr. *Collins*'s Confeſſion, and now he ſays, it was in a Private Room; now I have it to ſhew that I did not officiate there, nor frequent the Houſe.

L. C. J. Who is it that will prove that you did not come to the Houſe?

Parry. The Ambaſſador's Servants.

L. C. J. I do not underſtand what you mean.

Parry. I am to aſk of Mr. *Oates*, and deſire he ſhould anſwer to it, What he did depoſe before my Lord *Shaftsbury* and the Committee of Lords, touching Mr. *Collins?*

L. C. J. He cannot remember, it may be.

Mr. Juſt. Pemberton. You muſt not aſk ſuch Queſtions as theſe are, it does not refer to this Matter.

Parry. He did give in, that I heard Mr. *Collins*'s Confeſſion, I aſk, why he does not give it in now?

L. C. J. That is a foreign Matter, what have we to do with it now?

Mr. Juſt. Pemberton. If you will prove any thing againſt him, you may, but you may not aſk ſuch Queſtions as that.

Parry. I have proved that I was in 1677, and 1678, in the Country.

Mr. Juſt. Pemberton. They tell us of ten Days before *Chriſtmas*, and Mr. *Oates* ſpeaks of *November*.

L. C. J. Look you, Gentlemen of the Jury, here are two Witneſſes againſt him, Mr. *Oates* and Mr. *Praunce*——

Parry. My Lord, I have one thing I deſire to be taken notice of, that is, this Letter of the Ambaſſador's, who upon the Examination of all his Family does teſtify and declare, that I did never officiate in any reſpect in his Family.

L. C. J. It cannot be read.

Mr. Juſt. Pemberton. It is not any Evidence.

Parry. How ſhall I clear myſelf, if the Teſtimony of the Ambaſſador and his whole Family be not admitted?

Mr. Juſt. Atkins, 'Tis a hard thing for you to clear yourſelf.

L. C. J. Why don't you bring them hither as your Witneſſes?

Mr. Recorder. Where is my Lord Ambaſſador, why does not he come hither?

Parry. He hath left the Kingdom.

Mr. Recorder. Then you may boldly ſay any thing of him, and we cannot diſprove you.

L. C. J. Is all his Family gone with him?

Parry. There is but one remaining, I think he is here.

L. C. J. Call him.

Parry. Monſieur *Rivier.* [*Who appeared and ſtood up.*]

L. C. J. What do you aſk him?

Parry. Do you know this Hand, Sir?

L. C. J. It muſt not be read if he do.

Parry. He is one of the Servants to my Lord *Egmond*, and he lived in the Houſe, and he knows that by his Maſter's Order all his Domeſticks were examined, and all proteſted they neither knew nor ſaw me ever in *Wild-Houſe*; all which I have under his Hand and Seal to ſhew.

L. C. J. It ſignifies nothing.

Mr. Juſt. Pemberton. Aſk him any Queſtion, but don't tell him what he knows.

L. C. J. Why don't you aſk him ſome Queſtions? Why, you have not Catechiſms in your Church, you don't know how to aſk Queſtions.

Parry. Aſk him whether he ever heard me ſay Maſs at my Lord Ambaſſador's Houſe?

L. C. J. It is to no purpoſe if he did not, here are ſome have.

Parry. Then, my Lord, he knows that there was a ſtrict Examination at *Wild-Houſe* by my Lord's Orders, whether I did frequent the Houſe, and it was reported by them all I did not; and they muſt know if ever I did officiate there, for there is none admitted to ſay Maſs there, but by Order.

Mr. Juſt. Pemberton. Look you, Sir, do you know that Mr. *Parry* ever ſaid Maſs at *Wild-Houſe?*

Rivier. No, my Lord, I do not know it.

Mr. Juſt. Pemberton. It was in a private Room, Dr. *Oates* ſays.

Rivier. I never ſaw him there.

Mr. Juſt. Pemberton. If you aſk an hundred here, they would ſay the ſame thing.

L. C. J. Come, when Matters are plain 'tis in vain to contend; here is the Buſineſs, Gentlemen, here are Mr. *Oates* and Mr. *Praunce*, two Witneſſes againſt Mr. *Parry*; Mr. *Oates* ſays, he hath heard him ſay Maſs, one time at one Place, and twice or thrice at another. Mr. *Praunce* hath heard him often, and Mr. *Praunce* does tell you plainly, that he cannot err, that he is not miſtaken in the Man, for he came to his Houſe with a Chalice, and broke it there, and he knew him ſo well, that meeting him by chance, he took him up in the Streets; ſo if you believe them, they ſwear it poſitively, and you muſt find it ſo.

Then the Lord Chief Juſtice went away.

Cl. of Cr. Set *Henry Starkey* to the Bar. Hold up thy Hand, *&c.*

Mr. Belwood. May it pleaſe your Lordſhip, and you Gentlemen of the Jury, *Henry Starkey* ſtands indicted for the like Offence with the other Priſoners; that he having received Orders from the See of *Rome*, came into *England*, and this is High-Treaſon; to this he hath pleaded Not Guilty; we will prove it upon him. Swear Dr. *Oates* and Mr. *Praunce*. [*Which was done.*]

Mr. Serj. Strode. Pray, Sir, will you tell my Lord and the Gentlemen of the Jury, what you do know of this *Starkey*'s being a Prieſt?

Oates. My Lord, Mr. *Starkey* is a Prieſt, and I once heard him ſay Maſs at Mr. *Paſton*'s.

L. C. Baron. When was that? How long was it ago?

Oates. It is about three Years ago.

L. C. Baron. Did he give the Sacrament then, or at any other Time?

Oates. None received but himſelf.

Mr. Belwood. Was he in Prieſt's Habit?

Oates. Yes.

L. C. Baron. Did he receive the Sacrament, and consecrate the Host?

Oates. Yes, in both Kinds.

L. C. Baron. Will you ask him any Questions?

Starkey. He tells me of Priest's Habits; what are they, Sir?

L. C. Baron. What Habit had he on?

Oates. A thing about his Neck, and a Surplice, and a thing about his Arm; he had a Surplice girt about him.

Starkey. I know you not; and I perceive you neither know what a Priest's Habit is, nor the Difference between his Habit and his Ornaments. A Priest's Habit is a Cassock down to the Ground, and a side Cloke; the Ornaments of a Priest are not a Surplice, (as *Oates* says) but an Albe that falls to the Ground, and other things besides that.

Mr. Just. Pemberton. You are well skill'd in it, I see.

Starkey. And how did you know that I said Mass? Did you know that I took Orders? For if I took no Orders, it was no Mass; for it is the Priest makes the Mass, and not the Mass the Priest; and then if I were no Priest, it could be no Mass.

Mr. Just. Pemberton. That is a pretty Argument indeed! Do any but Priests say Mass?

Starkey. I can bring an Instance of a Gentleman in this Town, a private Layman, who said Mass about this Town, and he was a Protestant, and at last he stole the Chalice. (His Name was *Gardener.*)

Mr. Just. Pemberton. He did well, did he not? Is that your Use?

Starkey. Yes, with such Priests as he.

L. C. Baron. 'Tis a great Evidence this arguing of yours, if he did not swear it, that you are a Priest.

Starkey. I wonder that this Gentleman should so well remember me, I don't know him.

Mr. Just. Pemberton. Do you think you know every one that hath seen you at Mass?

Sir John Keiling. Set up Mr. *Praunce.* What say you, Sir, to this?

Praunce. My Lord, I heard him say Mass at my Lady *Somerset*'s in *Lincoln's-Inn Fields*, and at Mr. *Duncomb*'s, that taught School in *Prince's-Street.*

Starkey. As I hope for Mercy from Almighty God, I was never there in all my Life (except *Pantly*) her House in *Gloucestershire.*

Praunce. Did you know one Mr. *Duncomb* that is dead?

Starkey. Yes.

Praunce. Well, I heard you say Mass at his House.

Starkey. My Lord, I was never at Mr. *Duncomb*'s in my Life, but at 3 or 4 o'clock in the Afternoon, and if I said Mass there, it was over a Pot of Ale.

Praunce. I have heard him say he said Mass in the King's Army.

Starkey. I know neither of these two Fellows.

Mr. Recorder. Come, I would fain see whether you Priests and Jesuits can speak one Word of Truth or no: Come, Mr. *Starkey*, did you ever say Mass in the Army?

Starkey. I never did: But pray give me leave to speak; I appeared for the King, when he had not above 500 Men in Appearance for him; I am but a younger Brother, (second Brother to *John Starkey* of *Darley* in the County of *Chester*, Esq;) and yet with an Annuity of Sevenscore Pounds a Year, which I bought, and other Monies which I had, I spent above 4000*l.* in the King's Service, (which I bled for before I had it) for I got it in another Monarch's Service; I lost my Leg for him by a Cannon-shot, and so spent my Estate to that degree, that that Day when I received my Sentence of Banishment, I had but three Half Crowns in the World, which were given me that same Morning by two Friends.

L. C. Baron. Mr. *Starkey*, you may urge this to the King, for his Mercy and Clemency, 'tis nothing to the Point here before the Jury to be try'd. Whatsoever you have merited by your Services, you must apply yourself to the King for his Mercy, it is nothing here.

Starkey. Pray, my Lord, give me leave to add something more: I was banished for 14 Years into *France*, because I refused to take an Engagement never to bear Arms again for the King: I did discover to this King a Plot design'd against his Life, State, and Government: I suffer to this Day for it; and I delivered (into his own Hand) eleven Articles of High-Treason against the Plotters and their Abetters.

L. C. Baron. You may be a Priest for all that.

Starkey. But, my Lord, by the Civil Law it is a Conclusion, that although a Man be a Traitor, and in the same Plot, he is to be indemnified for discovering the Conspiracy against his Prince; much more for discovering another, that I was not a Party in.

Mr. Just. Pemberton. We have nothing to do with that here, but whether you are a Priest or not.

Starkey. That I must leave to the Proof.

L. C. Baron. Well then, I'll tell you, Gentlemen, this Person is indicted for being a Priest, and coming into *England.* For the Point of his being a Priest, you have heard two Witnesses depose; and they both tell you, that they have heard him say Mass, as great an Evidence of it as can be, for none say Mass but Priests. Dr. *Oates* tells you at Mr. *Paston*'s. Mr. *Praunce* says at Mr. *Paston*'s, at my Lady *Somerset*'s, and one Mr. *Duncomb*'s. If you believe this, you must find him Guilty.

Mr. Just. Atkins. And they speak too, to his receiving the Sacraments in both Kinds.

Starkey. If I was there, sure there was some body else besides myself, I did not say Mass alone; produce but one Witness for you, then I'll submit.

Cl. of Cr. Set *Alexander Lumsden* to the Bar. Hold up thy Hand, *&c.* Your Charge is to enquire of him as of your first Prisoner, and hear your Evidence.

Mr. Belwood. May it please your Lordship, and you Gentlemen of the Jury, *Alexander Lumsden* the Prisoner at the Bar stands indicted for High-Treason, for that he being a Priest, and receiving Orders from *Rome*, did come here into *England*, and abide contrary to the Statute.

Sir John Keiling. Swear Dr. *Oates*, Mr. *Dugdale*, and Mr. *Praunce.* [*Which was done.*]

L. C. Baron. Come, Dr. *Oates*, what say you to this Man?

Oates. I heard him say Mass, he is a *Dominican* Frier, as I remember. I heard him say Mass twenty times at *Wild-House.*

L. C. Baron. And Consecrate the Host?

Oates, Yes, and I received the Sacrament from him.

L. C. Baron. And saw him take Confession?

Oates. Yes.

Mr. Just. Pemberton. Will you ask him any Questions?

Lumsden. What time was this, if it please you, Sir?

Oates. That Summer that was before the Plot broke out. Mr. *Lumsden* knows me well enough.

L. C. Baron. Do you know him?

Lumsden. Truly I do not know that ever I saw him, or conversed with him in my Life.

L. C. Baron. What say you, Mr. *Dugdale?*

Dugdale. My Lord, I was at *Whitehall* that Day Mr. *Lumsden* was taken; and by the Importunity of some Friends I did go to him, but I did not know him, but by Discourse he did confess himself a Priest; I asked if he was a *Franciscan*, he said he was a *Dominican.*

Oates. He is Procurator-General of the Kingdom of *Scotland.*

Mr. Recorder. They have such a parcel of People, and such Names for them.

Mr. Serj. Strode. Mr. *Praunce*, what do you know of *Lumsden*'s being a Priest?

Praunce. I know he is a Priest, and have heard him say Mass several times at *Wild-house.*

L. C. Baron. Was he there in the Habit?

Praunce. Yes, and consecrated the Host.

L. C. Baron. How long since?

Praunce. Two Years since, I heard him twenty times.

L. C. Baron. Do you know what Countryman he is?

Praunce. An *Irishman*, I think.

Oates. No, he is a *Scotchman*, he will not deny it.

L. C. Baron. What Countryman are you?

Lumsden. A *Scotchman.*

L. C. Baron. Of what part of *Scotland?*

Lumsden. Aberdeen.

L. C. Baron. Were you born there?

Lumsden. Yes.

L. C. Baron. You have no more to say, have you?

Lumsden. My Lord, I am not here, I think, to be my own Accuser, I humbly conceive so, and whatsoever is against me must be proved, not simply asserted: They ought to give Proofs and Reasons; but so it is, it is but a simple Assertion what they say; I desire they may prove it.

L. C. Baron. No, they need not; it is sufficient if they prove it by such Circumstances that the Jury are satisfied and convinced that it is true; but it is not to be looked for, that no Proof should be given against the Priest, but by them that saw him receive Orders.

Mr. Just. Atkins. 'Tis impossible almost to prove that.

L. C. Baron. But if they prove the Circumstances, that you have executed the Office of a Priest by saying Mass, which none does but a Priest, 'tis enough to guide them in their Verdict.

Mr. Just. Ellis. And they have proved that which is next to a positive Assertion.

L. C. Baron. That need not be.

Mr. Just. Ellis. But let us not lessen our Proof neither.

Mr. Just. Pemberton. You must consider that the Proof is certain; for they have sworn an Assertive positive Thing, which thing is enough to a Jury to prove you a Priest, because none others but Priests may do such things in your Church, as you have done: Therefore it is a good Argument and Evidence to conclude you a Priest, from this Evidence that hath been given.

Oates. I have heard him own himself a Priest twenty times.

Lumsden. The exercise of the Priestly Function is but a Penalty of 200 Marks.

L. C. Baron. Ay, that is, if the King will go no higher: But you are prosecuted upon another Law.

Mr. Just. Ellis. 'Tis Evidence, and a great Evidence, that which hath been given; for we must go according to the nature of the thing: 'Tis impossible the Act of Parliament should be put in execution, if they must prove they received Orders from the See of *Rome*: But when they have proved those things done by any man, which none ought to do but a Priest, it hath been in all times allow'd to be a Special Evidence.

Mr. Just Pemberton. 'Tis a plain and sufficient Evidence.

Mr. Just. Ellis. But if there were any need of it, and you would have any more, he hath confessed, upon the Question asked him, Whether he was a *Franciscan*; No, he was a *Dominican.*

L. C. Baron. Have you done? Then Gentlemen of the Jury, you must not at this time of the day be insnared by that Argument, That there must be a positive Proof of this Reception of Orders from the Church of *Rome*, because it hath been all along accounted, and is an undoubted Proof for your Satisfaction, if it appear he hath exercised the Offices of the Function; those Offices that are not done but by Priests: Now this hath been proved by two Witnesses, and by the Confession of the Priest himself to Dr. *Oates* and Mr. *Dugdale*: So I must leave it upon the point of Fact to you, whether it be not sufficient Proof. But this Case will differ from all the rest, and the Court is very tender in the case of Life, that it should be without all Question what is determined; therefore as to your Enquiry for him, it must go only whether he be a Priest or no; for the others you must consider them as *Englishmen*, and enquire of them as such: He is a *Scotchman*, as he says, and they say so too: Now then there are some Words in this Statute, whereupon the Court hath conceived a Doubt, whether his Case comes within them; which are the Words about the King's Dominions, which now are far more enlarged than were those of the Queen when the Statute was made; if then you find him a Priest, you must find the other matter specially.

Mr. Just. Ellis. Look you, Gentlemen, we are to be of Counsel for the Prisoner; and it being matter of Law, we shall take time to advise upon it before we give our Opinions in it: but for the matter of Fact, I doubt not but you will find that he is a Priest; and then the other matters that he was born at *Aberdeen* in *Scotland*, and the other matters you may find specially, there needs no more.

Mr. Recorder. Swear an Officer to keep the Jury.

Who after the Recess of a quarter of an Hour, return'd into the Court, and having answered to their Names, and appointed their Foreman to give in their Verdict, he delivered it thus:

Cl.

Cl. of Cr. Lionel Anderſon, alias *Munſon*, hold up thy hand; look upon the Priſoner, how ſay you, is he Guilty of the High-Treaſon whereof he ſtands Indicted, or Not Guilty?

Foreman. Guilty.

Cl. of Cr. James Corker, hold up thy Hand: How ſay you, is he guilty, &c.

Foreman. Guilty.

Cl. of Cr. Is *William Marſhal* guilty, &c.

Foreman. Guilty.

Cl. of Cr. Is *William Ruſſel*, alias *Napper*, guilty, &c.

Foreman. Guilty.

Cl. of Cr. Is *Charles Parry* guilty, &c.

Foreman. Guilty.

Cl. of Cr. Is *Henry Starkey* guilty, &c.

Foreman. Guilty.

Cl. of Cr. Alexander Lumſden, hold up thy Hand: look upon the Priſoner; How ſay you, is he Guilty of the High-Treaſon whereof he ſtands indicted, or Not Guilty?

Foreman. We find he is guilty of being a Prieſt, and born at *Aberdeen* in *Scotland*.

Mr. Juſt. Ellis. Read the Notes to them.

Cl. of Cr. You find that *Alexander Lumſden* is a *Scotchman*, of 58 Years of Age, born at *Aberdeen* in the Kingdom of *Scotland*, being then under the Dominions of King *Charles* the Firſt, and now under the Dominions of our preſent Sovereign; and in the Reign of the ſaid King *Charles* the Firſt, and that at the Time in the Indictment mentioned, he was a Prieſt in Holy Orders, by Authority derived from the See of *Rome*, *prout* in the Indictment: And that he came and was remaining in *England*, *prout* in the Indictment. But whether upon the whole matter he be Guilty of High-Treaſon within this Law or not, you do not know, and crave the Opinion of the Court.

Foreman. Yes.

Cl. of Cr. Then hearken to your Verdict, as the Court hath Recorded it: You ſay, &c.

Mr. Recorder. Call for the Executioner.

Then the Judges went off from the Bench, and the Court proceeded to Judgment.

Cl. of Cr. Set *Lionel Anderſon*, alias *Munſon*, to the Bar: *Lionel Anderſon*, alias *Munſon*, thou ſtandeſt Convicted of High-Treaſon: What canſt thou ſay for thyſelf, why Judgment ſhould not paſs upon thee to Die according to the Law?

Anderſon. I can ſay this, I would have gone out of *England*, but the King kept me here, telling me, I ſhould not go; and I had a Protection from the Council-board: The Biſhop of *London*, when I was taken firſt, ſent a Letter to Sir *Clement Armiger*, that neither I nor my Books ſhould be meddled with, that I had written for the King and the Government, for which he conceived I might be excommunicated at *Rome*, and that I was then under a ſpecial Protection of his Majeſty and Council; and when I was again taken and put in Cuſtody of the Horſe-Guard, the Duke of *Monmouth* ſent Sir *Thomas Armſtrong* to have me freed again: I begg'd of the King that I might go, ſaid I, I won't expoſe the King to the worſt of Rabbles; but he told me, I ſhould ſtay in *England*, and Mr. *Peter Welſh* and I had Orders from the Council, he one and I another, to ſtay.

Mr. Recorder. For that matter you may be aſſured, I promiſe it you faithfully and publickly, that I will acquaint the King with what you ſay.

Anderſon. I thank you, Sir.

Mr. Recorder. For this Court hath nothing to do with that; the King is the proper Judge of that matter, to determine his own Pleaſure as he thinks fit: Tie him up.

Anderſon. Sir, I had no notice of my Trial but this morning: I ſent to my Lord *Bridgwater*, to know when I ſhould be Tried, he told me, I ſhould have Ten Days notice of it; now I have Witneſſes to diſprove Mr. *Praunce*'s Teſtimony; for Mr. *Oates*, I own he hath heard me ſay Maſs; but for Mr. *Bedlow*'s Teſtimony, as I hope to ſee the Face of Almighty God, I know him not: When I was taken, ſaid he to me, Mr. *Anderſon*, let me ſee your Protection, and I ſhewed it him; You have two Names, ſaid he, I do not know whether it be you or no. And then beſides, theſe are not legal Witneſſes.

Mr. Recorder. Nay, that muſt not be allow'd you to ſay: You have been fairly heard and try'd; they were upon their Oaths, and the Jury, twelve men upon their Oaths, without any Exception made to them, they have Convicted you; therefore this is to calumniate the Proceedings of the Court.

Anderſon. I tell you this more; they are not the King's Evidence properly; for they ſwear for themſelves upon the account of Benefit; if any Prieſt be Convicted, they are to have ſo much Money.

Mr. Recorder. The Court heard the Evidence that was given, and if you will have it of the Court, the Court does really believe them, and ſo did the Jury too.

Anderſon. I am ſatisfied.

Mr. Recorder. Tie him up then.

Cl. of Cr. James Corker, hold up thy Hand: You ſtand Convicted of High-Treaſon; What can you ſay for yourſelf, &c.

Corker. Nothing, but that I refer myſelf to God, my juſt Judge and Saviour.

Mr. Recorder. Tie him up.

Cl. of Cr. William Marſhal, hold up thy Hand: Thou art in the ſame Condition, what ſay'ſt thou for thyſelf?

Marſhal. I have very little more to ſay than what I have ſaid already: I thought the Law had not allow'd any Man to have been condemned upon the Teſtimony of one Witneſs, but required two: Now there was but one poſitive Witneſs againſt me, the reſt only ſaid, I had confeſſed myſelf to be a Prieſt; two of them did ſwear, they heard me confeſs it at my other Trial; if it had been at this Trial it had been another thing, and there had been ſome Validity in the Proof; but to ſay, they heard me confeſs it at another time, I humbly conceive according to the Law, bears no force. I have this further to add, his Majeſty, ſome Years ago, put forth a Declaration under the Broad-Seal, for a Toleration of Religion, and Liberty of Conſcience, whereby the *Roman* Catholicks had the uſe of their Religion in their private Houſes. Now I have been informed, that according to Law, whatſoever is put forth under the Broad-Seal, muſt be recalled by ſomething under the Broad-Seal, or it remains in force: which was never done as to this Declaration, and then I lie under the Protection of that Declaration.

Mr. Recorder. As for the firſt part, 'tis plain, to the Satisfaction of every body, that there hath been two ſufficient Witneſſes, upon whoſe Teſtimony you are convicted: For whether you were aſked the Queſtion or not, yet if you will ſay you are a Prieſt, that Confeſſion of yours is Evidence againſt you, tho' you might poſſibly ſay ſo without being aſked the Queſtion.

Marſhal. Is it credible I ſhould do ſo?

Mr. Recorder. Yes, the Jury believed it ſo.

Dr. Oates. One of the Jury ſtood by and heard the Words.

Mr. Recorder. And now, becauſe I will put it out of all doubt, 'tis not the Buſineſs nor the Duty of the Court to give any Evidence of any Fact that they know of their own knowledge, unleſs they will be ſworn for that purpoſe: For tho' they do know it in their own private Conſciences to be true; yet they are obliged to conceal their own Knowledge, unleſs they will be ſworn as Witneſſes. But now you are Convicted, I muſt take the liberty to tell you, that at your laſt Trial you did own your ſelf to be a Prieſt; and I muſt put you in mind further of ſomething which you may very well remember: When I detained you after your Acquittal, and re-committed you when Sir *George Wakeman* was diſcharged, I did then tell you, you have own'd your ſelves to be Prieſts, I was bound to take notice of that Confeſſion of yours, and therefore obliged to detain you: Such a Token as that is may perhaps bring it to your memory; but as it was hinted to you before, you are a voluminous Talker, and abundance of things may drop out of your mouth, that you don't conſider before they are paſt.

Marſhal. 'Tis for my Life, and therefore I may be permitted to ſpeak ſure.

Mr. Recorder. That is as to the firſt Point: And then as to the King's Declaration, which was the other matter you inſiſted upon; I preſume it does not ſtick with any body that knows the matter; but leſt it ſhould, I would ſay this to it: 'tis very well known in the firſt place (I do not go now to determine the Law upon it, becauſe you know what Opinions and Judgment is received afterwards) yet this I will adventure to ſay, That it was never the Intention of that Declaration that ever Prieſts ſhould come and reſide here; but it was only intended for tender Conſciences, as the very Letter of the Declaration it ſelf does ſhew, not to countenance Prieſts and Jeſuits, that have caſt off all their Allegiance to the King, and endeavour both to deſtroy him and his Government.

Marſhal. Pray Sir, will you give me leave to ſpeak as to that? If ſo be the uſe of their Religion were permitted to *Roman* Catholicks, that Religion not being to be practiſed without Prieſts, it is to be ſuppoſed, that the Prieſts are permitted.

Mr. Recorder. But if a Man were to argue with you now in your own way; Pray are there not Prieſts in *England*, beſides thoſe Prieſts that were born here? You know, of your own Acquaintance there are ſeveral *Roman* Catholick Prieſts, not *Engliſhmen* born, that are conſtantly here, who can perform the Offices.

Marſhal. Nay, I don't know that; but this I know, if they be not born in *England*, or have lived in *England*, ſo as to know the Tongue, *Roman* Catholicks will be little the better for 'em.

Mr. Recorder. Nay, I don't ſay much the better, but much the worſe for their coming at them: and in caſe they would only uſe the *Engliſh* Truth, I preſume they would not have ſo many Proſelytes, but you gull them with Stuff they underſtand not.

Marſhal. Pray, Sir, give me leave a little, I have one word more: For all matters of Treaſon, and treacherous Conſpiracy, I was freed before in this Court; now I would obſerve what the beſt Lawyers that ever were in *England*, have obſerved for me; that there is no Crime in Prieſthood itſelf: For my Lord *Coke* in his 5th Report, 39th Leaf, commenting largely upon the Statute of 27 *Eliz.* and enlarging upon the Senſe and Meaning of that Statute, and calling to mind who the Men were that were formerly executed by force of that Statute, and why, concludes thus: Hence it appears, that no Man yet hath or can be executed for his Function of Prieſthood, but becauſe there was annexed to the Prieſthood treacherous Deſigns and treacherous Attempts. And the ſame Lawyer in the 3d Inſtitutes, 22d Leaf, ſays, That in this Statute of 27 *Eliz.* 'twas very wiſely and juſtly done by the Statute-makers, to provide, that the Judges ſhould proceed in their Judgments upon that matter, only according to what is expreſſed and ſpecified in that Statute. And thoſe Words were a Sanctuary to the Judges, and put in to prevent the ſhedding of Guiltleſs Blood. Now if ſo be that ſo great a Lawyer, in a Diſcourſe about Prieſthood and Treachery, does thence conclude, That Prieſthood as Prieſthood is no Crime, nor no Function belonging to it hath any Crime in it, well may I conclude ſo too: And indeed, if it had, then a great part of the World would be Traitors; nay, it would bring in Chriſt himſelf, who was a Prieſt, to be a Traitor too: Therefore Prieſthood, as Prieſthood, hath no Treaſon eſſentially link'd to it. And when he ſays, that they muſt proceed according to what is ſpecified, he does in the forementioned place ſhew, that it was not ſpecified at all, that any that were Executed, were for Prieſthood Executed: And I am accuſed of nothing elſe in the World but bare Prieſthood as Prieſthood, without any Deſign or Treachery joined to it: And if, according to Law, Prieſthood be not liable to Condemnation, then I am not to be Condemned.

Mr. Recorder. Now you have been heard.

Marſhal. Yes, Sir, and I thank you for it.

Mr. Recorder. This long Speech of yours will ſignify but little, when you conſider the Act of Parliament upon which you are indicted. 'Tis true, ſet that Act of Parliament out of the Caſe, and then to be a Prieſt is not High-Treaſon; nay, in caſe a Man be born out of the King's Dominions, and be a Prieſt, and remain here, that is not High-Treaſon within this Statute, becauſe Prieſthood it ſelf does not make the Crime (God forbid any one ſhould affirm it) but when all that is granted, when an Act of Parliament hath taken particular notice of the great Miſchiefs and Inconveniences that have attended the Government, and the continual Danger that the Supreme Head hath been in, by having Perſons which were born within the King's Dominions (as you were) to wave their Allegiance, and to acknowledge a Supremacy in any Foreign Prince or Prelate,

late, as you all do, when you take Orders from the See of *Rome*: the Wiſdom of the Nation hath thought reaſonable that ſuch ſhould be adjudged Traitors: And this Act of Parliament, upon which you ſtand Convicted, does plainly ſay, If any one born within the King's Dominions will take Orders from the See of *Rome*, and ſhall after reſide here, he is guilty of High-Treaſon: And this is not only thought ſo by us that are here, but by all my Lords the Judges that were preſent at your Trial; for God forbid we ſhould condemn you for any thing as High-Treaſon, if you had not been within the compaſs of the Act of Parliament: And what is Treaſon, the Act of Parliament particularly deſcribes, which all hath been proved upon you; and becauſe you are pleaſed to ſpeak it to the Court, and lay it on the Conſciences of the Court, I diſcharge my Conſcience; the Jury having Convicted you for High-Treaſon, I am very ready to paſs Judgment upon you according to the Law, and I will clear my Conſcience of that preſently. Tie him up.

Cl. of Cr. William Ruſſel, Hold up thy Hand, Thou art in the ſame Caſe, what canſt thou ſay for thy ſelf? *&c.*

Ruſſel. I can ſay this, my Lord, that in my Conſcience, I do not acknowledge my ſelf Guilty of what they accuſe me for, but I muſt ſubmit to the Laws as they are made; but I do proteſt before Almighty God, and this whole Court, that I am innocent of all that is laid upon me.

Mr. Recorder. Why, what were you never at *Wild-houſe*, and ſaid Maſs there? I would fain hear, whether you, in the State and Condition you are in (though you Jeſuits have a thouſand Tricks and Evaſions) have Confidence enough to ſay you never were, nor ſaid Maſs there?

Ruſſel. I ought not to accuſe my ſelf.

Mr. Recorder. You are convicted. But every thing that you ſay is but an Evaſion, and a Trick to catch and inſnare the Ignorant, but People of any ſort of Senſe will not be gull'd ſo.

Ruſſel. For my Witneſſes, you are my Witneſs, I have but one Witneſs upon that Buſineſs.

Mr. Recorder. The Jury have believed them.

Ruſſel. 'Tis poſſible it may be ſo.

Mr. Recorder. Nay, 'tis beyond poſſible, 'tis true.

Ruſſel. The Witneſſes that have depoſed againſt me, for my part, I know them not.

Mr. Recorder. You have heard of Dr. *Oates*, Mr. *Praunce*, and of Sir *William Waller* too. Tie him up.

Cl. of Cr. Charles Parris, alias *Parry*, hold up thy Hand. You are in the ſame Condition, what have you to ſay?

Parry. What have I to ſay for my ſelf? I have this to ſay, That thoſe that did depoſe againſt me, did not ſay one Word of Truth as to their Allegations, I take God to witneſs for it; I am a dying Man, and thank moſt heartily the Court for what they are to pronounce againſt me, and I am as ready to ſuffer, as any Man may be to have me to ſuffer, for it is God's Glory and his Cauſe. Then I inſiſted upon two Parts, and complained, Firſt, of Sir *William Turner*, that being brought before him by Mr. *Praunce*, and ſhewing him my Protection under an Ambaſſador, and I profeſſing my ſelf a *Frenchman*, he ſlighted it, which I held to be a manifeſt Breach againſt the Laws of Nations. Secondly, I was wrong'd by Sir *William Waller*, when (in his Examination of me with Juſtice *Warcup*) in the *Preſs-yard*, *Newgate*, he threaten'd me with Irons, *&c.* if I did not take my Oath I was not born in *France*, and I refuſing, (which none could be compell'd to) for 'twas my Opponent's Part to prove the contrary; and who can prove me to be other than a *Frenchman?*

Mr. Recorder. No body can; we believe you to be an *Engliſhman.*

Parry. If I be a *Frenchman*, I am not ſubject to the penal Laws.

Mr. Recorder. Why, no body does. We believe you to be an *Engliſhman.*

Parry. And if it pleaſe you, they are to prove it.

Mr. Recorder. Well, that is over now. Tie him up.

Parry. I am not a Subject, and as not a Subject, am not under the penal Laws.

Cl. of Cr. Set *Henry Starkey* to the Bar. *Henry Starkey*, hold up thy Hand. Thou art in the ſame Condition with him that went laſt before thee, what canſt thou ſay for thy ſelf? *&c.*

Starkey. In the firſt Place, Mr. *Recorder*, here is the Man (*pointing* at Mr. *Praunce*) hath ſworn two Lies at one Breath.

Mr. Recorder. I muſt not hear that, Mr. *Starkey.*

Starkey. Will you pleaſe to hear me, Sir?

Mr. Recorder. I will give you all the Freedom you can lawfully deſire in the World, but it muſt be that which will conſiſt with my Duty, and the Reverence you owe the Court. You ſhall not revile the King's Evidence as long as I am here, by the help of God.

Starkey. If that it were true, that I had ſaid Maſs at my Lady *Somerſet*'s and Mr. *Duncomb*'s, yet it is not ſufficient to prove a Man to be a Prieſt, for any Man may take the Prieſt's Garments, and do the Ceremony and the Office, becauſe there are hundreds, perhaps thouſands, that have ſuffered Death for it. And ſo to do theſe Acts, is not Evidence of being a Prieſt.

Mr. Recorder. Indeed, I don't underſtand what makes a *Romiſh* Prieſt, nor do I deſire it.

Starkey. But you will give me the Letter of the Law.

Mr. Recorder. And the Jury hath found you a Tranſgreſſor of the Law.

Starkey. The Letter of the Law is this, *That if any one of the Queen's Subjects ſhall tranſport himſelf beyond the Sea, and ſhall in a Seminary take Orders, by Authority deriv'd from the See of* Rome, *and ſhall return into* England, *and ſhall not preſent himſelf here to the Ordinary, or elſe to ſuch a certain Number of Juſtices of the Peace within ſuch a Term, but ſhall ſeduce the King's Liege People* ——

Mr. Recorder. No, that is another Act.

Starkey. Then he ſhall be adjudged a Traitor. Now, Mr. *Recorder*, I come to this, as I told you before, I had diſcovered a Plot to the King that was deſign'd againſt his Perſon, State and Government, and did deliver into his Hands eleven Articles of Treaſon, which I had writ with my own Hands; (and this he hath own'd, and will own.) So, Mr. *Recorder*, upon this I was threatned my Life and Liberty by the Plotters, That the King ſhould not be gone twenty four hours, but I ſhould be impriſoned. When the King went, what muſt I do? Muſt I ſtay there and hazard my Life, or truſt to the King's Mercy? I was forced to come along with the King for Protection. I came to *Whitehall*, and the King roſe up and gave me his Hand to kiſs, and ſo did the Duke of *York*, and told me I was welcome. I went to my Lord Chancellor *Hyde*, who, when he ſaw me, embraced me in his Arms, and ſaid, thou art welcome, I am glad to ſee thee in *England*. I had occaſion to ſpeak with the Biſhop of *London*, Dr. *Sheldon*, about another Perſon, and when I came to him he aſked me, What is your Name? My Lord, ſaid I, my Name is *Starkey*, with that he catches me faſt by the Hand, and when he had done that, he took me in his Arms, and told me, You are welcome. And Mr. *Recorder*, I do ſuffer to this Day for the Service I have done the King.

Mr. Recorder. Mr. *Starkey*, I can only ſay this to you, I do promiſe you faithfully, as I promiſed the other Gentleman that went before, I'll tell the King what you alledge. He is the beſt able to give an Account of it, and is the fitteſt Judge of his own Mercy. But I could recommend to you, Mr. *Starkey*, a thing that would be very acceptable, and then as far forth as 'tis modeſt for me to ſpeak, I am pretty well aſſured, I might ſay, I could prevail for Mercy to you, That is, as you did diſcover one Plot before, ſo you would diſcover this helliſh Plot that is now on foot.

Starkey. Mr. *Recorder*, I have wiſhed a hundred times, and wiſh now, that if there were any Commiſſions, as is pretended, the firſt that had delivered one to me, ſhould never have deliver'd a ſecond; for I would either have brought him to Juſtice, where he ſhould receive his Reward, or elſe I would have kill'd him in the place; tell the King, Mr. *Recorder*, that I ſay ſo.

Mr. Recorder. Well, the King is a Fountain of Mercy, and he is the beſt Judge of the fit Objects of it, I will, as I ſaid, tell him what you ſay.

Starkey. If the King does not own what I told you, then count me the greateſt Knave that ever you ſpoke withal.

Mr. Recorder. You remain now under the Conviction of the Law; what Mercy the King, who is the Fountain of Mercy, as well as of Juſtice, will extend to you, is in his own Power.

Starkey. Mr. *Recorder*, I have here his Majeſty's Gracious Pardon of the 25th Year of his Reign.

Mr. Recorder. I allow that, but you have ſtaid here ſince.

Starkey. Why then, Mr. *Recorder*, pray will you adviſe me what to have done? Nature teacheth all Men to ſhun Danger; for I was threatened with Life, *&c.* if I ſtaid in *France*: Whether ſhould I ſtay there, or return to my native Country with my King? Now, Mr. *Recorder*, I deſire to know what you would have had me done?

Mr. Recorder. I ſhall acquaint the King, and will do you all the Kindneſs I can with him. Tie him up.

Starkey. But how ſhall I do then, when I am lame? I want a Leg, and I muſt uſe my Stick.

Mr. Recorder. Then let him alone.

Starkey. But I pray, good Mr. *Recorder*, will you be pleaſed before you give Sentence upon me, to acquaint the King with what I have to ſay for myſelf.

Mr. Recorder. No, I cannot do that, the King's Pleaſure is to be known afterwards. Set *Lumſden* aſide, and ſet all the reſt to the Bar.

Then Proclamation was made for Silence, whilſt Judgment was giving.

Mr. Recorder. You the Priſoners at the Bar; you have been ſeverally Accuſed, Arraigned ——

Starkey. Mr. Recorder, may I ſpeak one Word? I have preſented this Year, wherein at the 26th of this Month I have been a Priſoner, ſeveral Petitions by my Friends to the King, and deſir'd to be Tranſported; for my Age and Infirmities, and want of a Leg, did not ſtand well with my being in *England* theſe troubleſome Times. The King, I am told, hath promiſed I ſhould, but I ſee no Fruits of thoſe Petitions. And pray conſider this, that I ſhould have been impriſoned if I ſtayed out of *England*, and now to be proſecuted in *England* in this manner, and to be drawn, hang'd, and quartered, is very hard.

Mr. Recorder. Whether it be true or not, God knows, I ſhall acquaint the King with it. It only remains with me to take notice of it for that purpoſe. And for my part I am ſorry with all my Heart to ſee ſo many Perſons brought to receive the Sentence of Death by my Mouth. But I muſt ſay this, you your ſelves have been the occaſion of it, and therefore muſt blame your ſelves for it. You have had the Benefit of the beſt Laws, the Law of *England*, which gives every Subject the liberty to make a Defence for himſelf, when ever he is accuſed of any Crime; he hath the liberty to hear the Witneſſes what they ſay againſt him; to call any Witneſſes for him, and to make defence for himſelf. And not only ſo, but he hath likewiſe Twelve Men upon their Oaths, that are his Peers, againſt whom he hath the liberty to make a Challenge without ſhewing any Reaſon, to a certain Number; and if it ſhall appear that any of them have the leaſt Prejudice or Malice againſt any Perſons that are to be tried for their Lives, to a greater Number. Such, and ſo great is the Benefit of the Laws of *England*, beyond all the Laws of any other Nation in the World. But all theſe Forms having been paſſed, and a Jury of Men, againſt whom you made no Exception, having found you Guilty of the Offences for which you were Indicted, there remains now nothing more with the Court, but to paſs that Judgment of Death upon you, which the Law requires, and which is the Buſineſs that lies upon me now. But before I do that, for I know you may think it a Preſumption, or at leaſt a needleſs and unneceſſary thing for me to take upon me, and give any Directions to you, the Buſineſs of whoſe Profeſſion it hath been to give Precepts: However I think it neceſſary for the Satisfaction of ſome Perſons that are here preſent, that I ſhould give them ſome Account, why I think this Law, and the putting it in execution at this time, is not unreaſonable. For it is to be known, that every Subject of this Realm by his being born within the Dominions of the King, does owe an immediate Allegiance to the King, and is to take notice by the Law, that there is not any Perſon hath any Superiority over him; for under God he is the Supreme Head and Governor. And if any Perſon born within the Dominions of the King ſhall ſo far forget himſelf, and what he owes to the King by his Birth, and that Supremacy which he ſhould maintain with his Life and Fortune, as to acknowledge any other Foreign Perſon to be Supreme, and to have a Power to Depoſe the King, and

and diſpoſe of his Dominions (as every one does, that takes Orders from the See of *Rome*) he cannot but be thought deſerving of the greateſt Puniſhment. Wherefore the Wiſdom of our Nation, the Parliament, at the Time when they made the Law, found that the Religion Eſtabliſhed (that Religion which I hope in God will remain notwithſtanding all the Enemies it ever had or ſhall have) was invaded by ſuch Prieſts as you; they found the Life of the Queen at that time in great danger, by the Attempts of thoſe Perſons whom they had made their Proſelytes, into whom they had infuſed Principles, that it was no Crime for them to depoſe their Queen, ſince they had the Authority of their Pope to juſtify the Fact. And if once Men can preach ſuch Doctrine, and alſo but prevail with their Hearers to be of ſuch a Perſuaſion, if Care were not taken, we ſhall ſoon ſee an end of all ſort of Government, and of our Religion too. But in as much as theſe Principles were not ſo viſibly endeavoured to be put in practice till of late times, though you were not permitted, but connived at; yet that is no Reaſon but the occaſion of making the Law being revived, the Execution of the Law ſhould revive with it. I ſuppoſe it is not unknown to any of us, that there hath been an helliſh Plot againſt the Life of the King, and to deſtroy our Religion, I would to God I could ſay the Plot was at an end. For I muſt ſay, ſome of you, I fear, had too great an Hand in it: And what a ſort of Monſters were prevailed upon to compaſs the ſame, by you that are Prieſts and Jeſuits, who have wrought them up to ſuch a Belief, that Murder in this World is a certain Way to Saintſhip in that which is to come. And though you ſeem to deny it, your Practices are a Proof of it beyond all Contradiction, which is the Reaſon that this Law, which was a good Law at the time of the making, and thought fit to be put in Execution then, though it hath ſlept ſome time ſince, ſhould now be put in Execution againſt you, who have occaſion'd all thoſe Miſchiefs to this Nation in theſe latter Times, which occaſioned the making of the Law. And one thing more I ſhould ſay to that Man, who pretends to merit by the good Services he hath done for the Publick, that he ſhould injoin a Man to ſcour his Kettle, as he calls it, to receive the Sacrament, and then give him a Diſpenſation to be drunk, and make another ſo, to promote a damnable Deſign, is ſuch a Power of Prieſthood, fit only for the *Pope* and his Imps to put in practice.

But ſay no more, in Charity I am bound to compaſſionate your Condition, which with all my Soul I do, and heartily can ſay to you, I am ſorry to ſee you in that Miſery. It was in your own power to have prevented it; but ſeeing you have made your ſelves Obnoxious to the Law, the only thing required of me, is to pronounce the Sentence that the Law hath decreed: And therefore in the Name of the Court I do pronounce this to be your Judgment——

Starkey. Mr. *Recorder*, give me leave to ſpeak one Word: if any one ſhould have held to me that Poſition, That it is lawful to depoſe and murder Kings, I would have killed him in the place: Tell the King, Mr. *Recorder*, I ſay ſo.

Anderſon. It is my comfort, that no one of common Senſe can believe it.

Marſhal. May I aſk one Queſtion, Mr. *Recorder*, before you pronounce Sentence?

Mr. Recorder. No, Mr. *Marſhal*, you can't ſpeak now; but this is your Judgment, and the Court does award it: That you the ſeveral Priſoners now at the Bar, be conveyed from hence to the Place from whence you came; and that you, and every of you, be convey'd from thence on Hurdles to the place of Execution, where every one of you are to be ſeverally hang'd by the Neck; That you be ſeverally cut down alive; That your Privy-Members be cut off, your Bowels taken out and be burnt in your view; That your Heads be ſevered from your Bodies; That your Bodies be divided into four Quarters, which are to be diſpoſed at the King's pleaſure: and the God of infinite Mercy have Mercy upon your Souls.

Parry. *Te Deum laudamus*; *Te Dominum confitemur.*

Then the Priſoners were carried away, and the Court Adjourn'd the Seſſions.

XCI. *The Trial of* John Tasborough *and* Anne Price, *at the King's-Bench, for* Subornation *of* Perjury, February 3, 1679. Hil. 32 Car. II.

FIRRST, Proclamation was made for Information in uſual Form. Then the Defendants were called, and appearing, were by the Clerk of the Crown adviſed to look to their Challenges. Then the Jurors that were ſummoned to try the Cauſe being called, and appearing, the Twelve that were Sworn, were theſe Perſons following,

Thomas Harriot,	Jur'	*Edward Wilford*,
Thomas Johnſon,		*Richard Bull*,
Charles Umphervile,		*Joſeph Radcliffe*,
Thomas Earſby,		*Richard Cooper*,
Richard Pagett,		*James Supple*,
John Greene,		*George Read.*

Cl. of Cr. Gentlemen of the Jury, you that are Sworn, hearken to the Record. The Defendants, *John Taſborough* and *Anne Price*, ſtand Indicted by the Oaths of Twelve honeſt and lawful Men of the County of *Middleſex*; which Indictment ſets forth, That whereas one *Thomas White*, alias *Whitebread*, *William Harcourt*, *John Fenwick*, *John Gavan*, alias *Gawen*, and *Anthony Turner* being Popiſh Recuſants, and falſe Traitors againſt our Sovereign Lord, *Charles* the Second, by the Grace of God, of *England*, *Scotland*, *France* and *Ireland* King, Defender of the Faith, &c. the Thirteenth Day of *June*, in the Year of the Reign of our Sovereign Lord the King that now is, the Thirty firſt, at the Seſſions of *Oyer* and *Terminer*, and Goal-delivery, then held in the *Old-Bailey*, in the Pariſh of St. *Sepulchres*, in the Ward of *Faringdon-without*, *London*, for the City of *London* and County of *Middleſex*, were lawfully indicted for certain High-Treaſons, in the ſaid Indictment ſpecified; and afterwards were ſeverally Tried by a Jury of the ſaid County, and then and there were Attainted, as appears by the Record thereof to the Jurors aforeſaid in Evidence ſhewn. And whereas alſo one *Richard Langhorn*, Eſq; being a Popiſh Recuſant, the 14th Day of *June*, in the Year of the Reign of our ſaid Sovereign Lord the King that now is the 31ſt aforeſaid, at the Seſſions of *Oyer* and *Terminer*, then held by Adjournment at the *Old-Baily*, in the Pariſh and Ward aforeſaid, was lawfully Indicted for divers High-Treaſons in the ſaid Indictment ſpecified; and being afterwards Tried by a Jury of the County, was then and there thereof Attainted, as appears by the Record thereof to the Jurors aforeſaid in Evidence ſhewn. And whereas one *Stephen Dugdale*, upon the ſeveral Trials of the Indictments aforeſaid, was a Witneſs produced and ſworn on behalf of our ſaid Sovereign Lord the King that now is, and then and there in lawful manner did give material Evidence againſt the ſaid *William Harcourt*, and the ſaid ſeveral other Traitors, to prove them guilty of the matters in the ſaid Indictment ſpecified: The ſaid Defendants, *John Taſborough* and *Anne Price*, the Premiſes aforeſaid well knowing, and being Perſons deviliſhly affected towards our Sovereign Lord *Charles* the Second, now King of *England*, &c. their Supreme and Natural Lord, and deviſing, and with all their Strength intending the Peace and Tranquillity of this Kingdom to diſturb, and to hinder and ſtifle the farther diſcovery of the ſaid Treaſons, and as much as in them lay, the due courſe of Law to elude, and the Proſecution of Juſtice in that behalf to retard and obſtruct; as alſo to cauſe and procure that it ſhould be believed, that the Perſons aforeſaid Attainted, were unjuſtly Attainted: The ſaid *Anne Price* before the Trial of the ſaid *William Harcourt*, to wit the 10th day of *June*, in the Year of the Reign of our ſaid Sovereign Lord the King the 31ſt aforeſaid, at the Pariſh of St *Margaret Weſtminſter*, in the County of *Middleſex*, with Force and Arms, falſly, unlawfully, unjuſtly, corruptly, and againſt the Duty of her Allegiance, did ſolicit, ſuborn, and endeavour to perſuade the ſaid *Stephen Dugdale*, that he the aforeſaid *Stephen Dugdale* ſhould not be a Witneſs nor give Evidence againſt the ſaid *William Harcourt*, upon the Trial of the ſaid *William Harcourt* for the Treaſons aforeſaid: And that the ſaid *John Taſborough* and *Anne Price*, afterwards to wit, the 12th Day of *October*, in the Year of the Reign of our ſaid Sovereign Lord the King that now is, the 31ſt aforeſaid, at the Pariſh of St. *Margaret Weſtminſter* aforeſaid with force and Arms, falſly, unlawfully, unjuſtly, adviſedly, corruptly, and againſt the Duty of their Allegiance, did ſolicit, ſuborn, and endeavour to perſuade, and either of them did then and there, falſly, unlawfully, adviſedly, corruptly, and againſt the Duty of their Allegiance, ſolicit, ſuborn, and endeavour to perſuade the ſaid *Stephen Dugdale*, that he the ſaid *Stephen Dugdale*, ſhould retract and deny all the Evidence and Information which he the ſaid *Stephen Dugdale* as aforeſaid, had given againſt the Traitors and Popiſh Recuſants aforeſaid; the ſaid *John Taſborough* and *Anne Price* then and there falſly, unlawfully, unjuſtly and adviſedly, corruptly promiſing, and either of them promiſing to the ſaid *Stephen Dugdale* great Sums of Money and Rewards, if he the ſaid *Stephen Dugdale* would retract and deny all the Evidence and Information by the ſaid *Stephen Dugdale*, againſt the Traitors and Popiſh Recuſants aforeſaid, as aforeſaid given, and would withdraw and abſent himſelf the ſaid *Stephen Dugdale*, in places unknown and beyond the Sea: And that the ſaid *John Taſborough* and *Anne Price*, their wicked Devices, Practices and Intentions aforeſaid to fulfil and accompliſh, afterwards, to wit, the ſaid 12th Day of *October*, in the Year of the Reign of our ſaid Sovereign Lord the King the 31ſt aforeſaid, at the Pariſh aforeſaid, in the County aforeſaid, by Force and Arms, falſly, unlawfully, unjuſtly, adviſedly and corruptly, and againſt the Duty of their Allegiance, did produce and ſhew, and each of them did then and there produce and ſhew to the ſaid *Stephen Dugdale*, a certain Note in Writing, the Tenour of which Note follows in theſe *Engliſh* Words following: *Being touched with a true remorſe of Conſcience, and hearty Sorrow for the great Ill I did in coming in a Witneſs againſt the Catholicks, and there ſpeaking things which in my own Conſcience I knew to be very far from the Truth: I think my ſelf bound in Duty both to God and Man, and for the ſafety of my own Soul, to make a true Declaration how I was drawn into this wicked Action. But being very well ſatisfied, that I ſhall create my ſelf many powerful Enemies upon this account, I have retired my ſelf to a place of ſafety, where I will with my own Hand diſcover the great Wrong that hath been done the Catholicks, and hope it may gain Belief. And likewiſe I proteſt before Almighty God, that I have no Motive to induce me to this Confeſſion, but a true Repentance for the Miſchiefs I have done, and hope God Almighty will forgive me.* And that the ſaid *John Taſborough* and *Anne Price*, the Day and Year aforeſaid, in the Pariſh aforeſaid, in the County aforeſaid, with Force and Arms, falſly, unlawfully, unjuſtly, adviſedly, corruptly, and againſt the Duty of their Allegiance, the ſaid *Stephen Dugdale* the aforeſaid Note in Writing, ſo as aforeſaid, to the ſaid *Stephen Dugdale* produced and ſhewn to ſign and ſubſcribe, did ſolicit and endeavour to perſuade, and each of them did ſolicit and endeavour to perſuade, and then and there falſly, unlawfully, unjuſtly, adviſedly and corruptly did promiſe, and each of them did promiſe to the ſaid *Stephen Dugdale*, that if he the ſaid *Stephen Dugdale*, the aforeſaid Note in Writing would ſign and ſubſcribe, that then he the ſaid *Stephen Dugdale* great and vaſt Sums of Money ſhould have and receive; to the evil and pernicious Example of all Perſons in the like Caſe offending, and againſt the Peace of our ſaid Sovereign Lord the King, his Crown and Dignity,

and againſt the Duty of their Allegiance. To this Indictment they have pleaded Not Guilty, and for their Trial have put themſelves upon the Country, and the King's Attorney likewiſe, which Country you are: Your Charge is to enquire, Whether the Defendants, or either of them, be guilty of the Treſpaſs and Offence whereof they ſtand Indicted, or Not Guilty: If you find them or either of them Guilty, you are to ſay ſo; if you find them Not Guilty, you are to ſay ſo, and no more, and hear your Evidence.

Crier, make an O Yes.

Crier. O Yes! If any one will give Evidence on behalf of our Sovereign Lord the King, againſt the Defendants *John Taſborough* and *Anne Price*, let them come forth and they ſhall be heard.

Mr. Belwood. May it pleaſe your Lordſhip, and you Gentlemen of the Jury, the Defendants, *John Taſborough* and *Anne Price*, ſtand Indicted for Subornation of Perjury: And the Indictment ſets forth, That whereas *Thomas Whitebread*, *William Harcourt*, and others, were Indicted, and that for Treaſon, in Conſpiring the Death of the King, and other Treaſons, and were legally Try'd, Convicted, and Attainted for the ſame; and that *Richard Langhorn* was likewiſe Indicted and Attainted for the ſame Offence: And that upon theſe Trials Mr. *Dugdale* was produced and examined as a Witneſs for the King, and did depoſe materially againſt the ſaid Traitors: And the Defendants knowing this, and contriving and deſigning to ſtifle the Diſcovery of the Treaſons aforeſaid, did before the Trial of the ſaid *Harcourt* ſolicit, ſuborn, and endeavour to perſuade the ſaid Mr. *Dugdale* not to be a Witneſs, nor to give Evidence upon the Trial: And after the Trial, did farther ſolicit him to retract and deny all the Evidence he had given on that behalf, and promiſed him large Rewards and great Sums of Money for it: And to accompliſh this, they did incite him to withdraw and retire himſelf, and produced a Note which he was to ſign, and which hath been read to you, wherein he was to acknowledge that he was in an Error, and had ſworn falſly, and therefore had retired himſelf; and for this they promiſed him great Rewards: And this Offence is laid to be done falſly, adviſedly, corruptly, and againſt the Duty of their Allegiance. To this the Defendants have pleaded Not Guilty; if we ſhall prove the Fact upon them, we hope you will find it.

Mr. Serj. Maynard. My Lord, and you the Gentlemen of the Jury, I am of Counſel in this Cauſe againſt the Defendants. For the Fact that is laid in the Indictment, it conſiſts of theſe Particulars: Firſt, An Attempt to prevent the Evidence before it was given. And Secondly, When it was given, and the Traitors were Convicted and condemned, then to Diſgrace that Evidence, and the Proceedings at Law that hath been againſt the Traitors; and this in favour of the Catholicks. Thirdly, The Means they uſed to perſuade him, which was by corrupt Promiſes and Engagements to him. And, Fourthly, That they had prepared a Note which hath been read to the Jury; whereby he that had ſwore the Truth, ſhould publickly own to the World that he had ſwore a Lye: and that the Catholicks had received great Injury by him, and that he had withdrawn himſelf to make this Diſcovery: And this is the Subſtance of the Charge upon theſe Perſons. This Practice, my Lord, is not new, it hath appeared here in ſeveral other Inſtances: We remember what *Reading* did, and we have not forgotten what *Knox* and *Lane* did; and this is the third Cauſe of that kind that hath come before you. Our Evidence will be this: We ſhall produce Mr. *Dugdale*, the Perſon againſt whom this Deſign was laid, and he can teſtify all this Matter. Now he was but a ſingle Perſon againſt theſe two Tempters; and your Lordſhip remembers what was ſaid in the like Caſe, two might convince one; and therefore he thought it ſafe to acquaint, and he did acquaint Perſons of Publick Concern and Authority with this Attempt upon him; and he did not only this, but they met ſeveral times about it at the Tavern, and there we ſhall prove what they did. Part of this hath been confeſſed, for this hath had another Examination in another Place: And the Gentlewoman hath confeſſed, that ſhe did offer him Sums of Money; for it we will call our Witneſſes. We ſhall not now aggravate the Fault, that will come after the Evidence given; but I think it is helliſh enough if it be proved.

* Sir *Creſwel Levinz.* * *Mr. Att. Gen.* My Lord, This Caſe is of the ſame nature with thoſe that Mr. *Serjeant* hath mentioned of *Reading*, and *Knox* and *Lane*; but it goes ſomewhat further: For this muſt be done in Writing, and ſubſcrib'd by the Party, to be produc'd upon occaſion, to defame all the Evidence that had been given before: And the Subſtance of the Note is to recant all that he had ſaid, and aver it to be falſe; and ſo all that have died upon that Account, muſt have been ſuppoſed to have died very unjuſtly. This was the Deſign of the Matter: And it was not only in this Caſe that theſe Perſons had been endeavouring things of this nature; for we can prove, if it be neceſſary, by another Witneſs, that this Gentlewoman hath been tampering to perſuade him to retract his Evidence againſt another Perſon, one Mr. *Parſons*, a Prieſt in Cuſtody; and to bring all about, ſhe did preſume upon Mr. *Dugdale*'s old Acquaintance with her: They had been Fellow-Servants in my Lord *Aſton*'s Family, and by that means were of ancient Acquaintance; and ſhe did preſume upon theſe grounds, that ſhe could withdraw him from all his Evidence. And we ſhall prove, I think, by another Witneſs which does fortify this Teſtimony, that both theſe Perſons have already acknowledged this Fact, and that they perſonated great Perſons in it; that is, they pretended to come in the Name of very great Perſons, as you will hear, when they had nothing to do in the thing. They pretended to go to *Windſor* for Pardon and Aſſurances of Protection, and they have acknowledg'd it; and 'tis in Proof that they were never near that Perſon: That is, Mrs. *Price* did pretend ſhe ſhould go down to *Windſor* and ſpeak with the Duke of *York*, for he was the Perſon nam'd, though 'tis acknowledg'd, and was in proof by her Companion, that ſhe never came near him, that is, by Mrs. *Harris*, of whom you will hear anon. And Mr. *Taſborough* did pretend the ſame thing to Mr. *Dugdale*, and did acknowledge it to the Council, but deny'd that it was true. We ſhall call our Witneſſes, and prove the Fact as it hath been opened.

Mr. Serj. Maynard. We will firſt prove the Indictments that are recited, and call for the Records of the Convictions.

* Sir *William Scroggs.* * *L. C. J.* Sure they will admit that.

Mr. Serj. Maynard. We muſt offer our Proof; if they will admit it, ſo.

L. C. J. What ſay the Counſel for the Defendants? Do you admit the Indictments and Convictions?

Mr. Pollexfen. My Lord, I cannot tell in this Caſe; If we ſhould not ſtand upon it that all the Proofs be given, our Client perhaps will take it ill. I pray therefore the Evidence may be given according to Law.

L. C. J. Well, if you ſtand upon it, they muſt prove it. Produce the Records.

Mr. Att. Gen. Give Mr. *Clare* his Oath. [*Who was Sworn.*]

Mr. Serj. Maynard. Put in the Copy, Sir. [*Which was done.*]

Cl. of the Cr. Come, Sir, is that a true Copy?

Mr. Clare. Yes; I examin'd it.

L. C. J. Where?

Mr. Clare. With Mr. *Adderley*, the Clerk of the Peace of *Middleſex*; and this other with Mr. *Tanner*, Clerk of the Peace for *London*.

Then the Copy of the Record of the Conviction of Whitebread, &c. *was begun to be read.*

L. C. J. Let them ſee it that are for the Defendants.

Mr. Juſt Dolben. Don't read it all; if they have any Exception to it, let them make it: Give it over to them.

Mr. Pollexfen. Ay, my Lord, let us ſee it. Pray, Sir, you ſay you examined this, is this a true Copy?

Mr. Clare. Yes, it is.

Then alſo the Conviction of Langhorn *in* London, *was read.*

Mr. Juſt. Dolben. That is the Conviction at *Newgate*.

Mr. Juſt. Pemberton. Well, go on with the reſt now.

L. C. J. Go on with the Evidence.

Mr. Juſt. Pemberton. Who do you begin with? Who do you call firſt?

Mr. Belwood. Mr. *Dugdale*, my Lord. [*Who was ſworn.*]

Price. Stand nearer me, Mr. *Dugdale*.

Mr. Att. Gen. He ſtands near enough.

Mr. Serj. Maynard. He will be near enough you by and by, Mrs. *Price*.

L. C. J. Come, Mr. *Dugdale*, What ſay you againſt Mrs. *Prite* and Mr. *Taſborough*?

Dugdale. My Lord, Mrs. *Price* being an antient Acquaintance of mine (for ſhe was my Fellow-Servant at my Lord *Aſton's*, may it pleaſe your Lordſhip) I coming to Town as a Witneſs for the King, I did ſend for Mrs. *Price* as one of my ancient Acquaintance; I think it was in *January* was Twelve-month.

L. C. J. Is ſhe a Papiſt?

Dugdale. Yes, I think ſhe is ſo now: We uſed to go to Maſs together in the Country.

L. C. J. She was one, but is ſhe?

Dugdale. I ſuppoſe ſhe is one; we had Familiarity together, but never 'till *June* laſt did ſhe endeavour to take off my Evidence.

L. C. J. When was it ſhe firſt ſet upon you?

Dugdale. She began to tamper firſt the Night before *Harcourt*'s Trial.

L. C. J. But ſhe had been before with you in *London?*

Dugdale. Several times: For I ſent to her preſently after I came to Town; but that was the firſt time ſhe offered to take off my Evidence. And ſhe was then perſuading me to be out of the way, and not to give any Evidence againſt Mr. *Harcourt*, becauſe he was her Ghoſtly Father.

L. C. J. Who was by?

Dugdale. There was no Body by, but one that was an Acquaintance of mine that heard her.

L. C. J. What is his Name?

Dugdale. Wright.

L. C. J. Then you two and *Wright* were together?

Dugdale. Yes, my Lord.

L. C. J. What ſaid you to her when ſhe made that offer to you?

Dugdale. I told her I could not do it; for that I was to appear the next Day, and was to give my Evidence, or I muſt be forſworn: In any thing elſe I told her I would ſerve her; but that I could not do, becauſe I ſhould forſwear my ſelf; and I was ſworn next Morning. It continued two or three Days, or a pretty while, before I ſaw her again.

L. C. J. She was angry for a while with you, was ſhe?

Dugdale. She was afterwards well reconciled to me, and after ſhe deſired me that I would ſpeak to your Lordſhip, on behalf of one Mr. *Parſons*, a Priſoner in the *Gatehouſe*, that he might be bail'd out; I told her I would; I know not whether I did or no certainly, I ſuppoſe I did ſpeak to ſome of your Lordſhip's Servants; I do confeſs it was not done: But I was to go into the Country, into *Staffordſhire*, and juſt as I was going to take Coach, ſhe ſent a Meſſenger to me to ſpeak with me before I went. I ſaid I could not ſtay to ſpeak with her that Morning, but I would remember her Buſineſs when I came to Town again: I ſuppoſed it to be this about Mr. *Parſons*. I went into *Staffordſhire*, and continued there about ſix or ſeven Weeks; I was there at the Aſſizes with your Lordſhip. Now ſhe had been ſeveral times at one Mr. *Croſs*'s (where we uſually met) to enquire when I came to Town, and did deſire ſhe might know when I came, for ſhe had important Buſineſs to communicate to me. I think this might be about the 11th of *September* laſt, my Lord. When I came to Town, I came to Mr. *Croſs*'s that very Night, and they told me of this, That Mrs. *Price* had been there ſeveral times to requeſt them, that whenever I came ſhe might have Notice. I deny'd it that Night; I am very weary, ſaid I, and therefore would not have her ſent for. Within two or three Days after, I came there again, and ſhe was ſent for: I cannot tell whether by my Direction, or whether they ſent for her of their own accord, they can beſt teſtify that; when ſhe came to Mr. *Croſs*'s, the firſt thing after Salutation from my Journey, ſhe aſked me if I had ſpoken to your Lordſhip about Mr. *Parſons?* I told her, No, not as yet; but I would go ſtraight up to your Lordſhip's Houſe, and ſpeak with you about it.

No

No (said she) you need not now do that, for we have a greater Work in Hand; which Work was this: She told me she was come from a great Person, whom she did not then name, to tell me, that if I would retract my Evidence (this was the short of it, there were more Particulars) and go beyond Seas, I should either be in the D. of *York*'s Court, or I should be supported by him.

L. C. J. Did she name the Duke of *York* then?

Dugdale. Not the first time; she said she was come from a great Person, but named him not: The second time she named him, when I desired to know who the great Person was.

L. C. J. But what said she the first time, if you would retract, what then?

Dugdale. I was to have a Thousand Pounds paid into a Merchant's Hands, to be secured for me till I came back to give Evidence for them. I was to take the Plot off from the Catholicks, and to lay it wholly upon the Protestants. I was to swear against some Persons, as Mr. *Tasborough* told me; that after I was got on Ship-board, I was to do a great deal of more Service, and come to swear against a great Person, a Person of considerable Note, whom yet they did not name.

L. C. J. But before you depart from what Mrs. *Price* said to you, make an end of her Discourse, when she told you, you should have a Thousand Pounds depositied into what Merchant's Hand you thought fit.

Dugdale. I think not that, but into a Merchant's Hand.

L. C. J. Well, what should you do for it?

Dugdale. I was to retract all my Evidence, and to be no Witness against them; but before I would much encourage this, I went to my Lord that was then President of the Council, my Lord *Shaftsbury*.

L. C. J. Who was by when this Discourse was? was the third Person by, you speak of?

Dugdale. There were others by afterward; but there was no Body but we two together, I think at that time: But I went to that Noble Lord my Lord *Shaftsbury*, and acquainted him and Mr. *Hambden* and Mr. *Charlton* with it: For she threatned, that all the King's Evidence would in a short time be hang'd; and if I would come over to them, it should all be turned upon the Protestants. The Duke had a wise Counsel, and had contrived it so, that if I would come over to them, there would not be a Papist that should suffer more: but their Religion should be established in half a Year, and all the Witnesses brought to condign Punishment. When I acquainted these Persons I named with this, and communicated it to them, they thought fit I should go on a little with her to trepan her, to see what kind of Plot it was they were designing; and I did give Encouragement; but not so far as to set my Hand to any Paper. But when it did come out, the Contrivance they spoke of did prove Mr. *Dangerfield*'s Plot, as appeared afterwards. So, as I was saying, I did encourage this to Mrs. *Price*, to see what I could get out of her; for I knew their Plots were dangerous and barbarous when I was amongst them; but I never design'd to prosecute them at any Bar, but only to know the Depth of their Contrivance. And these Gentlemen thought it very fit I should have some Evidence to testify for my Innocency, if they should prosecute me: And I did get two Persons, one Dr. *Chamberlain* and his Clerk, who were to be in a private place to over-hear what was the Communication between us; and when I had placed them, I asked Mrs. *Price*, whether I first began the Tampering or she, she answered she did, and I reckon'd up all the Heads of our former Treaties, though not the Particulars.

L. C. J. When did Mr. *Tasborough* first appear in this Matter?

Dugdale. My Lord, he never appeared but twice, and it was about the 12th of *October*, I think, the first time. We appointed to meet at the *Green Lettice*, that was with Mrs. *Price*, for I never saw the Face of Mr. *Tasborough* before that time, and from thence we adjourned to the *Pheasant* in *Fuller*'s Rents.

L. C. J. There was the first time you met with Mr. *Tasborough*, you say?

Dugdale. Yes, my Lord.

L. C. J. What Discourse had you with him when you first met him?

Dugdale. My Lord, when we came there, Mr. *Tasborough* was at first pleased to open the Business to me, that Mrs. *Price* had acquainted him that I would come over to them. I sat a good while and said nothing, and when I did speak, I did rather give Encouragement than speak against it.

L. C. J. What did he tell you?

Dugdale. He said, he was brought there to confirm what Mrs. *Price* had promised me.

L. C. J. Did he say so?

Dugdale. Yes, because I would not take it upon her Word alone, but desired to have some other sufficient Person; and she told me, he was an honest sufficient Gentleman, and I might confide in him, and he said, what she had promised, should certainly be made good, and that he came likewise from the Duke of *York*, as he said, to confirm those Promises had been made me of his Encouragement and Protection.

L. C. J. Did he express particularly of what should be made good?

Dugdale. My Lord, in general.

L. C. J. Did he mention the Money that was to be paid into the Merchant's Hands?

Dugdale. In general Words only, all would be made good.

L. C. J. Then he did not say, the Money, but what had been said to you by her should be made good?

Dugdale. We had some Particulars mentioned, but I cannot positively remember which.

Mr. Attorney General. I desire, my Lord, the Jury may take notice of this, that what she had promised, was, if he would retract his Evidence.

Mr. Just. Dolben. Did he intimate that?

Dugdale. The second time when he came, ——

L. C. J. But before you come to the second time, let us make an end of the first: Repeat what he told you, when he came to you. You say, he said I am informed by this Gentlewoman, that you intend to come over to us; what then?

Dugdale. He told me a great many things for my Encouragement; if I did come, that it was a very charitable Act, and it was nothing but what was acted like a Christian; and if I had done amiss, I might have Pardon for it; and he did say, he was encouraged by more than the Duke of *York*, that had taken my matter into Consideration.

L. C. J. What, was it in general Words?

Dugdale. It was, if I would come over, and retract what Evidence I had given. And he said whatever things had been promised me should be sure to be made good. Then my Lord, the second time, we did adjourn till *Tuesday* following; and then we met (as I think) at the *Six Cans* in *Holbourn*, and it was pretty late that time we met; so Mr. *Tasborough* and Mrs. *Price* did tell me it was the last time they were to come.

L. C. J. What, the second time of *Tasborough*'s coming?

Dugdale. Yes, my Lord, and they offered me this Note. I had the Note before left with me to consider of it.

L. C. J. Who had given you the Note?

Dugdale. Mrs. *Price* gave me the Note.

L. C. J. Did Mr. *Tasborough* leave you before the Note was given you? For look you, when he told you about retracting your Evidence, and that this is nothing but what you may lawfully do, 'tis a Charitable Act——

Dugdale. That was the first time, my Lord.

L. C. J. Did he produce the Note then?

Dugdale. He and she together did.

L. C. J. Who was it had it?

Dugdale. Mrs. *Price* had it from me; and produced it before Mr. *Tasborough*'s Face.

L. C. J. Did she give it to him to read?

Dugdale. Mr. *Tasborough* did read it, and reading it said, this is nothing but what you may lawfully do; there is no Hurt in it.

L. C. J. And then he went away and left you and Mrs. *Price* together; what became of the Note?

Dugdale. Then Mrs. *Price* after some Importunity left the Note with me; and I delivered it to Dr. *Chamberlain* to copy out. And Mr. *Tasborough* and Mrs. *Price* at the second Meeting told me, that was the last Time of meeting, and if I did not then sign it, it would be much to my Prejudice; and that they should not be able to do any thing for my Advantage, if I did not sign it before the Duke went into *Scotland*. He was then going, and it should be much for my Benefit if I signed it first; but Mr. *Tasborough* said, he could do me no more Service except I did that.

L. C. J. He said, that that was the last time, and if you would do it, it would be for your Advantage?

Dugdale. Yes, my Lord.

L. C. J. What said you then, did they produce the Note again?

Dugdale. My Lord, the Note was delivered to Mrs. *Price*, and she brought it thither for me to sign it, and laid it upon the Table, and pressed me to sign it.

L. C. J. I thought you had said she had given you the Note?

Dugdale. Yes, but I gave it her again before we met the second time.

L. C. J. And who produced it then?

Dugdale. She again the second time. But my Lord, we have missed one thing about Mrs. *Price*. When she was persuading me, she made use of the Duke of *York*'s Name, and said, she would go down to *Windsor* to persuade the Duke that I should have my Pardon: Accordingly she did go, as I believe; for she took Coach at *Charing-Cross*; and as she said, did go to *Windsor*, and brought me Word back again, that the Duke did not seem to countenance it much; for fear he should be drawn into a *Præmunire* himself; and then she told me the Duke did wish her to acquaint the *Spanish* Ambassador with it; and she did go and acquaint him with it, as she told me. I asked her when I should go to speak with the Ambassador about it; she told me that the *Spanish* Ambassador could not speak *English*, and it was not safe to trust an Interpreter that they did not know; and so it was to be deferred a little longer; but she said, that he would protect me, and that all that she said that the Duke had promised for my Reward, and for my safe going beyond Sea, he would be ready to do it; and she told me, that the *Spanish* Ambassador would write Letters into *Flanders*. And so they made use of the Duke of *York*'s Name; but I could never find by any thing, nor can say, though they made use of the Duke of *York*'s Name; that he did countenance any such thing, or ever knew of it.

L. C. J. How long was this before the Duke went away?

Dugdale. It was about the twelfth or fourteenth of *October*. The Duke went the beginning of *November* from hence.

L. C. J. Sir *Thomas Doleman*, do you know when the King came to Town from *Windsor*?

Sir Thomas Doleman. No; I do not know.

Dugdale. It was before the Duke went over into *Flanders* that the King was at *Windsor*. For the King and the Duke of *York* came from *Windsor*, and then the Duke went to *Flanders* again, and then she went, as she said, to *Windsor*, and came home either the Day the Duke came from *Windsor*, or the Day after.

L. C. J. Her Discourse when she went to *Windsor*, was before the Duke went into *Flanders*?

Mr. Just. Pemberton. The second Time, you mean.

Dugdale. Yes, my Lord, the second Time. For may it please your Lordship, I do remember now, that the Day when the Duke of *York* came back again from *Flanders*, I think it was the twelfth of *October*, that was the Time that I saw Mr. *Tasborough* first, and that was the Time they produced the Note, and I shall produce some Witnesses to prove that he had Discourse with me then.

L. C. J. I would only know the Time when she told you she went to *Windsor*, to speak with the Duke of *York*?

Dugdale. My Lord, to the best of my Remembrance, and as I think, it was the Day before the King came from *Windsor*, that she went down.

Mr. Just. Pemberton. He cannot swear to a Day, 'tis hard to put him to that.

L. C. J. He is not asked to a Day, but we would be at some Certainty about the time, as near as we can.

Dugdale. My Lord, this I dare positively say, she went down of a *Tuesday*, and that was the Day before the Duke of *York* came from *Windsor*.

Mr. Just. Pemberton. He does give us the Time as near as possibly he can.

Mr. Att. Gen. Have you a Copy of the Note, Mr. *Dugdale*?

Dugdale. Yes, my Lord, I have.

Mr. Serj. Maynard. Now we will prove that Note.

Mr. Att. Gen. For the Note itself, your Lordship observes, Mrs. *Price* had

had the Original back again, but your Lordship hears Dr. *Chamberlain* took a Copy of it, and he will prove it.

Then Dr. Chamberlain *was sworn.*

L. C. J. Did she shew you the Note at the Time that she went to the Duke to *Windsor?*.

Dugdale. The Note was produc'd when the Duke came from *Flanders*, the Day I think he came, and that was in *October*.

L. C. J. When did *Tasborough* and she meet with you?

Dugdale. When the Duke of *York* came back from *Flanders*.

L. C. J. When was that?

Dugdale. My Lord, I think it was the Twelfth of *October*. Mrs. *Price* had appointed Mr. *Tasborough* to come to confirm what she had said before, which was the Time that I saw him first.

L. C. J. When was that?

Dugdale. The very Day the Duke came from *Flanders*, as I think.

L. C. J. Well then, she talked to you of the Duke of *York*, and going to *Windsor*, before ever you saw *Tasborough*.

Dugdale. Yes, my Lord.

Mr. Just. Pemberton. And so his Evidence was.

L. C. J. So then here is the Matter, that the Jury may understand the Evidence: She solicited him the first Day before *Harcourt*'s Trial: Then the next was three or four Days after the Trial; and then she endeavoured to persuade you to retract your Evidence, and go beyond Sea.

Mr. Just. Pemberton. No, my Lord, that was only to get the Man bailed that was in the *Gate-House*.

L. C. J. Did she not the second Time propose that?

Dugdale. No, my Lord, not till I came forth out of the Country again.

L. C. J. Then you went into the Country before the great matter was spoken to?

Dugdale. Yes, my Lord.

L. C. J. And then she left word at the House, that she might know when you came, and when she met with you, she began to tamper with you, and said you should have 1000 *l.* paid into some Merchant's Hand, and be well look'd upon, and after that she said she would go down to the Duke to *Windsor*.

Mr. Just. Pemberton. But at that Time she told him, he should have a Place in the Duke's Court.

L. C. J. Did she produce the Note the first Time you saw *Tasborough?*

Dugdale. Yes, my Lord, the Note was produced the first Time.

L. C. J. And *Tasborough* read it.

Dugdale. Yes, he read it.

L. C. J. And said you might lawfully do it?

Dugdale. Yes, my Lord.

L. C. J. When was the second Time?

Dugdale. It was within a few Days after, about two or three Days.

L. C. J. You are not asked to a Day, was the Note produced a second Time?

Dugdale. Yes.

L. C. J. And then he was upon the same Matter still, when you swear the Note was produc'd the second Time?

Dugdale. Yes, my Lord.

L. C. J. And then he said, this is the last Time we must offer it to you, if you do not do it now, I can do you no good.

Dugdale. Yes, my Lord.

L. C. J. But her Discourse was before all this, that she would go down to *Windsor* and get your Pardon?

Dugdale. Yes, my Lord.

Mr. Just. Jones. Before your Acquaintance with *Tasborough?*

Dugdale. Yes, before ever I saw him.

Mr. Just. Pemberton. Tasborough was to confirm it.

Dugdale. Yes, for I made some Scruples about it, for they said before the Duke would believe me real, I must subscribe the Note, which I would not do without further Assurance. She promised a Person of good Sufficiency and Quality should engage for the Performance, and one Mr. *Perkins*, as she said, was to be sent for, and was sent for out of the Country, and 3 *l.* 10 *s.* expended in sending for him. And I said to Mrs. *Price* when 1000 *l.* was proposed, Lord in Heaven! that is too much Money, 100 *l.* is enough to serve me; said she, We must have a care how we manage this Matter; for she told me the Duke of *York* stood upon a tickle Point, and if it should be known the Duke tampered with the King's Witnesses, it would ruin him; but she said 1000 *l.* was prepared for me, if I would go beyond Sea into *Flanders*, where I should be maintained and protected. But I objected my Fear of the Inquisition in *Spain*, which I knew to be so cruel a thing, therefore I would not go beyond Sea. Then she asked me if I would be contented with the Protection of a Protestant Earl's House?

L. C. J. Did she tell you his Name?

Dugdale. She asked me if I could not be content to be in a Protestant Earl's House, and not go beyond Sea? but she named no body.

L. C. J. When you said you were unwilling to go beyond Sea, for fear of the Inquisition, she offered you the Protection of a Protestant Earl's House, and you desired to know who it was, but she named no body?

Mr. Just. Pemberton. And you say when Mr. *Tasborough* came to you, he told you, if you would retract your Evidence, all the Promises that had been made you by her should be made good?

Dugdale. Yes, my Lord, and without I would sign the Note, the Duke and the rest of the Gentlemen could not be serviceable to me.

Mr. Just. Pemberton. And he pressed you to do it before the Duke went into *Scotland?*

Dugdale. Yes, my Lord.

Mr. Belwood. Pray, Mr. *Dugdale*, what Discourse was between you and Mr. *Tasborough* concerning the Trial of Sir *George Wakeman?*

Dugdale. The last Time, the second Time we were together ——

L. C. J. Then you were but twice with *Tasborough?*

Dugdale. No, my Lord, but that second Time, You may see, says he, what a Progress hath been made by the acquitting of Sir *George Wakeman*, even that the Protestants themselves are at a Stand about their Belief, whether there be a Plot or no, and if you come over to us, it will overthrow all.

L. C. J. Had he any Discourse with you about the *Spanish* Ambassador?

Dugdale. My Lord, I can't tell whether he had or no, she had.

L. C. J. Did she say he would undertake the making good of the Promises?

Dugdale. Said I, Mrs. *Price*, suppose I should come over to you, what would it advantage you? There is Mr. *Oates*, and Mr. *Bedlow*, and Mr. *Praunce*, when I am gone. Said she, Hang them Rogues, so as we do but get you over, we do not care, we can quickly do their Business.

Mr. Sol. Gen. And he said, this I observe by the way, That if he came over, all the King's Evidence should be hang'd, and the Plot turn'd upon the Protestants.

Mr. Just. Pemberton. Yes, he did say so, that he was told by the Gentlewoman, if he would come over, the Plot should be turn'd upon the Protestants, and the King's Evidence be hang'd.

Mr. Scroggs. Mr. *Tasborough* did not say so.

Mr. Att. Gen. Is this a true Copy of the Note?

Mr. Just. Pemberton. But Mr. *Tasborough* persuaded him to sign the Note, and *Tasborough* did say it was a good Act, and confirmed and assured him that all should be made good to him that she had promised, and desired him to do it before the Duke went, that he might be the abler to serve him with the Duke.

Mr. Att. Gen. Mr. *Dugdale*, is this a true Copy of the Note?

Dugdale. I have read it so often, that I do believe it is a true Copy: And here is the Doctor and his Clerk, who will swear it was a true Copy, examined with the Note.

Mr. Att. Gen. Swear Dr. *Chamberlain* and *Cleave*. [*Which was done.*] With what did you examine that Copy?

Cleave. By the Paper given me by Dr. *Chamberlain*.

Chamberlain. My Lord, I received the Paper from Mr. *Dugdale*, my Lord, and gave him Order to transcribe it.

L. C. J. And that is a true Copy of the Paper you had from Dr. *Chamberlain?*

Cleave. Yes, my Lord, it is.

L. C. J. Mr. *Dugdale*, Did you deliver that very Note that Mrs. *Price* delivered to you, to Dr. *Chamberlain?*

Dugdale. Yes, I did, and received it back again from him.

L. C. J. And you copied it out from that Note Dr. *Chamberlain* had?

Cleave. Yes, I did.

L. C. J. What is your Name, Sir?

Cleave. Cleave.

L. C. J. Read the Note. [*Which was read as in the Indictment.*]

Mr. Just. Pemberton. Was this a Copy of the Note delivered to you, that you were to sign?

Dugdale. Yes, my Lord, it is a true Copy: And if I may not be too troublesome, there is one thing more which comes into my Mind that passed betwixt Mrs. *Price* and me: She was instructing me how I should be convey'd beyond Sea, and she mention'd the way of the Pacquet-Boat that comes from *Dover*, and goes every *Tuesday* or *Wednesday*. I made a Shew as if I was willing to do it, but the next Time she came, said she, We have thought it not to be so safe as to go in a Merchant-ship, which was the way we sent all our Priests over.

L. C. J. When was this?

Dugdale. My Lord, it was before the Duke came home the second Time, it was while he was in *Flanders*. And being desirous to know, I pressed her to tell me what became of Mr. *Ewers*, my ghostly Father in the Country: It was a long Time ere she would tell me; but at last she told me that he was convey'd over in those Yachts that carry'd the D. of *York* the first time over into *Flanders*.

Mr. Att. Gen. Then swear *Wright*. [*Which was done.*] Mr. *Dugdale*, is this the Man that you mention'd concerning the Discourse about *Harcourt?*

Dugdale. He hearken'd, as he told me afterwards, but I did not then know it.

L. C. J. Well, what say you, were you present at any Discourse between Mr. *Dugdale* and Mrs. *Price*, before *Harcourt*'s Trial?

Wright. My Lord, I was walking to and fro in the Room: Mrs. *Price*, that Gentlewoman, was talking with Mr. *Dugdale* at the Window, and I was very inquisitive, I did think it was upon the Account of Marriage, or some such Business, and so hearkening, I did hear her say, That Father *Harcourt* had been very kind to her, and that she had visited him before he went to Execution, and he bid her not be troubled, he dy'd in a good Cause; and upon this Account I asked Mr. *Dugdale* afterwards what her Design was, and he said it was to withdraw his Evidence.

L. C. J. How often were you in the Company of Mrs. *Price* and Mr. *Dugdale?* never but that one Time?

Wright. Yes, a dozen times, I believe, I have been with them.

L. C. J. When was the first Time that you heard them talk concerning *Harcourt?* they were always very private, were they not?

Wright. Yes.

L. C. J. Well, what did you hear the first Time?

Wright. It was at the *Horseshoe* Tavern in *Chancery-Lane*; and then the great Matter that she did desire of him was, to be kind to *Harcourt*, for he had been her Confessor: But afterwards I remember, when he was condemned, she said she had been with him, and he had bid her be of good Cheer, for he dy'd in a good Cause.

L. C. J. Was this the Time that you were at the *Horseshoe* Tavern?

Wright. The first Time I heard no Discourse of *Harcourt* then.

L. C. J. When was this? And what said she when she spoke of Father *Harcourt* the first Time?

Wright. It was to desire him to be kind to Father *Harcourt*, because he was her Confessor. They spoke so softly I could hardly hear them.

L. C. J. Well, how do you know then?

Wright. I asked him when he came out, what it was, and he said it was to take off his Evidence against *Harcourt*; and afterwards she said she had been to visit him.

L. C. J.

L. C. J. What more did ſhe ſay at that Time?

Wright. I could not hear any more, my Lord.

L. C. J. Then all that you did hear was, She ſaid to him, pray be kind to Mr. *Harcourt*, for he is my Confeſſor; and to that Effect was all their Whiſpering that you heard?

Wright. That is all I did hear her ſay at that Time.

Mr. Juſt. Pemberton. But what did you hear Mr. *Dugdale* ſay at that Time?

Wright. He ſaid it was upon the Account of taking off his Evidence.

L. C. J. Well, what did you hear her ſay afterwards?

Wright. After ſhe was ſaying ſhe had been with him.

L. C. J. How long after?

Wright. I do not know, I cannot ſay to the Time, for I never minded it, they ſent for me ſometimes at their Pleaſure; but ſhe ſaid ſhe had been to viſit Father *Harcourt*, who took her in his Arms and ſaid, Do not cry for me, for I die in a good Cauſe; and this I told Mr. *Dugdale* of again: And ſhe did further ſay, If the King ſhould command me to be burnt at a Stake, I would do it, and ſo would any of the Party. Then ſaid Mr. *Dugdale*, while you give theſe kind Expreſſions, yet you would cut off his Head if you could: Said ſhe, you are a Rogue, and I am ſatisfied.

L. C. J. What, was it before the time that ſhe ſaid, pray be kind to *Harcourt?*

Mr. Serj. Maynard. We call this Witneſs only in Confirmation of *Dugdale*'s Teſtimony.

L. C. J. But Brother, here is the matter: He ſays at the time that ſhe told *Dugdale* he was a Rogue, and ſhe was ſatisfied; afterwards ſhe came to tamper with him to do *Harcourt* a Kindneſs.

Wright. She ſaid many times, there were not four greater Rogues between this and Hell Gate than the King's Evidence.

L. C. J. What, was it before ſhe talk'd of *Harcourt?*

Wright. Yes, a great while.

L. C. J. That is the thing, that ſhe ſhould ſay he was a great Rogue, and yet afterwards tamper with him.

Mr. Serj. Maynard. There was ſome Love betwixt them, and they did keep Company together.

Mr. Sol. Gen. This is before ſhe began to tamper with Mr. *Dugdale*; but that we call this Witneſs to prove is, that ſhe did afterwards tamper with him, as Mr. *Dugdale* tells you.

L. C. J. And the thing I ſay is, Would ſhe go to tamper with one ſhe had that Opinion of? 'Tis not impoſſible to be ſo, but it is not likely.

Mr. Sol. Gen. It is not impoſſible nor improbable at all, with ſubmiſſion; who ſhould ſhe tamper with but a Rogue, or one that ſhe thought would be ſo?

Mr. Juſt. Pemberton. She thought as all the other Catholicks did, and did deſire to withdraw him from his Evidence againſt them.

Mr. Juſt. Dolben. And notwithſtanding that ſhe called him Rogue; yet ſtill the Witneſs ſays, he thought there was matter of Love between them.

Mr. Att. Gen. Then we will call you *Croſs* the Man of the Tavern.

Mr. Juſt. Pemberton. It was about a matter that concerned the whole Catholick Party, and if you aſk them they will call them all Rogues: But afterwards they will begin to tamper one with one, and another with another.

Mr. Serj. Maynard. And they take the ſame method with every one of them.

Mr. Juſt. Jones. But this is that that is ſaid in confirmation of *Dugdale*'s Evidence, that *Dugdale* did immediately after tell him, that her Buſineſs was to get him to retract his Evidence.

Mr. Juſt. Pemberton. And he overheard ſo much, that ſhe deſired of him to be kind to *Harcourt*, who was her ghoſtly Father.

Mr. Sol. Gen. Now, my Lord, as we have produced one Witneſs to confirm one part of Mr. *Dugdale*'s Evidence; now we ſhall produce another Witneſs to prove the ſubſequent Diſcourſes, and her Perſuaſion of him to retract and to ſign the Note. And for that we call Dr. *Chamberlain*.

Mr. Att. Gen. We will call *Croſs* firſt to prove the meetings at the Tavern, he is the Man of the Tavern. [*Who was ſworn.*]

L. C. J. Come aſk your Queſtion now?

Mr. Belwood. Pray what can you ſay concerning Mrs. *Price*'s Diſcourſes with Mr. *Dugdale?*

L. C. J. Do you know Mrs. *Price* here?

Croſs. Yes, I do know her very well.

L. C. J. What ſay you then to her?

Croſs. I never heard any Diſcourſe from them but what was common.

Mr. Juſt. Dolben. But they have been often there only them two, have they not?

Mr. Juſt. Pemberton. Did ſhe ever come to your Houſe?

Croſs. She hath been there ſeveral times.

Mr. Att. Gen. I would aſk you this Queſtion, Sir, Whether ſhe uſed not to come there and ſend for Mr. *Dugdale*, when he hath not been there?

Croſs. Yes, ſhe hath been there often to enquire for him.

Mr. Att. Gen. What, frequently?

Croſs. Yes, a great many times.

Mr. Att. Gen. About what time of the Year?

Croſs. Laſt Summer, in *June*, *July*, and ſeveral Months.

L. C. J. What ſay you to *September* and *October*?

Croſs. I can't ſay the particular Months, but ſhe hath been there, and deſired me to ſend for Mr. *Dugdale*, for ſhe had earneſt Buſineſs with him.

Mr. Att. Gen. Was it preſently after he came to Town?

Croſs. My Lord, ſhe ſent for him before he went out of Town, and after he came to Town; before he went to the Aſſizes, and ſince he came from the Aſſizes.

Mr. Att. Gen. Pray did you ever hear them ſpeak about a Prieſt, one *Parſons?*

Croſs. I have heard ſomewhat about Mr. *Parſons*, that Mrs. *Price* did ſpeak to Mr. *Dugdale*, that he ſhould not proceed further againſt him than he had done.

L. C. J. Did you hear her talk about *Harcourt?*

Croſs. Yes, I have heard her ſpeak ſomething, but I do not know the Particulars of it.

L. C. J. But you have heard her name *Harcourt*'s Name?

Croſs. Yes, I have.

L. C. J. You do not pretend this Man was by at the Agreement?

Mr. Att. Gen. No, we do not: But only to prove they had frequent Diſcourſes together, and that ſhe ſent for him often about Buſineſs.

L. C. J. And 'tis to the ſame Purpoſe that the other was called for, only in Confirmation.

Mr. *Sanders.* My Lord, we pray he may be aſked, Whether Mr. *Dugdale* did not ſometimes ſend for Mrs. *Price?*

Croſs. Not upon his own Account, as I know of; for I have told you ſhe hath been there, and left word ſhe muſt needs ſpeak with him, and when he hath come ſhe hath been ſent for.

Mr. Sanders. Do you know ſhe hath been ſent for at any other time?

Croſs. Not that I know of: But when he was in the Country, ſhe came to our Houſe, and deſired that whenever he came to Town ſhe might ſpeak with him about earneſt Buſineſs, and ſhe was ſent for.

Mr. Scroggs. But he does not ſay any thing of Mr. *Taſborough.*

L. C. J. No; he came only to the *Pheaſant*, and that other Place.

Mr. Att. Gen. Now, my Lord, if your Lordſhip pleaſe, Mr. *Dugdale* did mention a matter that ſome Perſons were by Direction to ſtand by and hear their Diſcourſe; we have theſe Perſons here, who will tell you how it was, Dr. *Chamberlain* and his Clerk.

Dr. *Chamberlain.* My Lord, ſome time in *September*, Mr. *Dugdale* acquainted me, that there was a Deſign to draw him off from his Evidence, and he told me that the Duke of *York* was named in it. I ſaid, if it were ſo, it were a thing of great moment, and if it could be confirmed it were well. He told me, if I would come to his Chamber ſome Morning, Mrs. *Price* ſhould be there, and I ſhould hear the Diſcourſe; and accordingly I did come the 22d or 23d of *September*, and was there about an hour, and went into the Cloſet with my Clerk, and bid Mr. *Dugdale* ſpeak with an indifferent Voice, to ſee if I could hear what they ſaid. He did ſo, and we did hear him. At length Mrs. *Price* came; the Gentlewoman I had never ſeen, but he called her by that Name, and ſhe anſwered to it. They had ſeveral Diſcourſes, I could not overhear all, but the Sum was, that the *Spaniſh* Ambaſſador was unwilling to treat with him, becauſe it was dangerous, and he muſt make uſe of an Interpreter, and that the Duke of *York* would protect him, pardon him, and give him a thouſand Pound to maintain him: You know, ſays he, Mrs. *Price*, that I began not this Intrigue with you, but you propoſed it to me. She owned it, that ſhe had propoſed it to him.

L. C. J. Now how can you tell this is the Gentlewoman?

Dr. *Chamberlain.* Nay, I don't know that, my Lord.

Mr. Att. Gen. We don't pretend that, but will prove it by another Witneſs by and by.

Dr. *Chamberlain.* It was about the 22d or 23d of *September*, a *Monday* Morning, as I remember.

Mr. Juſt. Jones. Was *Taſborough* there?

Dr. *Chamberlain.* No, my Lord, none but them two.

L. C. J. Well, go on, Sir.

Dr. *Chamberlain.* She did preſs Mr. *Dugdale* very much to go with her to the *Gatehouſe*, he would willingly have excuſed it, but ſhe preſſed him ſo earneſtly, telling him ſhe would not go without him, that they went together, and he came up afterwards to me, where I had ſtaid all the time.

L. C. J. Did you hear her ſay any thing what ſhe would have him do for that thouſand Pound?

Dr. *Chamberlain.* I cannot tell truly any thing, but only to be gone.

Mr. Juſt. Pemberton. You could hear that?

Dr. *Chamberlain.* Yes, my Lord, I did.

L. C. J. Whither?

Dr. *Chamberlain.* Nay, I don't remember that.

Mr. Serj. Maynard. This was before the Note, my Lord.

Dr. *Chamberlain.* Yes, my Lord, for that was brought me afterwards.

Mr. Recorder. Call the other Witneſs, *Cleave.*

L. C. J. How long was this before *Harcourt*'s Trial?

Dr. *Chamberlain.* I don't know that, my Lord, it was in *September.*

Mr. Juſt. Pemberton. But the Trial was long before that, ſoon after *Trinity*-Term.

Mr. Sol. Gen. Pray, what did Mr. *Dugdale* ſay to her when ſhe preſſed him to be gone, did he not make any Objection?

Dr. *Chamberlain.* Poſſibly he might, I did not hear all that was ſaid.

Cleave. I was there the 22d of *September.*

L. C. J. In the Cloſet with Dr. *Chamberlain?*

Cleave. Yes, My Lord.

L. C. J. Had you ever ſeen Mrs. *Price?*

Cleave. No, never in my Life that I know of.

L. C. J. What did you hear then?

Cleave. Before that Mrs. *Price* came, we ſhut up ourſelves in the Cloſet, and deſired Mr. *Dugdale* to make a feigned Diſcourſe to ſee whether we could hear him, and he did ſo, and we heard indifferently well. We bid him to ſpeak a little loud that we might be ſure to hear him. We ſtaid there almoſt half an Hour before ſhe came. Afterwards ſhe came up, and Mr. *Dugdale* ſaluted her by the Name of Mrs. *Price*, to which ſhe anſwer'd. He aſk'd her, When ſhall I go to the *Spaniſh* Ambaſſador's? [This I heard diſtinctly; for I could ſee her Body but not her Face, ſhe ſtood with her back to the Door.] 'Tis not convenient at preſent, ſaid ſhe, to go; for his Interpreter is out of Town. Then Mrs. *Price* was ſaying, If ſo be you will come over to the Church of *Rome*, and take off your Evidence, you ſhall have 1000 *l.* ſecured to you: But how, ſaid he? Said ſhe, I will bring to you in a Week's Time a Perſon of Quality that ſhall ſecure and confirm it to you.

Dr. *Chamberlain.* That I heard too.

Cleave. That will be well, ſaid Mr. *Dugdale*; I had rather do that way than any other. Said ſhe, you ſhall have the Duke of *York*'s Protection, and a Pardon not only for your Body, but for your Soul.

Mr. Serj. Maynard. A large Proffer!

Cleave. And afterwards ſaid he, If I ſhould come over again to the Church, what ſignifies my going out of the way, when there is Dr. *Oates* and others to go on with the Evidence? Said ſhe, We do not care ſo much for them, for the Duke's Eye is only upon you.

Mr. Juſt. Pemberton. Did you hear that, Dr. *Chamberlain?*

Dr. *Chamberlain.* No, my Lord; the Duke was named indeed, but I

do not remember that Particular. And ſhe ſeveral times deſired him to ſpeak ſoftly; and then Mr. *Dugdale* was ſo honeſt, that he repeated it over again, that if we had not heard him before, we might underſtand him.

L. C. J. Now prove this Gentlewoman to be the Perſon.

Cleave. She afterwards preſſed him to go with her to the *Gatehouſe*, which he ſeemed unwilling to do, but went; and we have a Man here that ſtood below the Stairs, that ſaw her come in and go out.

Mr. Serj. Maynard. Call *Holmes.* [*Who was ſworn.*] What can you ſay about this Mrs. *Price?*

L. C. J. Do you know Mrs. *Price?*

Holmes. Yes, That is the Woman.

Mr. Belwood. Did you ſee her at Dr. *Chamberlain's?*

Holmes. I ſaw her at Mr. *Dugdale's* that Morning that my Maſter was there.

L. C. J. What Time do you ſpeak of?

Holmes. The 22d of *September* I went along with my Maſter.

L. C. J. Who is your Maſter?

Holmes. Dr. *Chamberlain.*

L. C. J. What Day of the Week was it?

Holmes. On a *Monday* Morning between 8 and 9 o'clock.

Mr. Juſt. Dolben. That is the ſame time you ſpeak of, is it not?

Chamberlain, and *Cleave.* Yes, my Lord, he went along with us.

Holmes. This is the Woman that came down with Mr. *Dugdale*; I took great notice of her, and know her very well again: There were ſome Words ſpoke in the Shop, but I don't know what they were.

L. C. J. Dr. *Chamberlain*, ſhe went out of the Chamber with him, did ſhe not?

Chamberlain. Yes, my Lord, ſhe did.

L. C. J. How often have you ſeen her?

Holmes. I ſaw her go into the Houſe, come out with Mr. *Dugdale* to go to the *Gatehouſe*, and when they came back again from *Weſtminſter*, from the *Gatehouſe.*

L. C. J. How often have you ſeen her beſides? You took notice of her when ſhe came down ſtairs, and when ſhe came back again?

Holmes. Yes.

L. C. J. And this is the Woman upon your Oath?

Holmes. Yes, upon my Oath.

Mr. Juſt. Pemberton. She came down with *Dugdale*, and would have him go along with her to the *Gatehouſe.*

Mr. Att. Gen. My Lord, we ſay that Mr. *Dugdale* did acquaint Mr. *Hambden*, and Mr. *Charlton*, and my Lord of *Shaftſbury* with the Buſineſs; we deſire Mr. *Hambden* and Mr. *Charlton* may be called, who promiſed to be here.

[*But they appeared not.*]

Mr. Att. Gen. Then, my Lord, here are the Clerks of the Council, they will all give your Lordſhip an account that this Woman and the Gentleman did acknowledge this matter before the Council, and there did deny what they had ſworn at firſt.

L. C. J. Who do you ſwear firſt?

Mr. Att. Gen. Sir *Robert Southwell.*

[*Which was done.*]

L. C. J. Come, Sir *Robert*, what do you know?

Sir Robert Southwell. My Lord, ſhe, this Gentlewoman, Mrs. *Price*, was about the 23d of *October* examined before the Council, and being examined, we were commanded to take Notes, the ſeveral Clerks of the Council, and we did take Notes, which were long, and, my Lord, I muſt refer to thoſe Notes.

Mr. Juſt. Pemberton. Have you thoſe Notes?

Sir R. Southwell. Yes. 'Tis hard for me to give my Evidence, unleſs ſome particular Queſtion be aſked me, becauſe they are very long.

Mr. Att. Gen. Then I aſk you, Sir, this particular Queſtion, Whether that Gentlewoman did acknowledge the Paper ſhe is charg'd with?

Sir R. Southwell. My Lord, I do remember Mrs. *Price*, when ſhe was aſked who it was that framed the Paper for her (becauſe it ſeemed to the Lords as if it had been a thing ſo very well framed that it was beyond a Woman's Capacity to do it) Mrs. *Price* ſaid, that ſhe ſtudied it herſelf, and indicted it herſelf, and one Mrs. *Man*, as I think, writ it out for her; but ſhe took it upon herſelf that ſhe had ſtudied it (that particular Word) and contrived it.

Mr. Att. Gen. What did Mr. *Taſborough* ſay?

Sir. R. Southwell. My Lord, I do alſo remember that Mr. *Taſborough* was cited before the Council-Board; and being aſked about this Paper—

L. C. J. Was it ſhewn him?

Sir R. Southwell. I verily believe it was; it was read to him. Mr. *Taſborough* did ſpeak very cautiouſly, and as prudently as he could in the matter: He did not poſitively ſay he had preſſed Mr. *Dugdale* to ſign it; but did tell Mr. *Dugdale*, That unleſs he did ſign it, he could not proceed to get him any Favour, for that was to be the Foundation to teſtify that he was a Man of that Sorrow that he had expreſſed himſelf to Mrs. *Price.*

L. C. J. Did he own that to Mr. *Dugdale?*

Sir R. Southwell. Yes; and he added, my Lord, further (to do him juſtice in all he ſaid) in caſe Mr. *Dugdale* had ſign'd the Paper, he would preſently have carried it before a Magiſtrate.

Mr. Att. Gen. I think we need not trouble your Lordſhip any further at preſent; we leave it here till we hear what they ſay.

Mr. Sanders. May it pleaſe your Lordſhip, and you Gentlemen of the Jury, I am of Counſel for Mrs. *Price*, that is one of the Defendants in this Indictment; which, as hath been opened, does ſet forth, That ſhe did contrive to ſuborn the King's Evidence before the Trials of thoſe Perſons, and to ſuppreſs it; and afterwards to retract the Evidence given, and go off from what before he had ſworn, to diſparage the Juſtice of the Realm, and to make it be believed, that thoſe Perſons who were condemned and executed for this Conſpiracy were innocent, and had wrong done them by him. Now for that matter, that which we have to offer for her is this: Mr. *Dugdale* and Mrs. *Price* were Fellow-ſervants in my Lord *Aſton's* Family, and there they did contract a more than ordinary Familiarity; for in truth they did contract a Marriage, and Mr. *Dugdale* did promiſe her Marriage; but afterwards Mr. *Dugdale* having ſome other Deſign, did deſert her, and ſhe came to *London* and lived here; but afterwards when he came up to *London*, he thought fit to renew his Suit, and did not only ſend for her when he firſt came to *London*; but we have it in Proof, that from time to time he had continually ſent for her, and would not be quiet without her; and when ſhe denied to come upon his ſending in his own Name, he ſent in another Woman's Name, whom he knew to be an Acquaintance of her's: And thus there continued all along a great Intimacy between them, inſomuch that ſeveral Perſons, and among them one of the King's Witneſſes did obſerve they were ſpeaking about marrying, and did think they did intend to be married in a ſhort time; my Lord, what Diſcourſe might paſs between them I don't know; for ought I perceive ſhe is proved to be a Papiſt, and 'tis very like ſhe would ſolicit one with whom ſhe had that Familiarity, for thoſe of her own Party as much as ſhe could; but as far as I perceive by this Evidence that hath been given, he under colour of Kindneſs, and pretence that he would marry her, and ſending for her from time to time, at laſt to rid his Hands of her, hath put this upon her, That ſhe ſhould ſolicit to ſuborn him againſt his Conſcience to withdraw his Evidence. She is a kind of weak Solicitrix for matter of Judgment and Reaſon; I know not what other Prevalency ſhe might have with him by any other thing, but for Judgment I think——

L. C. J. If ſhe penn'd that herſelf, as ſhe did acknowledge and avow ſhe did, ſhe was a Woman of good Judgment certainly.

Mr. Sanders. I perceive he was of good Judgment, to get rid of one he was weary of, by this means.

Mr. Juſt. Pemberton. Alas! Alas! This is ſuch a Deſign indeed of counterproving the King's Evidence.

Mr. Sanders. Mr. *Dugdale* hath ſworn, That this was her Intrigue, and ſhe firſt began with him: If Mrs. *Price* be admitted to ſwear, who is the Defendant, as well as Mr. *Dugdale*, who is the Proſecutor, ſhe would tell you that Mr. *Dugdale* did contrive this matter himſelf.

Mr. Juſt. Pemberton. She would deſtroy his Evidence that way, that's very well.

Mr. Juſt. Dolben. Dr. *Chamberlain* and his Clerk both ſwear, That he told her, *You know it was not I begun this Intrigue, but you.*

Mr. Sanders. And if ſhe had had but ſo much Wit to have planted Witneſſes to have taken Advantage of his Words, ſhe had counter-worked him.

Mr. Juſt. Pemberton. They will learn ſuch ways ſoon enough of themſelves, you need not teach them.

Mr. Sanders. If you pleaſe we will go on with our Evidence, and call Witneſſes to prove, that Mr. *Dugdale* had contracted himſelf to her in Marriage; and this is a very unkind ill thing in him to ſerve us thus.

Mr. Juſt. Pemberton. Mr. *Sanders*, you ought to remember, *Publica privatis, &c.* A Man ſhould prefer the publick Good and Safety of the Nation before ſuch a Miſtreſs as this is.

Mr. Juſt. Dolben. But hitherto the Proof runs, that ſhe ſought him, and not he her.

Mr. Sanders. But they were contracted firſt.

Mr. Juſt. Dolben. And you hear what the Maſter of the *Horſeſhoe* ſays about her leaving Meſſages for him.

Mr. Juſt. Pemberton. He hath very good reaſon why he ſhould not marry her, for what I can perceive.

L. C. J. 'Tis much they ſhould be contracted, when ſhe told him he was a great Rogue.

Mr. Sanders. It may be ſhe might, I know not what cauſe he hath now to be diſpleaſed with her; but it may be ſhe might be diſpleaſed with him then. But I beſeech your Lordſhip and the Jury to obſerve, that tho' ſhe did tell him he was a Rogue, yet it was afterwards that ſhe did ſolicit and ſuborn him.

Mr. Juſt Pemberton. And therefore ſhe thought plainly he was fitter for her purpoſe, becauſe ſhe took him for a Rogue.

Mr. Sanders. But if ſhe had a Purpoſe to ſuborn him, ſhe would not call him Rogue to his Face; that was not the way to inſinuate into him. I deſire Sir *John Nicholas* may be ſworn. [*Which was done.*]

L. C. J. What Queſtions do you aſk Sir *John?*

Mr. Sanders. I deſire, my Lord, Sir *John* would tell us, whether Mr. *Dugdale* in his hearing did not own he was contracted to Mrs. *Price?*

Sir *John Nicholas.* No, truly Sir, that I know of.

Mr. Sanders. Pray, Sir, will you pleaſe to recollect it; it was when Mr. *Dugdale* was before the Council.

Sir *John Nicholas.* Mr. *Dugdale* did then own ſome Propoſals of Marriage, but nothing of a Contract.

L. C. J. 'Tis your Women-witneſſes are like to do that.

Mr. Sanders. That is all, Sir, you remember?

Sir *John Nicholas.* Yes.

Mr. Juſt. Pemberton. Have you put the beſt foot forwards, Mr. *Sanders?*

Mr. Sanders. Which is *Mary Benwell?* Swear *Mary Benwell.* [*Which was done.*] We will now prove he ſent for us ſeveral times; we did not go after him ſo much. What do you know concerning Mr. *Dugdale's* ſending for Mrs. *Price?*

Benwell He ſent for her to my Houſe ſeveral times.

L. C. J. Did he lie at your Houſe?

Benwell. No, my Lord, he did not.

L. C. J. Where is your Houſe?

Benwell. In *Brownlow-ſtreet.*

L. C. J. What, is it a publick Houſe?

Benwell. It is an Alehouſe, the *Green-Lettice.*

Mr. Juſt. Dolben. He told you ſo himſelf, that he did meet her at the *Green-Lettice.*

L. C. J. What was their Diſcourſe when they met?

Benwell. I know nothing of that, I did not hear him ſay any thing; but only he would come in and ſay, Let your Boy go for Mrs. *Price.*

L. C. J. When was this?

Benwell. The laſt time was *Sunday* Seven-night before ſhe was taken.

* *Mr. Recorder.* She always came when ſhe was ſent for? • *Sir* George Jefferies.

Benwell. Yes, if ſhe was within.

Mr. Sanders. How often did he ſend for her?

Benwell. Above 20 times.

L. C. J. What great Inference can you make from that? methinks 'tis as much againſt you as it is for you; for it proves there was a great Familiarity

miliarity and frequent Meetings between them; and if it be ſo, it ſhews as if ſhe had that great Confidence in him, as to attempt upon, and attack him in this affair.

Mr. Juſt. Pemberton. Indeed Mr. *Sanders*, if you would have proved an Inducement to Mr. *Dugdale*'s Evidence, you could not have prov'd it better, that ſhe had great Confidence in him; ſhe had an Opinion, and reckon'd he was ſure to her, and ſo had a greater Influence over him than another.

Mr. Juſt. Jones. He ſent for her to the *Green-Lettice*, ſhe ſent for him to the *Horſeſhoe*; the Maſter of the Houſe ſweareth that ſhe ſent for him 20 times, ſo they might ſend for one another 20 times a-piece.

Mr. Juſt. Dolben. And he never came to ſeek for her but when ſhe had been there, and left word for him before.

Mr. Sanders. Now, my Lord, if you pleaſe, we will go on to prove, That when ſhe refuſed to come, he ſent for her in another Body's Name.

L. C. J. What will that do? Or what does that prove?

Mr. Sanders. It is not probable then that ſhe ſhould ſolicit him: And juſt at the laſt here are ſome Witneſſes planted, and ſome Words are taken from her mouth, that it was her Intrigue all along.

Mr. Juſt. Pemberton. Mr. *Sanders*, You do not ſhew the Time when thoſe frequent ſendings and comings were.

L. C. J. It ſhews that which they have prov'd, that ſhe believed he was fond of her, and ſhe was confident of him.

Mr. Juſt. Jones. I ſuppoſe Mr. *Sanders* means, and does drive at this, to ſhew that it was to drive on the Intrigue on his part that theſe frequent Meſſages were ſent.

Then another Woman Witneſs was called and ſworn.

Witneſs. My Lord, at the time that the Proclamation was for the baniſhing of all Papiſts out of Town, ſhe came to me and ſaid, If Mr. *Dugdale* come to aſk for me don't offer to tell him where I am.

L. C. J. When was this?

Witneſs. Long before *Eaſter*-Term, before the Papiſts were baniſhed out of Town.

Mr. Juſt. Pemberton, and *Mr. Juſt. Jones.* } This was another part of the Intrigue.

Witneſs. So Mr. *Dugdale* came to me, and aſk'd me where Mrs. *Price* was? I told him I could not tell; but if you have any Letters I will convey them by a Meſſenger or ſome Footboy to her.

Mr. Juſt. Jones. Did he ſend for her at any time in *September?*

Witneſs. The laſt time he ſent for her was the *Sunday* was ſe'nnight before ſhe was taken.

L. C. J. Did he frequently ſend for her a month or ſix weeks before that?

Witneſs. Yes, ſeveral times.

Mr. Sanders. Then ſwear *Bridget Lee.* [*Which was done.*]

Mr. Sanders. Pray, Miſtreſs, you that ſpoke laſt, did Mrs. *Price* ever deny herſelf to him, but that once when ſhe left that word with you?

Witneſs. Never to me, my Lord, but that time.

Mr. Sanders. Bridget Lee, Pray tell my Lord, Whether Mrs. *Price* did deny herſelf, and the way he uſed to get her to him.

Lee. Mr. *Dugdale* came into this Gentlewoman's Houſe, and coming into the Houſe I was in the Paſſage; he aſked me, Sweetheart, let me ſpeak with you; he deſired me to tell him where Mrs. *Price* was; I told him I could not tell: I wiſh, ſaid he, you would fetch her to me; no, ſaid I, I would not do it for 5*s.* He clapp'd his Hand in his Pocket, and ſaid he, I will give you 5*s.* No, ſaid I, I will not do it if you would give me 5*l.* *Let every Tub ſtand upon its own Bottom.*

L. C. J. What did you mean by thoſe Words, *Let every Tub ſtand upon its own Bottom?*

Lee. I would not meddle nor make with any thing but my own Concerns.

L. C. J. How long was this before the Trial of *Harcourt?*

Lee. A Quarter of a Year before that.

L. C. J. It was before he went out of Town, the Circuit.

Lee. Yes, my Lord, ſo it was.

Mr. Juſt. Pemberton. There had been no tampering then, this was before the tampering.

L. C. J. It is no matter when the tampering was, but when Mr. *Dugdale* ſent for her, and ſhe refuſed.

Mr. Sanders. I wonder what they did together all the time before, if they were not tampering.

L. C. J. They made Love together.

Mr. Sanders. What was the occaſion that ſhe refuſed?

Witneſs. I underſtand that Mr. *Dugdale* did find I was fearful of myſelf; you may venture, ſaid he, for I would not do her the leaſt wrong, nor the leaſt Hair of her Head ſhould not periſh.

L. C. J. This was long before he went into the Country?

Witneſs. Yes, my Lord.

L. C. J. Before the tampering?

Witneſs. Yes, my Lord.

Mr. Sanders. Where is that other Witneſs, Mrs. *Holland?* [*Who was ſworn.*] What do you know of Mr. *Dugdale*'s ſending for Mrs. *Price?* I would know the laſt Time, and where it was.

Holland. My Lord, I do not know what Place it was he ſent for her to, nor the laſt Time, but it was ſince *Chriſtmas.*

L. C. J. Since *Chriſtmas?*

Holland. No, before *Chriſtmas*, but I do not remember the Day.

L. C. J. How do you know that he ſent for her?

Holland. I was told by the People ſo, That a Meſſenger was come from him for her.

L. C. J. You did not ſee him.

Holland. No, I did not.

L. C. J. She ſays nothing to the purpoſe.

Holland. I know Mr. *Dugdale* was in her Company one *Sunday* laſt *Lent*, and was there two Hours.

Mr. Juſt. Jones. 'Tis agreed of all ſides they were Acquaintance, and had great Familiarity.

Mr. Juſt. Pemberton. Ay, or ſhe would never have had the Confidence to have attempted upon him in this manner.

L. C. J. Well, have you any more?

Mr. Sanders. Here is one more, that is Mrs. *Shelden.*

L. C. J. What do you call her for?

Mr. Sanders. To prove that there was a Note left to warn her to avoid Mr. *Dugdale*'s Company.

Mr. Juſt. Pemberton. Why did you not?

Mr. Sanders. It had been better for us if we had.

L. C. J. When was that Note?

Mr. Sanders. Lately.

L. C. J. That will do no good.

M. Juſt. Pemberton. Come, call her however; they will ſay their Witneſſes were not heard elſe. [*And ſhe was called, but did not appear.*]

L. C. J. Come ſhe is not here.

Mr. Sanders. Then, my Lord, we offer this as Evidence, That we had no Deſign to Suborn him to retract what he had ſaid; the occaſion of our being with him we have given you an Account of.

Mr. Juſt. Pemberton. Why did you write your Note then?

L. C. J. Mr. *Sanders*, what you have ſaid amounts to nothing to avoid the Evidence that hath been given for the King; for all your Teſtimony ſays little more, than what he ſaid at firſt; That we were Fellow-ſervants, and well acquainted; we made frequent Viſits, and when I came to Town I went to ſee her, and ſhe came to me: They had no Diſcourſe of this ſame matter, of tampering till the Day before *Harcourt*'s Trial; but Sir *Robert Southwell* does ſay, She owned that ſhe did ſtudy the Note, which is the great Buſineſs in the Caſe: For if ſhe prepared the Note for him to ſign, what can be ſaid more?

Mr. Sanders. We can ſay no more but that Mr. *Dugdale* might Dictate it.

L. C. J. No, ſhe owned ſhe Dictated it, and got Mrs. *Man* to write it for her.

Mr. Sanders. I do not know, my Lord——

L. C. J. But you may know, if you will; for Sir *Robert Southwell* hath ſworn, That ſhe being examined at the Council-Board, the Lords of the Council had ſo good an Opinion of the Skill of it, that they aſked her, who framed it for her? And ſhe anſwered, She did it her ſelf.

Mr. Juſt. Pemberton. Mr. *Sanders*, if you be not ſatisfied; here is another of the Clerks of the Council.

Sir John Nicholas. All that Sir *Robert Southwell* hath ſaid is true.

Sir Thomas Doleman. All that Sir *Robert* hath ſaid, I can ſwear to every particular.

L. C. J. Well, what ſay you, Mr. *Pollexfen?*

Mr. Pollexfen. My Lord, if you pleaſe to ſpare me a Word for the other Defendant Mr. *Taſborough:* There is in the Indictment two Things charg'd on the Defendants; One, That they ſhould perſuade Mr. *Dugdale* not to give Evidence againſt *Harcourt:* For that there is no manner of Evidence againſt Mr. *Taſborough*, but he ought to be found Not Guilty for that part.

L. C. J. That is true, of that he muſt be acquitted.

Mr. Pollexfen, Then for the other part of the Charge; That they ſhould endeavour to perſuade Mr. *Dugdale* to Retract the Evidence he had formerly given, for a Sum of Money, and other Rewards: We do reckon, That as this Evidence ſtands before your Lordſhips, whatſoever is proved againſt Mrs. *Price*, will have no influence upon Mr. *Taſborough*; for altho' *Dugdale* and *Price* have had Practices and Deſigns amongſt themſelves, unleſs he be a Party to them, if he have not a part in them they will not affect him: Then the next thing is, we muſt diſtinguiſh the Evidence as it ſtands, or elſe it may not be by the Jury ſo well underſtood how they are differenced one from another; for I would not mince the Evidence, but let it ſtand as it is: And how far Mr. *Taſborough* is concern'd in it, and how far may be done by him as an honeſt Man in this matter, or how far it is an illegal Act, will be to be determin'd by you. Now there is only two Meetings that Mr. *Dugdale* hath had with Mr. *Taſborough*; and in the next place, there is no other Witneſs to prove it but *Dugdale* himſelf, excepting only what Sir *Robert Southwell* ſays of the Confeſſion at the Council, which, I think, will not be very much neither, as I ſhall ſhew when I come to that particular. Mr. *Dugdale* ſays, that at the firſt Meeting, the 12th of *October*, at the *Green-Lettice* in *Fuller's Rents*, Mr. *Taſborough* did ſay unto him, That Mrs. *Price* had told him, Mr. *Dugdale* would Retract his Evidence, and he was come to confirm what ſhe had ſaid.

L. C. J. Nay, but what ſhe had promiſed.

Mr. Pollexfen. Yes, what ſhe had promiſed; and that he came from the Duke, and that it was charitably done of him to Retract; he goes no further: And that if he had done amiſs he ſhould be ſorry for it. This is the Evidence, as near as I can remember to repeat it.

L. C. J. Part of it.

Mr. Pollexfen. As to the firſt Meeting——

Mr. Juſt. Pemberton. Look you, do not miſtake, Mr. *Pollexfen*, but obſerve this: For Mr. *Dugdale* does ſwear he told him, If you will Retract the Evidence you have given, then all ſhe hath Promiſed ſhall be made good.

Mr. Pollexfen. That he came to confirm what ſhe had promiſed. I would repeat it as right as I could, becauſe, my Lord, I hope, as this Caſe ſtands, that notwithſtanding all that hath been proved, yet Mr. *Taſborough* hath done nothing amiſs. Then I come to the ſecond Meeting.

Mr. Juſt. Pemberton. At the firſt Meeting the Note was produced.

L. C. J. No, I think not.

Mr. Juſt Dolben. Yes, my Lord, it was.

L. C. J. Was it, Mr. *Dugdale?*

Dugdale. Yes, my Lord.

Mr. Pollexfen. Yes, he does ſwear ſo, and that he read it, and preſs'd Mr. *Dugdale* to ſign it; and that this was the laſt time, and it muſt be done before the Duke went into *Scotland*, or ſomething to that purpoſe. This, my Lord, under favour, may all ſtand and be very true, and yet Mr. *Taſborough* not criminal, with ſubmiſſion. For if ſo be Mrs. *Price* were ſo far in her Intercourſe with Mr. *Dugdale*, that as appears by his own Evidence he did ſeem to comply and treat, as if he were yielding, and to do what they would have him do, concerning his going beyond Seas, or being kept in a Proteſtant Lord's Houſe, and ſhe had ſuch Confidence as to tell him

him how the Priests were sent away, and how he might be convey'd away: All this thus far comes to agree with what Mr. *Tasborough* says for his own Defence: For Mr. *Tasborough* says, Mrs. *Price* did tell me, that Mr. *Dugdale* was sorry for what he had sworn, and would Retract all the Evidence he had formerly given. Thus he says: I'll apply it to our Case anon: and this appears by Mr. *Dugdale*'s own Evidence: For when he does repeat what Mr. *Tasborough* told him, he says, That he said Mrs. *Price* told him of it, and he hath not told you, that he did contradict it for false.

Mr. Just. Pemberton. Pray consider; He tells you, that *Tasborough* said, that Mrs. *Price* had acquainted him with what Propositions she had made of 1000*l.* and that he was the Man that was come to confirm the Promises she had made.

L. C. J. That presses you, that is the truth of it: If that had not been in the Case, perhaps you don't talk much out of the way. 'Tis true, your Observation is right.

Mr. Just. Pemberton. 'Tis ingenious indeed, but 'twill not hold out.

L. C. J. When *Tasborough* comes into the Company to be acquainted with Mr. *Dugdale*, at that time Mr. *Dugdale* had been advised to comply, or seem to do so to find out the Plot and Design, and what he could get out by it; and without question, to pursue that end, he did shew yieldingness, and as you observe, for ought *Tasborough* knew, he might be sincere: But was it a good way for him to tell him; there is the matter in effect he does tell him so; If you will Retract your Evidence, according to this Note that was produced by her, and read by him, you shall have 1000*l.* for your pains: Can you answer that?

Mr. Just. Pemberton. Or can you answer the other, That he should say, She hath acquainted me with what you propose; that is, That you would Retract all, and go out of the way, and be no more an Evidence; and if you would do that, that she hath acquainted me with her Proposition, which I come to confirm, that she would give you 1000*l.* What can be made of that?

Mr. Just. Dolben. And withal, formerly there was a Discourse of some Person of Quality that should come to him; he desired that some such one should be a Security for the Money, and afterwards she brought Mr. *Tasborough*, and said, That was the Gentleman she told him of.

Mr. Just Pemberton. Come, Mr. *Pollexfen*, take this too: What had Mr. *Tasborough* to do to use the Duke of *York*'s Name? and to say, That he had Authority from him to propose these things; which certainly is a very great wrong to so great a Prince?

L. C. J. That needed not to a penitent Person, that was sorry for what he had done.

Mr. Pollexfen. He does indeed say, That Mr. *Tasborough* should be the Man that should secure the Money.

Mr. Sol. Gen. And there is one thing farther, to take in all that Mr. *Tasborough* did likewise say to Mr. *Dugdale*; That there is no harm in doing this, that it is a very charitable Act, and that he would do well in it.

L. C. J. But they answer that, by saying, Supposing it to be true, that *Dugdale* had Remorse, then it would be a very good Action; but to talk of 1000*l.* to be given for it, there is the Crime.

Mr. Pollexfen. Whether my Answer will take with your Lordship or no, I can't tell; but the Answer I would give is this; There are several things in that Paper, as amongst the rest, That he should fall under great Dislike and Danger, and therefore was forced to hide and secure himself, for fear of those whom he should make his Enemies by it, and that was Terror enough to any Man that should run into such a Retraction. Therefore now he must live when he hath done this, and so we should apply the other part of the Discourse, whatever Money she had promised to take off his Fears of Want, and so his coming there was to make good that part of the Paper, which says, he must be protected and maintained, and preserved, that he may see he hath a Subsistence and Provision for him, if he did deserve it. And, my Lord, it will be greatly distinguishing in our Case, and turn much upon this Point, with Submission, if I give or offer Money to any Man to swear a Falshood or Retract the Truth, 'tis a very great Crime, and if we are guilty of that, undoubtedly our Crime is very bad; but in order to the bringing of Truth to discovery, and to have a Retraction, not of a Truth, but of a Falshood, and to preserve that Witness from perishing, I may promise him Protection and Subsistence.

Mr. Serj. Maynard. Then you have found out a better way than the Devil himself could have suggested to uphold Subornation.

L. C. J. Upon my Word, if that were a way that were allowable, then woe be to us, we should easily have all the Witnesses tamper'd with by the Temptation of 1000*l.* Reward. Do you think that is a good thing for a Man to say, This thing was rashly said, if you will unsay't, you shall have such a Reward? People would be apt to bite at such a Bait, and we do not live in so virtuous an Age, that 1000*l.* will not Tempt a Man to unsay what he hath said at first, tho' what he hath said then was true.

Mr. Pollexfen. It were an unjust and unfitting thing, if it were as you say.

Mr. Just. Pemberton. Nay, Mr. *Pollexfen*, consider these things must not be done by any one; their way, if they had been convinced of the Truth, had been to have carried the Complaint to a Magistrate, and there to detect him by what he had said; not to corrupt him, and persist in it, by telling him if he would do so and so, he should have 1000*l.* By this you let in all manner of Temptations to Witnesses, that we shall never know where we are.

L. C. J. Come, Mr. *Dugdale*, (because I will shew you all very fair play, I think very well of Mr. *Dugdale.*)

Mr. Just. Pemberton. He hath carry'd himself always well.

L. C. J. Yes truly, I know nothing to the contrary: And pray tell upon your Oath, and tell the Truth: Did Mr. *Tasborough*, when he read the Note, ask of you, Is this true? Did he inquire of you, Whether or no you were really a Convert, and, Whether your Sorrow and Repentance were true?

Dugdale. No, he never did.

L. C. J. Did he ask you, If you could do it with a safe Conscience?

Dugdale. No, nothing of Conscience was ever nam'd in it.

L. C. J. Did he ask you, Whether it was true?

Dugdale. He never nam'd Truth or Falshood: It was only to get me over to Retract what I had said.

Mr. Just. Pemberton. What is a Temptation if this be not?

L. C. J. Truly I ask this Question, That the World may see, we would find out the Truth by all the ways we can; for if we had been solicitous with him, and asked him, Whether he could do this safely, and with a good Conscience, and whether the matter of it were true, it would have gone a great way; but now I have asked Mr. *Dugdale* this upon his Oath, and he says it was only to get him over to them.

Mr. Just. Pemberton. And then consider all that is said against Mrs. *Price* is turn'd upon you, except that of the Contrivance to keep him from giving his Evidence against *Harcourt*: A very subtle Invention it was; but whether Mr. *Tasborough* was in the Business of the Note, in contriving it, I cannot tell, and it signifies nothing: But she having contriv'd as ill a Note as can be penn'd, he is as much guilty; for he solicits as well as she, and countenances it so far, as to undertake farther, that the Money and the Bribes she had offered, should be paid and made good.

L. C. J. Mr. *Dugdale*, Mr. *Tasborough* talked with you of going away?

Dugdale. Yes, my Lord.

L. C. J. Advised you to be gone?

Dugdale. Yes, he did: He told me I were best to absent my self for a while beyond Sea, and should have convenient Passage.

L. C. J. Did he mention the Duke of *York*? What said he?

Dugdale. Yes, he said he had acquainted the Duke, and the Duke had given him Orders to press that Note home; for, said he, the Duke will not believe you will be true, if you do not sign this Note.

Mr. Just. Pemberton. 'Tis never to be endured, that you should abuse so noble a Prince.

L. C. J. Did you tell Mr. *Tasborough* then, If I come over, there is *Oates*, and *Bedlow*, and *Fraunce* still left?

Dugdale. I did say so to Mrs. *Price*, but never to him.

Mr. Just. Pemberton. You see then what he would have this Note sign'd for, to strengthen the Catholick Cause.

Mr. Thompson. My Lord, Will you please to spare me one Word for Mr. *Tasborough*: I confess the Evidence does seem by Mr. *Dugdale* to press us very hard, and particularly upon that matter of the Money; but as Mrs. *Price* had managed the Business, Mr. *Tasborough* might have been very innocent: But, my Lord, we must make that Defence for our selves that we can in a Case of this nature; and therefore it will be, I hope, no Reflexion to say, We must counterprove Mr. *Dugdale*, and disprove him as far as we can, to acquit our selves. My Lord, it is a very great Crime that we are here charg'd with, and the Crime being so heinous, ought to be well proved, and with unquestionable Evidence: Mr. *Tasborough*, if he be guilty of what he is here accused of, is a very ill Man; but Men are not drawn up to great degrees of Illness so soon as at the first Act to attempt such heinous Offences: And 'tis not probable, that at his first slip he should be guilty of a Fault of so high a Nature, and so very ill as this is. My Lord, we shall call some Persons that shall make it appear to your Lordship, that after Mrs. *Price* had given us Information of this Repentance of Mr. *Dugdale*'s we did make application to a Person of very great Honour, no less than my Lord Privy Seal, that Mr. *Dugdale* might receive the Discouragement which it was fitting he should in such a matter. My Lord, we must call our Witnesses, to prove Mr. *Tasborough* to be a Man of a very good Reputation, that he never did any such thing before; and I hope we shall give your Lordship such an Account of him, that the Jury will have reason to believe, that Mr. *Tasborough* is not so guilty as he is represented, but was drawn into this matter, whatever it is. Pray call a Witness to shew that Mr. *Tasborough* acquainted any Lord of the Privy-Council.

Then my Lord Chief Justice went off the Bench, to sit on Writs of Error in the Exchequer-*Chamber.*

Mr. Just. Pemberton. If Mr. *Tasborough* be drawn in, 'tis by Mrs. *Price*, but not by Mr. *Dugdale.*

Mr. Thompson. Is my Lord Privy Seal in Court?

Mr. Just. Jones. You know he is not here.

Mr. Just. Pemberton. You toss great Names about, and make great Noise with them, when you know they are not here.

Mr. Thompson. If he had not fallen ill, sure he would have been here. What say you, Mr. *Tasborough?*

Tasborough. My Lord, I was to attend my Lord Privy Seal Yesterday, and desired him to do me the Honour to be here to-day, because I was to come to my Trial: He told me he had Business that would hinder him from coming; but said he, if the Attorney-General will inform himself of me, I am ready to testify, that you gave me Information first of Mr. *Dugdale*'s Recantation, before it came before the Council.

Mr. Just. Pemberton. We will do your Client this Right, Mr. *Thompson*, as to ask whether my Lord Privy Seal was at the Council, and said so much then.

Mr. Scroggs. He was not that Day, but we acquainted my Lord Privy Seal before that; but Sir *Robert Southwell* does him this Right, as to say, that he did declare, if Mr. *Dugdale* had sign'd that Note, he would have gone with it immediately to a Magistrate.

Mr. Just. Pemberton. How does that appear he said so?

Sir R. Southwell. My Lord, he did further say, after he had said, that he would have carried it to a Magistrate in that case, he did say, he had been once or twice with my Lord Privy Seal.

Mr. Just. Pemberton. Ay, he did say so; but there was no Evidence but his Allegation.

Mr. Just. Jones. Was my Lord Privy Seal at Council at that time?

Sir R. Southwell. No, I think not, my Lord.

Mr. Scroggs. 'Tis a very strange thing we should be so forward to promise for Mrs. *Price*, if we had not thought Mr. *Dugdale* real.

Mr. Just. Pemberton. 'Tis a sign you had a great Inclination to the Thing: Well, call your Witnesses.

Mr. Thompson. Call Sir *Richard Ashfield* and Alderman *Barker.*

Mr. Just. Dolben. 'Tis a fine thing this to make a long Brief with, to no purpose.

Mr.

Mr. Scroggs. We have a ſwinging Brief here indeed.

Mr. Juſt. Dolben. Ay, you come with a great Brief, but no Witneſſes.

Mr. Thompſon. If we do not call the Witneſſes nam'd in our Brief, our Client will take it ill; if they do not appear, we can't help it.

Mr. Juſt. Pemberton. You have forgot what you moved the Court about *Tempeſt*.

Mr. Juſt. Dolben. But we have not forgotten, that about ten Days ago you mov'd to put off this Trial, becauſe Mr. *Tempeſt* was your material Witneſs; and being aſk'd what he could prove, you ſaid it was how you were brought acquainted with Mr. *Dugdale:* But becauſe the Court did not think fit to put off the Trial, Mr. Attorney did ſay, he would ſee if he had been examined, and what he had depoſed, and report it to us; and afterwards did ſo, and did conſent here that at the Trial you ſhould make uſe of his Examination if you pleas'd; but we do not ſee that you make any uſe at all of it.

Mr. Thompſon. We that are of Counſel muſt make uſe of our Client's Witneſſes as we have them in our Brief.

Mr. Serj. Maynard. We deſire they ſhould call their Witneſſes, and not name Names.

Mr. Scroggs. We deſire that Examination may be read.

Mr. Att. Gen. Produce it then.

Mr. Thompſon. We have it not.

Mr. Recorder. And we for the King do not uſe it as Evidence.

Mr. Att. Gen. Come, if it be here you ſhall have it read, though I believe Mr. *Tempeſt* ſwears little to your purpoſe; for as I take it he ſays he does not know Mr. *Dugdale* at all.

Mr. Juſt. Dolben. But I told you that Mr. *Taſborough* puts you upon Trifles.

Mr. Juſt. Pemberton. But whatſoever they put you upon, you ſhould not trifle with us.

Mr. Thompſon. Do you deſire they ſhould be read, Mr. Attorney?

Mr. Juſt. Pemberton. We can't read them without the Conſent of both Parties. Do you conſent to them firſt for whom they are produced?

Taſborough. I only deſire to know by them how I came acquainted with Mrs. *Price*.

Mr. Juſt. Dolben. Well, you hear what Mr. Attorney ſays is in them; will you have them read?

Mr. Scroggs. 'Tis to no purpoſe then, if that be all.

Mr. Serj. Maynard. I deſire to ſpeak but a few Words, and I am bound to ſpeak them.——

Mr. Juſt. Jones. Brother, they have more Witneſſes.

Mr. Pollexfen. Theſe we ſhall now call are to this purpoſe, to prove Mr. *Taſborough*'s Reputation, that he is a very honeſt Man.

Mr. Juſt. Dolben. I don't ſee but that he may be a fair-condition'd Man in all other things.

Mr. Juſt. Pemberton. Look you, thoſe that are in their Dealings ſometimes honeſt fair Men, yet when they come to be of that Religion, there they are debauched, and there they are brought to do as wicked things as can be, in favour, and to ſupport that Religion.

Then Alderman Barker *was ſworn.*

Mr. Thompſon. Do you know Mr. *Taſborough?*

Barker. Yes, I have known him ſeveral Years.

Mr. Thompſon. How long?

Barker. Fourteen or Fifteen Years.

Mr. Thompſon. How have you look'd upon him?

Barker. I have looked upon him as an honeſt peaceable Man.

Mr. Juſt. Pemberton. You have known him to be a Catholick?

Barker. Yes, that I have.

Price. May I beg the Favour of this Honourable Court, that I may ſpeak for myſelf here?

Mr. Juſt. Dolben. Well, come Mrs. what will you ſay? But we muſt tell the Jury before-hand it ſignifies nothing for Evidence.

Price. I deſire to ſpeak the Truth.

Mr. Juſt. Dolben. But they muſt not believe a Word you ſay.

Price. Be pleaſed to give me leave to ſpeak however.

Mr. Juſt. Jones. Well, go on.

Price. Sir, Mr. *Dugdale* does here accuſe me of ſuborning him to retract his Evidence. I do proteſt 'tis ſo far from it, that he importuned me, and ſolicited me to go to the Duke of *York*, and he told me if I would go, he would pay my Coach-Hire. Is it not ſo, Mr. *Dugdale?*

Mr. Juſt. Pemberton. You muſt not interrogate him.

Mr. Juſt. Dolben. The very firſt thing you have ſaid hath diſcredited all you would ſay; for if Mr. *Dugdale* (as you ſay) had importuned you that you would do this thing for him, how comes it to paſs that afterwards you ſhould promiſe him a Reward of 1000*l.* and bring a Gentleman to make it good?

Price. I aſſure you, my Lord, I never did.

Mr. Juſt. Dolben. 'Tis moſt apparent, *Taſborough* does not deny that.

Price. But that which is the real Truth, that you ſay muſt not be believed.

Mr. Juſt. Pemberton. Did he ſolicit you to draw your Note?

Price. Yes, he did, upon the Word of a Chriſtian.

Mr. Juſt. Jones. You did confeſs that you did ſtudy it, and draw it yourſelf.

Price. I did ſo, but he importun'd me to do it.

Mr. Juſt. Pemberton. How do you prove that?

Price. I deſire to know by what Words I took off his Evidence at *Harcourt*'s Trial?

Mr. Juſt. Dolben. You deſired him to be kind, becauſe he was your Confeſſor.

Price. I deſire to aſk him the Queſtion, by what Words it was.

Mr. Juſt. Jones. Well, you may aſk him, but 'tis little to the purpoſe. Can you remember the Words, or the effect of the Words that ſhe ſpoke to you in the Behalf of *Harcourt?* The Night before his Trial, I think it was.

Dugdale. Yes, it was the Night before, to deſire me I would not be an Evidence againſt him, in regard he was her Ghoſtly Father.

Price. You know you came to me, Mr. *Dugdale*, and told me you rid Poſt to Town.

Mr. Juſt. Pemberton. We muſt have no more of theſe interlocutory Diſcourſes.

Dugdale. Mrs. *Price*, I would not do you the leaſt Injury in the World.

Mr. Serj. Maynard. Mr. Juſtice *Jones*, I deſire a Word.

Mr. Juſt. Jones. If you will produce any Witneſſes, do.

Price. I deſire I may ſpeak for myſelf.

Mr. Juſt. Dolben. 'Tis but Reaſon ſhe ſhould ſpeak for herſelf.

Mr. Juſt. Pemberton. But I hope if ſhe aſk unreaſonable Queſtions ſhe is not to be heard.

Price. I only ſpeak the Truth.

Mr. Juſt. Dolben. But we muſt not take your Evidence of it, produce your Witneſſes.

Mr. Juſt. Jones. If you have any to prove what you ſay, call them.

Price. Whether you will take my Evidence or not, pray let me ſpeak for myſelf.

Mr. Juſt. Dolben: We cannot believe you, nor muſt the Jury believe you, I'll tell you that before-hand.

Mr. Juſt. Pemberton. We tell you, you muſt not be heard. If you have any Queſtions to aſk, let your Counſel propoſe them.

Mr. Juſt. Dolben. If you apply to the Jury, you are not to tell the Matter of Fact, but to prove it to them by Witneſſes.

Price. I deſire, however, I may be heard my ſelf.

Mr. Juſt. Jones. If anything hath been omitted by your Counſel, which is material for your Defence, and you have Witneſſes to prove it, they ſhall be called.

Mr. Juſt. Pemberton. Mrs. *Price*, you muſt know the Courſe of the Court, and the way of Evidence is, we are not to hear the Perſons indicted make long Speeches to the Court, or to the Jury, or come with great Confidence to deny the thing that is prov'd againſt them; if you have any thing material to ſay, we will hear you by your Counſel; you muſt not trouble us.

Price. My Lord, I have Matter enough to ſay, but it can't be heard.

Mr. Sanders. We deſire *Wright* may be call'd again.

Mr. Juſt. Jones. To what purpoſe?

Price. To prove that you, Mr. *Dugdale*, would ſuborn him.

Dugdale. Call him, if you will, if you can prove any Practices upon me.

Price. You have good Practices we know; you are a Man of excellent Practices; you had need commend your Practices. You know very well, Mr. *Dugdale*, that you told me you were perjured.

Mr. Recorder. 'Tis not Language fit for you to give.

Mr. Serj. Maynard. Is that Liberty of Speech fit to be given? She tells Mr. *Dugdale* that he ſaid himſelf he was perjured.

Mr. Juſt. Pemberton. You are an impudent Woman to talk ſo.

Mr. Juſt. Dolben. Your Mouth muſt be ſtopped, if you can uſe your Tongue no better.

Mr. Juſt. Jones. What would you aſk him when he does come?

Price. I have told my Counſel.

Mr. Sanders. She ſays ſhe would aſk him whether Mr. *Dugdale* did not offer him Money to ſuborn him in this Caſe. You are ſworn already, Sir, are you not?

Wright. Yes.

Mr. Sanders. Then pray anſwer the Court this Queſtion, Did Mr. *Dugdale* at any time offer you any Money to take an Oath, or give Evidence?

Wright. Offer me Money?

Mr. Sanders. Yes, you. Anſwer upon your Oath.

Wright. No, my Lord.

Mr. Sanders. Or any thing elſe did he offer?

Wright. No, my Lord. He hath often ſent to me to come, and when I did come, hath ſaid, I am glad you are come, I'll do you as great a Kindneſs; but he did not know of my coming, becauſe his Meſſengers had not met with me.

Mr. Sanders. Did any one on his Behalf offer you any thing?

Wright. No, I think not; if it was, I think it was in vain.

Mr Sanders. But did he, or did he not?

Wright. No.

Mr. Recorder. If Mrs. *Price* hath any more ſuch Witneſſes, ſhe may call them.

Mr. Serj. Maynard. Sir, under your Favour, here hath been a ſtrange way of Defence. Conſider what a Crime we are upon, and in what Times we are. That there is a Plot of a very high and tranſcendent Nature under Queſtion, that divers Witneſſes have been ſuborned, and Perſons tried in this Place and convicted for it, 'tis undeniable. Now after Trials for ſo high a Crime in the moſt publick Way, here come *Price* and *Taſborough*; What to do? She indeed before, but both *Taſborough* and ſhe afterwards, by Rewards, and ſuch Temptations, endeavours to diſgrace his Evidence; but there is not only that, but the great thing looked after by their Party, was, the Iſſue of it; upon this all the King's Evidence were to be hang'd. What hath been ſaid is only to make a Jeſt, and make the Company merry, that there was a Contract of Marriage between them; but what will be the Conſequence of that? He that ſpoke it, has unqueſtionably proved the Probability of our Charge, we have made it probable, and he hath proved it; and the Inference drawn by them is, She certainly did not tempt him, becauſe ſhe had an Intereſt in him, which concludes very naturally. But then for the other, Mr. *Taſborough*, Alderman *Barker* comes in, and ſwears the Gentleman is a very honeſt Man; I hope he did hear the Evidence, and then I wonder how he could ſwear it; but do we come to prove whether he be an honeſt Man in his Life? 'Tis not at all our Queſtion; if we ſhould have offered to have diſparaged him in another way, we had not, I think, done our Duty, and the Court would juſtly have reproved us for it; but there is one thing, which if it had not been ſpoken, I would have held my Peace: How is *Taſborough* concerned in the Caſe? Divers have been queſtioned and executed for High-Treaſon, upon Mr. *Dugdale*'s Evidence; and after ſuch an Execution, what is Mr. *Taſborough*'s Duty? It hath been repreſented as if he had been perſuaded by her, and drawn in that way, and he thinking that it was a Falſity that had been ſworn be-

fore, and that Mr. *Dugdale* repented of the Injury he had done them, he ſhould help to make this Diſcovery. But what was he concerned? Did he go to a Juſtice of Peace, or any juſt way? Did he not contrive with the Devil rather than the Juſtice? 1000 *l.* muſt be paid to draw off a Man, and corrupt him, to make him own himſelf perjur'd, in a Truth that had been ſpoken. And this is not the firſt time that they have done it; for we remember the Caſe of *Reading* very well. I ſhall ſay no more, but this, under favour, it is not well to ſay, That a Man may perſuade another to deny his Teſtimony, that is nothing concerned in the Caſe, in a Caſe of this publick Nature eſpecially, and for Money too, that was never meant by the Law, and I hope is not meant ever to be countenanced here. I hope the Court will give that Caution to all that hear it, as will diſcourage any Attempts of this Nature for the future. And that it ſhall not be enough to excuſe it, for him to ſay he was perſuaded, and thought his Sorrow was real, and thereby to put the King's Witneſſes to prove that thing to be true that they had proved already. What had Mr. *Taſborough* to do, as if he were a Judge of the Proceedings of the Court and Witneſſes? Nothing at all, under favour, but is a very ill Man, and as ſuch I hope ſhall be puniſhed.

Mr. Juſt. Jones. Gentlemen, you of the Jury; theſe two Perſons have been Indicted for a very great Offence. The Indictment ſets forth (that which we all know to be true) that *Whitebread*, and divers others, have been Tried and Condemned for a very Execrable, Helliſh, Popiſh-Plot: That upon theſe Indictments, Mr. *Dugdale* did give material Evidence; but that, when ſome other of the Conſpirators were to be Tried, and brought to Puniſhment, theſe two Perſons did endeavour to make Mr. *Dugdale* abſent himſelf, and retract his Evidence. And not only ſo, when *Harcourt* was to be brought to his Trial, (for whom it ſeems Mrs. *Price* had a particular Kindneſs) but likewiſe it was endeavoured, he ſhould be gone, and not give any further Evidence at all, and he ſhould have 1000 *l.* for a Reward. This is the Indictment.

The Inducement to the Indictment (that is, the Trials of the Conſpirators) is all well known: And there have been Copies of the Records produc'd, which have been inſpected and peruſed by the Counſel on the Defendants parts; and they cannot ſay, but that the Records agree with the matter in that reſpect: So that there is nothing at all but the bare matter of Fact that you are to enquire into.

I ſhall diſtinguiſh the Perſons: Mrs. *Price*, according to the Evidence, hath gone thro' the whole Charge of the Indictment, and indeed, hath committed ſome further Crimes than have been mention'd in the Indictment.

Firſt, It hath been proved to you by Mr. *Dugdale*, That ſhe did not only deſire Kindneſs to *Harcourt*, who was her *Ghoſtly Father*; but ſhe did deſign, as much as in her lay, that he ſhould not come in at all to give Evidence againſt him: This is prov'd by Mr. *Dugdale*, and another Perſon that was by, that did hear Mrs. *Price* ſay, She would have him be kind to Mr. *Harcourt*, becauſe he was her *Ghoſtly Father:* Withal tells you, That immediately after *Dugdale* did tell him, that ſhe did perſuade him he ſhould abſent himſelf, and not give Evidence againſt *Harcourt*.

She is likewiſe Charg'd (as they are both) that ſhe did treat with Mr. *Dugdale* for to Retract all that he had ſaid, to be gone, and to leave a Paper behind him, which ſhould ſignify, That there was trouble of Mind upon him, and that he had done wrong in his Teſtimony given againſt the Catholicks: Therefore he would be gone, and leave a Teſtimony of it in Writing, when he was gone. And ſhe provides for his Security abroad, and he ſhould have 1000 *l.* Reward.

Dugdale is the Perſon with whom the firſt Treaty was: But becauſe he knew, and it was obſerved, that it was unſafe to deal with Perſons that were tampering with him in ſuch a nature as this was, and upon a matter of this kind, he does acquaint Perſons of very great Quality, as he ſwears, my Lord of *Shaftsbury*, and two other Perſons: They do adviſe him that he ſhould get ſome Perſons to be by when they ſhould come to ſome further Treaties concerning this buſineſs; and to that purpoſe he ſhould hold up a Correſpondence, and condeſcend to a kind of Agreement and Compliance, that he might be able to have further Teſtimony to confirm his Evidence. Whereupon Dr. *Chamberlain* and his Servant are plac'd in a Cloſet in Mr. *Dugdale*'s Chamber, in ſuch a Place, that they might hear what was diſcourſed in the Chamber; in comes Mrs. *Price*, they being in the Cloſet. Mr. *Dugdale* and ſhe diſcours'd about the Buſineſs ſo loud, that Dr. *Chamberlain* and his Servant (as both of them tell you) heard their Diſcourſe upon it: The Queſtion was aſk'd and put to Mrs. *Price*: *Mrs.* Price, *I hope you know you are the Perſon that firſt mov'd this Intrigue; it began from you, and not from me:* And this was confeſt by her. So that you have in confirmation of Mr. *Dugdale*, the Teſtimony both of Dr. *Chamberlain*, and of his Servant, to that part of the Charge againſt her. And withal, 'tis added, not only that he was to go beyond Sea, to retract what Evidence he had given; but likewiſe it was thought expedient he ſhould come over again, and ſwear againſt all the reſt of the Evidence that had been given or ſhould be given for the King. And when it was ſaid by Mr. *Dugdale*, What will it avail you, if I do retract my Evidence: There is Mr. *Oates* and Mr. *Praunce* to teſtify the ſame thing: She ſaid, No matter for that, if we get you on our ſide for the Catholick Cauſe to be our Friend, we ſhall be ſure to baffle all they can ſay or do; and we ſhall not only ſave the *Catholicks*, but turn the Plot upon the Heads of the *Proteſtants*, and all the King's Witneſſes ſhall be hang'd. That you may remember was teſtified by ſome of the Witneſſes.

Mrs. *Price* deals frequently with Mr. *Dugdale* to this purpoſe.

Dugdale, that he might know (and 'tis very like with that honeſt intention, and no other, he did it) and that he might diſcover the bottom of this Buſineſs, tells her, This is a thing of dangerous Conſequence, and it is fit that I have better Security than your Promiſe to this 1000 *l.* I will have ſome ſubſtantial Perſon that ſhall come and confirm what you promiſe, and thereupon ſhe tells him, he ſhould have a ſubſtantial Perſon brought, and he ſhould have Thanks from very great Perſons, naming the Duke of *York*; for he it was, as they ſaid, that would take care to protect him, and procure a Pardon for him.

Now Gentlemen, this is the Evidence againſt Mrs. *Price*. In Defence of this what doth ſhe offer, but that ſhe hath been acquainted with Mr. *Dugdale*, and there hath been great Familiarity between them. If there had not been ſuch a Familiarity, would there have been ſuch an Intrigue? Is this a matter to be communicated to a Stranger? If there were a Doubt before, whether there were this Contrivance, Does not this give us a better Aſſurance that it was ſo, becauſe there was ſuch an Acquaintance between them?

Then, as to Mr. *Taſborough*: He indeed is not in the beginning of the Deſign at all: There is no Evidence againſt him for that part of the Charge, *That he ſhould abſent himſelf, and not give Evidence againſt* Harcourt. He comes not in at that time; nor can I perceive by Mr. *Dugdale*, that he had any Acquaintance with him at all till the 12th of *October*; and he ſays he was but twice in his Company.

Now, Gentlemen, What does Mr. *Taſborough* do? Firſt, *Dugdale* is told by Mrs. *Price*, That a Man of Quality ſhould come to him, and confirm all the Promiſes ſhe had made him. *Tasborough* does come to him, and tells him, He hath had ſome Diſcourſe with Mrs. *Price*, what ſhe had propos'd; and he is now come to make good and confirm, That all ſhall be effected that ſhe had propos'd to him. Ay! but it is ſuppos'd, that Mr. *Tasborough* is a very honeſt Man, and a conſcientious Man, and does come for nothing in the World, but to perſuade Mr. *Dugdale* to do the Office of a Chriſtian; it was a charitable thing of him, to take off the Scandal that was upon the Innocent. But you do not hear him charge it upon Mr. *Dugdale*'s Conſcience, that he had given a falſe Evidence againſt any of thoſe Perſons, nor urge him much to Repent. But he muſt be gone, he muſt give no more Evidence againſt the Catholicks: And, What if he do comply with this Deſire? Then he tells him he ſhall have a Reward: What Reward? A Thouſand Pound; which was made known before, and Protection, and Pardon, and Security: And he comes to him in the Duke of *York*'s Name, to inforce it the more ſtrongly upon him, and make him do it: Whereas, indeed, the Duke of *York* (as he himſelf and Mrs. *Price* have ſince confeſs'd) never knew any thing at all of the Buſineſs.

Now, Gentlemen, to move by honeſt Chriſtian means, any one that hath done an Injury of any ſort, to Repentance, and Contrition, and Recantation, that is a very good thing; but to do it with promiſe of a Reward of 1000 *l.* can't be juſtify'd: What way is there to inſinuate into any Perſon an Intention of doing a Miſchief, but ſuch a way as this? Will any one come to another, and ſay, forſwear your ſelf; whereas you know ſuch a thing to be true, ſwear it to be falſe, or retract the Evidence you have given about it, and I will give you a 1000 *l.*? No, but ſerve the *Catholick* Cauſe; a great many have ſuffered, and by your Teſtimony; Retract, be gone, be ſecure, you ſhall have a Certainty, that you ſhall be ſecure in another Kingdom; or elſe you ſhall have it in a *Proteſtant* Family; tho' neither that *Proteſtant*, nor any *Proteſtant* was nam'd.

Is not this a Bait to tempt a Man to all the Villainy in the World? If 1000 *l.* be offer'd, who can reſiſt? Such People as theſe are will not eaſily reſiſt ſuch a Temptation.

But Mr. *Taſborough* is a very honeſt Man in his Life and Converſation; he produceth thoſe that tell you his Reputation is good, and the like: There is no doubt of it, and if he had produc'd 20 Witneſſes, do you think he would produce any one that ſhould ſpeak againſt himſelf? He chooſes out thoſe certainly as would ſpeak as much in his Favour as they can: But if a Man hath been an honeſt Man in his Converſation, may he not be intic'd or ſeduc'd? Eſpecially when it will be told him, If you do this, you ſhall merit Heaven, you ſhall be Sainted and Canoniz'd, you do the greateſt Service in the World to the *Catholick* Cauſe.

Theſe Temptations may work upon a Man, perhaps that is morally honeſt, when he is infatuated with this Principle, That any thing may be done for the *Catholick* Cauſe; as it is a *Catholick* Doctrine too often inſtill'd into them, that any thing is become ſanctified when it tends to that End; 'tis eaſy then to prevail upon them in Things of this Nature.

I ſhould have told you (which I omitted before) one Circumſtance concerning Matter of Proof againſt Mrs. *Price* more than *Tasborough:* Two Witneſſes ſaid they were in the Cloſet, and heard a Woman diſcourſe, but neither of them did ſee her face; but afterwards it is proved by another, that he was deſired to obſerve who came into or went out of the Houſe; and he ſwears he ſaw Mr. *Dugdale* and her come out of the Houſe; That they went to the *Gatehouſe*, and he ſaw her come again from the *Gatehouſe* with Mr. *Dugdale*, and he is ſure this is the Perſon. And you remember that part of their Diſcourſe was of going to the *Gatehouſe*.

Mr. Juſt. Pemberton. They do not deny it neither.

Mr. Juſt. Jones. I don't ſee they do.

Mr. Juſt. Pemberton. 'Tis a very ſtrong and plain Evidence as can be given.

Mr. Juſt. Jones. There is nothing can be ſaid for Mrs. *Price*, little for Mr. *Tasborough*.

Mr. Juſt. Pemberton. I ſee nothing that can do him any good.

Mr. Juſt. Dolben. Come, Gentlemen, lay your Heads together and conſider of the Matter.

Which the Jury did at the Bar: And being aſked by the Clerk of the Crown, Whether they were agreed; they anſwer'd, Yes.

Cl. of Cr. Who ſhall ſay for you?

Omnes. Foreman.

Cl. of Cr. Do you find the Defendants Guilty of the Treſpaſs and Offence whereof they ſtand Indicted, or Not Guilty?

Foreman. Guilty.

Mr. Pollexfen. As to part only for Mr. *Tasborough?*

Foreman. Guilty of the Indictment.

Mr. Juſt. Jones. We all know he is not found Guilty of one part, and that muſt be conſider'd at the ſetting of the Fine.

Mr. Att. Gen. Mr. *Tasborough* hath been upon Bail, but I ſuppoſe he muſt not go upon Bail now; we pray that he may be committed.

Mr. Juſt. Pemberton. They muſt both be committed; take them both.

Mr. Sanders. Mrs. *Price* is ſtill in the *Gatehouſe*.

Mr. Juſt. Pemberton. We have her here now, ſhe is in our Cuſtody.

Mr. Sanders. If you pleaſe, Sir, we deſire ſhe may be remanded back.

Mr. Juſt. Pemberton. No, they ſhall go both into the *Marſhal*'s Cuſtody.

Price. I beg of your Lordſhips I may go back to the *Gatehouſe*.

Mr.

Mr. Juſt. Pemberton. What! Theſe are not things to be trifled with.
Mr. Juſt. Dolben. No, we muſt not ſhew you any Favour at all.
Mr. Juſt. Pemberton. No, we muſt have no Favour for you that would deſtroy us all.

Then the Priſoners were taken into Cuſtody by the Marſhal; *to be kept till their Judgment.*

Afterwards *John Tasborough* was fin'd 100*l.* and *Anne Price* 200*l.*

XCII. *The Trial of* Benjamin Harris, *Bookſeller, at* Guild-Hall; *for cauſing to be Printed, and Sold, a* Libel, *Entitled,* An Appeal from the Country to the City, for the Preſervation of His Majeſty's Perſon, Liberty, Property, and the Proteſtant Religion. *February* 5, 1679. 32 Car. II.

* *Mr.* Recorder,

I HOPE, this being a Matter to be tried in the City of *London*, Perſons coming here in great Multitudes, come to bluſh, rather than to give Encouragement to it; and if we can give your Lordſhip, and this Jury, Satisfaction that this Perſon is guilty of the Offence, according as it is laid in the Information, I hope that both you and all others that ſhall hear it, (for I perceive there is a great Expectation this Day from this Cauſe) I hope, I ſay, you will abominate any Man that ſhall offer at any ſuch like thing. Indeed we live in an Age where all ſorts of Faction and Rebellion is countenanced, Magiſtrates reviled, and ſcandalized by ſome Perſons, who think they have Authority ſo to do. It is juſt like ſuch another kind of Religion, which ſome have now of late taken up, that rather than they will be thought to turn Fanaticks, they will turn plain Atheiſts, and others, who ſcorn to be either, downright Rebels. This Book is as baſe a Piece as ever was contrived in Hell, either by Papiſts, or the blackeſt Rebel that ever was: It ſeems to carry with it a fine Character, and has a Figure of all plauſible Obedience to the Crown, to wit, *An Appeal*, &c. *for the Preſervation of his Majeſty's Perſon, Liberty, Property and the Proteſtant Religion.* But if any of you have ſeen it, I hope you will be ſo far from giving any Countenance to it, as that you will, with me, think, 'tis ſo far from tending well to the Government, that it is only deſign'd to rake up all Sedition and Rebellion, and the very worſt of all Rebellion. I muſt confeſs, I would rather have believed that it was only the ſake of Lucre made him do what he did, for that would have ſomewhat extenuated his Crime, if he had not read it firſt; but then to go and have it Printed, and expoſed to Sale, &c. this is a great Aggravation.

If the ſame ſort of Inſinuation had been uſed towards any private Tradeſman, as hath been offered to the King and Magiſtrates, I believe there is no Man but would ſay, that ere this time he might have hid his Head.

But Diſſemblances of Pretences for the ſake of the Proteſtant Religion now-a-days in his Shop will paſs well enough, and Perſons can tell you there how far you may go from hence to *Rome* with Safety; and after they have blackened their Mouths with Tobacco and Smoke, and do not rail againſt the Church and the Government, they are look'd upon ſtraight as no Proteſtants.

But ſtill as to this Perſon, the farther to urge it, by way of Aggravation upon him, he could vauntingly make his Boaſts, when it was put home to him, Why he would venture to do ſuch things, &c? That he had above a Thouſand Perſons who would ſtand by him in whatſoever he did.

* *Sir* William Scroggs.

* *L. C. J.* There was hardly ever any Book more pernicious to ſet us together by the Ears than this, nor any thing a greater Incendiary; one can hardly write a worſe——

Says he, *We in the Country have done our Parts in Chuſing, for the generality, good Members to ſerve in Parliament; but if (as our Two laſt Parliaments were) they muſt be Diſſolved, or Prorogued, whenever they come to redreſs the Grievances of the Subject, we may be pitied, but not blamed. If the Plot takes effect, (as in all probability it will) our Parliaments are not then to be Condemned, for that their not being ſuffered to Sit occaſioned it.*

So that here is a ſly way of caſting it upon the King himſelf. And if it be not downright Treaſon, I am ſure it is juſt upon the Heels of it. 'Tis a moſt abominable Piece.

Then were called the Witneſſes, to prove that the Books were ſold in his Shop; and after they were all ſworn, firſt of all Mrs. Grover, *a Printer's Wife, ſtood up, who confeſſed ſhe had half a Dozen of them, but not of him; for he was either gone out, or not in the way, but ſhe had them of his Man.*

Then ſtood up one Mary Darby, *and ſhe ſaid, ſhe had four of them.*

After her, Mr. Benjamin Tooke, *at the Ship in St.* Paul's Churchyard, *Bookſeller, was Examined, who ſaid he ſaw ſeveral Quires of them in the Shop. And being aſked by Mr.* Harris, *How he knew they were all thoſe Books? He anſwered, That he turned over a great many of them, and found them all the ſame.*

Mr. Recorder. My Lord, he was ſo mighty zealous of this Book, of ſo great Importance, no doubt, to his Party, that for fear he ſhould be diſappointed in time, he gave ſomewhat to haſten it.

Mr. Recorder. Call——the Printer's Man, and ſwear him. [*Who ſtood up, and was ſworn.*]

Mr. Recorder. What did Mr. *Harris* give you, ha?

Printer's Man. He laid me down Six-pence.

L. C. J. And what, that was for haſtening the Book, was it not?

Printer's Man. I cannot tell, Sir, not I, but he gave me Six-pence.

Mr. Recorder. And what did you do it in the Day-time, was you not at it in the Night?

Printer's Man. Yes, I was upon it in the Night.

* *Sir* George Jefferies.

Mr. Recorder. Ay, it was a Deed of Darkneſs, and ſo fit for Night-work.

Mr. Serj. Strode. My Lord, if it can be made out to your Lordſhip and this Jury, that he deſigned maliciouſly to ſcandalize the King and the Government by it, we muſt acquieſce; but that, my Lord, he abſolutely denies; but ſeeing it running up and down the Town, he gets ſome of them, and ſuffers them to lie up and down in his Shop, and this only as a common thing to get Money, ſo that we ſuppoſe it may not lie within the Information, becauſe it does not intentionally ſcandalize the King and the Government.

Mr. Williams. He in his Trade ſold this Book, and that we admit; but, my Lord, it is a material Part of the Information, that it was done with a malicious Deſign, &c. and we do not take it ſo; but for the other Matter we ſubmit to it.

L. C. J. Then you do admit, that he did ſell ſome of theſe Books.

Mr. Williams. We do, my Lord, that he did ſell one.

Mr. Ollibear. My Lord, this Book was publickly ſold in other Bookſellers Shops before we had it, and ſo we thought in a way of Trade, we might do the like; but as ſoon as ever we heard there was any thing ill in the Book, we ſuppreſs'd the Selling of it.

Mr. Serj. Strode. They ſay, my Lord, the Printer had Six-pence given him by Mr. *Harris.* ——— Friend, does not he come, and give you ſome Money at other times? Have you never had any of him before?

Printer's Man. No, Sir. I never Printed any thing for him before.

Mr. Serj. Strode. Was not this printed before you ſaw it?

Printer. Not to my Knowledge.

Mr. Serj. Strode. Pray aſk the firſt Witneſs. Was not this in Print before you ſaw it in his Shop?

Grover. Yes, my Lord.

Mr. Williams. My Lord, he is a Man of other Principles, than to do ſuch things.

L. C. J. There is ſcarce any but *Smith*, that is ſo factious a Seller of Books as *Harris:* All your Domeſtick Intelligences are ſo; for which, you know, you have forfeited your Recognizance almoſt in every Book.

A Neighbour was called by Mr. Williams, *to give an Account of Mr.* Harris.

Neighbour. My Lord, I have known him about a Twelve-month; and I have always looked upon him to be a fair-conditioned, quiet, peaceable Man: He is, and has been ſo reputed among his Neighbours. And I have never ſeen any thing from him, but what was very quiet and peaceable.

Mr. Recorder. A Bookſeller that cauſes a Factious Book to be Printed, or Reprinted, if it was Printed before, is a factious Fellow.

L. C. J. You ſay right.

Mr. *Goodhall* (another Neighbour of Mr. *Harris*'s) ſaid, upon his being aſked, if he were acquainted with him? And, if he were wont to oppoſe, or to ſcandalize the King or Government? That he never heard ſuch a like thing of him.

Mr. Recorder. I preſume that none of theſe do ſtand by him in any ſuch thing: But he, being advertiſed of it, and being aſked, Why he would offer to expoſe to Sale ſuch a Book as this? He anſwered and ſaid, That he had a Thouſand Perſons that would ſtand by him.

Call Robert Stevens.

L. C. J. What can you ſay?

Robert Stevens. My Lord, I have ſeen this Book ſeveral times in his Shop, and others too. And I have aſked him, Why he would ſo publickly vend them? (I did not indeed buy one of them myſelf, but I cauſed a Man to buy one for me) and he ſaid, He had ſeveral Thouſands to ſtand by him: And he is accounted an Anabaptiſt. He ſaid ſo before the Maſter and Wardens of the Company; who queſtion'd him, why he ſold ſuch ſcandalous things? And he ſaid he had ſeveral Thouſands to ſtand by him.

Then ſpake the Lord Chief Juſtice to this purpoſe.

Becauſe my Brother ſhall be ſatisfied with the Opinion of all the Judges of *England*, what this Offence is, which they would inſinuate, as if the mere Selling of ſuch a Book was no Offence: 'Tis not long ſince, that all the Judges met, by the King's Command; as they did ſome time before too: And they both times declared unanimouſly, That all Perſons that do Write, or Print, or Sell any Pamphlet, that is either ſcandalous to Publick, or Private Perſons; ſuch Books may be ſeiz'd, and the Perſon puniſh'd by Law: That all Books, which are ſcandalous to the Government may be ſeiz'd; and all Perſons ſo expoſing them, may be puniſh'd. And further, That all Writers of News, though not ſcandalous, ſeditious, nor reflective upon the Government or the State; yet if they

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are Writers (as there are few others) of falſe News, they are Indictable and Punishable upon that Account.

So that your Hopes of any thing of that Kind will be vain; for all the Judges have declared this Offence, at the Common-Law, to be puniſhable in the Seller, though in the way of his Trade: The Books may be ſeized, and the Perſon puniſhed.

As for this Book, in particular; you can hardly read a more baſe, and pernicious Book, to put us all into a Flame: It gives you ſuch Incitements, and ſuch baſe Encouragements, with ſuch Reflections upon all ſorts of Perſons, (for I have read it upon this Account) that I think, there can ſcarce be a worſe made. He would ſet up another Man, that has no Title to the Crown: For (ſays he) *the greateſt Danger accruing to your Perſons, as well as to the whole Kingdom, upon the King's untimely Death, will proceed from a Confuſion, and want of ſome Eminent and Intereſted Perſon, whom you may truſt to lead you up againſt a* French *and* Popiſh *Army: For which Purpoſe, no Perſon is fitter than his Grace the Duke of* Monmouth; *as well for Quality, Courage, and Conduct, as for that his Life and Fortune depends upon the ſame Bottom with yours. He will ſtand by you; and therefore, you ought to ſtand by him. And remember the old Rule is,* He who hath the worſt Title, ever makes the beſt King; *as being conſtrained by a Gracious Government, to ſupply what he wants in Title: That inſtead of* GOD and my Right; *his Motto may be,* GOD and my People. He ſays, *Such a one would make a better King; for, as you ſee, the Worſe the Title, the Better the King. A King with a Bad Title, makes a better King, than he that hath a Good One; for he ſhall be obliged to comply with, and will humour the People, for want of a Title.* A Thing, which is of the baſeſt Nature that can be: And yet this Man muſt give Money to haſten the Printing of ſuch a Book; and he had ſeveral Quires of them in his Shop. Except the Writer of it, there cannot be a worſe Man in the World; who, for trivial Profit, will neglect the Peace and Quiet of his Country, and ſet us all together by the Ears for a Groat. And, Mr. *Harris*, if you expect any thing in this World, of this kind of Favour, you muſt find out the Author; for he muſt be a rebellious, and a villainous Traitor: For, though he ſeems to inveigh againſt Popery, it is only to be a Rebel. And certainly, he has rejected all the Laws of God, and all Obedience that Man requires; and prophaned all Holy Writ. He is ſome Body, whoſe Fortune does not ſuit with his Condition; and who, becauſe he is not at Eaſe and Quiet himſelf, will let no body elſe be ſo neither.

[*Speaking to the Jury, who preſently withdrew.*]

You have nothing more to do, but to give your Verdict:
If there be any thing in Law, let me know it, becauſe you go out.

Then one of the Jury aſked my Lord, if they might not have the Book with them, which was there in the Court, and it was anſwered in the Negative.

Before the Jury went out, Mr. *Harris* would fain have ſpoke to them for himſelf, but it was not permitted him.

Then, after a little while tarrying, they returned to the Bar.

And being, as is uſual, aſked if they were agreed on their Verdict, and who ſhould ſpeak for them; they anſwered, Yes; and appointed their Foreman, who ſaid he was Guilty of Selling the Book.

At which there was a very great and clamorous Shout.

Lord Chief Juſtice ſaid, that was not their Buſineſs, they were only to determine whether barely Guilty, or Not Guilty.

The Recorder would have had them given their Verdict by the Poll, but they all unanimouſly cried out, they were all agreed, and then the Foreman gave the Verdict again, Guilty.

Mr. *Recorder* then prayed, he being for the King, that Mr. *Harris* might ſtand Committed; *Who was thereupon preſently delivered to a Tipſtaff, to be carried to the* King's-Bench.

Mr. *Harris* earneſtly beſeeched his Lordſhip, that he might be ſent to any other Priſon, and named *Newgate* three or four times, but it was not granted him: Thereupon he ſaid, I hope God will give me patience to go through it.

Then my Lord Chief Juſtice ſpake to the Jury to this Effect.

I am ſorry you gave Countenance to this Cauſe ſo much, as to ſtir from the Bar, when the Evidence was ſo full, and when I told you plainly, not only my Opinion, but likewiſe that of all the Judges of *England*, that ſelling this Book was an Offence at the Common Law, for which they ought to be puniſhed: And yet with your Scruples, you give the party (with their Halloos, and Shoutings) to take Advantage; though you did mean upon the Matter the ſame thing then, you do now, yet you ſee, upon every little Occaſion, when a thing ſhall ſeem to thwart the Government, how ready they are to ſend up their loud Hallooings. It was not ſo prudently done as might have been done.

We had need look about us, for if at ſuch a Time, and for ſuch a baſe Book, ſuch clamorous Noiſes ſhall be made, what ſhall become of us? Our Lives and Fortunes are at Stake. Would I knew ſome of thoſe Shouters, I would make them know, I would puniſh them: I am incenſed in the Behalf of the Government, and of all our Lives and Fortunes, that ſuch ſhall go unpuniſhed.

He afterwards received Sentence in the Court of *King's-Bench*, to pay 500 *l. Fine*; ſtand on the *Pillory* an Hour; and find Sureties for his Good Behaviour for Three Years; and had it not been for Mr. Juſtice *Pemberton*, the Chief Juſtice would have added, That he ſhould be publickly *Whipt*.

XCIII. *The Trial of* Francis Smith, *Bookſeller, at the* Guild-Hall *of* London, *for Publiſhing a* Libel, February 7, 1679. Hil. 32 Car. II.

The Jury being Sworn, Mr. Holt *opened the Information.*

Mr. Holt. MAY it pleaſe your Lordſhip, here is an Information preferr'd in behalf of the King againſt *Francis Smith*, Bookſeller: And it ſets forth, That after Sir *George Wakeman*, *William Marſhal*, *William Rumley*, and *James Corker*, were Indicted and Tried on the 18th of *July*, 1679, for divers High-Treaſons, at the *Seſſions-Houſe* in the *Old-Baily*, before Sir *James Edwards*, then Lord Mayor of *London*, and the Lord Chief Juſtice *Scroggs*, and others; the Defendant, *Francis Smith*, publiſhed a ſcandalous Libel relating to the late Trials, which was intitled, *Some Obſervations upon the late Trial, &c.* the Words are particularly ſet forth in the Information; to which the Defendant pleads Not Guilty: But if we prove it upon him, you of the Jury are to find for the King; and if you find he is Not Guilty, you are to ſay ſo and no more, *&c.*

Then Mr. Recorder *ſpake to this Effect.*

*Mr. Recorder**. My Lord, I am of Counſel againſt the Defendant for the King, who ſtands inform'd againſt for a very great Offence. The Information particularly ſets forth, That whereas ſome certain Perſons were Indicted at the *Seſſions-Houſe* in the *Old-Baily*, before the then Lord Mayor, Sir *James Edwards*, and other Perſons then in Commiſſion of *Oyer* and *Terminer*, and *Goal-Delivery* for that Place, and particularly my Lord Chief Juſtice *Scroggs*; and after the Trial was over, and the Perſons thereupon acquitted, there was a Book, which is mentioned in the Information, printed and publiſh'd, and it is a Book that is known by the Name of *Tom Tickleſoot*; a very abuſive thing; but Perſons now begin to grow wonderful witty in the beginning of their Books, in hopes to enſnare People to read them, and to prevail upon them ſo far as to make them believe there is ſomewhat extraordinary by the Title. You ſee, Malice finds out all the Ways in the World to enſnare and gain upon the People, to ſo bad an Age are we come.

But I confeſs, it is the ſecond Time ever ſince I had the Fortune or Happineſs to know this City of *London*, that I have known ſuch Expectations, as have been upon two Cauſes in this Place: The firſt was but two Days ago, the ſecond is at this Time; wherein is truly a ſort of Countenance, I am afraid, too much given by Perſons that dare pretend to be no other ſort of Proteſtants, but can impudently outface all ſort of Governors. Now, as all Perſons ought to abhor and deteſt that damnable Doctrine, That Men hope to be Saints in another World, becauſe they may commit Murders in this; ſo this ought too as much to be condemn'd by all Proteſtants as the other, That Men ſhall endeavour to rebel, and be factious in this World, that ſo they may be reckon'd good Subjects; the one are as far from being good Saints, as the others from being good Subjects. I take this Occaſion to ſpeak all this before your Lordſhip and this Court, becauſe I hope the City of *London* will never be corrupted by the baſe Inſinuations of ſome idle Buſy-Bodies in it; Men, who cannot, or will not be pleas'd, becauſe (forſooth) every thing does not go according to their Mind and Fancy; and tho' by no means they will allow the *Pope* to be *Infallible*, yet every factious Fellow will expect, that every one ſhould pay him the Tribute of *Infallible*, as if he were the only fit Perſon to give Meaſures to *Government* and *Governors*.

When we come to have extraordinary Caſes and Perſons, extraordinary Occaſions ought to be taken to inflict due and juſt Puniſhments upon them.

And when they ſhall dare to come to diſparage *Great Men* that act by *Supreme Authority*, Men that act by their *Conſciences*; and becauſe they cannot be ſteer'd by the Humours of theſe ſort of People, therefore they muſt be look'd upon as *Papiſts*, or at leaſt as *Brib'd*, becauſe they cannot comply with that baſe Humour which ſome ſort of Perſons have.

I take notice of this to your Lordſhip, becauſe one that is intruſted in as great a Place for the Welfare of this Nation, as any whoſoever, is extremely concern'd in the Affair of this Day; I mean, the *Lord Chief Juſtice of the King's-Bench*; who being aſſiſted with ſeveral other Judges, as far forth as it did appear to him, did deliver the Senſe of the whole Court; who, for acting according to his Conſcience, and as he ought to do, hath been *Libelled* and *Reproached* with as baſe a *Book* as ever was written againſt any Magiſtrate whatſoever: If ſuch things as this ſhall be permitted, then there will be an end of your Lordſhip's ſitting here, or any where elſe, or of any other that ſhall act as a Magiſtrate ought to act, and that ſhall not be afraid to do his Duty. But ſuch is the Happineſs of this

* *Sir* George Jefferies.

this *City*, in this *Jury*, that, I muſt confeſs, I receive ſo much the greater Satisfaction that it comes before them; for as I know the Men to be Men of Loyalty and Affection to the Government, and will be ſo juſt to him, that if they do not find him Guilty of the Matter of the Information, they will acquit him: So, on the other ſide, they will not think themſelves to be aw'd by a *Multitude*, or enſlav'd by private Inſinuations, to debauch their Conſciences, either in reſpect to God above, or to the King his Vicegerent here on Earth; therefore obſerve your Duty to both, that you may render to *Cæſar* the Things that be *Cæſar*'s, as well as to God the Things that are God's.

Now as the King is God's Vicegerent, ſo is every Magiſtrate the King's Vicegerent, in that Particular.

I would not take up ſo much of your Lordſhip's Time, but that I ſee this is a Matter of great Expectation; and I know that every Word is taken in Short-hand, to be commented upon as Perſons Humours ſhall ſteer them. I do think, as being the *Mouth of the City of London*, it is my Duty to ſpeak thus much; that I hope, nay, I may dare confidently affirm, that the Generality of the City of *London*, all good Men, and Men of Abilities, *&c.* are for the King, and the Government as it is now Eſtabliſh'd by Law.

[*At which there was a general Hem thro' the Court.*]

Having ſaid thus much againſt this Perſon, Mr. *Francis Smith*, I muſt ſay, That if the way of common Report were Evidence enough to convict a Man, he would be convicted without any more ado: But ſuch is the Happineſs of our Laws, that they expect Teſtimony, beſides common Fame.

I would rather a great deal it might be a Caution to Mr. *Smith*, if there had not been many before, and that he could not be convicted, and the Evidence not plain in Proof againſt him.

Well, he printed this *Book* in the Name of another Perſon, one Mrs. *Brewſter*: He ſold ſeveral of them in Quires to ſeveral People; and *Brewſter* queſtioning wherefore he ſhould put her Name to this Book: Truly, he ſaid, he intended no Harm to her, for he was reſolved to ſave her harmleſs; and this we will prove to you; and likewiſe that ſeveral Books have been taken in his Shop; and he juſtifying himſelf in what he had done, and his further Reſolution to expoſe them ſtill to Sale. And if we ſhall prove this to you, there will be an end of all ſort of Juſtice, if in caſe that you, who are the only Means of bringing Men to Juſtice, will not contribute to have Juſtice executed where it ought to be: None can be legally puniſhed, unleſs they be legally convicted; and I doubt not your Honeſty and Loyalty, but that you will do your Part by Conviction, and by Juſtice too.

Againſt all Libellers, I am ſure, there is Law enough, and every honeſt Man will endeavour to have it put in Execution againſt them, as far forth as it lies in his way: I hope the Generality of thoſe that are here, do come to ſhew an Abhorrency againſt this Perſon informed againſt, and not to give any Countenance to ſuch baſe Actions.

Mr. Williams. [*Counſel for the Defendant.*] My Lord, the Libel is ſufficiently infamous, we muſt needs own; and I do not come to juſtify the Thing, neither Mr. *Smith* my Client, nor any body elſe that ſhould be guilty of it: The Queſtion is, Whether he be Guilty of, *&c.* as it is laid in the Information?

Mr. Recorder. Sir, do you admit the *Record?*

Mr. Juſt. Jones. If you do not admit it, you muſt call in your Witneſſes, and prove what you can.

Whereupon Robert Stevens, Anne Brewſter, *and* Margaret Clark *were call'd into Court, and ſtood up behind the Jury.*

Mr. Williams. Sir, if you will give me leave, you ſhall hear what we will admit.

Mr. Recorder. Come, come, Sir, if you do not admit the *Record*, we will have none of your Anticipations.

Mr. Williams: What call you *your Speech* but Anticipation?

My Lord, the poor Man, my Client, is a languiſhing, ſick and dying Man; and one that is almoſt ruin'd; if any Submiſſion will ſerve the Turn, he will give all the Submiſſion that is fit for a Man to give: All that we ſay is this, that he did not order this to be printed, as it is laid in the Information.——But I think we may admit——

Mr. *Fettiplace* ſaid [*Who was Counſel on the ſame Side,*] he had no ſuch Order given him by his Client, as to admit the *Record.*

Then they were juſt going on to ſwear the Witneſſes, but Mr. Juſt. Jones *ſaid, It would be very well if they would admit,* &c. *and the Defendant come to Submiſſion.*

Mr. Recorder. Ay, that is your beſt way; for it would be a great means to teſtify, that your Submiſſion is really intended as a Submiſſion: But if it be to prepare us to think that you are innocent, then we will not have your Submiſſion.——And I am for a Sinner's Repentance with all my Heart.

Mr. Juſt. Jones. If your Client be willing to ſubmit, let the King have a Verdict in Law, and then he will find my Lord Chief Juſtice *Scroggs* full of Pity and Compaſſion; and if I can ſee any Signs of Repentance, I will promiſe you to intercede to my Lord for him.

Mr. Williams. One that came from my Client told me, that if he had offended, he would ſubmit to any thing: And now here is his Wife come.

Mr. Juſt. Jones. I would ſave him if I can, if he will throw himſelf into Mercy.

Well, what do you ſay, Miſtreſs, for your Huſband?

Mrs. Smith. My Lord, my Huſband is very ſick and weak, and is not able to come himſelf, or elſe he would have done it; but I aſk'd Mr. *Williams* if it were not beſt to ſubmit to the Court.

Mr. Juſt. Jones. Are you content to own it ſhall be ſo?

Mrs. Smith. I leave it to the Gentlemen, my Counſel; I ſhall acquieſce in what they think fitting.

Mr. Williams. Then I preſume to admit the *Record.*

Mr. Juſt. Jones. Then you are to find for the King: [*Speaking to the Jury.*] 'Tis the Cauſe of the King, altho' only my Lord Chief Juſtice be concern'd. 'Tis a high Scandal; a great Scandal againſt a great Officer and Magiſtrate of the King. I will ſay nothing more to aggravate the Offence at this Time, becauſe I would invite Repentance in all Perſons that have offended in this or the like Caſes.

Then the Jury being aſked, Whether they were agreed on their Verdict, ſaid, Yes; and chooſing their Foreman to ſpeak for them, he gave the Verdict, Guilty.

Mr. Juſt. Jones. Well, Miſtreſs, you have done very well; if, now, you for your Huſband came here to make a publick Acknowledgment of his Guiltineſs, hereafter he ſhall go, and ingenuouſly make Submiſſion to my Lord; I know he is a Perſon of that Pity and Compaſſion, that he loves no Man's Ruin, but delights rather in the univerſal Welfare of all People: And I promiſe this, that I will be an Interceſſor to my Lord in your Huſband's Behalf.

Mr. Recorder. And as far forth as I can contribute to it, I will do the ſame.

He afterwards ſubmitted to a ſmall Fine.

XCIV. *The Trial of* Jane Curtis, *at* Guild-Hall, *for Publiſhing the ſame* Libel. 1679. 32 Car. II.

Mr. Holt. MAY it pleaſe your Lordſhip, and Gentlemen of the Jury, here is an Information brought againſt *Jane Curtis*; and it ſets forth, That the Defendant did publiſh and put to ſale a ſeditious Libel againſt my Lord Chief Juſtice *Scroggs:* The Defendant pleads Not Guilty; if we prove it upon her, you are to find for the King; and if not, you are to ſay ſo, and no more.

Mr. Williams ſaid [*Who was a Counſel for the Defendant*], he would admit the Record: Whereupon they proceeded no further to Trial, but the Woman being call'd, ſhe ſaid:

Mrs. Curtis. I was ignorant in the Matter, and knew no ſuch thing, my Lord; my Huſband, an't pleaſe your Lordſhip, was in the Country a hundred Miles off of me, in *Lincolnſhire.*

Mr. Juſt. Jones. You did it ignorantly and ſimply, without any Malice, and, I ſuppoſe, you are heartily ſorry for it. You ſee your Neighbour there, Mrs. *Smith*, hath ſhew'd good Diſcretion in the Behalf of her Huſband; ſhe has ingenuouſly declar'd, that he ſhall come and make Submiſſion; and if I find you as ſubmiſſive, and as ſorry for what you have done, I may do the like for you.

Mrs. Curtis. In any thing that I have done, I know not my ſelf Guilty; and if I am, I beg your Lordſhip's Pardon with all my Heart, my Lord, or any Body's elſe.

Mr. Juſt. Jones. I know you will find Mercy from my Lord Chief Juſtice, and therefore go and make your Submiſſion.

Then the Jury proceeded to give their Verdict, and their Foreman ſaid, Guilty.

THE END OF THE SECOND VOLUME.

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